Category: **Obligation to Provide Access to Legal Remedies**

Sub-Category: **National Human Rights Institutions**

Name of Good Practice: **Provedor de Justiça Portuguesa (Portuguese Ombudsperson) Actions on Environmental Protection**

Key Words: Access to Justice, Ombudsperson, Monitoring, Accountability

Implementing Actors: National Ombudsperson: Portuguese Ombudsperson

Location: Portugal

Description: Article 23 of the Portuguese Constitution provides that “Citizens may submit complaints against actions or omissions by the public authorities to the Ombudsperson, who shall assess them without the power to take decisions and shall send the competent bodies such recommendations as may be necessary in order to prevent or make good any injustices.” Article 67 of the Constitution also provides that “Everyone shall possess the right to a healthy and ecologically balanced human living environment and the duty to defend it.”

Pursuant to this mandate, the Ombudsperson has devoted attention to environmental issues. For example, in 2012, in response to complaints relating to noise pollution, the Ombudsperson recommended that a municipality create a public entity to monitor such pollution, which recommendation was accepted by the municipality. In 2012, the Ombudsperson also undertook investigations on its own initiative relating to environmental protection, including the failure of a municipality to adopt a spatial planning policy for the coastal zone, and illegal construction in a national park. In 2011, the Ombudsman received a complaint about the removal of one part of a park to build an electrical substation. The government partially accepted the Ombudsperson’s recommendations to address protection gaps it identified in the forestry laws and regulations.

In 2012, the Ombudsperson also issued a report on best practices concerning noise control, which recommended, among other things, that municipalities should not request a security deposit from complainants because the monitoring and controlling of noise pollution is a State obligation. Moreover, the Ombudsperson highlighted that the deposit discriminates against economically disadvantaged citizens who are unable to pay the deposit. According to the Ombudsperson, all 308 municipalities of Portugal have complied with its recommendations concerning the security deposit.

Further Information: *See* the Ombudsperson’s website: <http://www.provedor-jus.pt/>; *also* the Ombudsperson’s report on best practices concerning noise control: <http://www.provedor-jus.pt/site/public/archive/doc/Boas_praticas_municipal_ruido.pdf>; Annual Report to Parliament for 2011: <http://www.provedor-jus.pt/archive/doc/RES_Annual_Reportd_final_3.pdf>; Annual Report to Parliament 2012: <http://www.provedor-jus.pt/site/public/archive/doc/RES_Annual_Report2012.pdf>.