



Committee on Economic, Social and Cultural Rights**Concluding observations on the fifth periodic report of Portugal***

1. The Committee considered the fifth periodic report of Portugal¹ at its 8th and 10th meetings,² held on 16 and 17 February 2023, and adopted the present concluding observations at its 30th meeting, held on 3 March 2023.

A. Introduction

2. The Committee welcomes the submission by the State party of the fifth periodic report and the supplementary information provided in the replies to the list of issues.³ The Committee expresses its appreciation for the open and constructive dialogue held with the multisectoral delegation of the State party and thanks the delegation for its oral replies and for the supplementary information provided during the dialogue.

B. Positive aspects

3. The Committee welcomes the legislative, institutional and policy measures taken to increase the protection of economic, social and cultural rights in the State party, such as the National Recovery and Resilience Plan under the Recovery and Resilience Facility of the European Union, framework law No. 98/2021, on climate, the National Plan for Combating Racism and Discrimination (2021–2025), the National Strategy for the Integration of Roma Communities (2013–2022), the National Strategy for Equality and Non-Discrimination (2018–2030) and the Action Plan for Equality between Women and Men (2018–2021).

C. Principal subjects of concern and recommendations**Domestic application of the Covenant**

4. The Committee regrets the lack of clear information on the measures taken to give effect to the Covenant throughout the State party, in particular in the autonomous regions of Azores and Madeira. The Committee also notes the lack of information on awareness-raising efforts on the justiciability of economic, social and cultural rights among the general public and the fact that references to the Covenant are only available in judgments of higher courts (arts. 1 and 2 (1) and (2)).

5. **The Committee recommends that the State party:**

* Adopted by the Committee at its seventy-third session (13 February–3 March 2023).

¹ [E/C.12/PRT/5](#).

² [E/C.12/2023/SR.8](#) and [E/C.12/2023/SR.10](#).

³ [E/C.12/PRT/RQ/5](#).



- (a) **Ensure the domestic application of the Covenant across its entire territory, including the autonomous regions, while not impeding the efforts of autonomous authorities;**
- (b) **Ensure adequate coordination between central government mechanisms and institutions and the authorities of the autonomous regions, in particular those responsible for providing social services and combating poverty;**
- (c) **Continue its awareness-raising efforts on the justiciability of economic, social and cultural rights for members of the judiciary and civil servants and through campaigns aimed at rights holders;**
- (d) **Submit data on references to the Covenant at all levels of the judicial system in the next periodic report.**

Business and economic, social and cultural rights

6. The Committee welcomes the fact that judicial remedies can be sought for human rights violations resulting from business activities but notes that a fully developed regulatory framework on business and human rights that includes the requirement of human rights due diligence has not yet been adopted.

7. **The Committee recommends that the State party:**

(a) **Adopt the draft action plan on responsible business conduct and human rights, which should include a requirement for human rights due diligence for business entities, the obligation to hold business entities operating in the State party or those domiciled under its jurisdiction and acting abroad accountable for violations of economic, social and cultural rights, and the obligation to ensure access to an effective remedy;**

(b) **Be guided by the Committee's general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, in particular regarding the introduction of mandatory human rights due diligence.**

Climate change

8. While noting the efforts made by the State party to reduce greenhouse gas emissions, ensure that a significant percentage of its electricity is generated from renewable sources and remain a coal-free country, the Committee remains concerned that current emission reduction policies may not be sufficient for the State party to fulfil its obligations under the Paris Agreement (art. 2 (1)).

9. **The Committee recommends that the State party continue working towards achieving its nationally determined contributions under the Paris Agreement. In this regard, the Committee recommends that the State party be guided by the Committee's statement on climate change and the International Covenant on Economic, Social and Cultural Rights⁴ and implement the recommendations of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.⁵**

Maximum available resources

10. The Committee notes the information provided by the State party to illustrate its efforts to respond to the coronavirus disease (COVID-19) pandemic and to reduce poverty, including through its National Recovery and Resilience Plan. The Committee remains concerned, however, at the high level of ongoing risk of poverty among recipients of social transfers. It is further concerned that those most affected are the youth, children and marginalized individuals and groups such as Roma and people of African descent (art. 2 (1)).

⁴ E/C.12/2018/1

⁵ A/HRC/52/33/Add.1, para. 86.

11. **The Committee recommends that the State party pursue its efforts, including through its National Recovery and Resilience Plan, to provide adequate access to economic and social rights for its population. The Committee recommends that the State party perform regular human rights impact assessments of its macroeconomic and budgetary policies, with a view to maximizing the resources for, and the level of budget allocation to, employment services, social protection services, social housing, health care, education and other areas relating to rights under the Covenant, paying particular attention to disadvantaged and marginalized individuals and regions with high levels of unemployment and poverty.**

Non-discrimination

12. The Committee notes the State party's recent efforts to overcome the prohibition on collecting data by ethnicity. It remains concerned, however, by the persistent lack of data on the actual enjoyment of economic, social and cultural rights of certain groups such as Roma and people of African descent. The Committee further notes that article 240 of the Criminal Code does not include language, as well as certain other types of status, as prohibited grounds for discrimination (art. 2 (2)).

13. **The Committee recommends that the State party:**

(a) **Apply a systematic, participatory approach and appropriate methodologies in order to collect data on "hard to count", marginalized populations and those who may be excluded from current household surveys;**

(b) **Amend the current anti-discrimination legislation and framework in order to ensure equality and address direct, indirect, multiple and intersecting forms of discrimination on any grounds, guided by general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights;**

(c) **Take measures to combat hate speech, hate crimes and racially motivated violence, in particular against minorities and groups in vulnerable situations.**

Equal rights for men and women

14. The Committee notes the efforts made by the State party to achieve gender equality, eliminate gender stereotypes and combat unequal representation of men and women in certain professions and in senior management positions. The Committee is nonetheless concerned by the persistence of stereotypes about roles of men and women in society which results in women bearing a disproportionate burden of unpaid domestic and care work, thus hindering their full participation in public life and in the labour market, in particular their access to certain positions and professions, including decision-making positions. The Committee is further concerned by the higher rate of digital illiteracy among women compared with that of men (arts. 3, 6 and 7).

15. **The Committee recommends that the State party:**

(a) **Continue to promote increased representation of women at all levels of public administration, in particular in decision-making positions, and promote their appointment to management roles in the private sector, including through the development of incentives for private companies;**

(b) **Ensure that unpaid work such as care work and domestic work, which is disproportionately performed by women, is appropriately recognized and compensated;**

(c) **Continue efforts to ensure equitable parental leave and continue to take the measures necessary to increase the capacity of childcare services;**

(d) **Adopt measures to generate comprehensive care systems from a gender, intersectional, intercultural and human rights perspective, to promote shared responsibility between men and women, as well as responsibilities in the care of children and other persons;**

(e) **Take into consideration general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, in**

particular in situations of intersectionality, as well as the recommendations issued by the Committee on the Elimination of Discrimination against Women in this regard.⁶

Migrants, refugees and asylum-seekers

16. The Committee notes the lack of adequate resources to address the poor conditions, including overcrowding, in some asylum reception structures in a sustainable manner (arts. 2 (2) and 11).

17. **The Committee recommends that the State party:**

(a) **Increase the resources allocated to the reception of asylum-seekers, including by ensuring adequate reception solutions for asylum-seekers with special needs, and implement, in a structured, comprehensive and sustainable manner, policies and programmes at the national and local level to support asylum-seekers and refugees in obtaining access to housing;**

(b) **Take the necessary steps in law and in practice to ensure that migrants in irregular situations have access to all necessary health-care services, without discrimination, in accordance with articles 2 and 12 of the Covenant;**

(c) **Be guided by general comment No. 14 (2000) on the right to the highest attainable standard of health and by the statement on the duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights.⁷**

Right to work

18. The Committee welcomes the signing of the Medium-term Agreement on Improving Income, Wages and Competitiveness by the Government of Portugal and its social partners, and the decrease in the overall unemployment rate in recent years. The Committee is concerned, however, by the high unemployment rate among young people. It is also concerned by the lack of country-wide data on the impact of programmes established to improve the access of the Roma community to the labour market. The Committee is further concerned by the low level of integration of persons with disabilities into the labour market and the persistence of obstacles preventing asylum-seekers and refugees from gaining access to the official labour market when they are unable to produce original documentation regarding their academic qualifications (arts. 2, 3, 6 and 13).

19. **The Committee recommends that the State party:**

(a) **Assess the effectiveness of measures taken to increase employment opportunities in general and for specific individuals and groups, notably women, persons with disabilities, youth, Roma, people of African descent, refugees and asylum-seekers. In doing so, the State party should work in partnership with the groups concerned to increase their participation in the labour market and create incentives for companies to employ them;**

(b) **Strengthen its efforts to address the needs of youth not engaged in education, employment or training and be guided by general comment No. 18 (2005) on the right to work in this regard;**

(c) **Adopt more comprehensive and flexible approaches for the recognition, validation and certification of academic and professional skills of asylum-seekers and refugees.**

Right to just and favourable conditions of work

20. While the Committee acknowledges the numerous steps taken by the State party in this regard, it notes the insufficient means of monitoring the compliance of the safeguards put in place to address the gender pay gap, young people's overrepresentation in precarious

⁶ CEDAW/C/PRT/CO/10, para. 31.

⁷ E/C.12/2017/1.

work, the misuse of service contracts in false employment relationships, undeclared work and the trafficking and exploitation of undocumented migrant workers in agricultural and other sectors. The Committee is also concerned by the persistence of sexual harassment and discrimination in the workplace (arts. 2, 3, 6 and 7).

21. The Committee recommends that the State party:

(a) **Expand the scope of labour inspections and ensure that the Authority for Working Conditions, the High Commission for Migration and any other authority in charge of inspecting labour conditions are equipped with sufficient capacity, resources and powers to enable them to initiate and undertake inspections more effectively;**

(b) **Take additional measures to combat the overrepresentation of young people and marginalized groups in precarious work;**

(c) **Intensify its efforts to effectively implement its legislation for the prevention of sexual harassment and discrimination in the workplace and provide victims with an effective remedy. The Committee also notes the recommendations of the Committee on the Elimination of Discrimination against Women in this regard.⁸**

Right to social security

22. The Committee notes the efforts of the State party to integrate unpaid informal caregivers into the social security system, the adjustments to address the disproportionate impact of the COVID-19 pandemic on women and marginalized groups, the creation of additional social benefits and efforts not to differentiate between citizens and non-citizens in the allocation of social benefits. The Committee is however concerned by the persistently low level of social benefits, which do not enable some groups to access an adequate standard of living and regrets that insufficient information has been provided on targeted tax and other monetary measures taken to support and sustain social security, in particular for marginalized groups (arts. 2, 9 and 11).

23. Recalling its previous concluding observations,⁹ the Committee recommends that the State party:

(a) **Increase its budget allocation for social security and ensure that social benefits are regularly indexed to the real cost of living, in order to provide beneficiaries with an adequate standard of living;**

(b) **Continue its efforts to ensure increased integration of workers into the formal economy and to ensure that persons in need of social assistance, in particular those at risk of poverty and persons with disabilities, receive social security benefits that are sufficient to guarantee an adequate standard of living.**

Protection of the family and children

24. The Committee notes the efforts made by the State party to adapt to the increasing needs of older persons. It is however concerned by the persistence of obstacles and barriers that prevent older persons from accessing certain services and remaining independent while also avoiding becoming isolated. Furthermore, while welcoming the support provided to victims of domestic violence, including through financial compensation and psychological support, the Committee remains concerned by the persistent high level of domestic violence, the low level of prosecution of perpetrators of domestic violence, and the insufficient number of shelters (arts. 2, 3 and 10).

25. The Committee recommends that the State party continue its efforts to guarantee the rights of older persons, both to independent living and to affordable and quality care, including residential care, and to monitor the realization of these rights. The Committee further recommends that the State party redouble its efforts to combat domestic violence, including through effective access to a remedy and the provision of

⁸ CEDAW/C/PRT/CO/10, para. 31

⁹ E/C.12/PRT/CO/4, para. 15.

a sufficient number of shelters. It recalls the recommendations made in 2022 by the Committee on the Elimination of Discrimination against Women in this regard.¹⁰

Right to an adequate standard of living

26. While acknowledging the efforts made by the State party to eradicate poverty and social exclusion, including through social transfers, the Committee remains concerned by the high rates of persons at risk of poverty. Furthermore, despite efforts to provide adequate housing, the Committee is concerned by persistent housing shortages, including the shortage of social housing, affordable housing and emergency shelters, and the lack of disaggregated data on the actual access to adequate housing for marginalized groups including single mothers, persons with disabilities, people of African descent, Roma, youth and persons in situations of homelessness. The Committee is also concerned that the dismantling of social housing and relocation of persons of African descent and their families to the periphery of cities may place them farther away from the sources of their livelihood (art. 2, 3 and 10).

27. **The Committee recommends that the State party continue its efforts to ensure an adequate standard of living for its population, including by:**

(a) **Continuing to provide investments, in consultation with municipalities and on the basis of geographical priorities, that are proportional in size to the scale of the housing shortage;**

(b) **Giving due priority to persons at risk of homelessness and, to that end, devising a strategy, in extensive genuine consultation with those affected, for addressing homelessness and, above all, for helping people to find sustainable housing solutions that will enable them to exercise other Covenant rights;**

(c) **Continuing to provide social support, including subsidies to help young people and working women with childcare responsibilities access the housing market, in particular in urban areas.**

Climate change adaptation and agriculture

28. The Committee acknowledges the adoption of the National Adaptation Plan for Climate Change in August 2019. It is concerned, however, that the environmental consequences of climate change are already having a considerable impact on the enjoyment of economic, social and cultural rights in the State party, including owing to an increase in the occurrence of heatwaves, wildfires and drought. The Committee is further concerned by intensive agriculture that has a negative impact on the right to a clean, healthy and sustainable environment, as well as on the rights of migrant farmworkers (art. 11).

29. **The Committee recommends that the State party take all measures necessary for adaptation to climate change and to protect the environment, and address environmental degradation accordingly, taking into account its effects on economic, social and cultural rights. Measures could include fire prevention through the implementation of climate-smart and fire-smart land management such as afforestation and reforestation, farmland recovery and agroforestry, and the use of fuel reduction and fuel-conversion techniques that promote less flammable and more resilient types of land cover. The Committee also recommends that the State party adopt food systems that protect the rights of farmers, including migrant farmworkers, and the environment.¹¹**

Rights to water and sanitation

30. The Committee is concerned by the lack of an integrated and adequate network of wastewater management installations for mixed municipal waste. It is further concerned by pesticide contamination in surface and groundwater in the country, with a concentration of pesticides exceeding the acceptable rates (art. 11).

¹⁰ CEDAW/C/PRT/CO/10, para. 23 (a) and (b).

¹¹ See also A/HRC/52/33/Add.1, paras. 28 and 89.

31. **The Committee recommends that the State party guarantee access for all to safe drinking water and sanitation without discrimination. In particular, the State party should take measures to provide safe drinking water to the few communities that still lack it and invest further in urban wastewater management in accordance with its international obligations. In this regard, the State party should be guided by general comment No. 15 (2002) on the right to water.**¹²

Right to health

32. While noting the efforts made to reduce the backlog of medical appointments and surgical procedures, which was aggravated by the COVID-19 pandemic, and to create incentives for increasing the availability of medical staff across the entire territory of the State party, the Committee is concerned by the remaining shortcomings in the health system, in particular shortages of medical staff and obstacles preventing access to health services, including emergency obstetrics, for the most marginalized and those living in remote areas and the autonomous regions. The Committee is also concerned by the high air pollution level, which affects the rights to health and to life, in particular of the most vulnerable (arts. 2, 11 and 12).

33. **The Committee recommends that the State party intensify its efforts to ensure a universal and comprehensive health-care system that is free of charge, including through the allocation of additional resources to increase the capacity of the National Health Service, including in remote areas, the recruitment and training of additional health-care personnel and the reduction of obstacles that prevent access to health care for the most marginalized. The Committee further recommends that the State party redouble its efforts to address air pollution in dense urban areas by using the most recent World Health Organization air quality guidelines to strengthen air quality standards.**¹³

Right to education

34. While noting the efforts made to improve digital literacy to raise levels of employability and mobility, the Committee remains concerned by the relatively high levels of illiteracy and digital illiteracy among older persons and is concerned that this may affect the enjoyment of their economic, social and cultural rights. The Committee is also concerned that school dropout and failure rates remain higher among children with disabilities, children of African descent and Roma. The Committee is further concerned that the diversion of students of African descent towards vocational education may create formal and informal barriers to higher education, as highlighted by the Working Group of Experts on People of African Descent¹⁴ (arts. 2, 3 and 13).

35. **The Committee recommends that the State party:**

- (a) **Take the necessary measures to improve the digital literacy of older persons;**
- (b) **Increase awareness-raising efforts among the general population on the added value of ethnic and linguistic diversity;**
- (c) **Improve the collection of data on the most marginalized children, disaggregated by sex and other grounds;**
- (d) **Provide alternative economic support to families of children in disadvantaged situations to avoid economic shortfalls that lead families to take children out of school;**
- (e) **Increase coverage of social scholarships for higher education, including as an alternative to vocational training, for youth interested in pursuing such education.**

¹² See also [A/HRC/52/33/Add.1](#), para. 88.

¹³ See also [A/HRC/52/33/Add.1](#), para. 87.

¹⁴ [A/HRC/51/54/Add.2](#), para. 56.

Cultural rights

36. The Committee is concerned by the remaining difficulties facing certain groups in accessing learning, education and culture, including at school. It is also concerned by the increased levels of intolerance and hate speech, including online. Furthermore, the Committee regrets that the State party has not yet taken a more proactive approach to the restitution of cultural property to the countries of origin (arts. 2, 13 and 15).

37. The Committee recommends that the State party take further steps to strengthen the protection of cultural rights and respect for cultural diversity by fostering an environment that values diversity and plurality and combats all forms of discrimination. The Committee further recommends that the State party take a proactive approach to the issue of restitution of cultural property to the countries of origin, in line with General Assembly resolution 70/76.

D. Other recommendations

38. The Committee recommends that the State party take steps to accede to the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

39. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, including in the recovery from the COVID-19 pandemic. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Moreover, the Committee recommends that the State party support the global commitment of the decade of action to deliver the Sustainable Development Goals. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind.¹⁵

40. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national, regional and municipal levels and in the autonomous regions of Madeira and the Azores, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee emphasizes the crucial role that Parliament plays in implementing the present concluding observations and encourages the State party to ensure its involvement in future reporting and follow-up procedures. The Committee encourages the State party to engage with the Office of the Ombudsman, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

41. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 7 (business and economic, social and cultural rights), 19 (a) (right to work) and 27 (right to an adequate standard of living) above.

¹⁵ [E/C.12/2019/1](#).

42. **The Committee requests the State party to submit its sixth periodic report in accordance with article 16 of the Covenant by 31 March 2028, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.**
