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Author:

Isabel P. Meireles

*Independent scholar*

[isabel.srpm@gmail.com](mailto:isabel.srpm@gmail.com)

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## **Ceramic Frogs: A Form of Indirect Discrimination Against Roma**

Isabel P. Meireles

*Independent scholar*

### **Abstract**

This article analyses a peculiar practice that exists in Portugal, which consists of displaying ceramic frogs at the entrance of shops and restaurants in order to keep Roma customers away—taking advantage of the negative connotation of frogs in the Romani tradition. Aiming to contribute to the discussion of a topic that is not widely explored in literature, this research looks at the use of ceramic frogs from the perspective of International Human Rights Law, based on descriptive legal and factual analysis. The view presented here is that this practice is an indirect form of discrimination in the access to places open to the public, and that the Portuguese state is currently breaching its international obligations to protect and fulfil that right, under Articles 2 and 5(f) ICERD. Furthermore, this paper explores the relation of this practice with the prohibition of apartheid and segregation, under Article 3 ICERD, as well as its roots in antigypsyism, systemic racism, and other interdisciplinary concepts. In that respect, this research finds that, by allowing this practice to persist, the Portuguese state is breaching its obligations under Article 3 ICERD. This article ends by trying to contribute to possible legislative and policy solutions to this problem.

**Keywords:** Roma; discrimination; minorities; Portugal; frogs; antigypsyism; International Convention on the Elimination of Racial Discrimination (ICERD); racism;

## Introduction

Roma<sup>1</sup> are the largest and most discriminated ethnic minority in Europe (European Commission, 2021; 2018, p. 4), and face discrimination in multiple areas of society (European Union Agency for Fundamental Rights [FRA], 2016, p. 11). The first Roma reportedly came to Europe—and Portugal—around the fifteenth century. In Europe, Roma have been persecuted and marginalised for centuries (Bastos, 2012, pp. 350, 360; Coelho, 1995, pp. 9–44; ERRC, 2020, p. 3), and are often victims of antigypsyism (Bastos, 2012, p. 350, 360; 2020, pp. 5, 18).

Antigypsyism has been defined as a “specific form of racism” towards Roma based on “an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed [...] by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination” (European Commission Against Racism and Intolerance [ECRI], 2020, p. 3).<sup>2</sup> According to the European Commission (2018, p. 4), antigypsyism is “deeply entrenched in social and cultural attitudes”; it can be both “persistent and recurring” and “structural”; and it exists simultaneously at “institutional, social and interpersonal level”. Furthermore, it is sometimes “unintentional and even unconscious” and based on a “process of ‘othering’”, built on “exoticizing stereotypes” (European Commission, 2018, p. 4).

This article analyses a peculiar Portuguese practice, which consists of displaying ceramic frogs at the entrance to shops and restaurants in order to prevent Roma from entering the premises. This practice is rooted in stereotypes that link Roma with criminality, while taking advantage of the negative connotation that frogs have among Roma (Dias, 2010; Casa-Nova, 2013, p. 221; Matras, 2015, p. 92; Vidal, 2019). Thus, shopkeepers *intentionally* place ceramic frogs at the entrances of their shops, conveying the message that Roma are *not welcome* to the premises. Despite the racist message that ceramic frogs convey to Roma, these objects usually go unnoticed to the average non-Roma. Indeed, this form of discrimination only received mainstream media attention due to the award-winning film *Balada de um Batráquio* (Batrachian’s Ballad), by Leonor Teles (2016). Similarly, this topic has not yet been widely explored in academic literature. This article wants to invite the readers to discover this practice from the perspective of International Human Rights Law. Research combines both legal and factual analysis, with the help of theoretical interdisciplinary concepts.

The view presented here is that this practice is an indirect form of discrimination in the access to places open to the public and may entail a breach of the obligations to protect and

fulfil that right. Furthermore, this practice falls within the scope of the prohibition of apartheid and segregation under Article 3 of the International Convention on the Elimination of Racial Discrimination (ICERD) and needs to be analysed also through that perspective. The racist intent behind the use of ceramic frogs can be compared to that of other hate symbols, namely anti-religious ones. One could even argue that the use of ceramic frogs is a form of hate speech through symbols, since it “expresses intense antipathy towards some group or towards an individual on the basis of membership in some group” (Corlett & Francescotti, 2002, p. 1083).

This article is divided into four sections. Starting with a brief analysis of the concepts of discrimination under the ICERD, ICCPR, ECHR and domestic laws, in Section 1 we address the state’s legal obligations regarding non-discrimination within the right of access to places open to the public. Following this, Section 2 presents an analysis of the state’s compliance with its international legal obligations to respect, protect, and fulfil that right. Section 3 aims to involve the reader in a discussion on the connections between this practice, segregation, and structural racism—analysing Article 3 ICERD and drawing on interdisciplinary concepts. Finally in section 4, I reflect on possible legislative and policy solutions that could be adopted to improve the state’s human rights record in this respect.

## **1. Discrimination in the Access to Places Open to the General Public: International Human Rights Legal Framework and Obligations**

Before diving deeper into the analysis, one must acknowledge that the Portuguese Constitution, in its Article 8(1) and (2), adopts a monistic position regarding international law—thus, treaties, norms, and principles of general international law are *automatically* part of national law after their publication without needing to be transposed (Miranda, 2006, pp. 150, 152, 173–174). Furthermore, norms and obligations contained in treaties have primacy over domestic ordinary legislation, even prevailing above existing laws (Miranda, 2006, pp. 173–174).

Taking that into consideration, there are norms and obligations arising from the ICERD, the ICCPR, and the ECHR that can be applied directly to this case. First, I will analyse how these different treaties define discrimination, and why the situation considered here constitutes an indirect form of discrimination. Then, I will discuss whether these treaties contain a right to non-discrimination in the access to places open to the public and, finally, what are the state’s obligations arising from that right.

## 1.1 Is the use of Ceramic Frogs Discriminatory?

### *Legislative Concepts*

The ICERD, the ICCPR, and the ECHR all provide different definitions of discrimination, prohibiting both direct and indirect discrimination based on ethnic grounds.

Article 1(1) ICERD defines *racial discrimination* as containing three elements or requirements: (i) it needs to be a “distinction, exclusion, restriction or preference”; (ii) based on someone’s race, colour, descent, nationality, or ethnicity; (iii) carried out *with the “purpose or effect* of nullifying or impairing the recognition, enjoyment or exercise” of Human Rights “on equal footing” [emphasis added]. In addition to those positive requirements, there is also one negative requirement, as explained in General Recommendation XIV: the difference in treatment must not amount to a temporary special measure allowed under Articles 1(4) and 2(2) ICERD (Committee on the Elimination of Racial Discrimination [CERD], 1993, para. 2; Lerner, 2015, pp. 37–38).<sup>3</sup>

Articles 2(1) and 26 ICCPR both deal with the concept of discrimination, but do not define it. The definition under the ICCPR was later drafted by the Human Rights Committee (HRCtee, 1989, para. 6) in its General Comment No. 18, to mean “any distinction, exclusion, restriction or preference” carried out “with the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise” of human rights by everyone “on an equal footing”. As explained in *Broeks v. The Netherlands* (1987, para. 12.2), General Comment No. 18 (HRCtee, 1989, para. 13), and General Comment No. 31 (HRCtee, 2004, para. 13), Article 16 allows the existence of differences in treatment, as long as they are justified by reasonable and objective reasons. This definition is very close to the one contained in Article 1(1) ICERD—except that Article 2(1) ICCPR contains an *open list* of discriminatory grounds, prohibiting all forms of discrimination (HRCtee, 1989, para. 7; Bantekas & Oette, 2013, pp. 76–77), and not only discrimination based on race. The ICERD and the ICCPR both cover *direct and indirect* forms of discrimination (Vandenhoele, 2005, pp. 38–39)—the first being discriminatory acts that target directly a specific group of people, while the second are those which have an “unjustifiable disparate impact” on an ethnic, racial, colour, descent, or national group, as explained by CERD (1993, para. 2) in its General Recommendation XIV.

Article 14 ECHR and Article 1 Optional Protocol No. 12 to the ECHR both deal with discrimination. However, the concepts of direct and indirect discrimination have been more closely defined by the European Court of Human Rights (ECtHR). Direct discrimination was

defined, during the *Belgian Linguistics Case* (ECtHR, 1968, para. 10), as consisting of the different treatment of equal cases, with no objective or reasonable justification, and/or no proportionality between aim and means (Vandenhoele, 2005, p. 33).

The concept of *indirect discrimination* appeared in landmark case *D. H. & Others v. Czech Republic* (ECtHR, 2007, paras. 183–185, 208–209). It was then defined as an *apparently neutral* practice that provokes a “disproportionately prejudicial effect” on a person or group of persons, that are put in a *disadvantaged* position when compared to others in a comparable situation—without any objective or reasonable justification, nor proportionality between means and aim. In addition, EU and Portuguese legislation also prohibit direct and indirect discrimination. The Racial Equality Directive (RED) 2000/43/EC, in Article 2(2), (a) and (b), defines direct and indirect discrimination very similarly to the ECtHR. The Portuguese Constitution, meanwhile, establishes the principle of equality and non-discrimination—with Article 13(1) affirming the right of equality before the law, and Articles 13(2) and 26 containing a prohibition of discrimination based on any grounds (Canotilho & Moreira, 2007, p. 340). Canotilho and Moreira have further outlined that such prohibition encompasses both direct and indirect forms of discrimination (pp. 339–341) and is directly applicable also to private relationships (pp. 338, 346–347).<sup>4</sup> Finally, the Portuguese legal regime on racial discrimination (Law 93/2017) aims at preventing, prohibiting, and combating discrimination based on racial and ethnic origin, colour, nationality, descent, and territory of origin (Article 1). Its definition of discrimination, in Article 3(1) (a), almost transposes Article 1(1) ICERD.<sup>5</sup> This legal instrument explicitly prohibits indirect discrimination (under Article 4(1)) and provides a definition of the concept (under Article 3(1) (c)) that is worded quite similarly to the one which appears in *D.H. & Others v. Czech Republic*.<sup>6</sup>

### *The use of Ceramic Frogs as a Discriminatory Practice*

Ceramic frogs have reportedly been used in supermarkets (Silva, 2019), shops, cafes, restaurants (Dias, 2010), grocery shops, and even pharmacies or clinics (Vidal, 2019). Shopkeepers justify their use by saying it is a mere “decorative choice”, often refusing to remove the objects when approached by activists (Silva, 2019). However, its use is very *intentional*, and meant to keep Roma customers—considered by the business owners as unwanted “thieves”—off the premises. This discriminatory intent and hatred towards Roma were confessed to by ten shopkeepers interviewed by Al-Jazeera reporter Marta Vidal (2019). As in the case of *D. H. & Others v. Czech Republic* (ECtHR, 2007), which coined the concept of indirect discrimination, situations such as the ones described above also involve

antigypsyism. There are some differences between these two cases, but also many similarities. In the case of *D. H. & Others*, Roma children had been assigned to special schools as they were considered as having “special educational needs” because of their disadvantaged social backgrounds (ECtHR, 2007, paras. 17–18, 198). However, those special schools had been designed for students with disabilities, and their curricula were so basic that they could aggravate the learning difficulties of Roma students and compromise their “personal development”, their integration in society, and future job opportunities (para. 207). The ECtHR then decided that the legislation that assigned Roma children to special schools was indirectly discriminatory, since it provoked a “disproportionately prejudicial effect” on Roma students, who “were treated less favourably than non-Roma children in a comparable situation” without any objective or reasonable justification, nor proportionality between means and aim (paras. 183–185, 208–209).

As in the case of *D. H. & Others*, the use of ceramic frogs is a form of indirect discrimination against Roma; having the effect of impairing the exercise of their right of access to places open to the public. This practice has a *disproportionate prejudicial effect on Roma customers when compared to non-Roma in a comparable situation*, and there is *no objective or reasonable justification* for such treatment. Therefore, this practice clearly fits the notion of indirect discrimination as defined in *D. H. & Others* and in General Recommendation XIV (CERD, 1993, para. 2). In fact, to the average non-Roma customer, the existence of a ceramic frog at the entrance of a shop is insignificant and may even be perceived as decoration. However, to Roma customers, ceramic frogs are a symbol connotated with evil and bad luck (Casa-Nova, 2013, p. 221; Matras, 2015, p. 92), and act as a sign that they are not welcome to the premises. These connotations, combined with the message conveyed through the placement of these frogs, understandably make them unwilling or reluctant to enter the shops and restaurants that have ceramic frogs at the entrance.

## ***1.2 The Right of Access to Places Open to the General Public***

As we have seen, the ICCPR, the ICERD, and the ECHR all prohibit direct and indirect discrimination based on ethnic grounds (cf. *supra*, 1.1) and are binding for the Portuguese state. However, *Article 2(1) ICCPR and Article 14 ECHR are not applicable* to this particular case. Those two provisions can only be triggered *together* with another right contained in the treaties (Grabenwarter, 2014, pp. 342–345; HRCtee, 1989, paras. 12–13; Schutter, 2010, pp. 565, 571–574), and the right of access to places open to the general public is *not* contained in the ICCPR, nor in the ECHR. Article 26 ICCPR, however, can be invoked even in the absence of a link



with any right under the ICCPR, as is explained in *Broeks v. The Netherlands* (HRCtee, 1987, paras. 12.1–12.2, 15), General Comment No. 18 (1989, para. 12), and General Comment No. 31 (2004, para. 6). The same occurs with Article 1 of Optional Protocol No. 12 (OP 12) to the ECHR, which requires the existence of “any right specifically granted to an individual under national law” (Grabenwarter, 2014, pp. 443–445). The *applicability of Article 26 ICCPR and of Article 1 OP 12 ECHR* to this particular situation is *not clear*, since we are dealing with discrimination perpetrated by private persons, and there is no consensus among scholars on whether these two provisions contain an obligation to protect (Grabenwarter, 2014, p. 445; Vandenhoe, 2005, p. 214).

According to General Comment No. 28 (HRCtee, 2000, paras. 1, 31) and *Nahlik v. Austria* (1996, as cited in Vandenhoe, 2005, p. 214), such obligation does exist under Article 26 ICCPR—at least in the ‘quasi-public sector’. Hence, some authors, like Novak (1993, as cited in Vandenhoe, 2005, p. 214), understand that this concept can be extended to places open to the public. Regarding Article 1 OP 12 ECHR, the Explanatory Report that accompanied the ECHR “does not impose” such obligation; however, Grabenwarter (2014, p. 445) questions whether the ECtHR should follow the Explanatory Report on this matter. Conversely, *the ICERD clearly recognises the existence of a right of access to places open to the general public, arising from the combination of its Article 2 and Article 5(f)*. Article 2(1) ICERD contains a “general condemnation of racial discrimination”, enshrined in the principle that states must not discriminate, nor encourage discrimination (Lerner, 2015, pp. 40–41). This provision is, at the same time, programmatic (p. 43); affirming the general obligation of states to adopt a policy aimed at eliminating all forms of racial discrimination and set “by all appropriate means and without delay” (Article 2). The sub-paragraphs of Article 2 contain further general obligations which are applicable to the obligations arising from each right under Article 5 ICERD. It is required that states, beyond fulfilling their general obligations under Article 2 ICERD, also *guarantee to everyone*, regardless of their race, colour, nationality, or ethnicity, “*equality before the law*” [emphasis added] in the exercise of their rights (Lerner, 2015, pp. 57–58). These rights, in principle, apply to all persons living in the state (CERD, 1996, para. 3). Article 5 ICERD provides a non-exhaustive list of rights (CERD, 1996, para. 1) —including civil and political rights, economic, social and cultural rights. Under section (f), it explicitly recognises the *right not to be discriminated* against in the access “*to any place or service intended for use by the general public*” [emphasis added].<sup>7</sup> The CERD (1996, para.1) has stated that the list provided under Article 5 “does not itself create” new rights, but rather “assumes the existence

and recognition of these rights”. Thus, we can assume the existence of a *right to be free from discrimination in the access to places or services open to the general public*. Conversely, the Portuguese state has an *obligation to respect, protect, and fulfil* the enjoyment of this right, arising from the combination of Articles 2 and 5(f) ICERD.

### ***1.3 Right of Access to Places Open to the General Public: State Obligations***

#### ***Obligation to Respect***

The state has an obligation to respect, i.e., not to interfere with the enjoyment of a particular right (International Commission of Jurists, 1997, para. 6). In this case, and according to Article 2(1) ICERD, the state has a negative obligation not to discriminate, directly or indirectly, against individuals or groups of persons in the access to places or services open to the general public, based on the grounds listed in Article 1(1) (Lerner, 2015, p. 4). This obligation entails a duty for the state not to discriminate *de jure* and *de facto*. Therefore, it shall not have any discriminatory laws or policies—including administrative regulations (Vandenhoele, 2005, p. 192). Moreover, according to General Recommendation XIV (CERD, 1993, para. 2), if the state imposes a restriction on this right, “it must ensure that” such restriction is neither directly nor indirectly discriminatory in the sense of Article 1(1). Furthermore, the state also has a positive obligation to ensure that *all* public agents do not discriminate against people where it comes to the access to public places or services (Lerner, 2015, pp. 42–43).

#### ***Obligation to Protect***

The state’s obligation to protect entails a duty to prevent third parties from interfering with the enjoyment of rights (International Commission of Jurists, 1997, para. 6) and to “provide remedies where the preventive measures have failed”, taking into account “what is reasonable to expect from the State” and the specific right concerned (Schutter, 2010, pp. 366–441). In this case, the state has, firstly, a negative obligation not to support any individuals or private companies who, directly or indirectly, restrict or prohibit the access to services open to the public, under Article 2(1) (b) ICERD. Secondly, under Article 2(1) (d), it has a positive obligation to “prohibit and bring to an end” such discriminatory acts. This obligation is both important and controversial (Lerner, 2015, pp. 42–43) and, in this case, according to General Recommendation XX (CERD, 1996, para. 5) it means that the state has a duty to *prevent, investigate, and punish* acts of direct and indirect discrimination in the access to services open to the public, perpetrated by individuals or private companies. General Recommendation XVII (CERD, 2000c, para. 35) has even recognised a special duty when those acts involve



discrimination of Roma.<sup>8</sup> Therefore, the state *must*: (i) have *legislation* in place that prohibits this type of discrimination; (ii) actively monitor discrimination in accordance with General Recommendation XX (1996, para. 5);<sup>9</sup> (iii) conduct “prompt and effective investigations” and prosecute reported cases of discrimination (*Ms. M. B. v Denmark*, 2002, p. 10); and (iv) provide adequate financial compensation for victims, in coordination with Article 6 ICERD (CERD, 2000b, para. 35).

### *Obligation to Fulfil*

Finally, states have a duty to take appropriate measures towards the full realisation of rights (International Commission of Jurists, 1997, para. 6), and these measures can take many forms. Article 2(1) (a) and (c) ICERD requires the state to *review and modify legislation* so that it is not racially discriminatory (CERD, 2000c, para. 1; Lerner, 2015, p. 43). Furthermore, states are required to build a *broad national strategy* against discrimination, and a special strategy to protect Roma is recommended by General Recommendation XVII (CERD, 2000c, para. 2). Moreover, the state has a *duty to monitor and report* “about the non-discriminatory implementation” of Article 5(f) ICERD, under Article 9 ICERD (1996, paras. 4–5). It is also required that each state gathers and reports “*data about the Roma communities*” living in the country, as specified in General Recommendation XXVII (CERD, 2000c, para. 46). Furthermore, Article 2(1) (e) ICERD entails a duty to support and strengthen movements which advocate for racial integration and discourage racial divisions. Such measures will imply the work of law-enforcement agents, along with the existence of a *state governmental agency* that monitors the fulfilment of this right, and reports the outcomes to the CERD. In that sense, the employees working for such a department need also to be adequately *trained* to detect situations of direct and indirect discrimination—in this case, regarding the access to facilities open to the general public. Thirdly, achieving the full realisation of the right not to be discriminated in the access to places open to the public implies the *education* of public agents, shopkeepers, and clients to create awareness of what type of behaviour can be considered directly or indirectly discriminatory. This obligation should be combined with the obligations arising from Article 7 ICERD to educate against racial discrimination and promote tolerance between all races and ethnicities (CERD, 1996, para. 2).

## **2. Potential Breach of Obligations not to Discriminate in the Right of Access to Places Open to the Public**

As we have seen, the use of ceramic frogs is a form of indirect discrimination in the right of

access to places open to the public (cf. *supra*, 1.1) which is perpetrated by private persons. When a state fails “to perform any of these obligations” (to respect, protect, and fulfil a certain right), that “constitutes a violation” of the right (International Commission of Jurists, 1997, para. 6). In this specific case, this would mean a violation of the right of access to places open to the general public. In this section, our paper will analyse whether there exists any breach of obligations in relation to the use of ceramic frogs and, if so, what is the extent of said breach. Since this practice is perpetrated by *individuals*—and not by the state directly—we will narrow our analysis to the obligations to *protect and fulfil*.

## **2.1 Legal Prohibition of Third-Party Interference**

Under its obligation to protect, the state has the duty to legislate against interferences of private parties in the enjoyment of their right of access to places open to the public (cf. *supra*, 1.3). As we have seen (*supra*, 1.1), indirect discrimination based on racial grounds is prohibited by both EU and Portuguese legislation. Article 3(1) (h) RED prohibits discrimination in the “access [...] and supply of goods and services [...] available to the public”. Portuguese Law 93/2017 also recognises the right to non-discrimination in the access to places and services open to the public, in Article 4(2) (a) and (d):

The following practices are considered discriminatory, based on the factors mentioned in article 1: (a) The denial of supplying or *impeding the enjoyment of goods or services put at the disposal of the public*; [...] (d) *The denial or restriction of the access to public places or open to the public*. [emphasis added] (Author’s translation)

*The use of ceramic frogs* has been qualified by Portuguese authorities as an indirect form of discrimination *prohibited* under the aforementioned sub-paragraphs (Comissão para a Igualdade e Contra a Discriminação Racial [Portuguese Commission for Equality and Against Racial Discrimination; CICDR], 2019, pp. 97–98). Arguably, sub-paragraph (j) of Article 4(2) could also be invoked, since it qualifies as discriminatory those acts that insult, debase, or threaten any person or group based on racial or ethnical grounds.<sup>10</sup>

Using the same logic of Article 4(2) (j), Article 240(2) of the Portuguese Penal Code qualifies as a crime those acts that insult, degrade, or threaten persons or groups because of their race, ethnicity, origin, or descent. Considering the negative connotation frogs have among Roma, the act of displaying ceramics frogs in places open to the general public could, *at least in theory*, fit the scope of this crime. Given the fact that Article 240 addresses hate crimes, it

would seem logical for this provision to include this type of case—especially since the use of ceramic frogs is a form of hate speech through symbols (cf. *supra*, Introduction).

There is no extensive case-law on Article 240(2) and, consequently, there are not that many judicial convictions. Prosecutors seem to have been following a strict interpretation of this provision and have never applied it to the use of ceramic frogs, reserving it only for cases of more direct insults and crimes that they consider more severe.<sup>11</sup> Nevertheless, since the use of ceramic frogs is prohibited under Portuguese law—being considered a form of indirect discrimination in the access to places open to the public—the state is *complying* with its *legislative obligations* on this matter.

## ***2.2 Duty to Monitor, Investigate, Prosecute, and Punish***

The obligation to protect the right of non-discrimination in the access to places open to the public implies that reported cases must be investigated, prosecuted, and punished, and that victims must be compensated. Moreover, the obligation to fulfil requires the existence of a state agency that monitors the evolution of the right, and reports to the CERD (cf. *supra*, 1.3).

### *Monitoring Process*

Article 13 RED requires that each EU member state creates a body that monitors racial discrimination and also provides “assistance to the victims”, conducts surveys, publishes reports, and makes recommendations on the topic. In Portugal, Article 6 of Law 93/2017 establishes that the authority in charge of monitoring its applicability is the Portuguese Commission for Equality and Against Racial Discrimination (CICDR)<sup>12</sup>. Among other things, under Articles 8(2) and (4), 18, and 20, the CICDR has the power to: (i) receive complaints, investigate, and apply fines; (ii) coordinate actions on “the prevention, inspection and combat” of racial discrimination; and (iii) to draft an annual report, to be presented at the parliament (CERD, 2020, paras. 34, 37). Anyone can file a complaint about the use of ceramic frogs, or any other discriminatory practice, under Article 17(1). However, under Article 17(4), public entities have a *legal duty* to do so whenever they become aware of a discriminatory practice. The law also offers parties the possibility to agree on solving the conflict through mediation, under Article 11 (CERD, 2020, para. 35). In line with Article 8 RED and *D. H. & Others*, Portuguese law establishes a presumption of discrimination in Article 14 that is also valid for acts of retaliation. This is vital for protecting victims while, at the same time, it encourages complaints. Law 93/2017 provides that discriminatory acts should, at least, be sanctioned with administrative fines, under Articles 5 and 16. Moreover, the victim is entitled to compensation

for material and moral damages, the amount of which is determined by court through a tort liability action, under Article 15(1) and (2).

Regarding stakeholder representation, the CICDR advisory board, under Article 7(2), includes representatives for migrant, antiracist, human rights NGOs, and one representative for Roma communities, as well as representatives for workers' unions and employers' associations (CERD, 2020, para. 36). Article 12 also allows NGOs to file class actions or intervene as third parties in cases involving racial discrimination (CERD, 2020, para. 35). This seems to be in line with the demands of Article 11 RED, that calls member states to “promote the social dialogue” between stakeholders and NGOs.

### *Number of Reports and Sanctions*

According to the ERRC (2020, p. 3), the existence of “widespread discrimination” against Roma in Europe suggests that the RED is “not effective”—and neither are the national laws that transpose it. In Portugal, the lack of effectiveness of Law 93/2017 is demonstrated, for example, by the low numbers of reports and sanctions, which has drawn criticism by treaty bodies in their latest Concluding Observations (CERD, 2017b, para. 15; HRCtee, 2020, para. 13) and NGOs (SOS Racismo, 2020). Despite the facts, the Portuguese government still affirms that the CICDR has carried a “considerable” amount of proceedings (CERD, 2020, para.18). Of course, it is better to have a few proceedings than to have none. However, it is clear that the number of sanctions is quite inferior to the real number of discriminatory practices occurring. This is particularly true regarding the use of ceramic frogs. Since this type of data has started to be collected, there was only *one* sanction related to the use of ceramic frogs (CICDR, 2019, pp. 97–98; 2021a; 2021b). That number stands in sharp contrast to the *countless reports* arising from activists and the media (Dias, 2010; Silva, 2019; Teles, 2016; Vidal, 2019). Interestingly enough, in 2019—the year when that single case related to the use of ceramic frogs was sanctioned—18% of sanctions applied by the CICDR had to do with discrimination in the access to places open to the public (CICDR, 2019, p. 62). In that same year, being Roma was the largest discriminatory ground among the reported cases of discrimination, amounting to 19.3%, followed by 17.7% for being black, and 17% for being Brazilian (pp. 52–53). The sanction chosen by the CICDR for that one case related to the use of ceramic frogs was a mere *admonition*—instead of a fine (2019, pp. 97–98). The view presented here is that admonitions should not be used in these cases, since they are legally reserved only to situations of “reduced gravity”<sup>13</sup> and guilt, under Article 16(4) Law 93/2017. Ceramic frogs can be subtle, but those who use them have clear racist intentions, and should be punished. Not punishing such acts can

lead to a sense of *impunity* and can be counter-productive in the fight against racism. Moreover, in this situation, giving the perpetrator a mere admonition *goes against* Article 15 RED, which explicitly instructs states to apply “*effective*”, “*proportionate*”, and “*dissuasive*” sanctions. The disparity between the reality of cases and the low number of reports, along with the lack of adequate and persuasive sanctions—related to the use of ceramic frogs—seem sufficient to affirm that the state has been *breaching its duties to adequately monitor, investigate, and punish* these types of situations.

### ***2.3 Duty to Build Anti-Discrimination Strategies and Educate Towards Integration***

Another dimension of the obligation to fulfil the right of access to places open to the public is the duty to build national strategies against racism, and specific strategies towards Roma. Under that obligation, the state also has a duty to train, sensitise, and educate public agents, shop owners, and society in general, in order to end this form of discrimination (cf. *supra*, 1.3).

#### ***Strategies and Integration Policies***

Portugal has a comprehensive national strategy for equality and non-discrimination which deals with *all forms* of discrimination.<sup>14</sup> CERD’s General Recommendation XXVII (2000c, para. 2) specifically requires the existence of a strategy against *racial* discrimination. Such strategy has been approved very recently, by Resolution of the Council of Ministers No. 101/2021, dated from July 28. On an EU level, there is an intention to develop a common approach between member states on *special strategies for Roma* (European Commission, 2021), designed in accordance with the EU Framework for National Roma Integration Strategies. Portugal’s National Roma Communities Integration Strategy 2013–2022<sup>15</sup> (ENICC) exists within the European framework, and has the purpose to monitor and promote integration, to foster dialog between the Roma and non-Roma, and to combat false stereotypes (ENICC, 2018, pp. 1–5). The ENICC is guided by principles of non-discrimination, cooperation, territorialisation, and gender equality (pp. 12–13), and it follows a structure that resembles the Strategic Development Goals, targets, and indicators—hereby called “strategic objectives”, “specific objectives”, “measures” and “indicators”. The ENICC does not expressly mention the use of ceramic frogs nor the discrimination of Roma in the access to places open to the public. However, strategic objectives number 1, 2, and 3 deal with the strategy’s effective implementation and awareness-raising, promotion of non-discrimination, and “intervention in intercultural mediation” next to Roma communities (pp. 16–22).

In 2015, the state created the National Roma Communities Integration Strategy Support

Fund (FAPE), which has since been supporting awareness-raising and training projects to combat discrimination against Roma, working in direct cooperation with stakeholders (Alto Comissariado para as Migrações [ACM], n.d.; CERD, 2020, paras. 148–155). One of the funded projects was a sensitisation campaign aimed specifically at convincing the owners of facilities open to the public to remove the ceramic frogs displayed at their premises.<sup>16</sup> This campaign reportedly approached 44 shops and led to the removal of “half” of the frogs encountered (Vidal, 2019).<sup>17</sup> These policies demonstrate the state’s effort to promote the integration of Roma communities, and to comply with its international obligations on this matter. However, they do not seem enough to end “stigmatisation and discrimination” of Roma—a point which has been emphasised in the latest Concluding Observations on Portugal by the HRCtee (2020, paras. 12–13) and the CERD (2017, paras. 20–21). First, the ENICC does not ensure enough *stakeholder participation*. Despite the existence of intercultural mediators, Roma communities are currently not being heard “at all stages” of the strategy’s “implementation and evaluation” (para. 20). The Portuguese state tried to fix this issue in 2018 by creating the Advisory Group for the Integration of Roma Communities (CONCIG) composed of members of the Government, scholars specialised in Roma studies, plus four advisors representing Roma communities (2020, para. 143). Secondly, the CERD (2017, para. 21) argues that the strategy has not been accompanied by an adequate allocation of *funds*. It is true that FAPE exists, and it has been quite successful at *promoting grass-roots activism* among Roma communities (ACM, n.d.). However, we have to agree that, with FAPE, the Government seems to be relying more on stakeholder initiatives, rather than on institutional ones. It seems that, although the situation has improved over the years, there is still *not enough institutional interest* in promoting Roma integration—supporting Bastos’ (2012, p. 340) criticism of previous Governments, which he accused of promoting assimilation. Moreover, the state had been advised by the CERD to strengthen the capacity of *intercultural mediators*, and to ensure they were equally distributed across the country and provided with adequate training and funding (CERD, 2017b, para 21). Portugal is currently working on the qualification and training of intercultural mediators; however, only a small number—20 mediators out of “12 municipal teams”—are of Roma ethnicity, and teams operate only in the North, Centre, and Alentejo (CERD, 2020, paras. 146–147, 156–162). Despite not being equally distributed across the country, as recommended, they cover a substantial part of the territory. However, some *key communities* are forgotten or overlooked, including many that are settled “in precarious conditions” in the Lisbon Metropolitan Area (ECRI, 2018, paras. 87–88). Finally, as we will see (cf. *infra*, 3), ENICC has *not been effective in ending practices of indirect discrimination*



and segregation, including the use of ceramic frogs and the existence of “special classes for Roma” students. In addition, it also seems to have *failed* on its key objectives of *combating structural racism and stereotypes* (paras. 89–90).

### **3. Connections Between Indirect Discrimination, Segregation, Stereotypes and Structural Racism**

#### *Segregation*

Article 3 ICERD contains the prohibition of apartheid and outlines several international human rights obligations. This prohibition is not restricted to the apartheid policies in South Africa, but also applies to other cases of racial segregation (Lerner, 2015, p. 46), including partial segregation arising due to actions of private persons without the direct involvement of authorities, as stated in General Recommendation XIX (CERD, 1995, paras. 3–4). As an example of such situations, the CERD (2007a, para. 13) has qualified discrimination against Dalits in India as “*de facto* segregation” falling under the scope of Article 3. Specifically, this provision imposes obligations to: (i) prevent “all practices” of apartheid and racial segregation; (ii) prohibit such practices; and (iii) eradicate them (Lerner, 2015). This means that states have the negative obligation *not to engage in such policies*, and the positive obligations to *legislate* against societal racial segregation, to *prosecute and punish* people who engage in such practices, and to invest in their *prevention*. Moreover, according to General Recommendation XIX (CERD, 1995, para. 4), states are also required to “monitor all trends” that can lead to racial segregation, to work against those trends, and to report the developments to the CERD.

The Encyclopaedia Britannica (n.d.) defines *racial segregation* as “the practice of restricting people to certain circumscribed areas of residence or to separate institutions (e.g., schools, churches) and facilities (parks, playgrounds, restaurants, restrooms) on the basis of race or alleged race”. In line with this definition, Casa-Nova (2013, pp. 220–221) has argued that the use of ceramic frogs was a form of segregation:

[i]t matters [...] to deconstruct the idea of common sense that Roma are portrayed as people who do not want to integrate. [...]. Since the Romani people have revealed a secular resistance [to an imposed process of assimilation], such non-coincidence of values and cultural practices has had (and has) as an effect its spatial and social segregation, [...], even if that exclusion could not assume a coercive shape, but instead a more subtle way of development. [...] These segregation practices have different forms, from what we highlight: a) the use of “decorative

objects” shaped as frogs in the windows of department stores (given that it is more or less common knowledge the negative symbolic link that the Roma give to that animal with multiple misfortunes, refraining from entering places where those “decorative objects” are visible. (Author’s translation )

In fact, the practice seems to completely fit the definition of segregation. As Casa-Nova demonstrates, the use of ceramic frogs has the effect of dissuading Roma people from entering certain places, such as cafes, restaurants, and shops. Thus, it creates two categories of places: those that are ‘Roma-friendly’—the majority, with no ceramic frogs— and those that are ‘not Roma-friendly’ because they display ceramic frogs. In that sense, and despite the use of the ceramics frogs being a subtle and indirect discriminatory act perpetrated by private individuals, it results in partial segregation. Therefore, the view presented in this paper is that the use of ceramic frogs falls under the scope of Article 3 ICERD. As we have seen (cf. *supra*, 1.1, 1.3), Portuguese legislation prohibits this practice; however, the state has not been doing *enough* to prevent, prosecute, and punish perpetrators in these types of situations (cf. *supra*, 2.2). Therefore, we can affirm that the Portuguese state is *breaching* its obligations on this matter.

Segregation also exists in *other situations* of indirect discrimination against Roma in Europe, such as the creation of special classes for Roma students (Casa-Nova, 2013, pp. 221–222)—A practice which has been increasing in recent years across all European countries, including Portugal (FRA, 2018, p. 31).<sup>18</sup> The same logic applies: by creating “Roma only” classes, schools are segregating their students based on their ethnicity (Casa-Nova, 2013, p. 221; ERRC, 2020, p. 3). Thus, Article 3 is also applicable in those types of situations.

### *Structural discrimination, systemic racism, and anti-Roma stereotypes*

Systemic racism, also known as institutional racism, has been defined by MacPherson (1999, para. 6.34) as:

[T]he collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in *processes, attitudes and behaviour* which amount to discrimination through *unwitting prejudice*, ignorance, thoughtlessness and *racist stereotyping* which disadvantage minority ethnic people [emphasis added].

Given this definition, we can affirm that the use of ceramic frogs is a symptom of systemic racism. First, because this practice shows a *clear intent* to discriminate against Roma in order to prevent them from entering certain shops or restaurants, taking advantage of their

superstitions surrounding frogs (cf. *supra*, 1.1). Second, this practice comes as a result of anti-Roma *prejudice* and *negative stereotypes*, that link Roma with criminality and lack of hygiene (cf. *supra*, 1.1). Bordens and Horowitz (2001, p. 109) define stereotypes as “a rigid set” of beliefs about “the characteristics or attributes” of a certain group, resulting in the idea that *all members* of that group have those characteristics. Prejudice, on the other hand, is read as a “biased, often negative, attitude towards a group of people” that includes “a set of expectations” of how members of that group will behave (p. 108). Portuguese Roma and non-Roma populations seldom have contact, apart from casually sharing the same spaces (Castro et. al., 2001, p. 82). Non-Roma tend to think of Roma as criminals—often also deeming them as “arrogant” and “slow” (Casa-Nova, 2013, p. 221), “undisciplined” (Mendes, 2012, p. 6), and “hostile” liars (Castro et. al., 2001, p. 81) with poor hygiene (Mendes, 2012, p. 5). A clear example of anti-Roma stereotypes in Portuguese society is found in the dictionary. The word “cigano”—which also means the identity most Portuguese Roma self-identify with—comes with a pejorative connotation; and is often taken to be synonymous with “crook”, “impostor”, “cheater”, “rogue”, “greedy” or “miser” (Dicionário Priberam, n.d.). Anti-Roma speech also occurs “in public discourse” sometimes coming from politicians and public figures (ECRI, 2018, paras. 29–30) and in traditional sayings such as “one eye on the donkey, the other on the gypsy”, which means that Roma, like donkeys, cannot be trusted.<sup>19</sup> Third, there have not been enough investigations, prosecutions, and sanctions related to the use of ceramic frogs (cf. *supra*, 2.2). It thus seems that there is a *lack of intent* to go further with investigations. This lack of intent, as a form of unwitting prejudice, is also a symptom of systemic racism (MacPherson, 1999, para. 6.45). Another way in which this practice is a symptom of systemic racism, is that cases involving the use of ceramic frogs have been widely *under-reported*. And, as MacPherson (para. 6.45) argues, the vast number of under-reported cases might be connected with a *lack of confidence in the authorities*. Furthermore, discrimination based on antigypsyism is transversal in Portuguese society; occurring also in the access to housing, employment, and education (Casa-Nova, 2013, pp. 221–222; CERD, 2017, para. 20; FRA, 2018, pp. 10–14; HRCtee, 2020, paras.12–13; Mendes, 2012, pp. 5–8). For example, in 2016, 71% of Roma claimed to have been discriminated in Portugal in at least one area of society in the last 5 years (FRA, 2016, pp. 36–37).<sup>20</sup>

Schutter (2014, p. 733) argues that structural discrimination occurs when discrimination encompasses “different spheres” of society and is so deeply ingrained that it requires action to *effectively end* discrimination, rather than to simply “outlaw direct and indirect discrimination”.

According to Bossyut (2002, para. 19), the fact that structural discrimination persists despite the existence of formal equality before the law is strongly connected with practices of indirect discrimination. In fact, it is historically proven that when states prohibit direct forms of discrimination, they do not eliminate prejudice against minorities and people tend to turn to more subtle forms of discrimination, hoping to go unnoticed. This is what happened, for example, in the USA after the end of Jim Crow policies, and in Europe after the fall of Nazi Germany (Janoski et al., 2005, pp. 561–562). This pattern is also evident in the use of ceramic frogs in Portugal, and with the assignment of special schools for Roma children all over Europe. In both cases, shopkeepers/headmasters are legally forbidden to discriminate against their customers/students—and they are well aware of that. Indirect discrimination is also legally prohibited (by international, European, and national laws), but it presents as a subtle way to achieve the same effect as direct discrimination, with the ‘advantage’ for perpetrators that it is more difficult for them to be caught. Ceramic frogs, for example, are often discreet enough to go unnoticed in the eyes of the average non-Roma.

Structural discrimination exacerbates social differences which exist between Roma and non-Roma populations who seldom have contact (Castro et. al, 2001, p. 82). These differences arise as a result of anti-Roma stereotypes that are deeply ingrained in society (Bastos, 2012, p. 340). It is interesting to note that, despite the prevalence of anti-Roma stereotypes, segregation practices, and structural racism, Portugal has the second highest level of acceptance of Roma by their non-Roma co-workers in the EU (FRA, 2018, p. 15). Furthermore, anti-Roma stereotypes, prejudice, and discrimination go hand-in-hand with cultural racism—i.e., racism that is based on essential cultural differences, which are constructed and often linked with stereotypes—occurring, in this case, mainly because of “cultural characteristics” attributed to Roma (Casa-Nova, 2013, pp. 220–221; Mendes, 2012, p. 3). In fact, Roma communities have kept their own culture, traditions, and lifestyle, along with a very strong sense of family. Because of these differences, there is a common misconception that Roma are unwilling to integrate into society; however, their attitudes merely reflect an attempt to *resist* an “imposed process of assimilation” (Mendes, 2012, p. 6).

#### **4. Reflecting on possible solutions**

Following this in-depth consideration of this topic, the time has come to reflect on possible legislative and policy solutions that could help mitigate this problem. The first solution seems quite obvious: it is to foster reporting, prosecutions, and give adequate punishment in cases

involving the use of ceramic frogs. For that to be possible, it is vital to spread more information and general awareness of the problem among both the wider population and the authorities. If more people are educated and aware of the fact that displaying ceramic frogs is an illegal discriminatory act, more situations will be reported, investigated, and punished. Conversely, shop-owners, fearing sanctions, will be discouraged from displaying ceramic frogs. However, such discouraging effects will only occur if, in fact, cases are actually investigated, prosecuted, and punished more severely than just with admonitions. Reforming Article 240 of the Penal Code would also be an important step to clarify whether threats or insults through the use of hateful symbols fit the scope of the crime.

In the past, there has been an attempt towards a more ‘direct’ remedy, by trying to convince shopkeepers, owners, and attendees to remove the frogs. The project “Não Engolimos Sapos” (cf. *supra*, 2.3) was a good example of that kind of approach—unfortunately, however, it was not accompanied by statistical and follow-up studies. If it had been, the CICDR could then use such statistics and follow-up information about the remaining frogs to investigate the cases and punish the offenders. Collecting data of all the ceramic frogs in the country is, however, a very demanding task, that would involve the allocation of significant human and financial resources.

Given the existence of prejudice and systemic racism against Portuguese Roma, eradicating the use of ceramic frogs will be a difficult task to accomplish without *tackling its root causes*, namely, by dismantling stereotypes. Education for diversity and promotion of integration are key measures, since it is vital for non-Roma to learn that depictions of Roma as “thieves” or “dirty” are inaccurate and misinformed. Conversely, Roma need to have more opportunities to participate in society—which must be done through policy measures such as education incentives, and more opportunities to access housing and work. It is crucial that non-Roma stop seeing Roma as ‘the other’ and start to recognise them as people who simply happen to have a different ethnicity.

Finally, gathering ethnic-racial data will also be an important policy measure, in order to understand how many Roma live in Portugal. That information is crucial to developing public policies against discrimination and fighting practices of segregation. Furthermore, it is one of the areas in which the state is breaching its obligation to fulfil the rights provided under Article 5 ICERD—along with obligations under Articles 2, 3 and 9.

## Conclusion

As we have seen, the use of ceramic frogs is a form of indirect discrimination as defined by *D. H. & Others*, in Article 1(1) ICERD, Article 26 ICCPR, and Articles 1 and 4(1) Law 93/2017. Furthermore, this situation falls under the scope of Article 2 and 5(f) ICERD, thus implying obligations on the Portuguese state to respect, protect, and fulfil the right of access to places open to the public.

However, within its obligation to protect, the state did not comply with its duties to prevent, investigate, prosecute, and punish, given the low number of prosecutions and lack of sanctions. Regarding its obligation to fulfil, and despite the efforts to provide *training and education* for integration, the policies outlined in the ENICCs strategy have *not been enough* to prevent structural discrimination and antigypsyism—two root causes behind this particular practice. Therefore, this article finds that the Portuguese state has breached its obligations to protect and fulfil, and we conclude that the use of ceramic frogs entails *a violation of the right of access to places open to the public*, under Articles 2 and 5 (f) ICERD.

We cannot affirm that there was a violation of the right to equality and non-discrimination before the law, under Articles 26 ICCPR and 1 OP No. 12 ECHR—since it is unclear whether those provisions entail an obligation to protect. If, however, we would have interpreted this right as containing an obligation to protect, we would affirm that there had been a breach, due to the state's inefficiencies in investigating, prosecuting, and punishing these types of cases. Furthermore, we have seen that the use of ceramic frogs is a particular dimension of segregation and systemic racism in Portugal; being deeply rooted in anti-Roma stereotypes and prejudice. This practice has the effect of dividing places between 'Roma-friendly' and 'not Roma-friendly'. As such it represents a form of partial segregation perpetuated by private individuals and falls under the scope of Article 3 ICERD. As a result, we believe that the Portuguese state is also *breaching its obligations under Article 3 ICERD, for not having done enough* to prevent, punish, and eradicate this form of racial segregation.

Finally, it is clear that much is yet to be done to improve the Portuguese state's human rights record in this respect—from fostering reporting, prosecutions, and sanctions by creating awareness among stakeholders, to reforming Article 240 Penal Code. Furthermore, if this practice is to be ended, it is crucial that legislative and policy changes are accompanied by education for diversity which addresses root causes and dismantles anti-Roma stereotypes.



## Notes

<sup>1</sup> For the purpose of this paper, and in accordance with terminology used by the European Commission (n.d.), we use the umbrella term ‘Roma’ as encompassing diverse groups “including Roma, Sinti, Ashkali, Egyptians, Yenish, Dom, Lom, Rom and Abdal, as well as Traveller populations (gens du voyage, Gypsies, Camminanti, etc.)”.

<sup>2</sup> The Alliance against Antigypsyism (2017, p. 5) has proposed the following working definition of antigypsyism:

A historically constructed, persistent complex of customary racism against social groups identified under the stigma “gypsy” or other related terms, and incorporates: 1. a homogenising and essentialising perception and description of these groups; 2. the attribution of specific characteristics to them; 3. discriminating social structures and violent practices that emerge against that background, which have a degrading and ostracising effect and which reproduce structural disadvantages.

<sup>3</sup> According to Bossyut (2002, para. 59), those two articles should be read together, and Article 1(4) ICERD specifically requires that temporary special measures do not lead to segregation (para. 6).

<sup>4</sup> The application of this prohibition to private persons derives from Article 18(1) CRP, which purports the principle of direct application of fundamental rights.

<sup>5</sup> Article 3(1) (a) Law 93/2017 defines discrimination as:

Any distinction, exclusion, restriction or preference, based on a person’s racial and ethnic origin, colour, nationality, descent and territory of origin, that has the object or effect of nullifying or impairing the recognition, enjoyment or exercise, on equal footing, of civil and political rights or economic, social and cultural rights. (Author’s translation)

<sup>6</sup> Article 3(1) (c) Law 93/2017 defines indirect discrimination for the context of the Law as any practice based on racial grounds that, despite its neutral appearance, puts person or group in a disadvantaged position when compared to others in a similar situation—as long as that practice is not “objectively justified by a legitimate aim”, and is seen as an “adequate and necessary mean” to achieve that purpose (Author’s translation).

<sup>7</sup> As we can read in Article 5(f) ICERD:

*States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres. [emphasis added]*

<sup>8</sup> The CERD (2000c, para. 35) specifically urges states to “prevent, eliminate and adequately punish any discriminatory practices” that interfere with “the access of members of the Roma communities to all places and services intended for the use of the general public, including restaurants, hotels, theatres and music halls, discotheques and others”.

<sup>9</sup> The existence of an obligation to monitor the enjoyment of the rights can be inferred from General Recommendation XX, where the CERD (1996, para. 5) affirms the existence of a duty of states to “ensure that the result [of private practices that can influence the exercise of rights] has neither the purpose nor the effect of creating or perpetuating racial discrimination”.

<sup>10</sup> Or on any of the grounds mentioned in Article 1 Law 93/2017.

<sup>11</sup> For example, in *Acórdão do STJ de 05-12-2012 (Santos Cabral)* the Supreme Court decision where the Prosecution had filed charges under Article 240 Penal Code, in a case where the suspect denied the existence of Holocaust. Cf. Available online at:

<http://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/727e7cfb94eb21b080257a45002f6679?OpenDocument>

<sup>12</sup> In Portuguese: “Comissão para a Igualdade e Contra a Discriminação Racial”.

<sup>13</sup> Author’s translation.

<sup>14</sup> National Strategy for Equality and Non-Discrimination 2018–2030, approved by Council of Ministers Resolution 61/2018.

<sup>15</sup> Approved by Council of Ministers Resolution 154/2018.

<sup>16</sup> The project was called “Não Engolimos Sapos”, literally meaning “We Do Not Swallow Frogs”.

<sup>17</sup> There was some contradictory information about the outcome of the project: Silva (2019) only mentions that 10 frogs were photographed and part of an exhibition about the project. However, when we contacted the Project they informed us that they had no data about the outcome of the campaign or any follow-up information.

<sup>18</sup> Those practices increased in Europe around 50% between 2011 and 2016—with no country said to have “experienced a reduction”. In Portugal, the share increased from 3% to 11%.

<sup>19</sup> Author’s translation. In Portuguese: “Um olho no burro, outro no cigano”.

<sup>20</sup> The respondents were asked about discrimination experienced at work and when looking for work, as well as in the fields of education, housing and access to services.

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