

PORTUGAL REVIEW

I. Justice System

B. Quality of justice

Accessibility of courts (e.g. court/legal fees, legal aid, language)

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended Portugal: expedite the adoption of the draft legislation to establish a new legal framework for access to justice, ensuring the provision of adequate legal aid and interpretation services, especially for persons belonging to the most disadvantaged ethnic or racial groups, to ensure their full access to justice, including in criminal matters; build awareness of the right to and availability of free legal aid in various contexts ([CERD/C/PRT/CO/18-19](#)).

The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment recommended that Portugal take steps to improve access to environmental information, strengthen public participation and facilitate access to justice, including by considering the establishment of specialized environmental courts. ([A/HRC/52/33/ADD.1](#))

Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

In its 2023 concluding observations, the Human Rights Committee recommended that Portugal provide adequate training to judges, prosecutors, law enforcement officials, immigration officers and staff working in all reception facilities, including on procedures for identifying victims of trafficking in persons ([CCPR/C/138/2/Add.3](#)).

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended that Portugal redouble its efforts to raise awareness and knowledge of the provisions of the ICERD and its justiciability among members of the judicial and legal professions, enabling them to apply it in relevant cases and to extend these efforts to the members of the parliament and the general public. It also requested that Portugal include, in its next periodic report, specific examples of the application of the Convention by domestic courts, including lower courts and administrative bodies, and detailed information on the impact of the training and awareness-raising efforts delivered to members of the judicial and legal professions and the parliament on the provisions of the Convention ([CERD/C/PRT/CO/18-19](#)).

Similarly, the Committee recommended that Portugal redouble its efforts to combat all forms of racist hate speech and hate crimes directed towards minority groups, including Roma, Muslims and Africans and people of African descent, by effectively applying its anti-

discrimination legislation, providing training for and strengthening the investigative capacities of law enforcement officials, prosecutors and the judiciary and conducting awareness-raising campaigns on the importance of cultural diversity and inter-ethnic understanding among the general public ([CERD/C/PRT/CO/18-19](#)).

In its 2023 concluding observations , the Committee on Economic, Social and Cultural Rights recommended that Portugal continue its awareness-raising efforts on the justiciability of economic, social and cultural rights for members of the judiciary and civil servants ([E/C.12/PRT/CO/5](#)).

C. Efficiency of the justice system

Length of proceedings

In its 2023 concluding observations , the Human Rights Committee recommended that Portugal continue promoting non-custodial alternative measures and reduce the length of investigations and legal procedures ([CCPR/C/138/2/Add.3](#)). The Committee also urged Portugal to take further steps to ensure that pretrial detention is used only as a measure of last resort and for the shortest possible time, in line with the provisions of the Covenant, and that it is reviewed on a regular basis. The Committee stressed that Portugal should continue promoting non-custodial alternative measures and apply the measures in a systematic manner, and it should reduce the length of investigations and legal procedures to improve judicial efficiency ([CCPR/C/138/2/Add.3](#)).

Other

Racial discrimination complaint mechanisms - In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended that Portugal: expedite the amendment of article 240 of the Criminal Code, ensuring that it is brought fully into alignment with article 4 of the Convention and introducing racial discrimination as an aggravating circumstance for all crimes; research and assess the underlying reasons motivating the low number of complaints relating to racial discrimination, including victims' lack of awareness of their rights, fear of reprisals, limited access to available complaint mechanisms, existing barriers to accessing justice, such as language and financial barriers or lack of confidence in the law enforcement and judicial bodies, or authorities' insufficient awareness of or lack of sensitivity to cases of racial discrimination;

c) Redouble its efforts to conduct awareness-raising campaigns addressing the general public about the existence of criminal law provisions penalizing racially motivated acts and behaviors and encourage victims of such crimes to lodge complaints;

d) Provide, in its next periodic report, updated information on the number of complaints made to law enforcement bodies relating to racial discrimination and their outcomes, including on cases initiated by prosecutors, on convictions and sentences against perpetrators and on remedies provided to victims of such crimes ([CERD/C/PRT/CO/18-19](#), para. 10(d)).

Legislative review - The Committee on the Elimination of Racial Discrimination also recommended that Portugal broaden the scope of article 2 (1) of Law No. 93/2017, which establishes the legal framework for the prevention, prohibition and fight against discrimination based on racial and ethnic origin, colour, nationality, ancestry and territory of origin, to bring it into alignment with article 1 of the Convention and ensure that it covers the prohibition of racial discrimination in all spheres of public and private life ([CERD/C/PRT/CO/18-19](#), para. 12(a)).

Legislative review - In its 2023 concluding observations, the Committee on Economic, Social and Cultural Rights recommended that Portugal 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 ([E/C.12/PRT/CO/5](#)). It also recommended that Portugal 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. ([E/C.12/PRT/CO/5](#)).

The Committee further recommended that Portugal 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 on Economic, Social and Cultural Rights ([E/C.12/PRT/CO/5](#)).

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended that Portugal continue to strengthen the independence of the Office of the Ombudsperson, ensuring that it is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and that it is able to carry out its mandate fully, effectively and independently, including by introducing and implementing a transparent, participatory and merit-based process for the selection of the Ombudsperson and an objective dismissal process for its deputies ([CERD/C/PRT/CO/18-19](#), para. 20).

D. The enabling framework for civil society

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or online –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.

Noting the communication sent to Portugal by various UN Special Procedure mandate holders on 23 October 2020, the Committee on the Elimination of Racial Discrimination was concerned about reports indicating that human rights defenders, members of civil society organizations, social activists and journalists engaged in anti-racism work have increasingly

become targets of intimidation, harassment, hate speech and online threats as a consequence of their work to promote and protect the rights of persons belonging to groups vulnerable to racial discrimination.

The Committee on the Elimination of Racial Discrimination recommended that Portugal develop and adopt all necessary measures to protect human rights defenders, in particular those working on the rights of groups under the protection of the International Convention on the Elimination of All Forms of Racial Discrimination, enabling them to carry out their work free from fear of harassment and reprisals of any sort. The Committee also recommended that the State party investigate allegations of intimidation, attacks or reprisals against human rights defenders, particularly those combating racism and racial discrimination, and hold accountable those responsible for such acts ([CERD/C/PRT/CO/18-19](#), para.38).