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# THE REPUBLIC OF PORTUGAL

## ANNUAL EXCHANGE OF INFORMATION ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

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MINISTRY OF NATIONAL DEFENCE  
DEFENCE POLICY DIRECTORATE

Page 1 of 30  
14 ABRIL 2011  
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## **CONTENTS**

- 2- List of Acronyms
- 3- Introduction
- 3-28 Answers to the Questionnaire



## **LIST OF ACRONYMS**

AF	Armed Forces
ATCU	Anti-Terrorism Co-ordination Unit
CCOS	Council of Chiefs of Staff
CHOD	Chief of the General Staff
CHODPD	Chief of General Staff Force Planning Directive
CMS	Compulsory Military Service
COS	Chiefs of Staff of Services - Navy, Army and Air Force
CPC	OSCE Conflict Prevention Centre
GDND	Governmental Directive for National Defence
IGIA	Inspectorate-General of Internal Affairs
ISSC	Intelligence Services Supervising Council
ISSPR	Intelligence Services System of the Portuguese Republic
LMS	Law for the Military Service
MoD	Ministry of Defence
MPL	Military Procurement Law
MoDDMD	Ministry of Defence Directive for Military Defence
MSC	Military Strategic Concept
MSCI	Military Superior Council
NATO SOFA	Force Status Agreement of NATO parties
NATO SOFA(PfP)	Force Status Agreement of NATO PfP parties
NCO's	Non-commissioned Officers
MDAFL	National Defence and Armed Force Law
NDL	National Defence Law
NDSC	National Defence Strategic Concept
NDSCI	National Defence Superior Council
GNR	National Republican Guard
OL	Organic Law
PM	Prime Minister
PR	President of Republic
PRC	Portuguese Republic Constitution
PSP	Public Security Police
SDMIS	Strategic Defence and Military Intelligence Service
SEPNA	Environment and Nature Protection Service
SIS	Security Intelligence Service
SMAF	Specific Missions for the Armed Forces
SP	Services Proposals
UN	United Nations



## **INTRODUCTION**

The Republic of Portugal hereby submits the annual exchange of information on the OSCE Code of Conduct on Politico-Military Aspects of Security. This is in pursuance of its obligations resulting from the decision FSC.DEC/4/03, which commits the participating states to provide each other, and to the Conflict Prevention Centre (CPC), relevant information on the Code, including steps taken for its implementation, in accordance with a list of items, no later than 15 April 1999 and any subsequent updates by 15 April of each year.

## **QUESTIONNAIRE**

### **Question 1:**

**Appropriate measures to prevent and combat terrorism, in particular participation in international agreements to that end:**

### **Answer:**

Portugal has been strongly co-operating in all the initiatives already adopted by the United Nations, the European Council and in the European Union, with the objective of preventing and fighting terrorism in all its ways and forms.

To this end and in the context of the European Union, namely within the framework of the III Pillar (Justice and Internal Affairs) and also within the framework of the II Pillar (Foreign Policy and Common Security), it was created a Working Group with the designation “GT/PESC/TERR-COTER”, that has been following up the issue of terrorism.

It is important to underline that Portugal is bound to the “Common Action” dated October 15, 1996 adopted by the European Council (as per ONEC no L.273 of October 25, 1996), as well as to the European Convention on terrorism repression (as per Law 19/81 of August 18) and to the Europol Convention – which created the European Police Services, to which powers were given to deal with the terrorism infractions already committed or about to be made, specially, those attempting against human life, physical integrity, freedom and welfare, as well as assets of the citizens– and, finally, to the European Convention on Extradition (as per the Resolution no 23/89 of the Portuguese Parliament). Portugal is also bound to the United Nations Convention on Civil Aviation and Maritime Security regarding prevention and repression of terrorism acts.

Since December 2001, according to the 5th Constitutional revision that has been carried out since 1976, our Constitution safeguards the application of criminal judiciary co-operation norms, as established within the European Union scope.



It should be mentioned that National Defence Strategic Concept (point 8), Resolution of the Council of Ministries n°6/2003 of 20<sup>th</sup> January states that, in respecting the Law, it materializes, among others, the capability of the Armed Forces to “in collaboration with the Security Forces, in internal order, and in a close relation with the Allies, in external order, prevent and to face up to terrorist threats”.

Still in this context, Portugal has been following up the works since the very beginning, strongly co-operating with the “Ad-Hoc Committee” especially created by the Assembly-General of the United Nations for the preparation of the Convention on the Suppression of Terrorist Bomb Attacks.

In this field of the bilateral relations, Portugal has signed some co-operation agreements with several countries.

The fundamental principles laid down by the legal instruments administered by the European Council were followed by the Portuguese legislators, not only in the revisions of the penal and prosecuting legislation, but also in the preparation of several legislation regarding, in particular, the protection of terrorism victims and the laundering of money or other assets, resulting from criminal activities, namely from terrorism (our Decree no 325/95 of December 2).

In its fundamental nature, the Portuguese legislation regarding the terrorism prevention and repression matters falls under the Penal Code and Code of Criminal Procedure.

The Decree Law 48/95 of March 15<sup>th</sup> made some changes over the Decree Law 400/82 of September 23<sup>rd</sup>, specifically in what concerns the Articles 297 to 301- which determine and inflict the penalty to crimes, criminal associations, terrorist organizations and terrorism - was amended through Law 65/98 of September 2, which led to a change in Article 240 (racial or religious discrimination), Article 275 (explosive substances or similar substances and weaponry) and Article 287 (hijack or alteration of course of an aircraft, ship, train or passenger vehicles).

In 1998, the Prosecuting Penal Legislation underwent its last amendment of the regulations regarding prevention and repression of terrorism (Article 139, which defines the special conditions of protection of terrorism witnesses), after the review process of the terrorism victims compensations, which took place in 1996, as per Law 10/96 of March 23.

It should also be pointed out the Decree no 324/85 of August 6 that rules the legal system of the State servants, both civilian and military, who under the line of their duties or because of their duties can be victims of criminal acts, promoted particularly by criminal associations and terrorist organizations, as a retaliation or intimidation process.



Terrorism and other sort of crimes are also expressed under Paragraph 3 of Article 1 of the Internal Security Law which describes the purposes of the internal security services: “(...) *to protect life and integrity of the citizens and to enforce law and democratic order against violent criminality or highly organized criminality, namely sabotage, espionage or terrorism*”.

From a political point of view, it should be mentioned that until the 31<sup>st</sup> March of each year the Government must submit a Report to the Parliament, concerning the country’s situation (its internal security) and concerning the activity of the Security Forces and Services developed in the previous year (Article 7 – number 3 of the Internal Security Law).

The Organic Law of the Intelligence Service sets forth its functional duties as follows: “(...) *The Intelligence Service is the sole department within the “ISSPR” (the Intelligence System of the Portuguese Republic) entitled to collect information with the purpose of ensuring the internal security and considered it necessary to prevent sabotage, terrorism, espionage and acts that, by their nature, may affect or destroy the State as constitutionally established in law*”.

In Portugal there is a Security Service – the Criminal Police – whose exclusive competence is to investigate, among others, the crimes of “*terrorist organizations and terrorism*” as well as the “*crimes committed with bombs, grenades, explosive materials or devices, prohibited firearms and booby-traps*”.

The Article 28 of the Organic Law of the Criminal Police assigns the tasks of prevention, criminal investigation and co-operation between police authorities regarding the crimes as stated in the previous paragraph to a specific department of this police – “*The Anti-Crime Central Directorate*”.

The Police also integrates an extra unit - “*Special Operations Group*” (GOD) a counter-terrorism unit, and its intervention in situations of violent crimes, are supported by the Intervention Group (CI), Personal security Group (CSP), Explosive Device Inactivation Centre (EOD Teams) and the K9 Unit. The EOD Teams in the role on fight against terrorism has an exclusive mission on non –military guns and explosive control in national territory. The remaining staff of the PSP, especially the dedicated to criminal investigation, also develops preventive measures on counter-Terrorism.

According to the Criminal Politics Law (Law no. 17/2006 of May 23), terrorist organisations and terrorism were considered priority prevention crimes decided by the Portuguese Parliament.

In order to pursue these priorities, the Internal Security Law (Law no. 53/2008 of August 29) establishes the main guidelines and responsibilities for each Institution, Police Force and Security Service.

The National Republican Guard – GNR (*Guarda Nacional Republicana*) is engaged in such tasks, namely through its Intervention Unit, which is specialized to intervene in tactical missions, violent and dangerous situations and/or those considered of high complexity and risk, such as terrorist incidents, among others.



The Intervention Units is constituted by the GIOP (Public Order Intervention Group), the GIPS (Protection and Rescue Intervention Group), the GIOE (Special Operations Intervention Group), the GIC (K-9 Intervention Group), and the CIESS (Centre of Explosive Inactivation and Underground Security), which can be deployed to any mission and task in the fight against terrorism.

To develop the necessary criminal intelligence, the GNR counts on the nationally distributed criminal investigation teams, technically guided by the Criminal Investigation Directorate.

**(a) List of international agreements, including all United Nations conventions and protocols related to terrorism, to which the participating State is a party:**

Concerning the 12 UN anti-terrorism conventions and protocols, Portugal has signed and ratified all of them, and they have all entered into force as the table below shows:

Conventions and Protocols	Date of entering into force
1. Offences and certain acts committed on board aircraft (1963)	04DEC1969
2. Suppression of unlawful seizure of aircraft (1970)	27DEC1972
3. Suppression of unlawful acts against the safety of civil aviation (1971)	14FEB1973
4. Prevention and punishment of crimes against internationally protected persons (1973)	11OCT1995
5. Against the taking of hostages (1979)	06AUG1984
6. Physical protection of nuclear material (1980)	06OCT1991
7. Suppression of unlawful acts of violence at airports serving international civil aviation, supp. To 1971 Convention (1988)	17JAN2002
8. Suppression of unlawful acts against the safety of maritime navigation (1988)	04APR1996
9. Suppression of unlawful acts against the safety of fixed platforms located on the continental shelf (1988)	04APR1996
10. Marking of plastic explosives for the purpose of detection (1991)	08DEC2002
11. Suppression of terrorist bombings (1997)	09DEC2001
12. Suppression of the financing of terrorism (1999)	17NOV2002

Since 31MAY2003 Portugal has officially joined the “Proliferation Security Initiative (PSI)” created to control the development and proliferation of weapons of mass destruction between states and non-governmental actors.

**(b)+(c) Accession to and participation in other multilateral and bilateral agreements or measures undertaken to prevent and combat terrorist activities. / National measures, to include legislation, taken to implement the international agreements, conventions and protocols cited above:**

The Portuguese Armed Forces are entitled, by the Minister of Defence Resolution Nr. 22 749/2001, dated 22nd October 2001, to intervene in those kinds of situations that imply, in a military level, the prevention and repression of the so called terrorism. The prevention



and repression of the terrorism has been seen as an “external threat” and constitutionally the Armed Forces are responsible, as one of its major tasks, for “the military defence of the Republic from any aggression or external threat”.

The defence measures against maritime terrorism have been implemented nationally IAW correspondent declared alert state. They are part of general measures and mainly, they foresee the surveillance of suspected vessels crossing Portuguese areas of interest and namely in territorial waters as well as the safety of shipping entering ports alongside in harbors, specially allied and friendly ships.

The Navy carries out multiple tasks of law enforcement and state authority at sea to which assigns permanently seven patrol boats and three frigates/light frigates, which combat illegal maritime activities, such as drug trafficking, illegal immigration, terrorism, weapons proliferation, piracy and, naturally, terrorism. Marine Forces are also organized to support this effort, employing dedicated special operations teams and security teams in support of ship’s boarding parties. To cope with the threat of terrorism at sea, there are several agencies. However, it is the Navy that encompasses both the expertise, founded on the experience of law enforcement at sea, and the oceangoing assets able to perform such functions. For this purpose, the Navy operates daily in close cooperation with competent agencies.

Portugal also adopts a posture of useful service to the community of nations, especially within the framework of the EU, NATO, OSCE and UN, participating in operations dedicated to the prevention / fight against terrorism and proliferation of weapons of mass destruction, namely Operation “Active Endeavour”. This operation was initiated by NATO in November 2001, in the eastern Mediterranean, which was under Portuguese command from December 2001 to January 2002.

The Army has been developing capabilities IOT face the terrorism. Although all the Army Operational Component Force can be trained to this type of threat, the most adequate units are the following ones:

- Rapid Reaction Brigade – namely with two Airborne Infantry Battalion and one Commando Battalion;
- Special Operations Forces;
- Two Military Police Coys;
- Three HUMINT Teams;
- One CBRN Defence Coy;
- Three EOD Teams;
- One EW Coy;
- One Air Defence Battery;
- One Medical Task Force;





- One NBC Defense Element;
- One Bromatology and Biological Defense Lab;
- One Toxicology and Chemical Defense Lab.

For the defence against civil aircraft used to perpetrate terrorist attacks, the Air Force keeps a 24/7 air surveillance system and quick reaction fighter aircraft at appropriate readiness state. Following the implementation of NATO Renegade concept, the Air Force developed procedures and arrangements to adapt the air command and control system and to streamline the political decision process. Additionally, procedures between the military air defence and the civil air traffic control have been developed and exercised in accordance with NATO and EUROCONTROL guidance.

As a State-Member of the European Union, Portugal has adopted instruments in the legal framework of the European Union concerning the prevention and the fight against terrorism, in the field of police and judiciary cooperation:

- Decision 2003/48/JAI from the Council, of 19th December 2002, concerning the application of specific measures of police and judiciary cooperation in the fight against terrorism, under the terms of article 4° of Common Position of 2001/931/PESC.
- Decision 2002/996/JAI from the Council, of 28th November 2002, which establishes a mechanism of evaluation of legal national regimes and their application at national level in the fight against terrorism.
- Framework-Decision from the Council, of 13th June 2002, concerning the fight against terrorism.
- Framework-Decision from the Council, of 13th June 2002, concerning joint teams for investigation.
- Decision 2002/187/JAI from the Council, of 28th February 2002, concerning the creation of Eurojust, aiming at strengthening the fight against all serious forms of crimes.
- Decision from the Council, of 6th December 2001, which spreads the mandate of Europol to serious forms international crimes as they are listed in the annex of the Europol Convention.

The National Republican Guard (GNR) as a military security force helps fight terrorism by enforcing several rules. The organism in charge of this mission is an Infantry Regiment Special Unit, the Special Operations Company.

The remaining GNR Units also contribute to fight terrorism in the fulfillment of their duties because regular patrols gather information from the population

In territorial waters, within the 12-mile zone, a Special Unit called Coastal Control Unit contributes to protect national territory against threats coming in by sea.



As the National Military Security Force the GNR carries out missions and is member of the “Anti-terrorism Coordination Unit” (UCAT). The Fiscal Action Unit – working together with the Criminal Police and the Ministry of Finance – and the criminal investigation teams play a major role in fighting financial and economic organized crime.

**(d) Information on national efforts to prevent and combat terrorism, including appropriate information on legislation beyond United Nations conventions and protocols (e.g., pertaining to financing of terrorist groups):**

The Law Nr. 5/2002 (11th January 2002) establishes measures to fight organized crime and economic and financial crime. This Law establishes a special regime for the collection of proofs, for the breach of professional secrecy and for the loss of assets in favor of the State in relation to several crimes, specially arms smuggling, terrorism and terrorist organization, money laundering.

The Law Nr. 10/2002 (11th January 2002) establishes measures to prevent and punish money laundering from criminal activities concerning crimes of terrorism.

**(e) Roles and missions of armed and security forces in preventing and combating terrorism:**

Portugal has (20th December 2002 in Resolution Nr.6/2003) adopted a new National Defence Strategic Concept/NDSC. Adjusting to new threats and changes in the world since 2001, the new concept considers the combat against weapons of mass destruction, terrorist threats and organized crime to be one of the competences of the Armed Forces. Although these missions are new to the military, they are able to carry out these tasks given the necessary means. Following the adoption of the new NDSC, the government proposed to the Parliament the Military Procurement Law (MPL) which establishes the priorities for major equipment acquisition, and it was accepted in its generality.

The Special Intervention Operations Group (GIOE) of the *Guarda Nacional Republicana* (GNR) is a unit that is specifically directed for anti-terrorism e for the fight against violence and serious crime, integrated the European ATLAS Network. It was created by Decree n°506/79 of Dec 24<sup>th</sup> and it is exclusively in charge of carrying out anti-terrorist actions. The Special Operations Group is called into action in case any terrorist or tactical incident takes place, such as high-jacking or kidnapping.

**Question 2:**

**Description of the national planning- and decision-making process – including the role of the Parliament and Ministries - for the determination/approval of: the military posture, including:**

**Answer:**

**(a) The Military posture:**



The concept of national defence lays down on the Portuguese Republic Constitution, which consecrates the national defence as a State obligation, defines its permanent objectives, as well as the fundamental principles to be followed, and attributes to the Armed Forces the military component of the national defence.

The legal framework of Portuguese National Defence System is defined by the following documents:

- The Constitution of the Portuguese Republic, approved in 1976 and reviewed in 1982, 1989, 1992, 1997 and 2005;
- The National Defence Law, effective as of 07 th July 2009;
- The Organic Law of the Armed Force's Structure, effective as of 07 th July 2009;
- The Organic Law of MOD, effective as of 06 th July 2009;
- The Organic Laws of the General Staff and of the Services, effective as of 15th September 2009.
- The National Defence Strategic Concept, effective as of 20th January 2003;
- The National Strategic Military Concept, effective as of 22nd December 2003.

Portugal's National Defence Policy is built up in accordance with permanent objectives expressed in the Constitution of the Portuguese Republic and in the National Defence Law.

Those permanent objectives are:

- National independence;
- Territorial integrity;
- Liberty and security of the population against any external aggression or threat.

Therefore, National Defence Policy has to be :

- Permanent;
- Global, covering military and non-military components;
- Inter-ministerial.

To accomplish permanent objectives, the Constitution and the National Defence Law establish a balanced system of competence between higher State bodies. We call that the co-sharing system.

That system implies that almost every decision on defence issues is to be taken with the participation of more than one body. The main purpose of that system is to have defence issues or defence policy out of the political struggle. Once objectives of defence policy have higher national dimension, that policy should not be subjected to instability. The Portuguese system considered that the better way to assure stability to defence policy was to share responsibilities and competences between State bodies, calling all of them to participate on it.

The specific decision-making process for the determination of the military posture involves the following institutions and authorities:



- 1- The President of Republic;
- 2- The Parliament;
- 3- The Government;
- 4- National Defence Superior Council;
- 5- Superior Military Council;
- 6- The Minister of National Defence;
- 7- The Council of Chiefs of Staff;
- 8- The Chief of General Staff;
- 9- The Chiefs of Staff of the Services - Navy, Army and Air Force.

The President of the Republic, who is elected:

- Is the Supreme Commander of the Armed Forces;
- Presides to the National Defence Superior Council;
- Nominates and exonerates, under Government proposal, the Chief of General Staff and the Chiefs of Staff;
- Ratifies international treaties;
- Declares state of siege or state of emergency;
- Declares war and makes peace.

Due to his position, the President has the right to be informed by the Government about the Armed Forces situation.

For consultative functions, the Constitution consecrates the National Defence Superior Council (NDSCI, art. 274), chaired by the President of Republic who has a qualitative vote.

The procedures reflect a very precisely co-shared responsibility amongst the institutions involved. The main guidelines and measures, including those related to the Armed Forces are inserted in each Governmental Program which is subject to parliamentary approval, in order to be exerted the political, legislative and financial competences of this sovereignty institution, that is, in order to frame the national defence policy and control its implementation - Chapter II, art. 6 of the **National Defence Law**.

The **National Defence Strategic Concept** is a government responsibility, taking into account the NDSCI recommendations. Previously to the approval of this Concept, its Relevant Options are subject to parliamentary debate (same chapter, art. 7).

The **Governmental Directive for National Defence** is the subsequent step which addresses not only to the Minister of Defence, but also to the other sectorial ministries related to the National Emergency Civil Planning.

The **Military Strategic Concept** goes through a first project which is a Chief of General Staff's commitment, consolidated by the CCOS and submitted to the MoD, which approves it and submits it to the NDSCI for confirmation.



The **Specific Missions for the Armed Forces and the Deployment**, as applicable, is projected by the CCOS commitment and submitted to the Minister of Defence, who presents a ministerial proposal for the NDSCI.

The **Force Goals** are revised every two years under a context of the following six year planning period. The first phase comprises the elaboration of the project based on the Minister of National Defence Directive for Military Defence (MoDDMD), the Chief of General Staff Force Planning Directive (CHODPD) and the Services Proposals (SP).

During the second phase, the Government promotes the consultation of NDSC, after which the Government proposal named the **Military Procurement Law Proposal** is submitted to the Parliament approval. Coherently, the Government submits the Annual Budget for the Armed Forces, as part of the national defence budget included in the Annual State Budget.

Both organic laws of the Ministry of Internal Affairs and of the National Republican Guard (GNR) set out competencies regarding security and defence policies.

In what concerns GNR, its military nature is an asset in defence missions and in very serious situations. For example, if states of exception (state of siege and state of emergency) are declared, the operational command of the GNR is passed on to the Chief of the General Staff of the Armed Forces via GNR General-Command.

The National Defence Policy, as defined in the Portuguese Republic Constitution (PRC) and in the National Defence Law (NDL), is a full responsibility of the Government (NDL article 6).

This concept comprises a military and several non-military components (differentiated in the article 5 of the NDL) as a consequence of its permanent objectives.

The military component is ensured only by the Armed Forces whose obedience to the sovereignty bodies and binding to the execution of the National Defence Policy is provided for in the articles 22 of the NDL.

The fact is that the performance of the Armed Forces results from a tight legal framework of rules and orientations established at different levels all of them requiring the intervention of the Minister of National Defence and/or of the National Defence Superior Council (articles 14, 16 and 17 of the NDL).

The Portuguese Republic Constitution establishes the principle of allegiance of the Armed Forces to the State sovereignty whose only holder is the people (art. 3 PRC). That allegiance is exerted through constitutional means.

The Portuguese Parliament holds the exclusive competence to legislate on the relevant issues regarding the Armed Forces — organization, functioning and restrictions to the exercise of rights by the military, general basis of the status of military condition, performance of the military courts, administrative-and civil litigation and so on.



Moreover, the Parliament acts on behalf of all citizens, has the competence to supervise the Government and the Administration acts in what concerns national defence issues, organisation, functioning and discipline of the Armed Forces (article 11 of the NDL).

Furthermore, this Law states (art. 7, nr 3) that the Government must consult with the Opposition forces (procedure provided for on the Opposition Statute as well) on defence policy matters.

The Parliament, which integrates the National Defence Commission, is responsible for the approval of relevant subjects for the Armed Forces. It also has the duty to follow the engagement of Portuguese military forces abroad and, besides its own supervising powers on the Government activity, legislate on the Armed Forces related issues.

The Government is the body responsible for the implementation of the national defence policy and the one that administers the Armed Forces (art.41, NDL).

The Prime Minister holds the responsibility of providing the guidelines for this policy both by coordinating the activity of all Ministers in the field of national defence related matters and by leading inter-ministerial activity aimed at its execution.

This policy is drawn and controlled by a specific constitutional Council named National Defence Superior Council presided by the President of the Republic, the Ministers that hold more significant portfolios and two members of the Parliament.

This system is shared by the sovereignty bodies regarding the definition and conduction of the national defence policy.

#### **(b) Defence expenditures:**

The **Portuguese Parliament** also decides on the **defence budget**. The proposal on the defence budget is prepared and is responsibility of the Ministry of Defence. It is discussed at the level of Council of Ministers, approved and then submitted to Parliament, for approval, as a part of the **overall Government budget**.

#### **Question 3:**

##### **Description of:**

**(a)+(b)** Constitutionally established procedures ensuring effective democratic control of the military, paramilitary, and internal security forces, as well as intelligence services, and the police. / Constitutionally established authorities/institutions responsible for the democratic control of the military.

#### **Answer:**



### **Military:**

The Portuguese Republic Constitution states that Armed Forces obey to the competent sovereignty organs, in constitutional and legal terms. Our Constitution states that the Armed Forces are strictly neutral in politic terms and forbids its members to take any political measures.

In 1982, with the National Defence and Armed Force Law (MDAFL), the goal to insert the Armed Forces in the State's direct administration, through the National Defence Minister, was achieved.

In 1989, with the creation of the National Defence Ministry as a Department of the Portuguese Public Administration, that process was reinforced.

Ever since, the political guidelines concerning national defence policy, Armed Forces personnel, infrastructures, armament and equipment policies, and budget remain the Ministry's competencies.

The Armed Forces organs are responsible for the operational issues related to the forces engagement.

### **Paramilitary:**

As for the *Guarda Nacional Republicana* (GNR – National Republican Guard), it is not a paramilitary force but a security force of a military nature.

### **Internal Security Forces:**

The binding rules of the performance of the Portuguese Police Forces that ensure its political and democratic character are of the exclusive legislative competence of the Parliament, as set forth in Article 164, Paragraph "u" of the Portuguese Republic Constitution.

One of our Parliament's most important functions consists of supervising the execution of the Constitution, as well as the bills and the action of the government and administration (Article 162).

The Parliament is, therefore, entitled to supervise the action of the Police Security Forces as clearly stated in the Article 272 of the Portuguese Republic Constitution.

- The Public Security Police (PSP) is a police force, armed and uniformed, that provides a public service with administrative autonomy.
- The PSP mission is to ensure the democracy, ensure the internal security and the citizen's rights, according to the Constitution and the Law.
- The PSP depends on the Internal Affairs Ministry and its organization is unique for all the national territory. It is organized on a hierarchical basis at all levels, with the



due differences between the police roles and the administrative roles. The people with police roles must obey the chain of command. The people with general administration and management respond according to the public rules hierarchy.

- In situations of normality, its activities are developed according to the goals and objectives of the internal security policy, with respect of the bounds of the organic guidelines.
- On exceptional situations, the attributions are due to the laws on national defence, "state of siege" and "state of emergency" (martial law).
- The PSP activity is developed according to the interests and demands of the society.
- The generic mission of the PSP is devoted on the Constitution, as well as in the Law of Organization and Acting, and both explain clearly that the police actions are always on behalf of the public security and that the citizens rights are simultaneously a "limit" and a "purpose", properly framed on the legislation:
  - Constitution of the Portuguese Republic
  - Internal Security Law (Law n.O 53/2008, August 29th)
  - Penal Law
  - Organic Law (PSP)
  - Decree-Law 457/99, November 5th (use of fire arms on duty)
- All these laws appoint the defense of the democracy and the assurance of the internal security and the citizens' rights as police roles. The police actions mustn't be used beyond the strictly necessary.
- Crime prevention, including crimes against the State Security, can only be done according the the general rules on police and respecting the rights, freedom and guarantees of all citizens.
- Furthermore, there is an autonomous entity - General-Inspection of Internal Administration - which has the mission to assure the auditing, inspection and supervision at the highest levels, on the matters of Police Forces.
- Thus, there were created procedures to assure a more effective control of the legality, defence of citizens' rights an reinstatement of the violated integrity.
- This allows us to assure, effectively, the human and fundamental rights in order to enhance the quality of the police actions on a Democratic State.

Members of Parliament can exercise parliamentary control over the government by making use of the right of interpellation as stated in the Constitution. They can also call upon ministers to account for the various parts of their policies, which the ministers must then provide with a reasonable notice, unless it is not in the State's interests to do so (paragraph d) of Article 156). They also have the right to debate the Report of Internal Security that is issued until March 31st concerning every year's activity of the police and security forces, as set forth in the Internal Security Law.

It should also be mentioned the control that can be exercised by the Ombudsman (PRC, Article 23), who acts independently and is appointed by the Parliament.

This institution, foreseen by the Constitution, is similar to those existing in other countries and to which the citizens have the right to address to, in case of claims of any





nature related to public administration, including those related to police or security forces. Ombudsman can intervene on his own initiative, after direct acknowledgement or indictment.

Ombudsman has no decisive power and can institute his own informal inquiry, after which he submits his own recommendations to prevent or repair injustices, most of the times by means of releasing his conclusions for public information.

### **Intelligence Services:**

In Chapter Information Service – “Intelligence Services”, must take into account the new Organic Law of SIRP, SIED, SIS approved by Law N° 9/2007, dated February 19th, which establishes the figure of the Portuguese Secretary General Information System who is responsible for directing the superior activity of production of information necessary to safeguard national independence and national interests and ensuring the external and internal security of the Portuguese State, through the two directors of Information Services – as well as changing the designation of the Strategic Intelligence Service and Defense Military (SIEDM) for Strategic Intelligence Service Defence (SIED).

Due to the events of March 11<sup>th</sup> 2004, the Portuguese Government decided to expand the UCAT. Nowadays, all Police Forces, including NRG and Intelligence and Security Services participate routinely in UCAT in order to exchange information and intelligence. The purpose is to fight such threats as terrorism with new means.

### **Police:**

Answer already included in answer to question concerning Internal Security Forces.

**(c) Roles and missions of the military, the Security Forces of military nature (National Republican Guard) and security forces as well as controls to ensure that they act solely within the constitutional framework:**

### **Answer:**

#### **I - About roles and missions of the following types of forces:**

##### **Military:**

The Portuguese Republic Constitution defines the purview of the Armed Forces. The main role of the Armed Forces is the military defence of our territory against any external aggression or threat.

Based on the Constitution, the National Defence Law establishes the main control provisions for the operation of the Armed Forces in what concerns its main commitments and prerogatives of the national sovereignty.



The National Defence Law also states the limits for the involvement of the Armed Forces in accordance with the international Law and other international commitments to which Portugal is signatory, inside or outside the national territory, including the territorial waters and the air space under the Portuguese responsibility.

Also, as a direct consequence of the constitutional framework, the Armed Forces contribute to actions in support of national foreign policy, specifically for crisis management, peace support and humanitarian operations within UN and OSCE responsibility, emphasizing Portugal's commitment for overall peace and international security and resorting to war only in case of self-defence against any effective or eminent military aggression.

The execution of operations for safekeeping of Portuguese nationals abroad and other public interest missions, like civil protection during natural catastrophes, represent also one important role of the Armed Forces.

According to this commitment, Portuguese Armed Forces fulfill their international obligation participating in several forces under the aegis of the United Nations and other regional organizations, occupying the 43<sup>rd</sup> position among United Nations members (as of 28th February 2009 Portugal is involved with a total of 719 elements).

#### **Paramilitary:**

As for the *Guarda Nacional Republicana* (GNR – National Republican Guard), it is not a paramilitary force but a security force of a military nature.

#### **Security Forces:**

As to the National Republican Guard (GNR):

- To guarantee, within its strict scope of action, the maintenance of public order, by ensuring the citizens' rights, freedom and welfare, as well as the proper running of democratic institutions by respecting the legality and the principles of the State of Right;
- To guarantee public order and tranquillity, as well as the security and protection of citizens and goods;
- To prevent crime in general, in co-ordination with the other security forces and services;
- To prevent that acts be committed against the law and the regulations;
- To carry out all criminal investigation and offence activities attributed by law, delegated by the judiciary authorities or requested by the administrative authorities;
- To veil for the execution of the laws and regulations pertaining to road traffic and transports, as well as promote and assure road safety, namely through traffic surveillance, planning and discipline;
- To guarantee the execution of administrative actions emanated by the competent authority that aim to prevent the breach or continuous violation of laws;
- To participate in the control of persons and goods entering and exiting the national territory;



- To protect, rescue and help citizens, as well as defend and preserve goods which are found to be in a dangerous situation, due to causes of human actions or those caused by nature;
- To observe and protect hot points, namely road, railway, airport and port infrastructures, public buildings and other critical facilities;
- To guarantee safety during shows, including sports activities, and other leisure activities;
- To prevent and detect situations of drug and other illegal substance trafficking and consumption, through the surveillance and patrolling of areas referenced as trafficking or consumption locations;
- To participate in the surveillance of the use and transportation of weapons, ammunition and explosive substances that do not belong to security forces and services or to the Armed Forces, without prejudice to the competences attributed to other entities;
- To participate, under the terms of the law and commitments resulting from agreements, namely in international humanitarian, peace-keeping and civilian crisis management operations, within the police and civil protection scope, as well as in international police co-operation missions and within the compass of the European Union and in representation of the country in international organisms and institutions;
- To contribute to the training and information in what regards to the security of the citizens;
- To pursue other attributions with which it may be entrusted by law.
- The GNR provides collaboration in State Honours;
- Accomplish according to the execution of the national defence policy in collaboration with the Armed Forces all the military missions assigned.
- Prosecute all attributions defined by law;

The GNR is solely accountable for the nature and environment protection throughout all of the national territory.

### **Special competences:**

International Missions: FPU (Formed Police Units), IPU (Integrated Police Unit), MSU (Military Special Unit), UN, EGF, OSCE, EU and other missions.

In addition to the above-mentioned duties, the National Republican Guard performs regular and permanent police duties throughout the territory, namely in areas considered of high risk and by direct contact with the populations. The way they act is totally autonomous, but they also operate in collaboration with other public and private investigation agencies, when required to assist and help investigations.

When acting as a criminal police force, the National Republican Guard who is under the supervision of the Ministry of Justice - Prosecuting Counsel - performs their duties in compliance with judicial orders or the Penal Prosecuting Code. They use all the means



they have available in order to attain the best results regarding any investigation assigned or delegated to them by the Prosecuting Counsel.

The Law for the Organization of the Criminal Investigation (LOCI) extended the competence of the National Republican Guard to the medium level criminality investigation. Furthermore, it modernized the co-ordination system, covering the strategic coordination mechanisms - through a new organ, the Co-ordination Council, in which the GNR has a seat. It also covers the criminal operational investigation at territorial and hierarchical levels. Within this scope, the GNR depends functionally on the competent judiciary authority although observing the hierarchical organization.

The GNR carries out missions on both the mainland and islands, and is responsible for approximately 94% of the national territory in which reside more than 53.8% of the overall population.

In addition to these daily duties, the GNR still dedicates part of its time to crimes against children and victims of violence. Nowadays, it is deeply involved in implementing projects launched by the Ministry of Internal Affairs on domestic violence, school safety, elderly safety, and trade safety, among others designed in the Project - Special Programmes.

The GNR contributes to the good work and implementation of the Police and Customs Co-operation Centers, whose personnel is provided by the Territorial Headquarters of that area, and at sea the Maritime Service, by way of the Coastal Control Unit, oversees yachts, fishing boats and container ships.

In 2001, within the compass of its competences, the GNR created and implemented the Environment and Nature Protection Service, known as SEPNA. Its general mission is to enforce legal arrangements and regulations concerning the protection and conservation of Nature and Protection, regarding rivers, protected species, fishing, forestry, and other related matters.

### **Special Programmes:**

Safe School, Safe Elderly, Safe Commerce, Safe Summer, Domestic Violence, Safe Residence, Safe Pharmacy, Safe Jewellery, Tourist Support Patrol, Safe Refuelling

The GNR GIOE is a very specialized group, well prepared to intervene in major and critical circumstances, endowed with the latest tactics, weaponry and equipment which can be engaged when necessary in fighting against terrorist incidents.

The GNR has been involved in International Peacekeeping Operations and Civil Crisis Management and has already deployed 2.452 military officers in FPU/IPU/MSU and 268 Observers or Staff Officers.

The Public Security Police (PSP) has as main mission and goals, without interference with other entities, and regarding the rules on police matters, respecting the human rights ad guarantees:

- Promote the security terms that assure the regular running of the democratic



- institutions, as well as the prosecution human rights and guarantees.
- Ensure the maintenance of public order and tranquility.
  - Crime prevention and prevention of actions contrary to the law.
  - Prevention of organized crime and terrorism, in coordination with other police forces and services.
  - Ensure the administrative actions enacted by qualified authority that aim to prevent crime.
  - Ensure people and assets safety.
  - Ensure the attributions on penal matters.
  - Ensure the road safety, namely on planning, supervision and regularization of traffic.
  - Ensure the security of sports events and similar
  - Ensure the general attributions on administrative licensing.
  - Participate on port security, namely on sea and river shores, on the terms defined by the law.
  - Ensure the security of rail road's.
  - Aid the populations, assist the victims and support the risk groups.
  - Participate in international missions, defined by the government.
  - Cooperate with other entities that have the same purposes.
  - Gather crime information, find its agents, stop the consequences and develop related actions.
  - Give contributions to formation and information in matters of citizen 'safety and security.
  - Prosecute al attributions defined by the law.

The PSP has the exclusive attribution, in all territory, of controlling the fabrication, storage, commerce, use and transportation of firearms, ammunitions, and explosive substances and similar that doesn't belong to the Armed Forces and other security services.

The PSP has the exclusive attribution, in all territory, of the assurance of personal security of government members, high rank entities, Portuguese or foreign, as well as other citizens when in serious threat situations.

The PSP has the special attribution, in matters of airport security, to adopt measures of prevention and repression of illegal actions against civil aviation.

The PSP has the attribution, in all territory, to license control and supervising the activities of private security and the respective formation in cooperation with other police forces and services and with the General Inspection of the Internal Administration.

The PSP has the attribution to ensure a permanent contact point to exchange intelligence related to any sports activities with other countries.

The PSP main action areas are:

- Prevention:



- Crime prevention and prevention of all actions contrary to the law.
- Organized crime and terrorism prevention, in coordination with other police forces and services.
- Ensure the people and assets security.
- Ensure the road security, namely through management, supervision and traffic regulation.
- Ensure the security of sports events and similar.
- Criminal Investigation:
  - Prosecute all attributions defined by the penal law.
  - Gather crime information, discover its agents, stop crime consequences and do all the connected actions.
- Public order:
  - Ensure the maintenance of public order and public tranquillity.
- Administrative Police:
  - Ensure the accomplishment of administrative acts ordered by the competent authority that aim to prevent crime.
  - Prosecute the attributions in matters of administrative licenses.
- Exclusive competences:
  - Control of the fabrication, storage, commerce, use and transportation of firearms, ammunitions, and explosive substances and similar that doesn't belong to the Armed Forces and other security services.
  - Assurance of personal security of government members, high rank entities, Portuguese or foreign, as well as other citizens when in serious threat situations

Special competences:

- In matters of airport security, adopt measures that prevent and repress actions against civil aviation.
- International Missions: Embassy and ambassadors security, Diplomatic Missions and UN, ED and OSCE Missions.

Special Programmes:

- Safe School, Safe Elder, Safe Commerce, Safe Summer, Domestic Violence

The Public Security Police has also the Special Operations Group, a single nation-wide unit that specializes in anti-terrorist and tactical actions, as mentioned previously, in page 8, under “Question 1, (e)”.

As a criminal force, the Public Security Police acts under the control of the competent judicial authority, as set forth in the Code of criminal Procedure.



Public Security Police is also involved in International Peacekeeping Operations, currently amounting to 267 elements.

**II – The existing controls to make sure that police and security forces act solely within the constitutional framework:**

It is important to stress that the Portuguese Police Forces are managed and controlled in a strong hierarchical system. Their members are, therefore, under the supervision of the managing directors, inspectors, superintendents and under the disciplinary powers in which their superiors are vested when commanding a unit. Commanding officers are entitled, therefore, to take disciplinary proceedings and to inflict punishment in compliance with the

post and function regulations. The disciplinary proceedings can be taken after direct acknowledgement or any claims or indictment of an infraction.

Disciplinary proceedings are only initiated by senior officers. Justice and Disciplinary Committees comprising skilled personnel have been set up for this purpose (this kind of committee is more developed in the Public Security Police).

The Military Disciplinary Rule was replaced by the National Republican Guard and the Public security Police discipline Regulation.

There is also a Directorate General of Internal Investigation for each police force:

- In the National Republican Guard, there is an Office composed of Inspectors and Administrators, accountable for the inspections to be conducted in units and services, namely in what concerns safety, inspection and operational, administrative, logistic and financial activities.
- In the Public Security Police, there is a General Inspector and Inspection Teams, who are entrusted to manage, co-ordinate and supervise the investigations and internal inspections as well as to take proceedings of disciplinary nature.

We may say that internal control is made on a permanent and regular basis; it is exercised by the different echelons of the command chain to the subordinated elements, either through patrols, or through examination of personal management and operational conducts.

Besides this internal control and the control exercised at a parliamentary level and by the Ombudsman as already mentioned in answer 4, there are still other forms of external control, such as the judicial control, which is exercised over the active members of the Force.

In Portugal, with the exception of crimes of military nature, the criminal and disciplinary proceedings are fully different. So, whenever an act constitutes a crime and a disciplinary infraction, two independent law suits are brought in different courts, the results of which are equally independent from each other. The judicial power is independent and in



Portugal it is the Prosecuting Counsel who runs the investigation, even when the latter is conducted by members of the Police Force.

The criminal suit is public after the investigation phase and can be triggered by the Prosecuting Counsel who has the power to do so by itself or after being informed by indictment or claim.

Within this framework, it should be referred the external control exercised by the Inspectorate-General of Internal Affairs (IGIA).

This General-Inspection supervises all the services depending on or under the authority of the Ministry of Internal Affairs, the Civil Governors and the agencies that perform private security. However, the essence of this General-Inspection's action is mainly the control of the police forces.

Within the scope of its inspection, supervision and investigation actions, this Department is entrusted with the execution of ordinary and extraordinary inspections, audits for the appraisal of personal performance, valuation of claims, protests and indictments caused by violation of law, making official inquiries, regular inspections and expert inspections. On its own initiative or by ministerial decision, it can hold judicial inquiries or take disciplinary proceedings against police and security forces' behaviors that violate the essential rights of the citizens.

This IGIA intervenes on a selective basis, since it directly investigates the most serious cases and its way of acting comprehends two control modalities – direct and indirect ones: the 1<sup>st</sup>, when it is investigating the facts by its own; and the 2<sup>nd</sup>, when it is only aiding the internal police investigations within the scope, if needed, to propose to a higher level the revision of the disciplinary decision considered illegal by IGIA. It acts after direct or official acknowledgement and indictment brought by other authorities and by identified sources' indictment or claim.

Lastly, it should be stressed the informal control of the police and security forces that is exercised through different non-governmental organizations and media, namely through public indictment of situations that frequently require the intervention and investigation of the competent authorities.

### **Question 3:**

#### **(d) Public access to information related to the Armed Forces:**

#### **Answer:**

**The public access to information related to the Armed Forces is the result of a global and consistent policy, based on three pillars:**





- The National Defence Day  
This military obligation for all eighteen years old citizens, male or female, under the principle of gender equality, which requires men and women to have the same military rights and duties, (Decree Law n° 52/2009 of March 2nd, alters the Regulation of the Law for the Military Service -LMS) has been contributing to inform young citizens about the aims of National Defence and the Armed Forces role and, consequently, to motivate the ones potentially interested in a military service. At the end of the National Defence Day, the citizens can, if they wish, fill a pre-candidatship form to the contractual or volunteer regimens.
- Systematic Public Information Campaigns  
The professionalization process of the Armed Forces is supported by promotional and informational events, which comprehends school, fairs and other appearances, concerning essentially recruitment and military obligations.
- The improvement of the Military Recruitment Structure  
Regarding the improvement of the present military recruitment centres, it was created the Centre for Information and Guidance for Training and Employment (CIOFE), in July 2008, in the capital, the first integrated military information centre, intended to support the military and former military personnel in their transition to civilian.

**Question 4:**

**Stationing of Armed Forces on the territory of another participating States in accordance with their freely negotiated agreement as well as in accordance with international law:**

**Answer:**

Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces (NATO SOFA) signed in London on the 19th June 1951.

Agreement among the Parties to the North Atlantic Treaty and other States participating in the Partnership for Peace regarding the Status of their Forces (PfP SOFA), concluded in Brussels on the 19th June 1995.

Agreement between the Government of the Portuguese Republic and the Government of Federal Republic of Germany regarding the Portuguese Armed Forces status during temporary stays in the Federal Republic Germany signed in Bonn on 29<sup>th</sup> April 1998 and entered into force on 25<sup>th</sup> June 2001.

Agreement between the Ministry of Internal Affairs and all the other countries of the Coalition Provisional Authority for Iraq (MOU) was signed in 2003.

**Question 5:**

**Description of:**



**(a) Procedures for the recruitment or call-up of personnel for service in the military, paramilitary, or security forces, if applicable:**

**Answer:**

**Military:**

The Portuguese Armed Forces completed its transition period, from the Conscript System to the Professionalization Process of the Armed Forces, in September 2004.

The Law for the Military Service (LMS) (Nr.174/99), regulated since November 2000, defines that the military service is now, in peacetime, on a voluntary basis, with the possibility of exceptional recruitment in situations where volunteering proves to be inadequate to meet the needs of the Armed Forces. For non permanent personnel, the law foresees two forms of rendering military service, between which citizens may freely choose: voluntary regimen, for a fixed period of one year, and contract regimen, for a minimum of two and a maximum of six years, or eighteen years for the most technical specialities (according to the Special Contract Regimen approved by the 130/2010 LAW, of December 14<sup>th</sup>).

The military service was obliged to male citizens till 2004.

Between 1999 and 2004 we have passed to a transitory period, and in 2004 ended the regime based on conscription and began a new one, based, in peacetime, on a voluntary basis for a military career or short-term service, to all eligible citizens. Nevertheless, in case of exceptional necessity, citizens – both men and women – can be called up to serve

as conscripts. Reservists may be called-up for refreshment, training or exercise until the last day of the year they complete thirty-five years of age and during the six years following the end of their effective military service, for a maximum of two months.

Since 19 November 2004 we reached the goal of a fully professionalized Armed Forces.

In Portugal, the military personnel are ruled by special statutory legislation, but in specific subjects, as maternity, holidays, they follow civilian rules, although chiefs of staff rule specific maternity aspects concerning military service.

**Paramilitary:**

As for the *Guarda Nacional Republicana* (GNR – National Republican Guard), it is not a paramilitary force but a security force of a military nature.

**Security Forces:**

In Portugal, concepts such as “mobilization” or “duty calls” do not apply. Members of the police forces are volunteers.



As a consequence of Law for the Military Services (Nr. 174/99), the general conditions for admittance to the National Republican Guard were enlarged, in two fields: the recruitment is no longer based exclusively on the personnel who have done the military compulsory service; and, consequently, the inclusion of Volunteer Military Service and feminine personnel.

The initial training of National Guard elements covers a wide range of subjects with special focus on laws and technical police duties, on military training in general and on vocational and physical training.

Officers' initial training is more demanding and takes place in the Military Academy - a college offering a degree in military sciences.

Besides their initial training, they periodically attend a number of training courses aimed to develop know-how and skills in the field of human rights, liberties and guaranties of the citizens, in police and professional ethics and in issues regarding immigrants and ethnic minorities.

In what concerns admissions in the Public Security Police, candidates may apply to the Higher Institute of Police Sciences and Internal Security / ISCPSI (only for Officers) or to the Police Training College (for categories below). The ISCPSI was created in 1982. Back then it was called Superior School of Police. It started the curricular activities in 1984. In matters of formation, the Institute provides, since then, the senior police officers course, based on 5 fundamental areas:

- Ethics
- Humanist
- Scientific
- Technical
- Technological

The Higher Institute of Police Sciences and Internal Security (ISCPSI) is a higher institute on police matters that has the mission of forming the senior police officers, promote the permanent improvement, coordinate and collaborate in investigation projects and development in the homeland security issues. The Institute provides the academic degrees, according to the law, in areas that are relevant to the Homeland security. The applications are made by public announcement. The number of vacancies is determined every year by the Internal Affairs Ministry, and published on the II series of the Republic Diary.

Formation of police officers (beat/patrol Officers) and mid-rank police officers (sergeant):

- The formation takes place in the Practical Police School (PPS). This is an establishment of police formation, on the dependence of the National Director, which has the mission to give all kinds of formation (basic, specialization and improvement) to police officers and mid-rank police officers.
- The PPS organizes internships and promotion courses of police officers since 1977, granting the students:



- o A technical and humanist formation that allows them to fulfil their duties with efficiency and civility.
- o A high sense of duty and honor, integrity, discipline and responsibility necessary to their role.
- o A physical training that allows them to face all kind of adversities with vigour.
- The applications are made by public announcement.
- The number of vacancies is determined every year by the Internal Affairs Ministry, and published on the II series of the Republic Diary.

After the initial training, police officers must take regular tests and specific training courses, according to the areas they intend to work in.

**(b) Exemptions or alternatives to compulsory military service, if applicable:**

**Answer:**

**The Law for objectors as a matter of conscience** (Law 7/92, 12 MAI, ruled by Decree 191/92, 8 SEP) no longer deals with the alternative to the compulsory military service, that ended in 2004. However the objectors can use it in case of exceptional recruitment and to justify their absence to the National Defence Day. For that they have to present to the National Committee for Objectors a declaration stating that condition. As a consequence, after confirmation by that committee, the name of the objector is included in an objector's list, registered in the Cabinet of Civic Service for Objectors of Conscience, making him eligible for the community service instead of the exceptional military service with equivalent duration. The educational level and professional ability are taken into consideration, once the educational training is completed, with a view to deciding upon the proper assignment.

The Law for the Military Service (art. 38) exempts the descendants of killed or deficient militaries from Armed Forces.

**(c) Legal and administrative procedures protecting the rights of all forces personnel:**

**Answer:**

The democratic political control is exercised through a set of appropriate legislative documents that includes:

- The Portuguese Republic Constitution;
- The National Defence Law;
- The Law on Organizational Aspects of the Armed Forces;
- The Internal Security Law;
- The Decrees related to the organization of each Service and for the General Staff.

This legal framework made it possible to implement a number of mechanisms that ensure the democratic political control of the Armed and Security Forces, namely:



- The Military Personnel Statute altered by the Decrees Law n°s 25/2000 of August 23rd, 197-A/2003 of August 30th, 70/2005 of March 17th, 166/2005 of September 23rd, 310/2007 of September 11th, 330/2007 of October 9th, which is subject to Parliament approval, regulates (art. 18 through 25) the civic capacity of the military personnel including the right to vote and the right to participate in activities of political nature, while not in active duty. By the Organic Law n°3/2001, of August 29th, the Parliament consecrated, with restrictions, the “right of professional association” concerning the military. The rights of the military associations are clearly stated in the Law and from the exercise of the related rights cannot result any kind of harm to the duties and the tasks legally conferred to the military.
- The Legal Regime for the Purveyor of Justice (elected by the Parliament) covers his prerogatives related to the National Defence and Armed Forces;
- The Military Code of Justice, which is applicable at the courts level (it requires parliamentary approval);
- The Military Disciplinary Rule governs the civilian and military behaviour of military personnel in active duty, reserve or retired situation. It includes a chapter related to rights and guarantees;
- The Law for the Military Service addresses the management of the human resources for the Armed Forces and the recruitment/call up of personnel for active duty;
- The Law for objectors as a matter of conscience no longer deals with the alternative to the compulsory military service that ended in 2004. However the objectors can use it in case of exceptional recruitment and to justify their absence to the National Defence Day.
- Both NRG and PSP Disciplinary Rules are applicable to all their police officers. Civilians working for both NRG and PSP are governed by the Civil Servants Rules.

**Question 6:**

**Instruction on international humanitarian law and other international rules, conventions and commitments governing armed conflict included in military training programs and regulations:**

**Answer:**

All the doctrinaire references applicable to the Armed Forces in the field of Policy, Rights and International Relations rules, War and Humanitarian Laws, are included in the



training and educational programmes in a proportion ranging from 10 to 15% for the higher educational levels.

Very specific actions were taken to assure the implementation process of the Code of Conduct, in conformity with the traditional Portuguese military training related with the legal aspects involving armed conflicts.

The translation and publication of the Code was carried out to make possible a rather wide circulation. It was decided to recommend, to the three branches of the Armed Forces, the inclusion of the Code of Conduct in the curricula of the several courses which are taking place in the Navy, Army and Air Force, not only at the level of Military Academies but also of staff Courses.

It has also been decided that, besides the Institutes and Academies, the Code of Conduct should also circulate within the several Commands, mainly through its introduction in the teaching/military training programmes.

In general, the school programmes aim at acquainting the officers and non-commissioned officers (NCOs) with a set of generic concepts regarding the Code of Conduct. These are viewed within the context of the new conditions of the international political scenario, which is currently favorable for initiatives of multilateral co-operation with the purpose of achieving an improved security environment in an increasing democratic space.

Portugal ratified, on 18th January 2002, the Statute of Rome of the International Criminal Court, accepting that external complementary jurisdictional judges its nationals responsible for very serious international crimes – crimes defined as genocide against Humanity and war crimes. Our Constitution welcomes, as Internal Law, the treaties that are regularly ratified by Portugal.

The efforts that the Portuguese police and security forces under the authority of the Ministry of Internal Affairs have been making to enhance training of their regular personnel should be stressed out. For the Public Security Police, the main concern has been the education on "Human Rights" matters, - both at training centers and in operational units - on doctrines specifying the limits of police power in the context of international law-abiding texts Portugal is committed to.

The National Republican Guard also includes in their courses – from the category of privates to officers – a training in the area of the international law: the Conventions of Human Rights, the Conventions adopted by the United Nations and to which Portugal is committed, as well as the Conventions within the framework of the European Union and European Council.

The Public Security Police receives special training in the areas of knowledge such as: Basic Rights (as enshrined in the Portuguese Constitution and in the Human Rights



MINISTRY OF NATIONAL DEFENCE  
DEFENCE POLICY DIRECTORATE

Page 30 of 30  
14 ABRIL 2011  
ENGLISH Only

Convention), Police Ethics and professional matters, European Law and Internal Regulation for Police Officers.

DGPDN, 14 ABRIL 2011