

國家人權報告審查程序培訓計畫

ICJ 對秘書處培訓課程講義

TAIWAN REVIEW OF IMPLEMENTATION OF RIGHTS AND
FREEDOMS UNDER
THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL
RIGHTS (ICCPR) AND
THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS (ICESCR)

INTERNATIONAL COMMISSION OF JURISTS (ICJ)

TRAINING FOR SECRETARIAT STAFF

2012 年 10 月 29 日

29 October, 2012



國家人權報告審查程序培訓計畫 - ICJ 對秘書處培訓課程

‘TAIWAN REVIEW OF IMPLEMENTATION OF RIGHTS AND FREEDOMS UNDER
THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) AND
THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
(ICESCR)’

‘INTERNATIONAL COMMISSION OF JURISTS (ICJ) TRAINING FOR SECRETARIAT STAFF’

議程 Agenda

地點：法務部 4 樓 401 會議室

Venue：Conference Room No. 401, 4th floor, MOJ

101 年 10 月 29 日星期一		Monday, October 29, 2012	
時 間 (Time)	主 題 (Topic)		
8:30 am – 9:00am	報到 Registration		
9:00am – 9:10am	開幕致詞 Opening Remarks		
9:10am – 10:30am	第一節 SESSION ONE (一) 概述(Introduction) <ul style="list-style-type: none"> ▪ 培訓概要及目的 (Training overview and objectives) (二) 公政公約及經社文公約之審查程序(Review processes under the ICCPR and ICESCR) <ul style="list-style-type: none"> ▪ 聯合國條約機構之功能(Functions of the UN treaty bodies) ▪ 人權事務委員會及經社文公約委員會之審查程序(The review process of the Human Rights Committee and Committee on Economic, Social and Cultural Rights) ▪ 臺灣之審查程序(Taiwan’s review process) 		
10:30am – 10:50am	休息 Coffee Break		
10:50am – 12:10pm	第二節 SESSION TWO (一) 秘書處之角色(Role of the Secretariat) (二) 問題清單(List of Issues) <ul style="list-style-type: none"> ▪ 目的及架構(Purpose and structure) ▪ 問題清單之準備(Preparation of the List of Issues) 		
12:10am – 14:10pm	午餐 Lunch Break		

101 年 10 月 29 日星期一

Monday, October 29, 2012

時 間 (Time)	主 題 (Topic)
14:10pm – 15:30pm	第三節 獨立專家之審查 SESSION THREE : Examination by the Independent Experts <ul style="list-style-type: none">▪ 文書(Documentation)▪ 準備審查之研究及支援(Research and support in preparation for the examination)▪ 審查之工作計畫(Examination programme of work)▪ 審查之後勤支援(Logistics for the examination)
15:30pm – 15:50pm	休息 Coffee Break
15:50pm – 17:10pm	第四節 SESSION FOUR (一) 結論性建議(Concluding Observations) <ul style="list-style-type: none">▪ 結論性建議之準備(Preparation of the Concluding Observations) (二) 後續追蹤程序(Follow-up process) <ul style="list-style-type: none">▪ 國家人權行動計畫之研擬及其實施之監督(Developing, and monitoring the implementation of, a National Human Rights Action Plan)▪ 下一步(Next steps)
17:10pm – 17:30pm	第五節 總結及問與答 SESSION FIVE : Wrap-up ; Questions and Answers
17:30pm	End

主講人簡歷



艾利克斯·康特博士(Dr. Alex Conte)是國際法律人協會駐聯合國的代表，同時也是日內瓦國際人道法及人權法學院兼任教授，他在紐西蘭接受律師訓練，刑事案件的執業年資將近十年，之後進入學術界擔任國際法教授。康特博士是聯合國以及歐洲安全與合作理事會的顧問，也有對法官、外交官、專業人員、審判觀察員及大學生與研究生實施訓練的經驗，並在世界各地舉辦的研討會中擔任主講人。他擁有法律學士、碩士及博士學位，在 2004 年擔任紐西蘭法律基金會的國際研究員。康特博士最近的著作是 2010 年出版的「在禁止及處罰恐怖主義下的人權」。

SECRETARIAT TRAINING

Taiwan's review of the implementation of the rights and freedoms under the ICCPR and ICESCR

Dr Alex Conte
UN Representative, International Commission of Jurists

Monday 29 October 2012

Training Objectives

- Identify and discuss the role of the Secretariat in the process
- Discuss issues of logistics and the functioning of the review process
- Share experiences of good and bad practices in the reporting and dialogue stages of the review process
- Consider issues of follow-up and next steps

Training Overview

1. Review process under the ICCPR and ICESCR
2. Role of the Secretariat;
List of Issues
3. Examination by the Independent Experts
4. Concluding Observations;
Follow-up process
5. Wrap-up

SESSION ONE

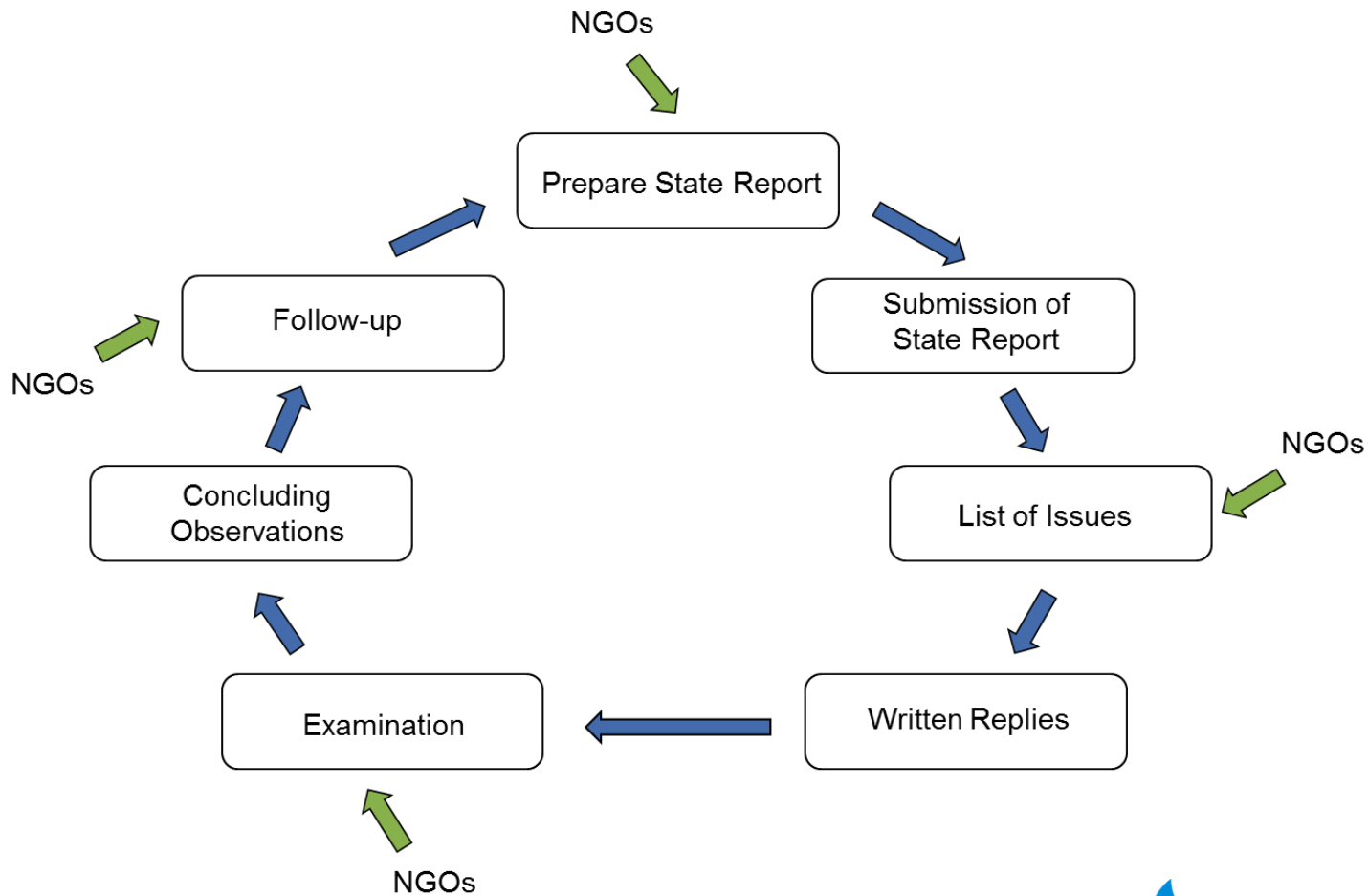
Review Process under the ICCPR and ICESCR

UN Treaty Body Functions

- Core functions:
 1. Review of State party implementation of treaty obligations (reporting process)
 2. General Comments on the interpretation and application of treaty provisions
 3. Individual communications
- Parallel activities
 - Annual reports to the General Assembly
 - Thematic discussion of issues (CESCR)

Reporting Process

- Aims and objectives
- Timing of reports
- Legal basis of reporting obligation
- Core Document
- Seven-step reporting process by CCPR and CESCR



Step 1

Preparation of State Report

- CCPR and CESCR Guidelines for Governments
- Types of reports
 - Initial Report; Periodic Report; Follow-Up Report
 - Focused Report (CCPR)
- Addressing implementation of each Article
- Coordination
 - Inter-Ministerial
 - Consultation with civil society

Step 2

Submission of State Report

- Submission by coordinating Ministry
- Secretariat formatting, translation and publication
- Failure to submit a timely report
 - Potential examination in the absence of a report

Step 3

List of Issues

- Drafting of List of Issues (LOI)
 - CCPR: by Country Report Task Force
 - CESCR: by Pre-Sessional Working Group
- Adoption by full Committee
- Timing
 - LOI adopted after submission of the State's periodic report
 - Also after
 - Receipt of information from stakeholders
 - Preparation of country analysis by Secretariat

Step 3

List of Issues

- List of Issues Prior to Reporting (LOIPR) by CCPR
 - LOIPR prepared before presentation by the State of its periodic report
 - Based on previous Concluding Observations, other UN documents and stakeholder submissions
 - State then provides a ‘Focused Report’
 - States can opt out of this procedure
 - Allows more focused approach in the examination process

Step 4

State Replies to List of Issues

- Normal practice to respond one session in advance
 - Allows CCPR and CESCR to carefully consider replies
 - Allows civil society to provide alternative replies and comment on the State's replies

Step 5

Review / Examination

- Examination
 - In public through a dialogue with the State representatives
 - Alongside private briefings by civil society
- Programme of Work
 - NGO formal briefing (closed)
 - State delegation brief presentation
 - Questions by Committees
 - Responses by State representatives
 - Drafting and adoption of Concluding Observations

Step 6

Concluding Observations

- Drafted by Secretariat under supervision by Country Rapporteur
- Purpose
 - Highlight concerns
 - Make precise recommendations to the State on how to improve implementation of the ICCPR/ICESCR
- Editing, translation and publication

Step 7

Follow-up Procedure

- Concluding Observations may identify recommendations for immediate action
 - Subject to follow-up reporting procedure
- Implementation of Concluding Observations

Overview of the review process for Taiwan

- Government reports already submitted
 - Core Document
 - 'Initial Report' under the ICCPR
 - 'Initial Report' under the ICESCR
- NGO parallel reports due by end November 2012
- List of Issues (LOI)
 - LOI adopted by Independent Experts by end November 2012
 - Government replies to LOI by 25 December 2012
 - NGO alternative replies to LOI by 25 January 2013
- Examination 25-27 February 2013

SESSION ONE

Questions and Discussion

SESSION TWO

Role of the Secretariat and List of Issues

Role of the Secretariat

- General role
 - Civil servants working to carry out the decisions or implement the policies that are made by the principal organs of the UN
 - Office of the High Commissioner for Human Rights
 - Coordinating programmes of work and other logistics
 - Receiving and collating country and parallel reports and alternative replies
 - Receiving and collating individual communications
 - Other tasks in support of functions, including follow-up
 - Interpretation and translation
 - Official documentation

Role of the Secretariat

Ethics and Qualifications

- Ethics – UN internal principles
 - **Independent** from management and all other UN offices
 - **Impartial** in treating individuals
 - **Confidential** with information entrusted to the Secretariat
 - **Professional** in dealings with stakeholders
- Secretariat qualifications
 - UN recruitment: paramount consideration to ensuring the “highest standards of efficiency, competency and integrity”
 - Role-based competencies

Documentation

- Providing information to the Independent Experts
 - Government reports (core document and initial reports)
 - “Relevant and appropriate documentation” from “all concerned individuals, bodies and NGOs”
 - Views concerning the country under the individual communications mechanism
 - A ‘country analysis’

Documentation

- “Relevant and appropriate documentation”
 - Generous interpretation
 - “Relevant” if concerns one or more of the articles of the ICCPR and ICESCR
 - “Appropriate” if (c.f. CESCR and HRC Complaint Procedure working methods)
 - Not manifestly ill-founded
 - Not anonymous
 - Not abusive in its language

Documentation

“Relevant and appropriate documentation” – burden

- Collation of submissions and forwarding to Experts
 - Generous interpretation
 - Exclusion should be advised to Chair, with reasons
- During the examination
 - For determination by the Independent Experts

Documentation

- “All concerned individuals, bodies and NGOs”
 - Country under review
 - National Human Rights Institution with ‘A’ status
 - Civil society (whether individuals or NGOs)
 - Note: UN SG can seek comments from specialised agencies

Documentation

- Country analysis
 - Best suited for periodic reports, rather than initial reports
 - Overview of country political and legal structures
 - Overview of social and economic situation
 - Compilation of previous Concluding Observations made on the State's compliance with the ICCPR or ICESCR
 - Could also include: Views; Special Procedures recommendations; UPR recommendations
 - See CCPR and CESCO examples

LIST OF ISSUES

Overall purpose

- Opportunity for the Independent Experts to ask specific questions, in order to:
 - Clarify information provided by the Government
 - Seek information on issues not addressed in the Government report
 - Legislation
 - Practical implementation of law
 - Aspects of CCPR/CESCR provisions not dealt with
 - Follow-up on information/issues raised by NGOs

LIST OF ISSUES

Purpose for each stakeholder

- For the Independent Experts:
 - Concise, clear and specific questions
- For the Government:
 - Full and clear responses to all aspects of questions raised
- For NGOs:
 - In response to LOI: adding to information provided by the Government
 - In response to LOI Government reply: commenting on aspects of the reply, especially where not seen to be complete or accurate

LIST OF ISSUES

Secretariat role

- Burden for establishment of LOI is on the Experts
 - UN: led by Country Report Task Force or Special Rapporteur
 - Adopted by Committee in full, in private
 - Taiwan review: led by each convener of the Independent Expert groups
- Secretariat role for periodic reports: country analysis
- Potential role for Secretariat in the Taiwan review
 - Identification of issues raised by NGO parallel reports
 - Identification of gaps in the Government initial reports
 - Identification of areas to further explore

LIST OF ISSUES Structure

- LOI prepared by Independent Experts
 - Article-by-Article (often with thematic sub-headings)
 - Sometimes also with thematic questions where involves multiple provisions, e.g. Q.8 LOI Portugal
- Government responses
 - Following the same structure as the LOI
 - Full and clear responses to all aspects of questions raised
 - English translation advisable
- Note: LOI does not limit the questions to be raised by the Experts during the examination

SESSION TWO

Questions and Discussion

SESSION THREE

Examination by the Independent Experts

Documentation

- Each Independent Expert should be provided with hard copies of:
 - Core Document and Initial Reports from the Government
 - NGO Parallel Reports
 - List of Issues
 - Government Replies to the List of Issues
 - NGO Alternative Replies to the List of Issues
 - Country Analysis, if relevant

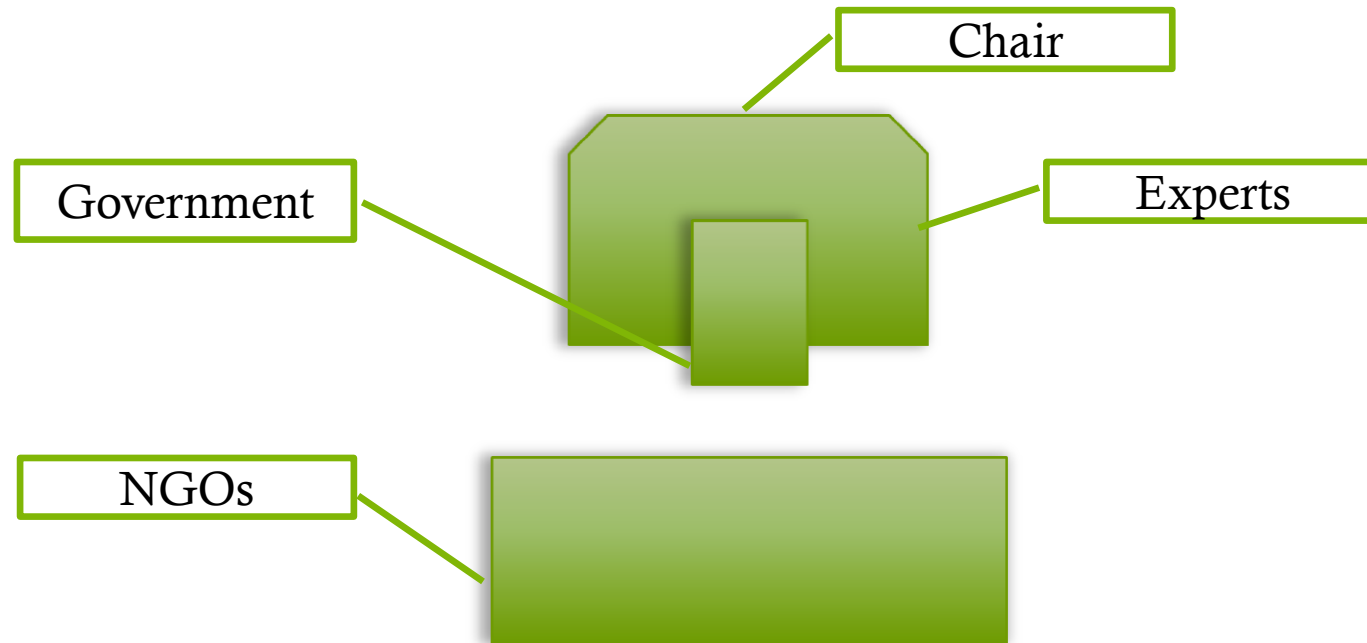
Secretariat research & support

- Primary responsibility
 - Provision of all relevant documentation to Experts
- Secretariat role for periodic reports: country analysis
- Potential role for Taiwan Secretariat (prior to LOI)
 - Identification of issues raised by NGO parallel reports
 - Identification of gaps in the Government initial reports
 - Identification of areas to further explore
- Following LOI: As requested and possible

Logistics

- Examination room
 - Floor plan
 - Interpretation (simultaneous or consecutive?)
 - Microphones
- Accreditation
- Meetings
 - Clustering of issues
 - Programme of Work (POW)
 - Time limitations
 - Visibility: Web-casting or recording (if so, advise in advance)
- Informal briefings

Potential floor plan



Accreditation

- For Government
 - Optional, but may be useful for determining room capacity
 - Clustering of issues will most likely assist
- For NGOs
 - Individual accreditation recommended, with access restricted to accredited persons
 - No restrictions on the granting of accreditation, other than due date for registration
 - E.g. online accreditation system by a due date, with indication of which clusters representatives will attend

Programme of Work

Clustering of Issues

- Traditional and common practice
 1. Hear NGOs on all issues through a formal briefing (30-60 minutes)
 2. Ask questions of the State representative (3 hours)
 3. Receive answers from State representatives (3 hours)

- Recent practice of the CCPR – more interactive
 1. NGO formal and informal briefings
 2. Clustering of articles (1-11; 12-27)

Current Programme of Work CPR and ESCR in parallel

Monday 25 February 2013

- Morning: Independent Expert meeting with civil society
- Afternoon: Dialogue with Government representatives

Tuesday 26 February 2013

- Morning: Independent Expert meeting with civil society
- Afternoon: Dialogue with Government representatives

Wednesday 27 February 2013

- Morning: Independent Expert meeting with civil society
- Afternoon: Dialogue with Government representatives

Current Programme of Work CPR and ESCR in parallel

Thursday 28 February 2013

- All Day: Independent Expert finalisation and adoption of Concluding Observations

Friday 1 March 2013

- Press conference and release of Concluding Observations

Suggested Alternative POW

25 February		26 February		27 February	
CCPR	CESCR	CCPR	CESCR	CCPR	CESCR
Common Article 1 NGO briefing					
Art 2 NGOs	Art 1 Govt	Cluster 1 NGOs	Cluster 1 Govt	Cluster 2 NGOs	Cluster 2 Govt
Arts 1-2 Govt	Cluster 1 NGOs	Cluster 1 Govt	Cluster 2 NGOs	Cluster 2 Govt	

Examination Hearing

- Public hearing
- Constructive dialogue between the Committee Experts and the State representatives
- Normal schedule
 - Private NGO briefing
 - Public opening statement by Head of Delegation
 - Interactive dialogue (led by Country Report Task Force or Special Rapporteur, but including all Experts)

Government participation

- CCPR and CESCR guidelines
 - State delegation should include representatives with the status and experience to address the full range of matters covered by the ICCPR and ICESCR
 - Clustering of issues will assist
- Reference to the List of Issues should be had, e.g.
 - Investigations: police or prosecuting authorities with knowledge of the issues raised
 - Functioning of the judiciary: appropriate representative

Government participation

- Seniority
 - Head of Delegation competence to represent the State
 - Competence to answer questions with authority
 - Sufficient expertise to answer questions in detail
- Registration for clusters (to assist with floor plan)
- Brief presentation by the delegation, followed by questions by the Experts and answers by Government representatives

NGO participation

- Accreditation
 - Access of all accredited NGOs to the hearings
 - Registration for clusters
- NGO briefings with the Independent Experts
 - ‘Closed’ formal briefings and informal briefings
 - No right of intervention during dialogue with Government
- Time limitations for oral interventions
 - Limits for oral statements (normally 5 minutes)
 - Written version for interpreters
 - Followed by questions from Experts

Time

- Management of time will be the responsibility of the Chair of the Independent Experts
- CCPR and CESCR practice
 - If time runs short, the Chair may set time limits on how long Government representatives may speak
 - The Chair may also ask for certain questions to be replied to in writing

SESSION THREE

Questions and Discussion

SESSION FOUR

Concluding Observations and Follow-up

Concluding Observations

- Purpose
 - Highlight concerns
 - Make precise recommendations to the State on how to improve implementation of the ICCPR/ICESCR
- Structure (see Turkmenistan example)
 - Introduction (examination process)
 - Positive aspects (especially relevant for periodic reports)
 - Factors impeding implementation / Principal matters of concern
 - Issues for follow-up prior to the next examination

Concluding Observations Drafting Process

- Drafted by the Secretariat in consultation with the country Rapporteur
 - Precise coordination to be determined with the Expert
 - Recommendations need to be clear, precise and capable of implementation
- Once approved by the Rapporteur, a full draft is discussed by the Committee in full
 - Revisions made
 - Formally adopted by consensus

Concluding Observations Drafting Process

- Practical issues
 - Drafting can begin following each clustered dialogue
 - If the Government is asked to provide further information in writing, the drafting process needs to take this into account
- Publication
 - Early release of “Advance Unedited Copy” (1 day)
 - Following editing and formatting, a final version is made available online (2-3 weeks, sometimes longer)
 - Government translation and dissemination encouraged

Follow-Up

- State follow-up report
 - In response to recommendations identified by the CCPR/CESCR as urgent
 - Follow-up report in one year on measures taken to implement the relevant recommendations

Follow-Up

- Special Rapporteur on Follow-up to the Concluding Observations
 - Assessment of follow-up report
 - Consideration by CCPR/CESCR
 - Publication of assessment and further action
- Further action?
 - Bringing forward the date for the next review
 - Calling a meeting with the State's representatives
 - Requesting further information
 - Follow-up visit (CESCR – very rare)

National HR Action Plan

- Recommended practice to establish a National Human Rights Action Plan
 - Implementation of Concluding Observations
 - Voluntary commitments set out in the initial reports under the ICCPR and ICESCR
 - Time-line for implementation, especially concerning follow-up issues

National Human Rights Action Plan Process

- Responsibility
 - Inter-Ministerial Committee; or
 - Preparation by 'A' Status NHRI and adopted by Government
- Civil society consultation
- 'A' Status National Human Rights Institution (NHRI)
 - NHRI fully compliant with the Paris Principles
 - Independent of Government
 - Broad membership and mandate, including investigation
 - Adequate funding
 - Accessible to the general public

National Human Rights Action Plan Implementation

- Primary responsibility
 - Government
- Monitoring of implementation
 - 'A' Status NHRI
 - Civil society

Next Steps

- Subsequent periodic reports
 - List of Issues or List of Issues Prior to Reporting?
- Parallel UPR?

Questions and Discussion



International Covenant on Civil and Political Rights

Distr.: General
19 April 2012

Original: English

Human Rights Committee

104th session

New York, 12–30 March 2012

Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Turkmenistan

1. The Committee considered the initial report submitted by Turkmenistan (CCPR/C/TKM/1) at its 2870th, 2871th and 2872th meetings (CCPR/C/SR.2870, 2871 and 2872), held on 15 and 16 March 2012, and adopted at its 2887th (CCPR/C/SR.2887), held on 28 March 2012, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Turkmenistan and the information presented therein, although the report has been due since 1998. It expresses appreciation for the opportunity to engage in a constructive dialogue with the State party's delegation on the measures that the State party has taken to implement the provisions of the Covenant since its accession to the Covenant in 1997. The Committee appreciates the written replies (CCPR/C/TKM/Q/1/Add.1) to the list of issues, which were supplemented by the oral responses provided by the delegation.

B. Positive aspects

3. The Committee welcomes the following legislative measures taken by the State party:

- (a) The enactment of the International Treaties Act of 10 May 2010;
- (b) The enactment of the State Guarantees of Women's Equality Act of 14 December 2007;
- (c) The adoption of the Law on Combating Trafficking in Persons on 17 December 2007.

4. The Committee welcomes the ratification by the State party of the following international instruments:

- (a) The Convention on the Rights of Persons with Disabilities, on 4 September 2008;
- (b) The Optional Protocol to the International Covenant on Civil and Political Rights, on 1 May 1997, and the Second Optional Protocol aiming at the abolition of the death penalty, on 11 January 2000;
- (c) The Convention on the Rights of the Child, on 29 April 2005.

C. Principal matters of concern and recommendations

5. While welcoming the accession by the State party to the Optional Protocol to the International Covenant on Civil and Political Rights and the State party's commitment to implement the Committee's Views adopted under its individual complaints procedure, the Committee is concerned at the lack of a mechanism in the State party to implement the Committee's Views as well as at the present non-satisfactory degree of implementation of the Views of the Committee concerning complaints related to the State party (art. 2).

The Committee urges the State party to implement the Views of the Committee and to establish a mechanism with a mandate to implement the Views adopted by the Committee concerning the State party. In this regard, the State party should include in its second periodic report information on the measures that the State party has taken to implement the Committee's Views in all communications in which the Committee has found a violation of the rights under the Covenant.

6. While noting that international human rights treaties ratified and promulgated by the State party take precedence over national laws, the Committee is concerned that none of the provisions of the Covenant have been invoked before national courts since the accession of the State party to the Covenant (art. 2).

The State party should take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account before and by national courts.

7. While noting the establishment of the National Institute for Democracy and Human Rights (NIDHR), which has the mandate to act as a national human rights institution, the Committee is concerned that the NIDHR, as a part of the President's office, is not independent (art. 2).

The State party should establish a national human rights institution that can implement its mandate independently and in full accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

8. The Committee expresses concern that women remain underrepresented in both the public and private sectors, particularly in decision-making positions. The Committee is also concerned at the prevalent negative stereotypes regarding the roles of women in society, which is partly perpetuated by the Labour Code that is overly protective of the traditional roles of women in society (arts. 2, 3 and 26).

The State party should strengthen its efforts to increase the participation of women in the public and private sectors and, if necessary, through appropriate temporary special measures to give effect to the provisions of the Covenant. The State party should revise its Labour Code to eliminate the prevailing negative stereotypes against women that restrict their participation in public life, particularly in the employment sector.

9. The Committee is concerned at increased reports of torture and ill-treatment in places of detention where it is often used to extract confessions from accused persons, and

the lack of an independent body to investigate abuse by law enforcement officers and to conduct regular visits to prisons and other places of detention. The Committee also expresses concern at the lack of a definition of torture in the State party's legislation. The Committee is further concerned that access to places of detention is denied to international human rights monitors (art. 7).

The Committee recommends that the State party:

(a) Revise its Criminal Code in order to incorporate a definition of torture that is in line with the definition under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Take appropriate measures to put an end to torture by, inter alia, establishing an independent oversight body to carry out independent inspections and investigations in all places of detention of alleged misconduct by law enforcement officials;

(c) Ensure that law enforcement personnel continue to receive training on the prevention of torture and ill-treatment by integrating the 1999 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) in all training programmes for law enforcement officials. The State party should also ensure that allegations of torture and ill-treatment are effectively investigated, and that perpetrators are prosecuted and punished with appropriate sanctions, and that the victims receive adequate reparation; and

(d) Allow visits by recognized international humanitarian organizations to all places of detention.

10. The Committee is concerned at reports that a number of individuals who were convicted in December 2002 and January 2003 for their alleged involvement in the assassination attempt on the former President in November 2002 continue to be held incommunicado (arts.7, 9 and 10).

The State party should take concrete measures to put an end to the practice of incommunicado detention and imprisonment. The Committee urges the State party to immediately make known the whereabouts of those convicted for allegedly attempting to assassinate the former President and allow visits from members of their families and access to their lawyers.

11. While noting the adoption in December 2007 of a law to combat trafficking in persons, the Committee regrets reports of cases of human trafficking in the State party (art. 8).

The State party should strengthen its efforts to combat trafficking in human beings by ensuring that efforts are directed towards establishing and dealing with the root causes of trafficking. In this regard, the State party should ensure that all cases of human trafficking are effectively investigated, that perpetrators are prosecuted and punished with appropriate sanctions, and that the victims' human rights are fully respected and vindicated.

12. The Committee is concerned at reports that the State party restricts the exit and entry into the State party by certain individuals who are on the list of individuals under State surveillance. The Committee also regrets that the State party maintains the system of mandatory registration at the place of residence which is a prerequisite for residence, employment, acquisition of real estate and access to health services. The Committee is concerned that this system may interfere with the enjoyment of rights under article 12 of the Covenant (art. 12).

The State party should ensure that restrictions on the movement of individuals within the territory of the State party, as well as the right to exit, and any surveillance programmes for purposes of State security are compatible with the strict requirements of article 12. In this regard, the State party should ensure that the requirement that individuals register their place of residence is in full compliance with the provisions of article 12 of the Covenant.

13. The Committee expresses concern at reports that corruption is widespread in the judiciary. The Committee also expresses concern at the lack of an independent judiciary in the State party particularly with regard to tenure of office since judges are appointed by the President for renewable terms of five years. The Committee is concerned that this lack of security of tenure has the effect of exerting undue influence by the executive on the administration of justice in the State party (arts. 2 and 14).

The State party should take measures to eradicate corruption by investigating, prosecuting and punishing alleged perpetrators, including judges who may be complicit. The State party should take all necessary measures to safeguard the independence of the judiciary by guaranteeing their tenure of office, and sever the administrative and other ties with the Executive Office.

14. While appreciating that under article 125 of the Code of Criminal Procedure evidence obtained through coercion has no legal force, the Committee is concerned at increased reports that judges continue to admit as evidence testimony obtained under torture (arts. 2 and 14).

The State party should ensure that measures are put in place to guarantee, in practice, the exclusion by the judiciary of any evidence obtained under any form of coercion and torture.

15. The Committee is concerned that under the HIV/AIDS Prevention Act of 2001, foreign citizens infected with HIV/AIDS may freely enter the territory of the State party but only for a maximum period of three months. The Committee is also concerned that upon detection of an infection, foreign nationals are deported (arts. 17 and 26).

The State party should revise its legislation to ensure that foreign nationals who enter the territory of the State party enjoy all their rights under the Covenant, particularly to freedom of movement and privacy.

16. The Committee is concerned that the Conscription and Military Service Act, as amended on 25 September 2010, does not recognize a person's right to exercise conscientious objection to military service and does not provide for any alternative military service. The Committee regrets that due to this law, a number of persons belonging to the Jehovah's Witness have been repeatedly prosecuted and imprisoned for refusing to perform compulsory military service (art. 18).

The State party should take all necessary measures to review its legislation with a view to providing for alternative military service. The State party should also ensure that the law clearly stipulates that individuals have the right to conscientious objection to military service. Furthermore, the State party should halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those individuals who are currently serving prison sentences.

17. While noting the plans and efforts by the State party to review its legislation on religious organizations, the Committee is concerned that the Freedom of Religion and Religious Organizations Act provides for the compulsory registration of religious associations and similar entities. The Committee is also concerned that the practice of a religion and the conduct of any religious activities without registration is subject to administrative penalties. Furthermore, the Committee is concerned at reports that the

Freedom of Religion and Religious Organizations Act prohibits private religious education at all levels, and that the State party strictly regulates the number of copies of religious texts that religious organizations may import (art. 18).

The State party should ensure that its laws and practices relating to the registration of religious organizations respect the rights of persons to freely practice and manifest their religious beliefs as provided for under the Covenant. The State party should amend its law to ensure that individuals can freely provide religious education in private at all levels and can import religious texts in quantities they consider appropriate.

18. The Committee expresses concern at reports that the State party systematically does not respect the right to freedom of expression. The Committee, in particular, expresses concern at reports of the harassment and intimidation of journalists and human rights defenders in the State party, and its refusal to grant entry visas to international human rights organizations. The Committee is also concerned at allegations that the State party monitors the use of the Internet and blocks access to some websites (art. 19).

The State party should ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression in accordance with the Covenant, and also allow international human rights organizations into the country. The State party should ensure that individuals have access to websites and use the Internet without undue restrictions. The Committee, therefore, urges the State party to take all necessary steps to ensure that any restrictions on the exercise of freedom of expression fully comply with the strict requirements of article 19, paragraph 3, of the Covenant as further set out in its general comment No. 34 (2011) on freedoms of opinion and expression.

19. The Committee is concerned that the Law on Public Associations severely restricts freedom of association in that it, inter alia, provides for the compulsory registration of public associations and contains onerous obligations on associations to report to authorities. The Committee is also concerned that associations undergo cumbersome administrative processes for registration so that in some instances associations are forced to wait for a number of years before they obtain a registration certificate (art. 22).

The State party should ensure that the process of registration of associations complies with article 22, paragraph 2 of the Covenant. In this regard, the State party should reform its system of registration to ensure that registration applications are processed professionally and expeditiously.

20. The Committee is concerned at reports of the use of children for cotton harvesting in the State party (art. 24).

The State party should eliminate the use of children for cotton harvesting and ensure that children are protected from the harmful effects of all forms of child labour.

21. The Committee regrets the criminalization of sexual relations between consenting adults of the same sex, which entails a penalty of up to two years in prison. The Committee is concerned at the deep-rooted stereotypes against individuals on the basis of their sexual orientation or gender identity (art. 26).

The State party should decriminalize sexual relations between consenting adults of the same sex in order to bring its legislation in line with the Covenant. The State party should also take the necessary steps to put an end to the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of discrimination against persons based on their sexual orientation or gender identity.

22. The Committee is concerned at the limited access of ethnic minorities to employment in the public sector and in decision-making bodies. The Committee is concerned at reports of the alleged use of a forced assimilation policy of ‘Turkmenisation’, which seriously reduces opportunities for ethnic minorities in the fields of employment, education and political life (arts. 25, 26 and 27).

The State party should strengthen its efforts to promote the participation of minority groups in public life and decision-making bodies by, inter alia, adopting temporary special measures. The State party is requested to provide in its second periodic report data disaggregated by ethnic groups on the representation of minority groups in public office and decision-making positions.

23. The State party should widely disseminate the Covenant, the Optional Protocols to the Covenant, the text of the initial report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The report and the concluding observations should be translated into the official language of the State party.

24. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee’s recommendations made in paragraphs 9, 13 and 18 above.

25. The Committee requests the State party to provide, in its next periodic report due to be submitted on 30 March 2015, specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to broadly consult civil society and non-governmental organizations operating in the country.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

COUNTRY ANALYSIS

Note by the Secretariat

At its eighth session, the Committee on Economic, Social and Cultural Rights requested the Secretariat to prepare a detailed analysis of all available information relating to the situation in the reporting State and to make it available to the Pre-sessional working group. The present document contains the country analysis relating to:

TAJIKISTAN

E/C.12/TJK/CA/1

STATUS OF RATIFICATION AND SUBMISSION OF REPORTS UNDER MAIN INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Core document: HRI/CORE/1/Add.128

International Covenant on Economic, Social and Cultural Rights

Entry into force: 04/04/1999
Reservations and declarations: No
Objections: No
Report: **Initial** E/C.12/TJK/1
Concluding Observations: N/A

International Covenant on Civil and Political Rights

Entry into force: 04/04/1999
Reservations and declarations: No
Objections: No
Article 41: No
Optional Protocol: 04/04/1999
Second Optional Protocol: No
Report: **Initial** CCPR/C/TJK/2004/1
Summary Record: N/A
Concluding Observations: N/A

Convention on the Elimination of All Forms of Racial Discrimination

Entry into force: 10/02/1995
Reservations and Declarations: No
Article 14: No
Objections: No
Report: **1st, 2nd, 3rd, 4th, 5th** CERD/C/463/Add.1
Summary Record: CERD/C/SR.1658, 1659
CERD/C/SR.1670
Concluding Observations: CERD/C/65/CO/8

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Entry into force: 10/02/1995
Optional Protocol: No
Reservations and Declarations: No
Objections: No
Article 21: No
Article 22: No
Report: **Initial** CAT/C/TJK/1
(pending consideration)
Summary Record: N/A
Concluding Observations: N/A

Convention on the Elimination of All Forms of Discrimination against Women

Entry into force: 25/11/1993
Optional Protocol to CEDAW: 07/11/2000

	(Signature Only)
Reservations and Declarations:	No
Objections:	No
Report: Initial	CEDAW/C/TJK/1-3 (pending consideration)
Summary Record:	N/A
Concluding Observations:	N/A

Convention on the Rights of the Child

Entry into force:	25/11/1993
Reservations and declarations:	No
Objections:	No
Optional Protocol (sale of children):	05/08/2002
Optional Protocol (armed conflict):	05/08/2002 ¹
Report: Initial	CRC/C/28/Add.14
Summary Record:	CRC/C/SR.653-654 CRC/C/SR.669
Concluding Observations:	CRC/C/15/Add.136

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

Entry into force:	01/07/2003
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STATUS OF RATIFICATION OF RELEVANT ILO CONVENTIONS:

C.2: Unemployment Convention, 1919	NO
C.29: Forced Labour Convention, 1930	YES
C.81: Labour Inspection Convention, 1947	NO
C.87: Freedom of Association and Protection of the Right to Organise Convention, 1948	YES
C.98: Right to Organise and Collective Bargaining Convention, 1949	YES
C.100: Equal Remuneration Convention, 1951	YES
C.102: Social Security (Minimum Standards) Convention, 1951	NO
C.105: Abolition of Forced Labour Convention, 1959	YES
C.111: Discrimination (Employment and Occupation) Convention, 1958	YES

¹ **Declaration:** On behalf of the Republic of Tajikistan, the Ministry of Foreign Affairs has the honour to declare that, in accordance with [paragraph] 2 of article 3 of the Optional Protocol to the Convention on the Rights of a Child with respect to participation of children in military conflicts, the voluntarily recruitment of those under age of 18 to the armed forces of the Republic of Tajikistan shall be prohibited.

C.117: Social Policy (Basic Aims and Standards) Convention, 1962	NO
C.118: Equality of Treatment (Social Security) Convention, 1962	NO
C.122: Employment Policy Convention, 1964	YES
C.138: Minimum Age Convention, 1973	YES
C.160: Labour Statistics Convention, 1985	YES
C.169: Indigenous and Tribal Peoples Convention, 1989	NO
C.174: Prevention of Major Industrial Accidents Convention, 1993	NO
C.182: Worst Forms of Child Labour Convention 1999	NO

I. INFORMATION OF A GENERAL CHARACTER



The Central Intelligence Agency
The World Factbook: Tajikistan
September 2006

A. BACKGROUND

The Tajik people came under Russian rule in the 1860s and 1870s, but Russia's hold on Central Asia weakened following the Revolution of 1917. Bolshevik control of the area was fiercely contested and not fully reestablished until 1925. Tajikistan became independent in 1991 following the breakup of the Soviet Union, and it is now in the process of strengthening its democracy and transitioning to a free market economy after its 1992-1997 civil war. There have been no major security incidents in recent years, although the country remains the poorest in the former Soviet sphere. Attention

by the international community in the wake of the war in Afghanistan has brought increased economic development assistance, which could create jobs and increase stability in the long term. Tajikistan is in the early stages of seeking World Trade Organization membership and has joined NATO's Partnership for Peace.

The Central Intelligence Agency
The World Factbook: Tajikistan
September 2006

B. ECONOMIC ISSUES

GDP (purchasing power parity):	\$8.73 billion (2005 est.)
GDP (official exchange rate):	\$1.887 billion (2005 est.)
GDP - real growth rate:	8% (2005 est.)
GDP - per capita (PPP):	\$1,200 (2005 est.)
GDP - composition by sector:	agriculture: 23.4% industry: 28.6% services: 48% (2005 est.)
Labor force:	3.7 million (2003)
Labor force - by occupation:	agriculture: 67.2% industry: 7.5% services: 25.3% (2000 est.)
Unemployment rate:	12% (2004 est.)
Population below poverty line:	64% (2004 est.)
Inflation rate (consumer prices):	7.1% (2005 est.)
Investment (gross fixed):	19.4% of GDP (2005 est.)
Agriculture - products:	cotton, grain, fruits, grapes, vegetables, cattle, sheep, goats
Industries:	aluminium, zinc, lead; chemicals and fertilizers, cement, vegetable oil, metal-cutting machine tools, refrigerators and freezers
Industrial production growth rate:	8.2% (2002 est.)
Current account balance:	-\$44 million (2005 est.)
Exports:	\$950 million f.o.b. (2005 est.)
Exports - commodities:	aluminium, electricity, cotton, fruits, vegetable oil, textiles

Exports - partners:	US 23.2%, Netherlands 15.5%, Turkey 10.9%, Uzbekistan 8.1%, Switzerland 7%, Russia 7%, Norway 5.5% (2005)
Imports:	\$1.25 billion f.o.b. (2005 est.)
Imports - commodities:	electricity, petroleum products, aluminium oxide, machinery and equipment, foodstuffs
Imports - partners:	Russia 17%, Uzbekistan 14.4%, Kazakhstan 13.1%, China 11.3%, Azerbaijan 7.4%, Ukraine 4.6% (2005)
Debt - external:	\$888 million (2004 est.)
Economic aid - recipient:	\$67 million from US (2005)

The Central Intelligence Agency
The World Factbook: Tajikistan
September 2006

During the Soviet era, Tajikistan received the highest transfers from the federal budget as a percentage of its total government revenue (at 47%). It was dependent on the other republics for food imports, mainly in exchange for raw cotton and aluminium. These transfers and subsidised imports ceased at the time of independence in 1991. **The disruptions caused by the collapse of the Soviet Union and Tajikistan's 1992-97 civil war had a devastating effect on the country's already weak economy (...).** The return to relative political stability following the end of the civil war, the recovery of some industrial sub-sectors and strong inflows of remittances have since had a positive impact on the economy, spurring average annual real GDP growth to just over 9% in 2000-05. Nevertheless, Tajikistan remains one of the poorest former Soviet republics, with a largely rural and agricultural society.

Cotton and aluminium production still dominate Tajikistan's economy (...). Before independence Tajikistan produced about 11% of the Soviet Union's total cotton harvest; cotton output collapsed in the 1990s (...). **Aluminium is the mainstay of the industrial sector and Tajikistan's principal source of export revenue.** Production fell sharply during the civil war (...) but has since begun to recover.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

Tajikistan has one of the lowest per capita GDPs among the 15 former Soviet republics. Only 6% of the land area is arable; cotton is the most important crop. Mineral resources, varied but limited in amount, include silver, gold, uranium, and tungsten. Industry consists only of a large aluminium plant, hydropower facilities, and small obsolete factories mostly in light industry and food processing. The civil war

(1992-97) severely damaged the already weak economic infrastructure and caused a sharp decline in industrial and agricultural production.

Even though 64 % of its people continue to live in abject poverty, Tajikistan has experienced **steady economic growth since 1997**, but experienced a slight drop in its growth rate to 8 % in 2005 from 10.6% in 2004. Continued privatization of medium and large state-owned enterprises would further increase productivity. **Tajikistan's economic situation, however, remains fragile** due to uneven implementation of structural reforms, weak governance, widespread unemployment, and the external debt burden. A debt restructuring agreement was reached with Russia in December 2002 (...). Tajikistan ranks third in the world in terms of water resources per head. A proposed investment to finish the hydropower dams Rogun and Sangtuda would substantially add to electricity production. If finished, Rogun will be the world's tallest dam.

The Central Intelligence Agency
The World Factbook: Tajikistan
September 2006

Since independence, the long civil war and the disruptions stemming from the collapse of the Soviet system have contributed to widespread social tension and poverty in Tajikistan. **GDP per head was estimated at around US\$350 in 2005**, making Tajikistan one of the poorest countries in the world. Despite considerable international assistance, **a combination of corruption and poor administrative capacity has prevented significant improvements in welfare**. This problem has been further compounded by insufficient co-ordination between Western non-governmental organisations (NGOs) and Tajikistan's traditional civic networks, such as the *mahalla* (neighbourhood) groups.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

In the absence of sufficient domestic sources of finance to support investment and reform, **Tajikistan depends heavily on the support of the major international lenders and donor agencies**. These include the World Bank, the Asian Development Bank (ADB), the Islamic Development Bank and the European Bank for Reconstruction and Development (EBRD).

Aid agencies are starting to shift their focus in Tajikistan away from emergency post-conflict support towards more development-oriented aid in support of education, infrastructure and agricultural reform. Regular donor conferences have pledged substantial amounts of money towards development projects. The most recent, in May 2003, resulted in promises of US\$900m for the subsequent three years. However, much of this aid has not been forthcoming, in part owing to Tajikistan's weak absorptive capacity, as well as ongoing concerns about corruption and mismanagement.

EIU, The Economist Intelligence Unit

C. SOCIAL ISSUES

Population:	7,320,815 (July 2006 est.)
Age structure:	0-14 years: 37.9 % 15-64 years: 57.4 % 65 years and over: 4.8 % (2006 est.)
Median age:	20 years
Population growth rate:	2.19% (2006 est.)
Infant mortality rate:	106.49 deaths/1,000 live births (2006 est.)
Life expectancy at birth:	total population: 64.94 years male: 62.03 years female: 68 years (2006 est.)
Total fertility rate:	4 children born/woman (2006 est.)
Ethnic groups:	Tajik 79.9 %, Uzbek 15.3 %, Russian 1.1 %, Kyrgyz 1.1 %, other 2.6% (2000 census)
Religions:	Sunni Muslim 85 %, Shi'a Muslim 5 %, other 10 % (2003 est.)
Languages:	Tajik (official), Russian widely used in government and business

The Central Intelligence Agency
The World Factbook: Tajikistan
September 2006

The population of Tajikistan at end-2005 was 6.78m. **The 1992-97 civil war forced up to 1m people to flee their homes, many becoming refugees in other countries.** Nearly all of the 70,000 who fled to Afghanistan during the civil war have returned. Hundreds of thousands more who sought refuge in other parts of the Commonwealth of Independent States (CIS)—mainly Russia—are less likely to return, principally for economic reasons. Ethnic Russians, who once constituted 8% of Tajikistan's population, have also left in large numbers owing to their growing marginalisation. Since the end of the civil war, some Russians have returned, and the rate of Russian emigration has slowed. **Russians now account for some 2% of the total population** (compared with 30% in Kazakhstan), with many living in the northern city of Khujand.

As a result of the Soviet demarcation of Central Asia, there are **substantial Uzbek and Tajik minorities in Tajikistan and Uzbekistan respectively**, such that most

ethnic Tajiks do not live in Tajikistan – the majority are in Afghanistan and Uzbekistan. However, it is often difficult to distinguish between the two groups, particularly in the Ferghana valley, because of widespread intermarriage and bilingualism. Complaints of discrimination by both sides have been exacerbated by the fact that the governments of Uzbekistan and Tajikistan have pursued nationalist agendas favouring their nominal majorities, and have to some extent suppressed the cultural rights of their respective minorities.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

Several ethnic ties and outside influences complicate Tajikistan's national identity to a greater extent than in other Central Asian republics. **The Tajik people share close kinship and their language with a much larger population of the same nationality living in north-eastern Afghanistan**, whose population also includes a large proportion speaking Dari, a dialect of Persian intelligible to Tajiks. Despite sectarian differences (most Tajiks are Sunni Muslims, while Iranians are predominantly Shi'ites), **Tajiks also have strong ties to the culture and people of Iran**; the Tajik and Persian languages are closely related and mutually intelligible. The Tajiks' **centuries-old economic symbiosis with oasis-dwelling Uzbeks** also somewhat confuses the expression of a distinctive Tajik national identity.

So closely are the Tajiks mixed with neighbouring Uzbeks that the Soviet partition of the area in 1924 failed to segregate the two nationalities with any degree of thoroughness. With nearly one million Tajiks in Uzbekistan and more than one million Uzbeks in Tajikistan, these nationalities remain in intimate, though not always friendly, interrelation. **The country's other ethnic groups** include Russians, Tatars, Kyrgyz, Ukrainians, Germans, Jews, and Armenians.

“Tajikistan”,
Encyclopaedia Britannica 2006

Tajik, a variant of Persian, is the official language and the one most widely used. Russian is also used, especially in urban areas, and Uzbek is the main language for about 25% of the population. The majority of people in the mountainous Badakhshan province speak distant variants of Tajik, which could be categorised as separate languages. Other languages, such as Kyrgyz, Tatar, Turkmen, Uighur and Korean are also spoken by their respective minority groups.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. **During the year however, the government's protection of refugees deteriorated**

in practice. The government no longer registered asylum seekers for national security concerns. During the year refusals to applicants for asylum or refugee status increased. (...)

The government deported 17 refugees to Afghanistan, prompting UNHCR protest. The refugees were not given access to lawyers or the opportunity to appeal the decision, as provided for by law. A group of mostly Afghan refugees remained in the country with no clear future. They were not fully integrated into society and UNHCR had not completed its prescreening for asylum in third countries. **Police officers continued to mistreat and harass the country's Afghan refugees**, who resided mainly in the capital and in Khujand. Although their treatment improved in some areas, many Afghan refugees claimed they were frequently harassed and intimidated into paying illegal registration fees, bribes, and other fines to police who falsely accused them of being affiliated with the Taliban. Despite legislation allowing Afghan refugees to resettle in the country and to obtain citizenship, **to date no Afghan refugee has been granted citizenship.**

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

D. POLITICAL ISSUES

Executive branch

Chief of state: President Emomali RAHMONOV (since 6 November 1994; head of state and Supreme Assembly chairman since 19 November 1992).

Head of government: Prime Minister Oqil OQILOV (since 20 January 1999).

Cabinet: Council of Ministers appointed by the president, approved by the Supreme Assembly.

Elections: president elected by popular vote for a seven-year term; election last held 6 November 1999 (next to be held NA 2006); prime minister appointed by the president.

Legislative branch

Bicameral Supreme Assembly: the *Majlisi Oli* consists of the Assembly of Representatives (lower chamber) or *Majlisi Namoyandagon* (63 seats; members are elected by popular vote to serve five-year terms) and the National Assembly (upper chamber) or *Majlisi Milliy* (34 seats; members are indirectly elected, 25 selected by local deputies, 8 appointed by the president; 1 seat reserved for the former president; all serve five-year terms).

Elections: last held 27 February and 13 March 2005 for the Assembly of Representatives (next to be held February 2010) and 25 March 2005 for the National Assembly (next to be held February 2010).

Tajikistan is a presidential republic, with a bicameral legislature, made up of a Council of Representatives (lower house) and a National Council (upper house). The People's Democratic Party (PDP), led by the president, Imomali Rahmonov, won a reported 75 % of the vote in the February 2005 general election, and controls both houses. **The legislature enjoys little genuine authority**, as most power is concentrated in the presidency.

The improvements in Tajikistan's security situation have been accompanied by a **steady concentration of political power and decision-making in the presidency**, eroding the limited pluralism enshrined in the 1997 peace agreement. The 2005 parliamentary election demonstrated the extent to which Mr. Rahmonov and his party have consolidated their hold politically in Tajikistan, with the PDP and its independent allies winning all but six seats in the lower house of parliament. Following a controversial referendum on constitutional changes in June 2003, Mr. Rahmonov secured the right to stand for re-election when his second term in office expires in late 2006. (...) Given that the 2005 parliamentary election resulted in an overwhelming victory for the president's party, Mr Rahmonov's re-election seems all but assured. A wide-ranging reshuffle of provincial government figures in January 2006 further strengthened his authority, allowing him to install trusted officials throughout the country, thereby assuring him of a support base in the run-up to the presidential election, due in November 2006.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

E. LEGAL ISSUES

Constitution: adopted on 6 November 1994

Legal system: based on civil law system; no judicial review of legislative acts

Judicial branch: Supreme Court (judges are appointed by the president)

The Central Intelligence Agency
The World Factbook: Tajikistan
September 2006

Following a nationwide referendum, a **new constitution came into effect on November 1994**, replacing the previous constitution dating from 1978. It made Tajik the state language and Russian a language of inter-ethnic communication - in effect a second state language. It also included an **extensive section on human rights, individual liberties and legal due process**, although progress in implementing these

provisions has been mixed. A national **referendum in September 1999** approved a series of constitutional amendments, the most significant of which were the extension of the presidential term from five to seven years, the introduction of a bicameral parliamentary system, and the legalization of political parties based on religion. (...) The constitution was yet **again amended in June 2003** following a controversial plebiscite that approved more than 50 amendments. These included **amendments that removed a constitutional right to free healthcare and tertiary education for all**, as well as allowing the president to stand for election for two further seven year terms. On the basis of these changes, Mr. Rahmonov could now remain in office until 2020.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

Although the law provides for an independent judiciary, **in practice the executive branch and criminal networks exerted pressure on courts and judges**, and corruption and inefficiency were problems.

The president is empowered to appoint and dismiss judges and prosecutors with the consent of parliament. **Judges at the local, regional, and national level were generally poorly trained** and had extremely poor access to legal reference materials and other resources. Low wages for judges and prosecutors left them **vulnerable to bribery**, which remained a common practice. (...)

The judicial system is composed of city, district, regional, and national courts, and there are parallel economic and military court systems. Higher courts serve as appellate courts for lower ones. There also is a constitutional court that reviews citizens' claims of constitutional violations.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

The Special Rapporteur (...) finds the recent **strengthening of the role of the prosecutor** quite disquieting. Clearly, this represents a step backwards and a development towards forms of authoritarianism that should have become a feature of the past. (...)

The role currently attributed to the prosecutor, both by law and in practice, **represents a major risk for the democratization process** and creates serious obstacles to important additional reform efforts that lie ahead. The dominant position of the prosecutor also hampers reform efforts aiming to achieve respect of the principle of equality of arms and the right to defence...

The executive branch remains very influential in the selection and appointment procedures for judges. Another important problem is the vulnerable position of lawyers, related to difficulties in the exercise of their profession, in particular to freely provide legal counsel to their clients. The lack of a single, self-governed and

independent body administering all issues related to the lawyer's profession becomes all too evident. Finally, the lack of appropriate training on international standards governing the independence of the judiciary for all legal professions also needs to be overcome.

Report of the Special Rapporteur
on independence of judges and lawyers,
Mission to Tajikistan, 13-17 June 2005,
E/CN.4/2006/52/Add.4

The Committee is concerned that a procurator, rather than a judge, remains responsible for authorizing arrests. This creates an imbalance in the equality of arms between the accused and the prosecution, as the procurator may have an interest in the detention of those who are to be prosecuted...

The Committee is concerned that an inequality of arms between the prosecutor and the suspect/accused or defence counsel exists in practice, both during a criminal investigation and in court, for example in relation to obtaining and challenging evidence...

The Committee is concerned about the apparent lack of independence of the judiciary, as reflected in the process of appointment and dismissal of judges as well as in their economic status.

Human Rights Committee
Concluding Observations
CCPR/CO/84/TJK
18 July 2005

II. GENERAL PROVISIONS OF THE COVENANT

Article 2.2: Non Discrimination

The Committee is concerned that, according to some information, **refugees have been denied Tajik citizenship** despite the fact that they comply with the requirements set out in the Law "On Citizenship".

The Committee is concerned that, according to some reports, refugees, in particular Afghan refugees, have been **forcibly returned to their countries**.

Committee on the Elimination of Racial Discrimination
Concluding Observations
CERD/C/65/CO/8
10 December 2004

The law does prohibit discrimination [against persons with disabilities] in employment, education, access to healthcare, and provision of other state services, and discrimination was not a problem. There is no law mandating access to buildings for persons with disabilities, and the government did not require employers

to provide such access. Although there were group-living and medical facilities for persons with disabilities, funding was limited and facilities were in poor condition.

The Ministry of Labour and Social Welfare, the government commission on fulfilment of international human rights, the Prosecutor General's Office, the Society of Invalids, and appropriate local and regional governmental structures were all charged with protecting the rights of persons with disabilities.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

The Committee is concerned at the prevailing disparities in the enjoyment of their rights by **children** in Tajikistan. In particular, the Committee is concerned at the situation of: children living in institutions; children in regions of the country, which are lagging behind in socio-economic development and experiencing civil unrest; internally displaced, refugee and asylum-seeking children; and children of rural families. The Committee is concerned that the guarantee of non-discrimination in article 2 of the Convention may be jeopardized by the **introduction of fees for State health and education services**, which may pose barriers to access by low-income households.

Committee on the Rights of the Child
Concluding Observations
CRC/C/15/Add.136
23 October 2000

Article 3: Equal rights for men and women

The law provides for the rights and freedoms of every person regardless of race, gender, disability, language, or social status. **In practice there was discrimination against women** and trafficking in persons was a problem. (...)

While there was no formal discrimination against women, they faced **traditional societal discrimination**, diminishing educational opportunities, and increasing poverty. The law provides women with equal pay for equal work with men, but it was not always enforced in practice. (...)

The law protects women's **rights in marriage and family matters**; however, some minors were pressured to marry men against their will, and informal polygamy, although illegal, was reported. Inheritance laws do not discriminate against women although in practice some **inheritances passed disproportionately to sons**.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

The Committee is concerned that **discrimination on the grounds of gender persists de facto**, and expresses its concern at the persistence of negative stereotypical attitudes relating to the roles and responsibilities of women and men. In particular, the Committee is concerned that **families that cannot afford the costs imposed by school attendance, frequently give preference to the education of male children.**

Committee on the Rights of the Child
Concluding Observations
CRC/C/15/Add.136
23 October 2000

Whilst noting the efforts made by the State party to decrease the gender imbalance in government positions and to improve the status and rights of women in society, the Committee considers that much more needs to be done.

Human Rights Committee
Concluding Observations
CCPR/CO/84/TJK
18 July 2005

III: SPECIFIC RIGHTS SET FORTH IN THE COVENANT

Article 7: Right to just and favourable conditions of work

The official national minimum monthly wage of \$3.90 (12 somoni) did not provide a decent standard of living for a worker and family. The wage is established by the president with the advice of the Ministry of Labour and in consultation with unions. There was no official estimate of the poverty income level, though the World Bank indicated that 64 percent of the population lived below the poverty line which they designated at \$1 per day (2.78 somoni). Some observers estimated that a minimum of \$25 dollars per month (80 somoni) was required to avoid abject poverty in the capital.

The government acknowledged the problem of low wages and provided certain subsidies for workers and their families at the minimum wage. Some establishments, both governmental and private, compensated their employees in kind with food commodities or with enterprise-produced products, which employees either sold or bartered in local private markets.

The law provides for a **standard workweek of 40 hours** for adults over the age of 18. The law mandates overtime payment, with the first two hours paid at one and a half times the normal rate and the remainder at double the rate. Overtime payment was inconsistent in all sectors of the labour force. The Ministry of Finance enforces financial aspects of the labour law, and the Agency of the Financial Control of the presidential administration oversees other aspects of the law.

Government-established occupational health and safety standards fell far below accepted international norms, and the government did not enforce them in practice. The State Technical Supervision Committee under the council of ministers

was responsible for enforcing health and safety standards. The law permits workers to remove themselves from hazardous conditions without risking loss of employment. This law was not enforced effectively, and few workers did so in practice.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

8: Trade union rights

The law allows workers to form and join unions and they did so in practice.

According to official figures approximately 90 percent of the labour force was unionized. Most unions were affiliated with the **Federation of Trade Unions of Tajikistan**, an independent umbrella organization that attempted to represent all trade unions in the country. However, it was largely seen as ineffective and as an organization that generally supported government policies.

The law allows unions to conduct their activities without interference, except “in cases specified by law”, and the government protected this right in practice. The laws provide for the right to organize and bargain collectively, and workers exercised this right in practice. 90 percent of workers were under collective bargaining contracts (technically all workers belonging to unions were permitted to organize and bargain collectively). **The law does not restrict the right to strike**, but there were no strikes during the year. In practice people were reluctant to strike due to fears of government retaliation.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

Freedom of association, the right to strike and the right to collective bargaining are recognised in national legislation. However, **the Law on Trade Unions appears to give the government a free hand to restrict those rights**. The Law states that interference in trade union activities by the state authorities shall not be permitted “except in cases specified by law”. The main role of the Federation of Trade Unions of Tajikistan seems to be to support the government’s policies, although it is also developing social dialogue.

Tajikistan: Annual Survey of Violations of Trade Union rights (2004)

Article 10: Protection of the family, mothers and children

Violence against women, including spousal abuse, remained a widespread problem. Most cases of domestic abuse went unreported and reported cases were seldom investigated. Cases of domestic abuse may be prosecuted under other laws, such as

“hooliganism”, and accurate statistics on the number of domestic violence cases were difficult to estimate. There continued to be reports, particularly in rural areas, about abductions of young women who were then raped or forced to marry their abductors.

The law prohibits **rape** (although not specifically spousal rape), which is punishable by up to 20 years’ imprisonment. As with abuse incidents in general, it was widely believed that most cases were unreported and that the problem was growing, particularly in urban areas. In addition family members and acquaintances often used threats of rape to intimidate women. There were no official statistics on the number of rapists charged, prosecuted, or convicted.

The law prohibits **sexual harassment** with penalties of up to two years. In practice however, women were often sexually harassed and had to perform sexual favors in order to get a job or maintain one.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

The government remained committed to children’s rights and welfare, but it did not devote adequate financial resources to maintain the social security network for child welfare. **Poverty and a lack of resources contributed to a deterioration of the public school system and the medical infrastructure available to children (...)**. There were a few reports of violence against children (...). Trafficking continued to be a problem (...). Child labour continued to be a problem.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

The Committee is concerned that the negative effects of the current economic crisis have resulted in an increasing number of **children dropping out of school and taking up work**. The Committee expresses its concern at children working in the informal sector, especially children from rural backgrounds who may be at special risk, many of whom are working in hazardous conditions in agriculture, with little or no training on safety precautions.

The Committee is concerned at the **increase in the prostitution and trafficking of children and women** and the absence of an effective, comprehensive and integrated approach to prevent and combat these phenomena. The Committee is also concerned at the insufficient data and awareness of the phenomena of commercial **sexual exploitation of children** in Tajikistan.

Committee on the Rights of the Child
Concluding Observations
Tajikistan
CRC/C/15/Add.136
23 October 2000

The law prohibits trafficking in persons; however, trafficking in persons from and through the country was a problem. There were reports that government officials facilitated trafficking...

The majority of trafficking victims were female, single, and aged 20 to 26. Many were new arrivals to Dushanbe or Khujand from rural areas with little formal education. Child trafficking victims usually were in the care of extended family. **Ethnic minorities were overrepresented among victims**, particularly those of Slavic origin. Rural, uneducated, and abjectly poor communities were also particularly vulnerable...

Women and girls were trafficked from the country primarily for cheap domestic labor or sex work. Male trafficking victims were primarily used for labor abroad in agriculture, factories, or construction; some were held as slaves without pay... Victims came primarily from Khujand or Dushanbe and most were trafficked to Russia, former Soviet countries, the Persian Gulf states (including the United Arab Emirates, Yemen, Iran, and Saudi Arabia), Turkey, Syria, and Pakistan.

There were **few resources available to trafficking victims**. The government officially provided security and assistance to trafficking victims and endorsed efforts by international and domestic NGOs to prevent trafficking and provide services to victims. The government also cooperated with IOM to establish two temporary shelters for repatriated trafficking victims...

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
2006

The Committee is concerned at the incidence of **ill-treatment of children in the family, in institutions and in school**. The Committee is also concerned that violence against women is a problem in Tajikistan and that this has harmful consequences on children.

Committee on the Rights of the Child
Concluding Observations
Tajikistan
CRC/C/15/Add.136
23 October 2000

Article 12: Right to physical and mental health

The system of medical care in Tajikistan does not adequately protect public health in a time when environmental pollution has become a major problem owing to the careless application of pesticides and chemicals in agriculture. Moreover, **poor health and sanitary conditions** permit the easy transmission of communicable diseases. Both the inhospitable environment and the low general standard of living have led to **infant and maternal mortality rates exceeding those of any other Central Asian republic**, and the rates throughout Central Asia far exceed those recorded in the West. Amenities such as paved roads, modern communications,

potable running water, indoor toilets, and modern indoor heating and electrification are still confined to urban areas and thus benefit mostly non-Tajiks. Conditions in most rural areas remain primitive, though the state has worked to improve housing and community services. Although a high percentage of rural women work on the farms, they still tend to raise many children.

“Tajikistan”,
Encyclopaedia Britannica 2006

Provision of medical services in Tajikistan is well below average for a former Soviet republic. World Health Organisation (WHO) data suggest that Tajikistan’s total spending on health in 2002 - at 3.3% of GDP - was the lowest in the WHO’s “European” region. **Child mortality** (death before the age of five) was estimated at 121 per 1,000 males and 115 per 1,000 females in 2003, by far the highest figure in Europe and the CIS. The UN also estimated Tajikistan’s **maternal mortality rate** at 65 deaths per 100,000 live births, the second-highest rate in the former Soviet Union, together with the Kyrgyz Republic and Turkmenistan.

The country’s elderly dependency ratio - over-60s as a percentage of the working-age population - has fallen steadily in the past decade, suggesting worsening conditions for pensioners but also a more youthful population, in contrast with the ageing populations of most European countries. **Life expectancy has been on a downward trend**, owing to poor nutrition, unreliable water supplies and the reappearance of diseases such as typhoid, cholera, tuberculosis (TB) and malaria. **Average life expectancy fell from 68.4 years in 2000 to 61 years in 2003**, according to WHO statistics, the second-lowest life expectancy in the Europe and CIS region after Turkmenistan. In 2003 females were likely to live for 63 years, compared with 59 years for men. Given the dilapidated condition of the healthcare and sanitation systems, exacerbated by periodic flooding in some areas, the risk of epidemics remains high.

In May 2005 the World Bank announced a US\$27m project to combat the spread of AIDS in four Central Asian countries, including Tajikistan. The number of reported cases in the region skyrocketed between 2000 and 2004, from 500 to over 12,000, and the number of unreported cases is probably significantly higher. In Tajikistan the **number of HIV-positive notifications is low but has been rising fast**: the number doubled in 2003, and in January 2004 alone reported cases rose by 25%. The spread of HIV in Tajikistan is partly related to a sharp increase in intravenous drug use. According to health ministry figures, some 7,600 drug users were registered in Tajikistan in 2005 - up by around 300 compared with 2004 - of whom 80% were heroin users. However, such figures are believed to considerably understate the scale of the problem.

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

The Committee is concerned at the prevailing **poor situation of children with disabilities**. In particular, the Committee is concerned at the practice of institutionalizing children with disabilities and that access to services such as rehabilitation and education are limited and severely strained.

As a priority, the Committee is seriously concerned at the **deterioration in the health of the most vulnerable groups**, especially women and children, and in the quality of health services. In particular, the Committee notes the increase in communicable diseases, including vaccine-preventable diseases, and the increase in childhood malnutrition.

Committee on the Rights of the Child
Concluding Observations
CRC/C/15/Add.136
23 October 2000

Article 13: Right to education

Education is compulsory until age 16 and public education was free and universal. The law was not enforced and, while most children were enrolled in school up to the mandatory secondary level, actual attendance was estimated to be lower because children supplemented family income by working in the home or in informal activities. Girls became increasingly disadvantaged, especially in rural school systems, where families elected to keep them home to help take care of siblings or work in the fields. Government statistics reported over 90 percent of children attend school, although this number reflected children who are registered at school and the World Bank estimated actual attendance was more likely around 85 percent.

U.S. Department of State
Country Reports on Human Rights Practices
Tajikistan
March 2006

The state-funded education system has suffered from a **severe decline in resources** and years of social and economic dislocation. Although school attendance is in theory compulsory for nine years, **attendance rates at primary level are low.** Many children have to work to alleviate family hardship, and many families are unable to afford the necessary clothing, shoes or books. The UN World Food Programme (WFP), in partnership with local and international NGOs, has provided food aid in recent years to nearly 1,600 schools (roughly 50% of the total) in rural parts of the country. Funding shortfalls have led to a crisis in staffing levels, with an estimated 13,000 extra teachers needed adequately to educate the country's children. Many school teachers also supplement their meagre salaries by working in agriculture, raising animals or selling goods.

Secondary and higher education rates are also low, but data from the UN Children's Fund (UNICEF) suggest higher rates of secondary and higher education enrolment than in several other countries in the region. Government spending on education (as a percentage of GDP) is roughly in line with regional averages, although still well below figures in the more advanced transition economies. **Tajik is the main language of instruction**, and there are **also Russian and Uzbek schools.** Tajikistan has approximately 15 higher education institutions, but, as in the schools, the learning environment has deteriorated owing to the weak infrastructure and a shortage of teachers. Private schools and colleges have appeared, mainly in the capital, Dushanbe,

Khujand and Khorog. One strong higher education institution is the Slavonic University in Dushanbe, funded by the Russian government.

The **deterioration of the education system has led to worsening skills and significant youth unemployment**, which is estimated to exceed 60% in the worst-hit (rural) areas. Like some of the other former Soviet republics, Tajikistan is now facing a situation where the younger generation is less skilled or well educated than the older generations that were brought up under Soviet state socialism...

EIU, The Economist Intelligence Unit
Country Profile: Tajikistan
2006

The Committee is seriously concerned at the **deterioration in the quality of education**, especially infrastructure, teaching and curricula. The Committee is concerned at declining pre-school enrolment and the persistence of high drop-out, repetition, and absenteeism rates in primary and secondary schools.

Committee on the Rights of the Child
Concluding Observations
CRC/C/15/Add.136
23 October 2000

The Committee, while appreciating the State party's efforts to provide **children belonging to ethnic minorities** with education in their native languages, notes with regret that there is an insufficient number of Uzbek textbooks in the Latin alphabet, adapted to new curricula.

Committee on the Elimination of Racial Discrimination
Concluding Observations
CERD/C/65/CO/8
10 December 2004

Article 15: Right to culture

The Committee notes with concern that, according to some information, **minority languages** are rarely used on public television and radio, newspapers and magazines.

The Committee notes with interest that **the 1997 Culture Act guarantees the right of national and ethnic minorities to preserve and develop their cultural identity.**

Committee on the Elimination of Racial Discrimination
Concluding Observations
CERD/C/65/CO/8
10 December 2004

Consideration of the second periodic report of Georgia
(CCPR/C/GEO/2000/2 of 9 August 2000)

Analytical study of progress in implementing the provisions of the Covenant
(Initial report CCPR/C/100/Add.1)*

1. At its eleventh session the Committee adopted a Statement on the Duties of the Human Rights Committee under Article 40 of the Covenant (CCPR/C/18 of 30 October 1980). Paragraph (j) of the Statement provides that the Committee will request the secretariat to prepare after each examination of a State report analysis of the study of that report. This analysis should set out systematically both the questions asked and the responses given with precise references to the domestic legal sources, quoting the main ones. The principle of periodicity of reports, also contained in that statement, was later confirmed by a Committee decision adopted on 22 July 1981 and subsequently amended on 28 July 1982 (CCPR/C/19/Rev.1).

2. The attached analysis was prepared in response to such a request and with a view to facilitating the consideration of the State Party's second periodic report by the Committee at its 74th session. The analysis contains a list of the major issues discussed at the examination of the initial report, the Committee's concluding observations and recommendations (if any), and information on these issues provided in the second periodic report (if any).

*) Consideration of the initial report took place at the Committee's 59th session on 26 and 27 March 1997.

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
<p>Constitutional and legal framework within which the Covenant is implemented</p> <p>2)</p>	<p>1. Availability of an effective remedy</p> <p>2. The non-use of the possibility to invoke the Covenant in national courts</p> <p>3. The failure to nominate an Ombudsperson</p>	<p>1. The Committee deplored the fact that no remedies were available to victims of events occurring in 1992, 1993 and 1994 enabling them to seek redress for violations of their rights as provided under article 2 of the Covenant. In that connection, the Committee noted that the State party was bound by the provisions of the Covenant from the date on which the country became independent, and hence also during the period preceding its declaration of accession, since it must be considered to have succeeded to the obligations undertaken by the former Soviet Union, of which it was an integral part until the time it proclaimed its independence. The Committee invited the Government to provide all individuals under its jurisdiction with an effective remedy and compensation for violations of their human rights found to have occurred since independence in 1991 (CCPR/C/79/Add.75 paras. 10, 23).</p> <p>2. The Committee regretted that the Covenant, although directly applicable under domestic law, was not invoked before the courts (ibid. para. 11).</p> <p>3. The Committee considered that the failure to nominate anyone to the post of Ombudsman, which was established in May 1996, denied an effective remedy to persons alleging a violation of their fundamental rights. The Committee recommended that the State party appoint an ombudsman as soon as possible. The Committee urged the Government to ensure the legitimacy and authority of the Committee for Human Rights and Ethnic Relations and to define the relationship between that Committee and the Ombudsman (ibid. paras. 11, 23).</p> <p>4. The Committee recommended that procedures be</p>	<p>1. No specific reference to remedies for victims of events in 1992, 1993 and 1994 is made in the report.</p> <p>2. The report notes that the President has asked the Supreme Court to ensure that Georgian courts make active use of international human rights norms (para.5).</p> <p>3. The report makes several references to the Ombudsman (without mentioning when the current Ombudsperson was appointed) as well as to other human rights bodies. (para. 14, 17). The Committee for Human Rights and Ethnic Relations was replaced by the Committee on the Protection of Human Rights, Citizens' Petitions and the Building of Civil Society (para. 13)</p>

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
	4. Optional Protocol	established to give effect to the Committee's findings under the Optional Protocol (ibid. para. 24).	4. No reference is made to procedures for the implementation of the Committee's findings, nor the specific Communications in relation to Georgia.
Non-discrimination, equality between the sexes (arts. 2(1), 3, 26)	1. Discrimination/inequalities on the basis of sex	1. The Committee regretted that, in spite of the elimination of inequalities before the law, women continue to be victims of unequal treatment and discrimination in the political, economic and social spheres. It further noted with concern that methods of contraception other than abortion were difficult to obtain (ibid. para. 12)	1. The report elaborates on measures taken with regard to achieving equal treatment for women, including the proposal to reproduce the wording of article 3 in the Constitution (paras. 54-56). Problems relate to inadequate representation in decision-making in legislative and executive bodies at the central and local levels; increased poverty during the transition period; higher levels of unemployment for women as compared to men; the effects of internal conflicts, resulting in a large number of displaced women; lack of awareness of their rights and freedom and legal illiteracy (applies also to men) (para. 57). With respect to methods of contraception, the report refers to the formulation of a national family planning and reproductive health program supplying medical facilities and the pharmacy network with sufficient quantities of contraceptives and determining how to popularise them with the help of the media (para.5).
Right to life; prevention of torture; liberty and security of person; treatment of detainees; right to a fair trial (arts. 6, 7, 9, and 14)	1. Death penalty	1. The Committee feared that the moratorium that had been instituted on the carrying out of death sentences was a weak palliative. In spite of the reduction in the number of offences carrying the death penalty, these were still too numerous and some of them did not come within the category of the most serious crimes envisaged in art. 6 of the Covenant. It also deplored that some capital sentences appear to have been imposed in cases where confessions were obtained under torture or duress or following trials where the guarantees provided under article 14 of the Covenant were not respected, particularly the right to have a case reviewed by a higher court (art.14, para.5). The Committee urged the authorities to continue the moratorium on executions and to continue the serious efforts	1. On 11 October, the Death Penalty (Abolition) Act entered into force. Under this Act, capital punishment was changed to life imprisonment. In March 1999 Georgia became a party to the Second Optional Protocol to the Covenant: the Protocol entered into force in Georgia on 22 June 1999 (para. 11).

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
	<p>2. Torture, including impunity for acts of torture; absence of complaints by victims</p> <p>3. Pre-trial detention and police custody</p>	<p>that have been made towards abolishing the death penalty (ibid. paras. 13, 25).</p> <p>2. The Committee was deeply concerned by cases of torture inflicted on individuals deprived of their liberty, including for the purpose of extracting confessions. It deplored the fact that these and other acts of torture usually go unpunished and that in many cases a lack of confidence in the authorities keeps the victims from lodging complaints. The Committee recommended that the State party undertake systematic and impartial investigations into all complaints of ill-treatment and torture, bring to trial persons charged with violations as a result of these investigations, and compensate the victims. Confessions obtained under duress should be systematically excluded from judicial proceedings and, given the admission of the State party that torture had been widespread in the past, all convictions based on confessions allegedly made under torture should be reviewed (ibid. paras. 14, 26).</p> <p>3. The Committee deplored the use of pre-trial detention and police custody. The limits placed on those measures by the Constitution are often not observed in practice, in disregard also of the provisions of article 9 of the Covenant. The Committee recommended that detention and pre-trial detention should be carried out in accordance with the requirements of the Constitution and the Covenant. It stressed, <i>inter alia</i>, that all persons who are arrested must have immediately access to counsel, be examined by a doctor without delay and be able to submit promptly an application to a judge to rule on the legality of the detention (ibid. paras. 15, 27).</p>	<p>2. The report outlines in detail the relevant legal provisions prohibiting torture but makes no references to specific cases of torture, with the exception of one complaint made in 1988 (sic) in which no evidence of torture had been revealed during the investigation (para. 139). Reference is made to the annual reports of the Ombudsman for 1998 and 1999, where a number of instances of torture are cited. It is noted that investigations were carried out in all cases, and criminal proceedings instituted in some instances, but no actions have been categorized as torture, which is attributed to the way torture is defined in the Criminal Code (paras. 113 & 140).</p> <p>3. The report elaborates on the relevant legal provisions in the Constitution and the Code of Criminal Procedure. Para. 164 relates to short-term detention in regard to which the rights of persons deprived of liberty during the first 12 hours after arrest are not clear, particularly with respect to access to counsel. No reference is made to the application of the laws in practice.</p>

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
	<p data-bbox="352 412 730 440">4. Prison situation/human treatment</p> <p data-bbox="352 911 688 938">5. Independence of the judiciary</p> <p data-bbox="352 1256 575 1284">6. Right to a fair trial</p>	<p data-bbox="766 354 1386 630">4. The Committee was deeply concerned at the disastrous prison situation; crowding, poor sanitary conditions and lack of medical care have resulted in a high rate of infectious disease and a very alarming mortality rate, in particular among juvenile detainees. The Committee stressed that the State party did not comply with the provisions of article 10 of the Covenant according to which all persons deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Committee urged the State party to take urgent steps to improve the situation in prisons, in particular, sanitary conditions. It invited the State party to cut down on the use of imprisonment as a punishment for minor violations and on pre-trial detention for excessive periods (ibid. paras. 16, 28).</p> <p data-bbox="766 821 1386 1130">5. The Committee was concerned at the continuing close relationship between the procurator and the judges; it feared that, in the absence of any statute enforcing the independence of the judiciary, the impartiality of decisions could not be guaranteed and that the executive may exert pressure on the judiciary. The Committee urged the State party to enact a law guaranteeing the independence of the judiciary and providing for its total autonomy vis-à-vis the procurator and the executive (ibid. paras. 17, 30).</p> <p data-bbox="766 1166 1386 1312">6. The Committee noted with disquiet that court proceedings did not meet the conditions required by article 14 of the Covenant for example, although the law provides for access to the assistance of counsel, in practice this is made difficult because of excessive bureaucracy.</p>	<p data-bbox="1413 412 2053 878">4. The report refers to the new legislation relating to the prison system. It is mentioned that the conditions of the physical facilities within the prison system do not meet the requirements (para. 194), without however specifying measures taken to remedy the situation. The report further highlights that the decision measures to strengthen the protection of human rights in Georgia of June 1997 included taking steps to improve the conditions of detention and medical care of detainees and convicts (para. 5), without however specifying specific measures taken. Reference is furthermore made to the entry into force in January 2000 of the Detained Persons Act, under which control of the system for the enforcement of punishments (the penitentiary system) was transferred from the Ministry of Internal Affairs to the Ministry of Justice (para. 13). Para. 196 elaborates on the positive changes that have resulted from this transfer.</p> <p data-bbox="1413 914 2053 1190">5. The report refers to the constitutional foundations of the court system, as well as the legal acts governing the functioning of the judiciary in Georgia and the conduct of judicial proceedings, including the acts establishing the general courts, the Supreme Court and the Constitutional Court, and the codes of penal, civil and administrative procedure (paras. 297-298). Reference is also made to the reform of the judiciary, without however providing details. The report elaborates in detail on all relevant rights and their guarantees in domestic legislation.</p> <p data-bbox="1413 1226 2053 1312">6. The report makes reference to the right to counsel and access to lawyers in the law, as well as the right to appeal (paras. 358-382) without however making reference to the situation in</p>

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
		<p>The Committee urged the State party to guarantee the rights set forth in article 14 of the Covenant, in particular by remedying the deficiencies with regard to the exercise of the right to defence and the right to appeal. The creation of an independent legal profession was, in the Committee's view, a necessary precondition for the effective enjoyment of such rights (ibid. paras. 18, 31).</p>	<p>practice. No reference is made to the creation of an independent legal profession.</p>
<p>Freedom of movement (art. 12)</p>	<p>1. Freedom of movement</p>	<p>1. The Committee regretted that, despite the elimination of the <u>propiska</u>, there remained obstacles to freedom of movement within the country. It noted with concern that there continued to be a great deal of corruption in this area. The Committee recommended that the authorities put an end, once and for all, to the restrictions on freedom of movement within the country and on the right to leave the country (ibid. paras. 19, 29).</p>	<p>1. The report elaborates on the provisions applicable to the right to freedom of movement, without however making any specific references to any restrictions on this right. The report states that the practical application of this constitutional right is governed by the Citizens and Resident Aliens (procedure for Registration and Establishment of Identity) Act passed in June 1996. It is noted that the registration procedure, as the rules governing the establishment of identity, are fundamentally different from the former Soviet internal passport regime that in effect restricted the right to free choice of one's place of residence (para.244).</p>
<p>Freedom of opinion and expression (art. 19)</p>	<p>1. Prosecution on the grounds of belief</p>	<p>1. The Committee emphasized that the vague and overly general characterization of crimes and the difficulty of determining their constituent elements (insubordination, sabotage, etc.) had allowed political opponents of the Government to be prosecuted. The Committee earnestly recommended that the State party, in connection with the revision of the Penal Code, repeal those provisions which made it possible to prosecute political opponents for their beliefs under cover of upholding the law (ibid. paras. 20, 32).</p>	<p>1. Regarding art. 19 in general, the report elaborates on the relevant provisions, including possible restrictions under the Constitution. Furthermore, amendments and supplements to the Press and Media Act are highlighted. Reference is made to the relevant articles in the General Administrative Code, the State Secrecy Act, the Culture Act, the State of Emergency Act, the Martial Law Act, the Advertising Act, the Health Care Act, and the Commercial Banks Act. Reference to the provisions of the Criminal Code is made in the context of the pornography and preparation and dissemination of works propagating the cult of violence or cruelty, as well as penalties for violating the right to freedom of expression, including unlawfully obstructing access</p>

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
			<p>information.</p> <p>No reference is made to any provisions in the Criminal Code which have the effect of restricting freedom of expression.</p> <p>Equally, no reference is made to the concluding observations and recommendations of the Committee during the consideration of the initial report.</p>
Freedom of association (art. 22)	1. Right to establish free trade unions	<p>1. The Committee regretted that because of the absence of legislation concerning the exercise of the freedom of association, it had not been possible to establish free trade unions so that workers may exercise their rights under article 22 of the Covenant.</p> <p>The Committee invited the State party to enact laws making it possible for trade unions to be formed and to carry out their activities freely in defence of the rights of workers (ibid. paras. 21, 33).</p>	<p>1. Paras. 492–498 elaborate on the legal provisions applicable to trade unions. The right to form and join trade unions is stipulated in article 26, para. 1 of the Constitution. The Trade Unions Act specifies the powers of trade unions, including protecting and representing the labour rights and social and economic rights of their members, monitoring the conclusion and fulfilment of collective contracts (agreements), conducting joint negotiations, participating in the settlement of joint labour disputes, promoting employment, ensuring public monitoring of compliance with trade union legislation and other measures. The law provides for the independence of trade unions from the State and local authorities as well as political parties and organizations. In January 1999, a presidential decree on promoting the exercise of trade union rights entered into force, which specified the powers vested in trade unions by law. There are no legal restrictions on membership in trade unions.</p> <p>Finally, the Collective Contracts and Agreements Act provides for the creation of a trilateral commission. A table indicates the sectoral structure and membership of trade unions.</p>
Rights of the child (art. 24)	1. Poverty of children/street children	<p>1. The Committee was concerned at the increase in the number of children affected by poverty and social dislocation and the concomitant increase in the number of street children, delinquents and drug addicts.</p> <p>The Committee urged the State party to take urgent steps to</p>	<p>1. Para. 529 refers to a State programme, carried out from 1995 to 2000 on the issue of social protection, vocational training and crime prevention for minors, which included, <i>inter alia</i>, to address problems relating to the vocational training and education and social rehabilitation of minors, including orphans and abandoned</p>

Issues related to the Covenant	Issues discussed at the examination of the third report	Concluding observations/recommendations from the Committee	Information produced in the second periodic report
		protect children in accordance with the provisions of article 24 of the Covenant (ibid. paras. 22, 34).	children, and the children of internally displaced and homeless persons. The results of this programme are not specified, except the demonstration of the need to continue such efforts, which resulted in the ratification in March 2000 of the State Program for the Protection, Development and Social Rehabilitation of Minors, dealing, <i>inter alia</i> , with street children. The goals include the development of a legal and regulatory framework to address the target group; the study of the problem of Homeless children (street-children), efforts to promote vocational guidance and social rehabilitation; creation of rehabilitation centres and specialized schools; and addressing the problem of the further integration and welfare of homeless children. No indication as to progress or result of the programme is provided in the report.
. Dissemination of information relating to the Covenant (art.2)	1. Educational and training programmes	1. The Committee recommended that education and training programmes be drawn up with a view to developing a culture of respect for human rights in all sectors of the population, <i>inter alia</i> , judges, the security forces and prison personnel. The programmes should also emphasize that women are entitled to the full enjoyment of their fundamental rights. The Committee recommended that the report of the State party, together with the concluding observations adopted by the Committee, should be widely disseminated and that the text of the Covenant be disseminated in all languages commonly used in the country (ibid. para. 35).	1. With respect to educational and training programmes, the report refers to the respective programmes in the relevant sections of the report, i.e. the education of judges (para. 6), the training of police (para. 105); prison personnel in the treatment of detainees (para 128), without however going beyond stating that training in the relevant subject area occurs. No reference to the dissemination of the text of the Covenant in all languages commonly used, the report or the concluding observations is made.

ADVANCE UNEDITED VERSION

Human Rights Committee

106th session

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Item 6 of the provisional agenda

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

Consideration of reports submitted by States parties under article 40 of the Covenant

Portugal

Addendum

**Replies from the Government of Portugal to the list of issues
(CCPR/C/PRT/Q/4) to be taken up in connection with the consideration
of its fourth periodic report (CCPR/C/PRT/4)***

[14 September 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Question 1. Please state whether the provisions of the Covenant have ever been invoked before domestic courts. If so, please provide information on all cases during the period under review in which this was done.

1. No available data. Currently, there is no method in place to accurately trace the number of times the provisions of the Covenant were invoked before the domestic courts. Consequently, it is not possible to provide the information requested concerning the period under review.

Question 2. Please clarify whether the Ombudsman plays a role in the implementation of the Covenant in the State party. If so, please provide examples from the period under review in which the provisions of the Covenant have been expressly invoked by the Ombudsman.

2. The Portuguese Ombudsman (and A-status National Human Rights Institution) does play a role in the implementation of the Covenant in Portugal.

3. Pursuant to the Portuguese Constitution and the Statute of the Portuguese Ombudsman, the main function of this institution is to defend and promote the rights, freedoms, guarantees and legitimate interests of the citizens, ensuring, through informal means, that public authorities act fairly and in compliance with the law.

4. The concept of “rights, freedoms and guarantees and legitimate interests” is broad, including not only the rights enshrined in the Constitution and other internal law, but also those established by international human rights law, either of customary or conventional origin, which forms part of the Portuguese legal order in the conditions set by article 8 of the Constitution. Specifically, paragraph 2 stipulates that the rules set out in duly ratified or passed international agreements shall come into force in Portuguese internal law once they have been officially published, and shall remain so for as long as they are internationally binding on the Portuguese state.

5. Therefore, international treaties by which Portugal is bound, such as the Covenant, do form part of the legal parameters against which the Ombudsman, either pursuant to complaints or on his own initiative, assesses the legality and fairness of the conduct of public authorities (and, in more limited cases, also private entities).

6. From 2002 to present date, the following explicit mentions to or quotations from the Covenant or Human Rights Committee’s decisions were identified:

- Case opened in 2004 pursuant to complaints against the refusal of access to family and solidarity social security benefits by foreigners holding a stay permit allowing them to legally remain and work in Portugal. The Ombudsman recommended to the Minister of Work and Social Solidarity that the problem – apparently connected to a very strict/literal interpretation of the applicable legal provisions – be solved either through interpretative guidelines or through a legislative amendment. The text of the Recommendation quoted articles 24, paragraph 1, and 26 of the Covenant, as examples of the fact that “...several international treaties to which Portugal is a Party express this idea of universality, especially when referring to the social protection granted to children, as is the case of the family allowance”. The recommendation was accepted, leading to the adoption of a legislative measure.
- Case opened in 2004, regarding the National Social Emergency Line’s refusal of support to an immigrant who was pregnant, temporarily without accommodation and

a victim of domestic violence, during the period in which the procedure for renovation of her stay permit was pending in the Aliens and Borders Service. In the decision addressed to the Social Security Institute, the Ombudsman argued that the receipt proving the existence of that pending procedure should be sufficient and that, in any event, in situations of social emergency, humanitarian grounds could justify an urgent intervention of the competent Social Security services. He noted that there are universal rights enshrined in international law instruments, among which the Covenant, that form part of the Portuguese legal order and are directly and immediately binding on the Portuguese State. The Ombudsman's position was taken up in a technical guideline of the Institute.

- Case opened in 2002, pursuant to a complaint concerning the recognition by EU member states of a same-sex civil marriage celebrated under the law of one of those member states. In the final letter sent to the complainant, the Ombudsman made a detailed analysis of the applicable legal frameworks, but concluded that the resolution of the substantive issue raised by the complainant was a matter that fell outside his scope of competence. At one point, he mentioned that “...*the Human Rights Committee (created in the framework of the United Nations, under the International Covenant on Civil and Political Rights of 1966 (ICCPR), to which Portugal is also a Party) argued in the Joslin case that the denial by New Zealand's law to authorize a civil marriage between two people of the same sex did not constitute a violation of the ICCPR (see Human Rights Committee, Joslin et al. v. New Zealand (communication no. 902/1999), 30 July 2002, Doc. NU CCPR/C/75/D/902/1999 (2002))*”.
- Three cases opened in 2006, 2008 and 2009, with regard to age discrimination in access to employment. They related, respectively, to the Judiciary Police/Criminal Police, TAP (Portuguese airlines) and CARRIS (Lisbon public transportation). In the case regarding the Criminal Police, there was a legal provision allowing access to the career of criminal investigation personnel only to persons under 30. The Ombudsman addressed a suggestion to the Minister of Justice, to promote a reflection on the need to adopt a different legal solution, in accordance with a strategy to promote equal treatment as regards age in access to those public functions. One of the paragraphs of his letter stated that “*As is generally known, age is nowadays an illegitimate ground for discrimination, like other grounds forbidden by international provisions, such as article 26 of the International Covenant on Civil and Political Rights...*” The Ombudsman adopted similar initiatives, with the necessary adaptations, in relation to TAP and CARRIS, concerning their recruitment policies for flight attendant/commissioner and driver/brakeman, respectively. In the case of TAP, one of the minimum requirements to be fulfilled by candidates was a maximum age of 26, a criterion that could be changed in each competition. As for CARRIS, while the company did not establish a maximum age as a recruitment requirement for that professional category, it could be questioned whether its practices gave preferential treatment to younger candidates. The Ombudsman encouraged those responsible for the companies in question to value alternative selection methods, capable of attracting a wider diversity of candidates, based on a recruitment and hiring logic based primarily on competences and capacities, rather than on age brackets. While maintaining that their recruitment policies were not discriminatory, but rather oriented to competence profiles required by the functions in question, TAP and CARRIS nevertheless accepted the reflection proposed by the Ombudsman.

7. In some other cases, while no specific mention to the Covenant exists, the Ombudsman invoked other relevant international human rights standards (e.g. Standard

Minimum Rules for the Treatment of Prisoners) or, more in general, the international human rights protection.

8. In any event, it is important to highlight that the Portuguese Constitution contains a broad fundamental rights catalogue, with provisions that correspond, in their substance, to those of the Covenant. As such, there are cases in which the Ombudsman does not expressly mention provisions from the Covenant, but rather provisions from the Constitution and other internal laws, but in practice his intervention will still contribute to strengthening the implementation of the Covenant in Portugal.

9. As an example of areas of activity of the Portuguese Ombudsman that bear relevance to the implementation of the Covenant, we could mention that:

(i) The inspections carried out to prisons and to detention centres for non-admitted foreigners have resulted in recommendations and suggestions relevant to the implementation of articles 7, 9, 10 and 13 of the Covenant. The Ombudsman's efforts to promote the swift ratification of the OPCAT and the designation of the National Preventive Mechanism envisaged therein – a role the Ombudsman has already expressed availability to undertake – may also help to strengthen the effect of those provisions;

(ii) The investigation of complaints against illegality / unfairness in the recruitment of workers by Public Administration bodies and departments – a subject-matter often addressed to the Ombudsman – have led to interventions relevant to the implementation of article 25, indent c) of the Covenant;

(iii) The Ombudsman's activity regarding children and young people, notably the inspections carried out to institutions for the placement of children in the Autonomous Regions of Azores and Madeira, has contributed to the implementation of article 24 of the Covenant.

Question 3. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol. Please indicate what concrete steps have been taken to implement the Committee's Views adopted in respect of the State party in which the Committee found a violation of the Covenant, bearing in mind that obligations under the Covenant may at times be stricter than obligations under another human rights treaty.

10. Regarding the only case in which the Human Rights Committee has taken a decision on the merits concerning a communication presented against Portugal (Communication nr. 1123/02, Carlos Correia de Matos v. Portugal), Portugal is currently analyzing the best solution to respect the Committee's Views.

11. A deep and extensive study on this subject has been conducted and the relevant policy options are now under consideration. They may pass through a change in legislation, like specified by the Committee. In that case, talks with other relevant institutions like the Portuguese Bar Association and the High Council of the Judiciary, will take place.

Non-discrimination and equal rights of men and women (arts. 2, para. 1, 3, 25 and 26)

Question 4. Please provide information on the impact of the implementation of the Third National Plan for Equality – Citizenship and Gender (2007–2010), as well as steps taken to overcome the structural difficulties to implement gender-equality policies, identified through research, as mentioned in paragraph 47 of the fourth periodic report.

12. The III National Plan for Equality - Gender and Citizenship (2007-2010) (III PNI) established an important strategic framework for the implementation of policies aiming at

promoting citizenship and gender equality in Portugal. The III PNI identified the following priorities: Education, research and training, economic independence, reconciliation of professional, private family life, inclusion and local development, health, environment and territory, sports and culture. It also gave a special attention to the promotion of women's employability and entrepreneurship, as a means of promoting their economic independence.

13. In order to overcome the structural difficulties to implement gender-equality, institutionalized Ministerial Equality Advisers and interdepartmental and Local Equality Advisers, in the municipalities, were established. During the implementation phase of the III Plan, the Equality Advisers were responsible for the implementation of the measures in their area of intervention. The Evaluation Team concluded that the III PNI was generally executed.

14. Following the recommendations of the External Evaluation Team of the III PNI, the IV National Plan for Equality introduced significant structural intervention measures and created a mechanism allowing the permanent monitoring of the said measures' implementation. These measures include a partnership between Equality Advisers and the coordination team (Commission for Citizenship and Gender Equality). This partnership ensures a synergistic communication process, administration and management of the new Plan.

Question 5. Please provide information on measures taken to increase the proportion of women in decision-making positions in the public sector, including in the Foreign Service. Please indicate what measures are being taken to increase the number of women in the regional legislative assemblies in the Azores and Madeira, and to ensure that the Parity Law 2006 is applied in the autonomous regions.

15. The participation of women in politics and decision-making positions continues to be an area that may be considered critical in Portugal. Notwithstanding the progress made in three decades of democracy, women's participation on equal terms is far from having been attained and there is a real democratic deficit in this area.

<i>PUBLIC ADMINISTRATIONS - Total¹</i>						
<i>(Central, Regional and Local)</i>						
JOB/CAREER/GROUP	31-dez-2011			(% total)		Feminization Rate (%)
	Men	Women	Total	Men	Women	
Total	264.928	346.487	611.415	43,3	56,7	56,7
Representatives of legislative and executive bodies	2.223	716	2.939	0,4	0,1	24,4
Senior managers ²	972	478	1.450	0,2	0,1	33,0
Middle managers ³	4.475	5.157	9.632	0,7	0,8	53,5

16. In the Portuguese Foreign Service, 30 % of its diplomats are women. Women were only allowed to join the Portuguese Foreign Service after 1976, which explains in part this low percentage. As in other sectors of the public sector, the number of women in senior positions is lower than that of men⁴. In recent years there have been an increasing number of women who apply for the diplomatic service. In the last competition (2008/2009), out of a total of 1116 applicants 577 (51.7%) were women. However, of the 30 who passed only 8 were women. No quotas are foreseen for women in the Foreign Service.

17. The Parity law does not apply to the elections of representatives to the Legislative Assemblies of the autonomous regions of the Azores and Madeira for reasons related to the political-administrative regime of the autonomous regions stated in the Constitution of the Portuguese Republic. Thus, issues relating to the election laws of the autonomous regions are subject, in accordance with the Constitution of the Portuguese Republic (Article 226), to a reserve of initiative on the part of the legislative assemblies of each region. As stated in Article 226, paragraph 1, of the Constitution, the laws relating to the election of representatives to the Legislative Assemblies of the Autonomous Regions are prepared by them and sent for discussion and approval of the National Parliament. That is, only the Parliaments of each autonomous region have jurisdiction to take the initiative to submit to the National Parliament a project containing amendments to the respective electoral laws, despite the competence to approve it being from the National Parliament.

Question 6. Please provide information on the steps taken, as well as their measured impact, to guarantee equal pay for work of equal value for women and men.

18. Portugal approved the Council of Ministers Resolutions nr. 49/2007⁵, of 28 March and nr. 70/2008⁶, of 22 April calling for the adoption of equality plans for all companies owned by the State. These plans are intended to promote equal treatment and opportunities between women and men, eliminate discrimination, including with regard to the

¹ Sources: DGAEP - SIOE (available data 11-05-2012); DGAEP/DEEP

² Data for senior managers includes the Director-General, Deputy Director-General, Inspector-General, Deputy Inspector-General, Secretary-General, Deputy Secretary-General and other equivalents.

³ Middle managers include all levels of middle management (for example: Head of Department, Head of Division, Team Leader and other middle managers of various levels).

⁴ Out of 44 full rank Ambassadors there are 2 women, out of 199 Plenipotentiary Ministers, there are 83 women, out of 140 Counselors, there are 41 women and out of 199 First, Second and Third Secretaries, there are 83 women. (Data provided in the MFA Equality Plan 2012).

⁵ Approves the principles of good corporate governance of the business sector of the State.

⁶ Approves the strategic guidelines for the overall business sector of the State.

representation of women in decision-making, to eliminate gender pay gap and to promote work-life balance.

19. The Labour Code also reinforces the rule of equal pay for equal work or work of equal value for women and men through specific regulations concerning gender equality and non-discrimination.

20. In 2011, IV National Plan for Equality was approved which, among others, seeks to promote equal opportunities and treatment for women and men in the labour market. Some of the measures are:

(i) To promote the implementation of equality plans in companies under Council of Ministers Resolutions nr. 49/2007, of 28 March, and nr,70/2008, of 22 April. (Measure 20)

(ii) To promote the implementation of equality plans in organizations in general. (Measure 25)

(iii) To promote good practices in gender equality, namely those aiming to reduce the gender pay gap. (Measure 26)

(iv) To promote the use of the parental leave by men. (Measure 27).

21. The Operational Programme for the Promotion of the Human Potential (POPH)⁷, a specific funding line was created to stimulate and support the implementation of Equality Plans⁸ in Local and Central Administration as well as in Public and Private sector Companies in order to, among others, close the gender pay gap and promote the effective implementation of legislation on gender equality in the labour market.

22. Despite of the progress, which includes a general trend towards the reduction of inequalities between men and women in employment, the difficulties that women traditionally face in trying to reconcile their family and professional responsibilities and the stereotyped barriers to men's participation in the domestic sphere continue to represent one of the greatest obstacles to gender equality and equal pay in Portugal.

Question 7. Please provide information on steps taken, and their measured impact, to address and prevent racial discrimination against immigrants and ethnic minorities, including the Roma minority, in access to employment, education, equal wages, shops, housing, health care and loans. What measures have been taken to prevent racist and discriminatory conduct by law enforcement personnel?

(i) Roma

23. Roma communities have had Portuguese citizenship for centuries⁹. As national citizens, they are covered by the measures accessible to the general population and have access to an important set of programmes and measures that are aimed at individuals and groups living in situations of poverty and exclusion. Among those measures are the Integration Social Income, housing programmes, measures for social protection and school social action.

⁷ One of the three thematic Programmes developed under the National Strategic Reference Framework (NSRF) (2007-2013).

⁸ In 2009, CIG published 3 Guides as instruments that give guidelines for the integration of the gender dimension in the definition and implementation of plans for equality in local authorities, in Central Public Administration and in private companies.

⁹ It has been estimated that Roma communities in Portugal comprises between 40,000 to 50,000 individuals.

24. Furthermore, the High Commission for Immigration and Intercultural Dialogue (ACIDI, IP) has several important measures and services specially targeting Roma communities. Among these is the Office to Support Roma Communities, created in 2007, that has a number of activities aimed at the promotion and social inclusion of Roma communities, in articulation with several public and private entities working in this area.

25. ACIDI has also created, in partnership with the Institute of Social Security, a Pilot Project for Municipal Roma Mediators to provide intercultural training (until September 2012) in the fields of Mediation, Public Institutions Functioning and Communication. This project aims to capacitate fifteen Roma mediators and insert them in 18 local municipalities to provide Roma inclusion related services, guaranteeing the establishment of a close relation between local services and organisations and local Roma communities. At the end of its first year of implementation, an evaluation report is expected in order to assess if the Project has improved Roma communities' situation in Portugal and if the pilot project should be widened to other municipalities.

26. The Office to Support Roma Communities also launched in 2007, a website dedicated to Roma communities www.ciga-nos.pt («Follow us Roma!»). This website includes several scientific studies and publications of the Office. The focus of this website is dissemination and sharing of information, creation of working nets, dissemination of field projects, promotion of a positive image of the Roma community and a better knowledge of their history and their culture. The overall objective is to further integrate Roma communities.

27. The importance of adopting additional measures especially aimed at Roma communities has been recognised. The third priority of the National Action Plan for Inclusion 2008-2010 contemplates a mechanism to monitor the degree of integration of these communities, with a special emphasis on education, health, employment and housing.

28. Finally, the Portuguese Government launched in 2011, for public discussion, a National Strategy for Inclusion of the Roma Communities. This is a very important instrument, which we firmly believe can help us in better integrating Roma Communities and eliminating prejudices and misconceptions. The main areas of the strategy are education, health, housing and employment. Beyond the recommendations of the European Commission, the Strategy includes the fight against discrimination and a gender perspective as transversal areas.

29. Once the final version of the Portuguese Strategy is formally approved by the Portuguese Government we will send the final version to the Committee.

30. There is still a lot to be done to diminish stigma towards Roma people and to grant these communities the full enjoyment of their human rights, namely in what concerns the access without discrimination to decent housing or to water and sanitation. This requires coordinated action at all levels (national, regional and local). We believe that the National Strategy for the Roma Communities will provide us with the necessary tools and guidance to attain this objective.

(ii) Immigrant Integration

31. Portugal, one of the leading countries in integration policies, has been making considerable efforts and investments in order to combat all forms of racial discrimination and to integrate all the groups included in the Portuguese multicultural society, ensuring the full enjoyment of all human rights, civil, cultural, economic, political and social rights. In 2011, the Migrant Integration Policy Index, sponsored by the European Commission, ranked Portugal second amongst 31 developed countries for its policies migrant integration policies.

32. The Action Plan for Immigrant Integration (PII) was created by the Resolution of the Council of Ministers nr. 63-A/2007, of 3 May. In all, there are 122 measures involving 13 Ministries, seeking to reach higher levels of integration, in the areas of Employment, Housing, Health and Education. The plan has a cross-cutting perspective in relation to issues of racism and discrimination, gender equality and citizenship. In this sense, the document represents a statement of political principles and seeks to be a programme of reference for the State and for Civil Society, to be implemented before the end of the current legislature. The PII ended with a compliance rate greater than 80%.

33. The Portuguese government approved a second action plan for 2010-2013.

(iii) Access to Employment

34. Both direct and indirect discrimination based on such grounds as race or ethnic origin, descent, genetic heritage, nationality and territory of origin are prohibited. The burden of proof of non-discrimination lies with the employer (this reverses the ordinary principle of evidence foreseen in the Penal Procedure Code (PPC)). The breach of this provision constitutes a very serious misdemeanor and entitles the victim to compensation for patrimonial and non-patrimonial damages. Convictions can be published. Victims of discrimination, including harassment, are entitled to compensation.

35. The Authority for the Conditions of Work is responsible for analysing all complaints received about alleged cases of racial discrimination in employment or in access to employment.

36. There was also, a specific Intervention Programme for Unemployed Immigrants, operated by the Employment and Vocational Training Institute, which strives to facilitate social, cultural and professional insertion of the immigrant population legally residing in Portugal through special vocational training, adult Education and training courses, occupational programmes and access to the Job Centre services. During 2008 and until August 2009, over 14,000 immigrants were covered by this Programme. There are also Employment Support Offices in the three National Centres for Supporting Immigrants in Lisbon, Oporto and Faro. These seek to support job offers and professional training to immigrants.

(iv) Education

37. According to Decree-Law nr. 67/2004 the right to education is granted to every child in Portugal including those without a legal status (ie. The right to education can not be denied on the basis of the irregular status of the parent (s)).

38. The National Plan for the Integration of Immigrants, initially established for the 2007-2009 period and later reworked, foresees the following measures in the field of Education:

- teacher training on Intercultural issues;
- appropriateness, in the school context, of welcoming strategies targeting specificities of student of migrant background, namely through the involvement of families;
- enhancement of the teaching in schools of Portuguese as a foreign language and promotion of technical Portuguese courses for adults;
- Involvement of socio-cultural mediators, in the school context, and create the conditions for their training.

39. The Programme “Choices” is a governmental programme, managed and coordinated by the High Commission for Immigration and Intercultural Dialogue, which targets children and young people between the ages of 6 and 24 from disadvantaged social

backgrounds, many of which are immigrant descendants and members of ethnic minorities (Roma Communities) living in vulnerable places, in order to promote their social integration.

40. The Programme has existed since 2001 and is currently in its third phase, having a total budget of 25.000.000,00 Euros. It supports projects managed by local partnerships involving schools, local authorities, Non-profit Organizations and the Commissions for the Protection of Children and Youngsters, in the areas of educational inclusion and non-formal education, vocational training and employability, civic and community participation and digital inclusion.

41. The work done by Programme Choices has been internationally acknowledged, receiving recognition as a best practice in several occasions[: in 2003, it received the European Union Award on Criminality Prevention; in 2007, it was referred as a good practice in the European Union “Handbook for Integration”; it was equally considered a good practice in the first “International Report on Criminality Prevention and Community Safety”, produced by the Centre for the Prevention of Crime (ICPC), with headquarters in Canada.]

42. In view of its good results, the Choices program is in its fourth phase (2010-2013) and supports 130 local projects that involve schools, municipalities, non-profit Organizations and the Commissions for the Protection of Children and Youngsters with a total budget of 38 million Euros.

(v) Housing

43. Housing accessibility and affordability by immigrants and minority groups is a special concern of Portuguese Government which has been proceeding to outline various policies and programmes aimed of ensuring the right to housing. These include the as the National Strategy for Social Protection (2008-2010) and the National Action Plan for Social Inclusion (2008-2010).

44. The promotion of social housing in Portugal is pursued through cooperation between the Central Government, Autonomous Regions, and Municipalities. It is the State’s function to provide financial assistance to projects proposed by the Autonomous Regions and Municipalities, which are then responsible for ensuring the offer of decent housing to certain social strata. The Institute of Housing and Urban Rehabilitation (IHRU) is responsible for granting technical support to local authorities.

45. IHRU manages financial assistance through the programmes PROHABITA PER, and Porta65-jovem. It is estimated that around 6% of families that had access to public housing were immigrants (Programs PROHABITA¹⁰ and PER¹¹) and that 6% of young persons that had access to grants to rent a house were immigrants (Porta 65 -Jovem¹²).

(vi) Health Care

46. Regular immigrants have the same rights than national citizens. Furthermore irregular immigrants who are in Portugal for more than 90 days cannot be discriminated in

¹⁰ PROHABITA – a national program that finances and grants housing provision with social purposes for families with housing needs. This program allows mainly municipalities to built, buy, rehabilitate or rent houses framed by a social policy for housing

¹¹ PER – National Special Re-housing Programme held since 1993 to eradicate slums in Lisbon and Oporto Metropolitan Areas

¹² PORTA 65-JOVEM” – program that affords direct subsidies for youth (18-30) in access to rental housing market

accessing to public health care, although, they may have to pay the real costs. Exceptions are nonetheless foreseen, for instance, in cases where urgent and vital care is needed or in cases of transmissible diseases that endanger or threaten public health.

(vii) Law Enforcement Personnel

47. The Portuguese Security Forces and Services have made a significant effort to improve training on relating to address and prevent racial discrimination. A human rights approach has been followed, focussing on the need to combat discriminatory practices that are a clear violation of principle of equality established in Constitutional Law. The Portuguese Security Forces and Services have also increased awareness-raising among law enforcement officers of the need to avoid all forms of discriminatory behaviour on the basis of racial or ethnic origins. Law enforcement officers have also been made aware of the need to pay special attention to minority and culturally diverse groups, as well as to the implementation of the legislation concerning racist offences (Article nr. 240 of the Penal Code).

48. The impact of education and training may be assessed by the number of occurrences of infractions, by agents of the Criminal Police or prison guards (concerning the Ministry of Justice), related to racial discrimination:

- In the period between 2007 and 2012, the Directorate-General for Prison Services has not received any complaint based on racial discrimination.
- In the Criminal Police, since 2007, there is only one occurrence registered: one officer of Guinean origin complained of his superior for racial discrimination. A disciplinary procedure was opened, but the accusation was considered unfounded.
- The Inspectorate-General for the Justice Services has no record of complaints for infractions of members of the Criminal Police related to racial discrimination. It has received, in 2010, 3 complaints against prison guards for discrimination.

49. Although the number of occurrences of discriminatory conduct by law enforcement officials (depending on the Ministry of Justice) is inexpressive, efforts continue to be made in the field of education and training of police staff, including professional deontology, ethics and human rights:

- Since 2000, a law degree (or other university degree with a law component) is one of the prerequisites to become an agent of the Criminal Police.
- Human rights standards are taught both within the initial training and the training for promotion.
- It is under approval an Ethical Code for the Criminal Police officials, where the principles of equality and non-discrimination on the basis of ascendancy, gender, race, language, national origin, religious, political or ideological convictions, education, economic situation or social condition are reaffirmed and detailed.
- The initial six months training courses for the personnel working in prisons include several subjects, such as human rights standards, international norms and principles on the enforcement of measures involving deprivation of liberty as well as the main international control mechanisms. The principle of non-discrimination is taught in the context of different thematic, in particular the Code on the Enforcement of Sanctions and Measures Involving Deprivation of Liberty or the General Regulation of Prisons.

Counter-terrorism measures

Question 8. Please clarify which safeguards are in place to ensure that counter-terrorism measures, based on the Penal Code and Code of Penal Procedure provisions, do not infringe the rights laid down in articles 9, 15 and 17 of the Covenant.

50. Criminal law and criminal procedural law are domains where the justified restriction of rights may be required in order to protect and reaffirm societal values of the highest importance.

51. As crimes directed against democracy, internal and international security and the rights of the whole community in general, terrorism and related activities may, such as highly organized and violent crime, require the availability of special procedural measures, including on what concerns the obtaining of evidence and rights of defense. These special measures are supported by several safeguards, both constitutional and legal, that ensure their compatibility with Articles 9, 15 and 17 of the ICCPR. As far as constitutional safeguards are concerned, Article 32 (8) determines that all evidence obtained by means of torture, coercion, offense to physical or moral integrity, abusive interference in private life, home, mail or communications are null and void.

52. In addition, all exceptional measures concerning exceptionally serious crime, including terrorism, are balanced by legal safeguards.

53. The admissibility of inspections and searches carried out without the previous authorization of the competent judiciary authority or his/her presence in cases of terrorism or the performance of house searches between 9 pm and 7am need to be immediately reported to the investigation judge for validation (Articles 34 (3) of the Portuguese Constitution, Articles 174(5) and 177 (5) of the PPC). Moreover, phone tapping in cases of terrorism, which may be exceptionally authorized by the judge with jurisdiction on the territory where the conversation or communication may take place, is brought to the knowledge of the competent judge within 72 hours (Article 187 (3) PPC).

54. All of these measures, although potentially conflicting with the right to privacy, are strictly regulated and grounded on substantial reasons (non arbitrary) and are lawful. According to the Portuguese Constitution (Article 18 (3)), restrictions to the exercise of rights, liberties and guarantees need to be expressly set forth in the Constitution and must be limited by a principle of necessity. Furthermore, any restrictive law must be of a general and abstract nature, non retroactive in its effects and non detrimental to the scope and range of the essential content of constitutional provisions.

55. Mild limitations to the right of defense (such as restrictions on the right to communicate with third persons set forth in Article 143 (4) PPC, on the right to communicate in private with the defense lawyer set forth in Article 61 (2) PPC, on the prohibition to apprehend mail or on the prohibition to intercept and record conversations and communications between the defendant and his/her defense lawyer admitted by Articles 34(4) CPR, Articles 179 (2) PPC and Article 187(3) PPC, are justified by the extraordinary public danger inherent to terrorism.

56. The same can be said of the use of special investigative measures and techniques such as undercover agents.

Question 9. Please clarify whether measures have been taken to ensure that incommunicado detention ordered by the Public Prosecutor's Office, under article 143, paragraph 4, of the Code of Criminal Procedure, in cases of terrorism or violent or highly organized crime is strictly regulated, and that detainees held under this provision have access to legal counsel and are under judicial supervision.

57. The Portuguese law does not allow for incommunicado detention. There are however certain cases where the right of the detainee to contact some persons or to disclose/to have access to information can be limited due to security demands or due to the duty of secrecy during the criminal procedure (especially during the investigation phase).

58. In the cases of terrorism, violent and highly organized crime article 143 of the PPC explicitly foresees that, by order of a Public Prosecutor, the offender may be prevented from communicating with other persons before the first judicial interrogation, except for his/her lawyer.

Question 10. Please provide information on the status of the judicial investigation into suspected rendition flights that was opened in February 2007, and whether its findings have been made public.

59. An inquiry was opened in February 2007 and conducted by the Central Department for Criminal Investigation and Prosecution, which is the body operating under the Prosecutor General's Office, responsible for the coordination, investigation and prevention of violent, highly organised or particularly complex crimes. The aforementioned inquiry was concluded in June 2009 due to lack of evidence.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment, right to liberty and security of person, and treatment of persons deprived of their liberty (arts. 7, 9, 10)

Question 11. Please provide information on the definition of pretrial detention in domestic legislation. Please specify how many individuals are currently held in pretrial detention, as well as the average length of pretrial detention. Please also clarify whether pretrial detainees are kept separate from convicted criminals.

60. In the Portuguese criminal procedural law pretrial detention is a coercive measure of exceptional nature, limited to precise cases and following a number of requisites, set forth in Article 202 of PPC (as amended by Law nr. 26/2010, of 30 August).

61. In addition to a general requisite regarding the insufficiency of other, less serious, coercive measures, pretrial detention may only be ordered in the following cases: when it is strongly suspected that the individual is the intentional perpetrator of a crime punishable with a an imprisonment penalty of more than 5 years, violent crime, terrorism or highly organized crime punishable with an imprisonment penalty of more than 3 years; aggravated bodily injury, aggravated theft, computer and communications fraud, receiving of stolen property, falsification or counterfeiting of documents or endangering the safety of road transport punishable with an imprisonment penalty of more than 3 years; possession of a prohibited weapon, or other weapons and devices, punishable with an imprisonment penalty of more than 3 years. Finally, pretrial detention may also be used in the case where the perpetrator has irregularly entered or stayed in Portuguese territory or is the object of a request of extradition or expulsion.

62. Within the Portuguese prison system there are prison facilities and special detention units for pretrial detainees, in compliance with Article 123 of the Code on the Execution of Penalties and Preventive Measures of Freedom (Law nr. 115/2009, of 12 October) and Articles 221 to 225 of the General Regulation of Prison Facilities (Decree-Law nr. 51/2011, of 11 April).

63. In 15th August 2012, there were 2586 individuals in pretrial detention, for a total population of 13402 prisoners.

Question 12. Please clarify whether guarantees are in place to ensure that time spent in custody for identification purposes is counted toward the period of 48 hours within which a detained person must be brought before a judge.

64. The detention of an individual for identification purposes (Article 250 PPC) should not be mistaken for a coercive measure per se. Indeed, detention for identification purposes is a police measure that consists in taking a person to the nearest police station following the frustration of regular identification by means of personal official documents, such as an ID, and constraining him/her to remain there for a limited period of time (up to 6 hours) in order to perform the procedures allowing for his/her identification (fingerprints, DNA).

65. After this maximal period of 6 hours or whenever it is deemed necessary to hold a person in custody, the regime of detention as a coercive measure shall apply and all detentions shall be submitted to judicial scrutiny with a view to either the detainee's release or the imposition of an appropriate coercive measure. According to Article 80 of the Penal Code, both the time spent in detention and in preventive imprisonment shall be deducted from the duration of the sentence.

66. Moreover, the strict observation of the legal delays is guaranteed by a number of provisions: the PPC determines the immediate release of the detained individual whenever such detention is illegal (Article 261(3) PPC); there are internal mechanisms of control within the Portuguese Criminal Police imposing upon its officials the duty to fully respect the delays and requirements set forth by the law on what concerns detention for identification purposes (Article 14 d) of Law nr. 37/2008, of 6 August).

67. In addition, an individual who was illegally detained has the right to be compensated according to the Regulation on the Conditions of Detention in the Criminal Police Facilities (RCDCPF), Article 3(2). Finally, the competent judicial authority has the power to control the legality of the detention, of which it is mandatorily informed as soon as it takes place (Article 259 PPC), a request of habeas corpus is always possible as a form of reaction against an illegal detention and the illegal detention is criminally framed as abduction (Article 158 PC).

Question 13. Please clarify whether detained persons have an effective right of access to legal counsel during police custody, and whether law enforcement officials are under a legal duty to inform all persons deprived of their liberty of their rights. Please clarify whether persons held by the Judicial Police, for reasons other than identification purposes, are guaranteed the right to notify their detention to a third party.

68. According to Article 58 of the Penal Code, a person who is detained is granted status of arguido (suspect with the status of party to the criminal process) in order to enjoy certain rights, including the right to be assisted by a counsel of his own choosing. The individual is mandatorily informed of the acquisition of such criminal procedural status and of what it implies in terms of rights and duties, including the right to be assisted by a counsel.

69. As referred to in Article 3 of the RCDCPF, applicable to all detention facilities existing within the Criminal Police and under its administration, every person deprived of liberty should be immediately informed, in a comprehensible manner, of the reasons of the detention and on his/her rights. These rights can be exercised from the immediate moment of detention. In addition, they are visibly posted in an information panel in all detention facilities and are compiled in a leaflet available in various languages and handed by the Criminal Police to anyone who is detained.

70. The information on the right to a counsel and to communicate with a family member, person of trust, embassy or consulate as well as the delivery of the information leaflet must be documented by means of a statement signed by the detainee indicating that he/she has been informed. In order to allow for the communication with the counsel, the Criminal Police has to provide the detainee with the use of a telephone. Finally, Article 30 (1) of the Regulation expressly refers to the right of the detainee to contact with his counsel, orally or in written at any time of day or night.

Question 14. Please provide information on steps taken, legislative or otherwise, to prevent the excessive use of force, mistreatment and abuse by law enforcement officials and members of the security forces. Please also provide information on the number of complaints since 2009, investigations carried out by the Inspectorate General of Internal Administration and internal investigation departments of local police services, and punishments handed down in each case.

71. All Portuguese law enforcement officials are permanently subject to awareness raising actions regarding relevant human rights questions such as racial discrimination, the use of violence and the constitutional and legal principles of necessity, adequacy and proportionality in the performance of its tasks. Such matters are included in the curricula of the training courses provided by the Criminal Police School both in the initial training and advanced training as well as in the permanent training sessions of the Criminal Police Inspectors. The knowledge of human rights issues is included in the evaluation and selection of candidates to the Criminal Police.

72. Furthermore, the activities of the Criminal Police are carried out with respect for constitutional principles (Article 29(5) and 32 of the Constitution of the Portuguese Republic), international and European Human Rights Law as well as for the procedural rights of all defendants. The adoption of the RCDCPF (Order nr. 12786/2009, of 29 May) underlines the duty of the Criminal Police staff to treat all detained individuals with respect for their human dignity and in a non-discriminatory way (Article 24 (2) of the Regulation). In addition to this, any official who witnesses an act of violence or any degrading treatment of a detained person has to duty to put an end to the behavior and to report it to his/her superior, who subsequently forwards the report to the Inspectorate-General for Justice Services (without prejudice to a mandatory report to the public prosecution services (Article 33 of the Regulation and Article 242 of CCP).

73. The Security Forces and Services under the responsibility of the Ministry of Home Affairs (military, police agents and inspectors) are also permanently subject to training and awareness raising actions regarding relevant human rights questions such as racial discrimination, the use of violence and the constitutional and legal principles of necessity, adequacy and proportionality in the performance of its tasks. The Security Forces and Services have their specific training institutions that offer the initial and the in-service training to their military, police agents and inspectors.

74. Excessive use of force, mistreatment and abuse by Security Forces and Services under the responsibility of the Ministry of Home Affairs is prohibited. Extensive documentation to prevent this kind of reprovved behavior is available. This includes, inter alia, specific rules on the use of firearms, instructions for critical situations (based on the principles of proportionality, necessity and appropriateness – principles that must govern any action), police regulations on places of detention, rules for the use of coercive measures, clear legal regulations to ensure the communication of the rights and obligations of detainees, rules on the requirements to be fulfilled for the application of arrest warrants, norms for the transportation of inmates and rules about the register book of detainees.

75. As regards the protection of individuals within the Portuguese Prison System, the Code on the Execution of Penalties and Measures of Deprivation of Freedom (Law nr.

115/2009, of 12 October) draws a distinction between common security measures (surveillance, personal inspection, search, control of presences, control by means of detection devices, electronic and biometric systems of surveillance) and special security measures (prohibition of use and apprehension of objects, surveillance during nighttime, limitation or deprivation of contact with other inmates or access to common spaces, use of handcuffs, separate cells, security rooms (Articles 147 to 161 of Law nr. 115/2009) whose terms of use are clearly described in the General Regulation of Prison Facilities (Articles 147 to 161).

76. The use of coercive means (physical coercion, use of weapons) may be exceptionally exerted (for instance, in order to put an end to a riot or to avoid an escape or physical or material danger for the prisoner and others) always with respect for the principles of human dignity and proportionality). The procedures regarding the use of coercive measures and the reporting of such use to the Audit and Inspection Service of Prisons are laid down in the Regulation for the Use of Coercive Means in Prison Facilities (approved by an Order of the Minister of Justice, of 3 September 2009). Furthermore, the regime applicable to the use of weapons and electric devices was set in a Regulation approved by an Order of 28 March 2011 and the mandatory procedures framing its use were defined in the Internal Order nr. 1/2011.

77. According to the data reported by the Auditing and Inspection Services of the Directorate-General for Prisons, there were 145 complaints for abuse of force since 2009, of which 125 were filled, 5 were subject to punishing measures and 15 are still under appreciation.

78. The Inspectorate General for Home Affairs (IGAI) is the central high level body of inspection and supervision of all the forces and entities under the Ministry of Home Affairs (MAI), namely the National Republican Guard (GNR – Guarda Nacional Republicana), the Public Security Police (PSP – Polícia de Segurança Pública) and the Immigration and Borders Service (SEF – Serviço de Estrangeiros e Fronteiras). It carries out inspections without prior notice to police stations and other sites in order to ensure the rights of citizens in detention and compliance with legal rules. Additionally, all Security Forces and Services have specific internal inspection departments. These departments investigate any eventual irregularity that, in case of being proved, can lead to adequate disciplinary sanctions and, if need be, can also lead to a criminal investigation that in turn can lead to a conviction.

The complaints against the GNR for the years 2009- 2011 are the following:

Year	Number of complaints	Criminal Process	Disciplinary Process
2009	26	Of the 26 cases filed in court, 11 are under instruction and 15 were filed.	Of the 25 internal processes (disciplinary / investigation), 14 were filed.
2010	28	Of the 26 cases filed in court, 17 are under instruction and 9 were filed.	Of the 28 internal processes (disciplinary / investigation), 18 were suspended and 10 were filed.
2011	31	Of the 31 cases filed in court, 28 are under instruction and 3 were filed.	Of the 31 internal processes (disciplinary / investigation), 13 are under instruction, 9 are suspended and 9 were filed.

79. Regarding the Public Security Police, reports the number of punishments for abuse of authority since 2009:

<i>Year</i>	<i>Suspensions</i>	<i>Fines</i>
2009	9	15
2010	4	9
2011	3	0

80. A total of 190 complaints (situations involving harm to physical integrity and abuse of force) were received by IGAI since 2009 till the present day, 17 complaints lead to disciplinary procedures and 110 days of service suspension.

81. The Ombudsman also carries out inspections to places of detention and investigates cases, either pursuant to complaints or on his own initiative.

Question 15. Please indicate which steps are being taken, and their impact measured, to address the problem of overcrowding in some prisons. What measures have been taken to address inadequate facilities, availability of drugs and drug dependence, and high rates of HIV/AIDS and hepatitis C in correctional institutions? Please also provide information on the status of the draft code on the execution of sentences and security measures (Bill 252/X)? To what extent has the implementation of any of these measures been adversely affected by the recent adoption of austerity policies?

82. The issue of overcrowding in prisons is being addressed through the remodeling and extension works currently taking place in the prison facilities of Alcoentre, Caxias, Linhó and São José do Campo in order to increase their occupation capacity. Moreover a new prison is being built in Angra do Heroísmo and there are other measures envisaged in the short term.

83. Regarding the problem of HIV/AIDS and hepatitis C, prisoners are full right users of the National Health System and proper healthcare to prisoners is ensured in prison facilities in articulation with the National Security Service. The Prison Hospital of São João de Deus provides assistance in various medical specialties and it has four internment services: Medical Specialties, Chirurgical Specialties, Infectious Diseases and Psychiatry.

84. In addition to this, there are several programs in place with regard to the abuse of drugs and other substances: there are drug-free facilities in 5 Portuguese prisons, with 116 users as of 11 December 2011, functioning as independent residential units where inmates can be rehabilitated; pharmacological programs are in place, whose main purpose is to prevent physical deterioration caused by drug abuse when there are no conditions for the implementation of a rehabilitation program and to provide some sort of psychological support when the patient cannot or will not stop drug abuse or is gravely ill. As for HIV and hepatitis, upon positive testing, prisoners are given individual and specific plans of clinical intervention.

85. In 2008, a Project addressed to prison inmates who inject drugs was implemented in two prisons (Paços de Ferreira and Lisbon), in order to guarantee access to the prevention methods defined in the Program for Fighting the Propagation of Infectious Diseases in Prisons. A Syringe Exchange Program was made available in these two prisons. However, and although the project was carried on through the year of 2009, it was cancelled in 2010 due to lack of demand.

Question 16. Please provide information on steps taken to guarantee that incarcerated juveniles are held separately from adults.

86. All custodial measures referred to in Article 145 of the Educational Guardianship Law (Law nr. 166/99, of 14 September) are fulfilled in Educational Centers. In Portugal, young people from 12 up to 16 years old who are indicted for the commission of crimes are

detained in special facilities, separated from adults and benefiting from a specific intervention prioritizing the right to education, training and acquisition of skills with a view to integration in society.

87. Although majority is set at 18 years old, juvenile offenders from 16 to 21 years old benefit from a special regime and are separated from adult offenders as a rule. The prison of Leiria was especially set up for juvenile offenders' population and there are frequently special wings for juvenile offenders in other prison facilities.

Question 17. Please provide information on measures taken to ensure that acts of domestic violence against women and children are effectively prohibited and laws enforced, that perpetrators are prosecuted and sanctioned, and that victims have access to physical and psychological rehabilitation. Please also provide information on the impact of the Third National Plan against Domestic Violence (2007–2011).

(i) Measures taken to ensure that acts of domestic violence against women and children are effectively prohibited and laws enforced

88. With the 2007 revision of the Penal Code, under Article 152, domestic violence became an autonomous crime punishable with 1 to 5 years of imprisonment. This penalty can be further aggravated to a maximum of 10 years under certain circumstances. The revised Penal Code (PC) clearly defines physical and psychological abuse. Furthermore, the concept of victim was widened in order to include violence against ex-spouses or persons with whom the aggressor maintains or has maintained a spousal relationship even if living in separate households.

89. The legal framework was further developed in September 2009 with the adoption of a Law on compensation to victims of violent crimes and domestic violence (Law nr. 104/2009, of 14 September) and another Law on the legal regime applicable to the prevention of domestic violence and to the protection and assistance to its victims (Law nr. 112/2009, of 16 September).

90. Portugal is strongly committed in obtaining better results in law enforcement following the recent improvements in the legal treatment of the phenomenon of domestic violence. The Law on the legal regime applicable to the prevention of domestic violence and to the protection and assistance to its victims (Law nr.112/2009,) intends to prevent and repress domestic violence and to support and promote the autonomy and empowerment of the victims. It seeks to provide a more adequate answer unifying the laws regarding this matter and also to address the need to ensure adequate and timely prosecution and conviction of perpetrators. Furthermore, domestic violence has also figured consistently among the priorities of criminal investigation and prevention since 2007.

91. The Centre for Judicial Studies (CEJ), which provides the initial and ongoing training for all magistrates (judges and public prosecutors), has also been promoting a proactive approach on the subject of domestic violence and raising this issue among legal operators. A specialization action on “violence against persons: domestic violence, violence against children, persons with disabilities, elders and in school environment” took place in February and March 2009. Other actions also took place, namely following the changes of the Penal Code. In the CEJ magazine (addressed to magistrates, but also to law enforcers in general) several Articles have been published on the domestic violence phenomenon.

(ii) Prosecution and conviction of perpetrators

92. Taking into account all the recent development in the legal system within the domestic violence context, we must highlight that these developments have led to an increase in the number of complaints year after year and until 2010. Since then, there was a

slightly decrease till the present. Since 2008 and till the end of the first semester of 2012, there were 189 convictions.

(iii) Access to physical and psychological rehabilitation for victims

93. A considerable investment has been made in the quantity and quality of psychosocial responses through crisis centres, emergency help lines and shelters by public bodies and civil society. A free domestic violence victim information helpline has been in operation since 1998 to provide victims with information, support and advice.

94. A National Network of Domestic Violence Centres was set up in 2005 to provide an integrated response to cases of domestic violence and to improve existing resources. National coverage was achieved on January 2009 (18 districts) and currently there are 36 shelters with capacity for accommodation of about 619 women victims of domestic violence and their children. Portugal has also been working on minimum standards for victims' support.

95. The National Republican Guard (GNR) considers the crimes committed against women, children, elderly and other especially vulnerable populations as the most delicate incidents that the criminal investigation departments must deal with. The biggest challenge to the investigators is how to obtain enough evidence in order to produce adequate proof to accuse the suspects. Therefore a specific Project - "Investigation and Support to Especially Vulnerable Victims (IAVE) – was created to deal with these cases. The IAVE Project is based on a concept of community policing, with a view to a better integrating the police forces in their communities to enable more interaction and partnership building. The project has led to the creation of the new specialized teams (NIAVE Investigation and Support to Especially Vulnerable Victims Teams), in every district. The main responsibility of the NIAVE daily work is to investigate all crimes committed against particularly vulnerable victims and to promote all needed actions in order to support the victims; In terms of organization, the elements with IAVE training are distributed in 24 specialized teams (18 in District Capitals, and 6 decentralized, with a ratio of 3-4 per Team), complemented with a minimum of 254 specialized investigators, at the rate of 1 per GNR Post. Currently the headcount is 310 investigators, 78 within the IAVE Teams and 232 within the GNR Posts. The IAVE specialists are recruited on a voluntary basis, amongst criminal investigators, with field service experience. The training of these specialists, in addition to the criminal investigation course and a previous experience as an Investigator, is complemented with a specific sub-specialization at the GNR School. This training includes matters directly related to victim support.

96. The NGOs who fight violence against women play an important role, granted by the state, in the legal field, by providing the victims with support towards an easier access to the Justice (in harmony with Article 20 of the Portuguese Constitution). These organizations not only provide psychological and social assistance but also legal assistance often performing the function of being the very 1st contact of the victims with their rights and legal information in an effort of regain their autonomy and independence.

97. Assistance to victims within the Criminal Police was improved with the signature of a Protocol of Cooperation with the Portuguese Association for Victim Support (APAV). According to this Protocol, the Criminal Police can refer victims to the APAV in order for them to have psychological and other types of support. The Protocol establishes a set of guidelines for receiving and accompanying the victims, including victims of domestic violence.

(iv) **Information on the impact of the III National Plan against Domestic Violence (2007-2010)**

98. The Evaluation of the III National Plan against Domestic Violence (2007-2010) was made in 2011. The recommendations of the III National Plan against Domestic Violence Evaluation Report were all included in the IV National Plan against Domestic Violence. An external evaluation was also carried.

99. The III Plan allow increased awareness and changed mentalities, on one hand giving visibility to the phenomenon and, on the other hand integrating new effective responses to support victims of domestic violence. Overall, the legislative changes made over the lifetime of the Plan towards protecting and promoting the safety of victims must be highlighted. Other important steps were taken to improve data collection instruments and procedures and statistical information. Training sessions for the different actors involved were also very important during the execution of the plan. The role of health issues within this Plan and its importance in protecting the victim were also a key use during the implementation of the III Plan.

100. The overall assessment is that, even if there is a need to continue and strengthen the measures in combating the phenomenon of domestic violence, much was achieved. The impact of measures implemented can be measured by the greater number of victims using support services, benefiting from available resources and a greater number of victims and offenders targeted for specialized technical support.”

101. The National Commission for Citizenship and Gender Equality (CIG) is currently coordinating the implementation of the Forth National Action Plan against Domestic Violence 2011-2013¹³. This Plan focuses on violence inflicted on women, irrespective of their race or ethnic origin, age, religion, disability or sexual orientation, in their domestic environment and integrates policies to prevent and combat this phenomenon. It takes a cross-cutting approach with a particular emphasis on awareness and information campaigns to promote a culture for citizenship and equality, training, and support and shelter of the victims aiming at the reintegration and autonomy. The Plan provides for concerted action between public authorities and NGOs and has five strategic areas of intervention: 1) Informing, raising awareness and educating; 2) Protecting victims and promoting social integration; 3) preventing future crimes - intervention with offenders 4) Qualifying professionals; 5) Investigating and monitoring the domestic violence phenomenon.

Question 18. Please provide information on steps taken to ensure that the legal provisions prohibiting corporal punishment of children are respected.

102. One of the most significant steps was the criminalization of all forms of corporal punishment against children in the national legislation. The Penal Code was revised in 2007 with the aim of explicitly prohibiting all forms of corporal punishment against children. Its Article 152 states that “Whoever repeatedly, or not, inflicts physical or psychological ill-treatment, including corporal punishment, deprivation of liberty and sexual offences, is punished with 1 to 5 years of imprisonment”.

103. With this revision, Portugal joins the group of States that have been contemplating the prohibition of corporal punishment in their legislation whatever the circumstances, including within the family.

104. Portugal has endorsed and implemented several measures, especially concerning the legal improvement on this matter and awareness-raising of families, civil society, professionals, public and private authorities.

¹³ Council of Ministers Resolution nr. 100/2010).

105. The following legislation aiming to protect children against violence and abuse was also approved:

- Decree-Law nr. 12/2008, of 17 January, establishes the enforcement regime of the measures for the promotion and protection of children and youth at risk, provided in Articles 39, 40, 43 and 45 of the Annex to Law nr. 147/99, of 1 September, the Law of Protection of Children and Youth in Risk;
- Law nr. 112/2009, of 16 September establishes the legal regime for the prevention of domestic violence protection and assistance of victim;
- Law nr.113/2009, of 17 September, which establishes measures to protect children, in compliance Article 5 of the Convention of the Council of Europe against Sexual Exploitation and Sexual Abuse of Children and imposes the definition of an idoneous profile for professionals working with children, making compulsory the presentation of criminal records when applying to jobs where there is contact with children.

106. Portugal also endorsed the Council of Europe's Campaign against Corporal punishment and a national campaign "Raise your hand against smacking!" took place last January 2010, which targeted parents, teachers, other professionals and children.

Elimination of slavery and servitude (art. 8)

Question 19. Please provide information, on an annual basis since 2008, on the number of victims of the crime of trafficking for sexual and other exploitative purposes, such as forced labour, as well as the number of prosecutions and convictions of perpetrators. Please report on the impact measured of the implementation of the First National Plan against Trafficking of Human Beings (2007–2010).

(i) Data

107. According to the statistical data available, the number of victims of trafficking in persons registered by the police authorities in the relevant period was of 25 in 2008 (12 male and 13 female victims); 24 in 2009 (12 male and 12 female); 6 victims (male) in 2010 and 15 victims (male) in 2011.

108. It should be noted that in some cases, due to statistical treatment rules, cases of procurement of persons for prostitution and procurement of minors for prostitution may be included in the data related to trafficking.

109. We cannot provide information on the number of cases of trafficking in human beings tried as a sole crime against personal freedom between the years of 2008 and 2010, but there were cases of trafficking in persons and procurement (59 tried cases in 2008; 63 tried cases in 2009; 56 tried cases in 2010) and trafficking and procurement of minors (3 in 2008 and 4 in 2009).

110. There were 5 convicted persons for the crime of trafficking in human beings in 2009; 113 convicted persons for the crime of trafficking in persons and procurement in 2008, 91 in 2009 and 94 in 2010; as for the crime of trafficking in minors and procurement, there were 4 convicted persons in 2008 and 3 in 2009. Data concerning the year of 2011 will only become available in the 31st of October 2012.

(ii) First National Plan against Trafficking in Human Beings

111. The major objective of the first National Plan against Trafficking in Human Beings (I PNCTSH) was the construction and consolidation of a comprehensive national referral mechanism to assist and protect victims of trafficking. As a result of the legal documents

published (in particular Law nr. 23/2007, of 4 July, which regulates the legal regime of the entry, stay, exit and removal of foreigners from national territory) and strengthened the flagging-identification-integration model, Portugal has a protection mechanism aimed at addressing the special needs of victims of trafficking and which meets the requirements of the international community concerning the fight against human trafficking. The national model is based on the primacy of fundamental rights and on the cooperation between different actors.

112. The creation of a Shelter and Protection Centre (CAP) also constitutes a structuring element in approaching this reality from a human rights perspective. This support is very comprehensive having, among others, protection/safety, medical, legal and psychological assistance, translation and access to official programmes. This intervention is directed to support victims and their reintegration process.

113. In 2008, a monitoring system, the Observatory on Trafficking in Human Beings was created, under the Ministry of Home Affairs, with the goal to analyse and disseminate quantitative and qualitative data to the various institutions working in the field of trafficking in human beings. The OTSH is a fundamental instrument for the effective and suitable approach of this reality.

114. In effect, the implementation of the OTSH (carried out during the first PNCTSH) allows a greater knowledge about this reality, which until now remained a hidden phenomenon.

115. One of the most important advantages of implementing the first PNCTSH, as emphasized in the evaluation report, was the investment made in intervention areas concerning prevention, awareness-raising, training and investigation. Such conclusion raises, moreover, the need to give adequate continuity in order to guarantee its consolidation.

116. The introduction and consolidation of the subject in the public and political agenda represent one of the more significant results after implementing the first PNCTSH.

117. In fact, the first PNCTSH contributed significantly to draw public opinion and the political power attention to the phenomenon of human trafficking. The first PNCTSH has accomplished two major challenges: awareness-raising and political responsibility concerning the prevention and fight against human trafficking.

118. To complement the information on this topic, it should be said that a study on trafficking in women for the purpose of sexual exploitation was conducted in 2007 and was published in 2009.

119. Also, Portugal ratified the United Nations Convention against Transnational Organised Crime and its additional Protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children as well as the Council of Europe Convention on Action against Trafficking in Human Beings (27th of February 2008).

Measures for the protection of minors (arts. 24 and 26)

Question 20. Please provide information on steps taken to develop programmes, including community-based programmes, to promote alternatives to institutionalization of children with disabilities and allow these children to stay at home with their families.

120. The Portuguese Institute for Rehabilitation has developed a Guide with recommendations to promote alternatives to institutionalization of children with disabilities¹⁴.

121. Another recent Project is the Sistema Nacional de Intervenção Precoce na Infância (SNIFI) – National Early Intervention System for Children, a network of services and supports provided in the community where the families with children with special needs live¹⁵.

122. The framework law of the Education System establishes the right of integration for pupils with special needs, whether mental or physical, and the modality of Special Education as an integral part of the education system. Children and youngsters with special educational needs are entitled to specialized support in pre-school-education, compulsory school and secondary school in the public, private and cooperative sectors.

123. The Portuguese National Qualification (Skills) System also grants the right to people with disabilities to effective access to qualifications, with the aim of a double certification – school and professional.

124. The Portuguese Institute of Social Security (ISS.IP) supports initiatives for the promotion of equal opportunities, particularly for children, youth, older persons, dependents, migrants, ethnic minorities and other groups in vulnerable situations.

125. The following are some of the measures promoted for the deinstitutionalization of children with disabilities:

(i) Assistance for Children with Chronic Illness or Disability (financial support to one of the parents who takes leave from work to care for a child with disabilities or chronic illness for 6 months extendable up to 4 years);

(ii) Allowance for the Attendance of Special Education Establishments to offset expenses of attendance at private special education establishments or regular daycare or kindergarten with individual and specialized support);

(iii) Disability Bonus for children or young people with disabilities;

(iv) Allowance for Third Person Support (monthly financial support for children or adults with disabilities who require continuous assistance of a third person);

(v) Early Intervention services for children up to 6 years, especially from 0-3, with disabilities or at risk of severe developmental handicaps with support provided in the areas of education, health, and social action;

(vi) The Home Support Service to help those who can not care for themselves or undertake normal daily activities

(vii) 3Centers for Socio Cultural Activities (places where people with disabilities and their families can receive guidance and support and participate in socio cultural activities to promote their autonomy);

¹⁴ <http://www.inr.pt/content/1/1054/desinstitucionalizacao-de-criancas-jovens-com-deficiencia>

¹⁵ <http://www.dgs.pt/ms/12/default.aspx?pl=&id=5525&access=0>

(viii) Occupational Activity Center (support centers for youth and adults with severe disabilities where they carry out occupational activities);

126. The Supplementary System for Decentralized Financing and Technical Aids is the State's response regarding the supply, adjustment, maintenance or renewal of technical aids for greater autonomy and adequate integration of people with disabilities through the provision of free and universal products.

127. The Local Social Security Services supply products prescribed by Health Centers and Specialized Centers and conduct evaluations to assess their impact on the daily life of the applicant. This system has been replaced, since 2009, by a new system for the assignment of products ensuring on the one hand, increased coverage and on the other, improved efficiency and functionality of existing mechanisms.

128. As for the Care for People with Special Needs (APNE), under the Plan of Action for the Integration of Persons with Disabilities (PAIPDI 2006-2009), established by the Resolution of the Council of Ministers no. 120/2006 of 21 September and revised by Resolution of the Council of Ministers nr. 88/2008, of May 29, services for specific assistance for people with special needs were created in the 18 District Centres of Social Security.

129. These services that provide information in person, by telephone, or via the Internet, offer guidance to persons with disabilities and their families as well as the necessary support to establish contacts with other competent bodies of Public Administration in the fields of disability and rehabilitation. In some cases they undertake training and measures to ensure physical accessibility.

Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)

Question 21. Please provide information on the steps taken to disseminate information on the Covenant and the two Optional Protocols, the submission of the fourth periodic report of the State party, and its forthcoming examination by the Committee. Please also provide more information on the involvement of representatives of ethnic and minority groups, civil society, non-governmental organizations and the national human rights institution in the preparatory process of the report.

130. A National Human Rights Commission (NHRC) was created in March 2010 in order, inter alia, to work as a permanent structure to prepare national reports and examination processes by international human rights bodies, and to ensure continuous follow-up to recommendations addressed to Portugal by human rights mechanisms. This Commission coordinated the present list of answers.

131. THE NHRC disseminates human rights information through a specific section created in the MFA website. This includes information on the International Covenant on Civil and Political Rights and the two Optional Protocols.

132. NHRC is an intergovernmental body composed by representatives of different public administration bodies and entities, including the Ombudsman (in its capacity as national human rights institution) and the Prosecutor General's Office.

133. The involvement of civil society has also been a priority, and thus NCHR meets at least once a year in plenary format with NGO representatives. The NCHR also meets

regularly with civil society to discuss national reports to the UN human rights treaty bodies¹⁶.

134. When drafting the present document, the NCHR contacted civil society and requested its input. The Prosecutor General's Website also published the Forth Periodic Report of Portugal to the Human Rights Committee.

¹⁶ The last such meeting took place in mid-July 2012 to discuss the 5th and 6th periodic report of Portugal to the Committee against Torture.

公政公約初次報告審查委員會

編號	姓名/國籍	性別	現職/簡歷	備註
1	Nisuke Ando (日本)	男	<p>現職：京都大學人權研究所所長及榮譽教授</p> <p>簡歷：</p> <ul style="list-style-type: none"> * 人權事務委員會委員(1987-2006) * 人權事務委員會主席(1993-1994) * 國際貨幣基金行政法庭法官(1994迄今) * 常設仲裁法院成員(2001迄今) * 國際法學會成員(1999迄今) * 日本國際法學會會員(1959迄今)、總編輯(1991-1993)、會長(1998-2000) * 美國國際法學會終身會員(1962迄今) 	
2	Jerome A. Cohen (美國)	男	<p>現職：紐約大學法學院教授及亞美法研究所共同主任</p> <p>簡歷：</p> <ul style="list-style-type: none"> * 哈佛大學法學院副院長 * 創立紐約大學亞美法研究中心(1990) * 耶魯法學雜誌總編 * 第一批訪問北韓的美國學者之一(1972) 	

編號	姓名/國籍	性別	現職/簡歷	備註
3	Asma Jahangir (巴基斯坦)	女	<p>現職：巴基斯坦最高法院律師公會會長、巴基斯坦人權委員會主席</p> <p>簡歷：</p> <ul style="list-style-type: none"> * 聯合國非司法、簡易或恣意處決特別報告員 (1998-2004) * 聯合國宗教或信仰自由特別報告員(2004-2010) * 獲提名為2005年諾貝爾和平獎候選人 * 1981年共同創立巴基斯坦第一所女性律師事務所 * 1986年參與創設巴基斯坦人權委員會 * 2010年當選巴基斯坦最高法院律師公會首位女性會長 	
4	Manfred Nowak (奧地利)	男	<p>現職：奧地利維也納大學法學院教授</p> <p>簡歷：</p> <ul style="list-style-type: none"> * 聯合國酷刑與其他殘忍、不人道或侮辱之處遇或懲罰特別報告員 (2004-2010) * 烏特勒支大學荷蘭人權研究所所長(1987-1989) * 波黑人權法庭法官(1996-2003)及副庭長(1998) * 聯合國強迫或非自願失蹤問題工作小組成員(1993-2001) * 聯合國前南斯拉夫失蹤人員問題專家(1994-1997) 	

經社文公約初次報告審查委員會

編號	姓名/國籍	性別	現職/簡歷	備註
1	Philip G. Alston (澳洲)	男	<p>現職：紐約大學法學院教授及人權與全球正義中心共同主任</p> <p>簡歷：</p> <ul style="list-style-type: none"> * 歐洲國際法期刊總編(1996-2007) * 澳洲國際法年鑑共同編輯(1991-1996) * 聯合國經濟社會文化權利委員會報告員(1987-1990)、主席(1991-1998) * 聯合國人權高級專員關於千禧年發展目標之特別顧問(2002-2010) * 聯合國非司法、簡易或恣意處決特別報告員(2004-2010) 	
2	Theodoor Cornelis van Boven (荷蘭)	男	<p>現職：荷蘭馬斯垂克大學法學院教授</p> <p>簡歷：</p> <ul style="list-style-type: none"> * 荷蘭外交部官員(1960 -1977) * 荷蘭駐聯合國人權委員會代表 (1970 -1975) * 聯合國受害者補償權利次委員會委員 (1977-1982) * 聯合國人權次委員會委員(1986-1990) * 聯合國酷刑特別報告員 (2001-2004) * 第1位前南斯拉夫國際戰爭法庭司法常務官 (1994) * 領導荷蘭代表團於羅馬參與關於建立國際戰爭法庭的聯合國大使會 	

編號	姓名/國籍	性別	現職/簡歷	備註
			議(1998)	
3	Eibe Riedel (德國)	男	現職：經濟社會文化權利委員會委員 簡歷： * 德國比較法協會會員及主席(1993迄今) * 德國教科文組織委員會委員(1995迄今) * 國際比較憲法協會委員(2001迄今) * 德國人權機構諮詢委員會委員(2001迄今)	
4	Denise Scotto (美國)	女	現職：國際女律師聯合會會長 簡歷： * 聯合國經濟及社會文化公約之社會事務委員會委員 * 聯合國非政府組織婦女地位委員會(NGOCSW)副主席 * 國際女律師聯合會(FIFCJ)聯合國代表(2003-2007)	
5	Heisoo Shin (韓國)	女	現職：經濟社會文化權利委員會委員 簡歷： * 消除對婦女一切形式歧視公約委員會委員(2003-2004擔任副主席、2001-2004任期，以及2005-2008任期) * 韓國國家人權委員會委員(2005-2008) * 聯合國秘書長的國際諮詢委員會委員，深入研究關於一切侵害婦女之暴力形式(2005-2006)	

編號	姓名/國籍	性別	現職/簡歷	備註
			<ul style="list-style-type: none"> * 聯合國前往阿富汗高級代表團成員(2006年8月) * 亞太婦女論壇，法律與發展成員，有關對婦女施暴的特別工作組(1992-1999)、指導委員會(1995-1999)、婦女人權工作組(2000-2007)和組織委員會(2009迄今) * 韓國司法部性別政策委員會主席(2006迄今) 	

公民與政治權利國際公約及經濟社會文化 權利國際公約中華民國初次報告

公政公約報告審查委員會 經社文公約報告審查委員會

會議期間：2013 年 2 月 25 日至 3 月 1 日

會議地點：臺灣臺北

非政府組織相關資訊

壹、 審查委員會成員

- 一、 公政公約報告審查委員會：成員包括 Nisuke Ando (日本)、Jerome A. Cohen(美國)、Asma Jahangir(巴基斯坦)及 Manfred Nowak (奧地利) 等 4 位審查委員。
- 二、 經社文公約報告審查委員會：成員包括 Philip G. Alston (澳洲)、Theodoor Cornelis van Boven(荷蘭)、Eibe Riedel(德國)、Denise Scotto (美國) 及 Heisoo Shin (韓國) 等 5 位審查委員。

貳、 會議地點：臺灣臺北

參、 文件：「中華民國初次報告 ([中文版](#)及[英文版](#))」、「[中華民國初次報告審查會議期程規劃表\(暫定\)](#)」、「[中華民國初次報告審查會議議程\(暫定\)](#)」及其他相關資料刊載於「[人權大步走](#)」網站。

肆、 非政府組織提供予審查委員會之報告：

- 一、 審查委員會誠摯歡迎非政府組織 (包含聯盟及個別團體) 提出可信的、儘可能具體之相關資料。非政府組織可以直接與審查委員聯繫並寄送相關資料，或透過秘書處轉送。提供予審查委員會之資料請自行備妥中、英文版，秘書處並不協助文件之翻譯。
- 二、 前述資料之截止收件期限為 102 年 1 月 25 日 (紙本資料以郵戳為憑)，逾期不予轉寄。

三、秘書處聯繫方式：

- (一) 名稱：總統府人權諮詢委員會議事組
- (二) 電話：02-23820706
- (三) 傳真：02-23896273
- (四) 電子郵件：twreport2013@mail.moj.gov.tw
- (五) 地址：10048 臺北市中正區重慶南路 1 段 130 號（法務部法制司）

伍、問題清單及結論性意見：

一、問題清單：

- (一) 審查委員會提出問題清單後，將由秘書處轉交各政府機關於期限內回應。
- (二) 問題清單將公告於人權大步走網站。

二、結論性意見：

- (一) 審查委員會於審查會議結束後，擬具結論性意見，其內容包括：概述、積極面、影響公約落實之因素與困難、首要關切主題、建議與推薦。
- (二) 結論性意見將對外公告，包括登載於[人權大步走](#)網站。

陸、結論性意見之後續追蹤：審查委員會將依據結論性意見進行後續追蹤程序，非政府組織可將相關訊息直接提供予審查委員或由秘書處代為轉達予審查委員參考，秘書處並應將此資訊登載於[人權大步走](#)網站。

柒、其他事項：

- 一、有關非政府組織報名及參與審查會議之最新消息，將適時公布於[人權大步走](#)網站。
- 二、有關審查會議之期程規劃與議程，請參見「[中華民國初次報告審查會議期程規劃表](#)」與「[中華民國初次報告審查會議議程\(暫定\)](#)」。

中華民國初次報告審查會議期程規劃表

期程	事項	備註
101 年工作計劃		
5 月 1 日	函請外交部翻譯，預計 3 個月內完成。	總統府人權諮詢委員會事組 101 年 5 月 1 日府人權字第 10115100500 號函
5 月 10 日	國際審查秘書處第 1 次會議	1. 確認翻譯事宜。 2. 商討國際人權專家學者來臺規劃期程及審查地點。 3. 商討邀請事宜。
5 月 24 日	國際審查秘書處第 2 次會議	
5 月 31 日	國際審查秘書處第 3 次會議	
6 月 21 日	國際審查秘書處第 4 次會議	外交部代表報告英文初稿預計於 7 月底前竣事。
6 月底前	寄發邀請函與參與審查之國際人權專家。	6/27 寄發書面邀請函；6/28 寄發電子郵件。
5 月至 6 月底前	密集開會確認審查會議工作方法及程序規則。	
7 月 18 日	國際審查秘書處第 5 次會議	國家人權報告英文版初稿已竣事，外交部於 7/18 提供初稿紙本及光碟各乙份予議事組。

7月25日至8月2日	請各部會確認英文版內容。	※議事組於收受英文版初稿後送交各部會校對，各部會倘有修訂意見請回覆議事組，再由議事組逕送外交部。
8月17日	國際審查秘書處第6次會議	
8月中旬	<p>公告國際審查相關訊息：</p> <ol style="list-style-type: none"> 1. 公政公約與經社文公約初次報告審查委員會成立； 2. 公政公約與經社文公約初次報告審查委員會名單； 3. 非政府組織相關訊息 4. 我國公政公約/經社文公約初次報告期程規劃表 5. 我國公政公約/經社文公約初次報告審查會議議程（暫定） 	
8月下旬	國家人權報告英文版（稿）竣事。	英文版定稿定於本（101）年9月13日由議事組陳總統府人權諮詢委員會第9次委員會議核定。
9月上旬至11月下旬	<ol style="list-style-type: none"> 1. 公告審查會議工作方法、程序規則及議程規劃（稿）。 2. 寄發國家人權報告英文版與來臺審查之審查委員。 3. 舉辦非政府組織及政府機關之培訓。 4. 受理非政府組織提供之資料影子報告及相關資料。 	秘書處於收受問題清單後，應即指定並轉寄予權責機關，若僅有一權責機關，即由該權責機關負責將問題清單翻譯為中文並提出回復；倘涉及多權責機關，由秘書處

	<ol style="list-style-type: none"> 5. 寄發影子報告及相關資料與來臺審查之審查委員。 6. 審查委員審視資料。 7. 審查委員提出問題清單（英）。 8. 受理非政府組織報名參加審查委員與非政府組織之會議（11月中旬至下旬）。 	指定主政機關負責問題清單之翻譯並綜整其他權責機關之意見再行回復。各權責機關回復予主政機關以及各主政機關回復予秘書處時，皆須同時提供中文版及英文版。對秘書處之指定有意見者，應於收到秘書處之指定郵件起1個工作天內提出說明（逾期提出者將不予處理），再由秘書處協調其他相關機關之意見後，維持原決定或重新指定。各機關對於秘書處之維持原決定或重新指定，均不得再有異見。
12月上旬至12月下旬	<ol style="list-style-type: none"> 1. 12月25日（二）前：各機關就問題清單提出書面回復（中、英文）予秘書處。 2. 12月31日（一）前： <ol style="list-style-type: none"> (1) 秘書處將各機關之書面回復寄予審查委員。 (2) 確認政府及非政府組織之出席人員及場次。 	
102年工作計劃		
1月25日	受理轉寄非政府組織提供資料之截止日期	紙本資料以郵戳為憑
1月上旬至下旬	審查委員審閱書面回復。	
1月下旬至2月上旬	<ol style="list-style-type: none"> 1. 確認審查會議各項細節。 2. 印製會議手冊。 	
2月24日至3月2日	審查會議議程	詳細規劃請參照 審查會議議程（暫定） 。
2月24日（日）	<ol style="list-style-type: none"> 1. 審查委員抵臺。 2. 晚宴：歡迎會 	

<p>審查會議</p> <p>(2月25日至27日)</p>	<p>2月25日</p> <p>(一)</p>	上午	審查委員會與非政府組織之會議(1)。	
		下午	審查委員會與政府代表之會議(1)。	
	<p>2月26日</p> <p>(二)</p>	上午	審查委員會與非政府組織之會議(2)。	
		下午	審查委員會與政府代表之會議(2)。	
	<p>2月27日</p> <p>(三)</p>	上午	審查委員會與非政府組織之會議(3)。	
		下午	審查委員會與政府代表之會議(3)。	
<p>結論性意見</p> <p>(2月28日至3月1日)</p>	<p>2月28日</p> <p>(四)</p>	上午	<p>結論性意見之擬具</p> <p>(不公開)。</p>	
		下午		
	<p>3月1日</p> <p>(五)</p>	上午	結論性意見發表	
		下午	參訪行程。	
		晚上	晚宴暨歡送會	
	<p>3月2日(六)</p>	<p>審查委員離臺</p>		

中華民國公政公約初次報告審查會議議程（暫定）

日期	時間	活動	備註
2013.2.24 (日)	白天	審查委員抵臺	
	18 時至 20 時 30 分	歡迎會	
審查會議			
2013.2.25 (一)	09 時至 12 時	審查委員會與非政府組織之會議 (一)	
	14 時至 17 時	審查委員會與政府代表之會議 (一)	
2013.2.26 (二)	09 時至 12 時	審查委員會與非政府組織之會議 (二)	
	14 時至 17 時	審查委員會與政府代表之會議 (二)	
2013.2.27 (三)	09 時至 12 時	審查委員會與非政府組織之會議 (三)	
	14 時至 17 時	審查委員會與政府代表之會議 (三)	
結論性意見			
2013.2.28 (四)	10 時至 12 時	結論性意見之擬具 (一)	不公開
	14 時 30 分至 16 時 30 分	結論性意見之擬具 (二)	
2013.3.1 (五)	10 時	結論性意見之發表	
	下午	參訪行程	
	18 時 30 分	晚宴暨歡送會	
2013.3.2 (六)	下午	審查委員離臺	

中華民國經社文公約初次報告審查會議議程（暫定）

日期	時間	活動	備註
2013.2.24 (日)	白天	審查委員抵臺	
	18 時至 20 時 30 分	歡迎會	
審查會議			
2013.2.25 (一)	09 時至 12 時	審查委員會與非政府組織之會議 (一)	
	14 時至 17 時	審查委員會與政府代表之會議 (一)	
2013.2.26 (二)	09 時至 12 時	審查委員會與非政府組織之會議 (二)	
	14 時至 17 時	審查委員會與政府代表之會議 (二)	
2013.2.27 (三)	09 時至 12 時	審查委員會與非政府組織之會議 (三)	
	14 時至 17 時	審查委員會與政府代表之會議 (三)	
結論性意見			
2013.2.28 (四)	10 時至 12 時	結論性意見之擬具 (一)	不公開
	14 時 30 分至 16 時 30 分	結論性意見之擬具 (二)	
2013.3.1 (五)	10 時	結論性意見之發表	
	下午	參訪行程	
	18 時 30 分	晚宴暨歡送會	
2013.3.2 (六)	下午	審查委員離臺	