List of issues in relation to the fifth periodic report of Portugal*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. With reference to article 8 of the Constitution, which states that “norms contained in duly ratified or approved international conventions come into force in Portuguese internal law”, please provide examples in which the Covenant provisions have been referred to by domestic courts. Please specify the measures taken to ensure that information on the Covenant and on its Optional Protocol is disseminated among judges, lawyers, prosecutors, law enforcement officials and the public. In addition, please provide information on processes in place to implement the recommendations contained in the Committee’s previous concluding observations (CCPR/C/PRT/CO/4).

2. Please provide information on the availability of effective remedies for an individual who claims to be a victim of a violation of any of the rights set forth in the Covenant. Please indicate which procedures are in place for the implementation of the Committee’s Views under the Optional Protocol and for submitting follow-up reports thereon, and provide information on measures taken to ensure full compliance with the Views adopted in respect of the State party.

3. Please provide information on the measures taken to provide the “Provedor de Justiça of Portugal” with the necessary financial and human resources for its operations. Please also clarify if there is a formalized selection process for the Provedor as well as an objective dismissal process for the deputies.

Anti-corruption measures (arts. 2 and 25)

4. Please report on measures taken to prevent and address corruption in government, including international cooperation in the fight against corruption.

Non-discrimination (arts. 2, 7, 24, 25 and 26)

5. Please provide information on the scope of coverage of article 240 of the Criminal Code, which criminalize discrimination and incitement to hatred and violence, including whether it is restricted to acts committed in the framework of organized propaganda, and whether it covers all the grounds of discrimination found in the Covenant. Please also clarify whether article 240 of the Criminal Code prohibits discrimination based on language. Please also provide information on the court cases applying article 240 of the Criminal Code.

6. Taking into account the prohibition under the Constitution to collect disaggregated data, please clarify how the State party intends to address the discrimination faced by certain groups, in particular afro-descendants and Roma. Please also provide information on a bill

* Adopted by the Committee at its 126th session (1 to 26 July 2019).
presented before the Parliament in April 2018 on LGBTI people’s rights. Please provide information on its content and on a timeline for its adoption.

7. Please provide information on the administrative complaint procedure for cases of racial discrimination, including information on the average length of such procedure and number of complaints received in the last five years and outcomes. Please provide information on the Commission for Equality and Combating Racial Discrimination (CICDR), including regarding its independency and whether it is provided with sufficient resources to process complaints of discrimination. Please also comment on information received by the Committee that the complaint procedure of the CICDR is lengthy and complicated.

8. Please report on the steps taken to respond to the reports of hate speech, including in the media and on the Internet. Please comment on the reported increase in hate speech in the media and specifically on social networks and measures taken to address this issue, including measures taken to ensure effective investigation of and prosecution for hate crimes, and supply data on the number of reported cases, investigations and prosecutions initiated and their outcome. Please provide statistics on violent hate crimes.

9. Please provide information on steps taken to address all forms of discrimination against people of African descent. In particular, please comment on information received by the Committee indicating that African descent suffer from high rate of unemployment and that Portuguese-speaking afro-descendant pupils are three times more likely to fail the first cycle of secondary education and twice as likely to fail the second and third cycles. Please also indicate the steps taken to improve access of African descent to housing and comment on information received of cases of forced eviction without prior notice, without any possibility of seeking legal remedies and without the authorities proposing to rehouse those evicted in decent accommodation.

10. Please comment on reports of violence committed by police officers against ethnic minority, particularly Roma and African descents. In this regard, please provide information on the measures taken to investigate and prosecute police officers for acts of racial discrimination.

11. Please provide information on the medical assessment of disability and whether there is a legal criteria on the eligibility of persons with disabilities for the various social protection programmes. Please clarify the position of the State on the use of sterilization, scientific research, electroconvulsive therapy, termination of pregnancy and psychosurgical interventions on persons with disabilities who have been declared legally incapacitated.

Equality between men and women (arts. 2, 3, 7, 24, 25 and 26)

12. Please provide information on the parity law of 2006 which establishes a minimum quota of 33.3 per cent for candidates of each sex on electoral lists for European, national and local elections and if the State party intends to increase the minimum quota to increase the representation in all legislative assemblies at the European, national and local levels. In this regard, please also provide information on the impact of the Law 62/2017, which establishes a minimum quota for woman in state-owned companies and listed companies. In light of the information provided by the State party (CCPR/C/PRT/5, paras. 25-26) and the Committee’s concluding observations (CCPR/C/PRT/CO/4, para. 4), please provide information on measures to further increase the representation of women in decision-making positions in the Foreign Service.

Violence against women, including sexual and domestic violence (arts. 2, 3, 6, 7 and 26)

13. In connection with the previous concluding observations (CCPR/C/PRT/CO/4, para. 12), the Report on follow-up to the concluding observations (CCPR/C/114/2) and the State party’s fifth periodic report (CCPR/C/PRT/CO/4, paras. 174-195), please report on the progress made in combating violence against women, including domestic violence, in particular with regard to: (a) the implementation of the National Strategy for Equality and Non Discrimination; (b) the availability and use of protection orders for victims of violence; and (c) the adequate funding for and access to shelters. The Committee notes the statistics
provided by the State party and requires clarification on the disproportionately low (albeit increasing) numbers of prosecutions and convictions of perpetrators, compared with the high numbers of reported cases of domestic violence recorded by the police.

**Right to life, prohibition of torture and cruel, inhuman or degrading treatment, conduct of the security forces and treatment of persons deprived of their liberty (arts. 6, 7 and 10)**

14. In light of the previous concluding observations (CCPR/C/PRT/CO/4, para. 10) and the State party’s fifth periodic report (CCPR/C/PRT/5, para. 10), please identify and describe the legal standards under domestic law on the appropriate use of force and firearms by law enforcement and security forces, during arrest, demonstrations, in custody, in anti-terrorism or anti-poaching operations, and under any other circumstances where force may be used. Please also provide information on the regulation and the use of electric shock devices, including Tasers, outside of prisons. The Committee notes the number of proceedings and outcomes indicated by the State party in its fifth periodic report, but requires information on the number of criminal complaints received, investigation, criminal proceedings and outcomes for each reported year and whether there are cases where law enforcement officials are given immunity or special protection when they have used force? Please comment on whether your laws on the use of force are in conformity with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990. Please provide information on the measures taken to ensure that these standards are respected in practice.

15. Please comment on reports of ill-treatment at the time of apprehension, during the time spent in police stations and in detention centres, principally at Caxias, Lisbon Central, Montijo Prisons and Leiria Juvenile Prison. In particular, please respond to allegations of inflictions of ill-treatment particularly against foreign nationals, including for obtaining confessions. Please indicate the number of complaints received and investigated, criminal proceedings and outcomes for each reported year and whether there are cases where the use of force is in conformity with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990. Please provide information on the measures taken to ensure that these standards are respected in practice.

16. With reference to the Committee’s previous recommendations (CCPR/C/PRT/CO/4, para. 11) and the Report on follow-up to the concluding observations (CCPR/C/114/2), please report on the progress made in addressing overcrowding in detention facilities, including on construction projects for new facilities. Please also provide information on measures taken to tackle the drug abuse by detainees, including steps taken to increase the availability of drugs in prison, and to address persons living with HIV/AIDS and hepatitis C.

17. Please explain how article 105 of the Act 115/2009 allowing solitary confinement to be imposed as a disciplinary punishment for up to 30 days for prisoners is compatible with the Covenant. Please clarify whether such provision and/or solitary confinement is also applied to juveniles in conflict with the law.

**Forced labour, contemporary forms of slavery and trafficking in persons (arts. 6, 7, 8, 13, 24 and 26)**

18. Please provide information on the impact of the third National Plan against Trafficking in Human Beings (2014 – 2017) and indicate if the State party has enacted a new one. Please also provide information on the implementation and challenges faced by the recently established protocol on an integrated system of procedural information to enable prosecutors and other legal actors to access all evidence in criminal proceedings in a simple and speedy manner. In light of the information provided by the State party in its periodic report (CCPR/C/PRT/5, para. 226), please provide information on the reasons for the low number of registered crimes, prosecutions and convicted perpetrators for the crime of trafficking in persons. In this regard, in light of the Committee’s previous concluding observations (CCPR/C/PRT/CO/4, para. 13), please provide information on the application
of article 160 of the Penal Code and clarify if the current legal framework is sufficient for an adequate investigation, prosecution and punishment for the crime of trafficking in persons.

19. Please provide information on the steps taken to improve the identification of victims of trafficking and data collection, and the assistance provided to victims of trafficking, including the availability of adequate compensation and protection. In particular, please provide information on procedures in place for the identification of trafficking victims in asylum procedures, particularly regarding unaccompanied and separated children. In this regard, please indicate if victims of human trafficking can be granted access to the asylum procedures or granted international protection based on a well-founded fear of persecution for reasons of trafficking in human beings.

Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 10, 13, 24 and 26)

20. Please respond to reports indicating that overcrowding is an ongoing concern at the reception centres for asylum-seekers and provide information on measures taken to address the increased number of asylum-seekers. Please inform if the new Reception Centre for Refugees, with a maximum capacity of 90 places is sufficient to accommodate the increasing number of asylum-seekers and if the reception centres are provided with adequate funding. Furthermore, please provide information on the efforts made to ensure that the physical conditions and services in all immigration and reception centres conform to international standards.

21. Please provide information on measures taken to address the increasing number of asylum applications and comment on information received by the Committee that the high number of applications resulted in longer asylum procedures of up to two years in some cases, creating a risk that returns in certain cases could result in violations of the Covenant. Please also provide information on measures taken to ensure that the refugee status determination process provides guarantees of justice and transparency. Please describe the procedures in place to guarantee respect for the principle of non-refoulement, and the measures taken to prevent statelessness.

22. Please provide information on the current practice to systematically detain asylum-seekers at the borders, including unaccompanied children, separated children and children accompanied by their families and indicate if the State party intends to end the detention of vulnerable persons. In particular, please provide information on the practice of detaining children at airports. Please also provide information on the application of alternative measures for the detention of migrants and asylum seekers and statistical data on the number of migrants and asylum seekers in detention, including the duration of their detention during the reporting period.

Liberty and security of person and administration of justice (arts. 9, 14 and 24)

23. With reference to the previous concluding observations (CCPR/C/PRT/CO/4, para. 8) and to the State party’s fifth periodic report (CCPR/C/PRT/5, paras. 148-156), please provide information on steps taken to ensure that detainees are informed, from the outset of the detention, of the reasons for the arrest, charges against him/her and of his/her rights, including of the right to have a legal counsel from the time of arrest. In this regard, please specify if the right to access to a lawyer promptly upon detention is guaranteed in all circumstances, including for those who cannot afford a private lawyer.

24. With reference to the previous concluding observations (CCPR/C/PRT/CO/4, para. 9) and to the Report on follow-up to the concluding observations (CCPR/C/114/2), please provide information on:

(a) Measures taken to reduce the use and duration of pretrial detention, including information on the legislative amendment introduced in the Criminal Procedure Code which increased the scope of application of measures alternative to imprisonment;

(b) Whether judicial decisions ordering pretrial detention are properly reasoned and are based on an individualized determination of all the circumstances;
(c) Measures taken to reduce the length of investigations and legal procedures, improve judicial efficiency and address the staff shortages; and
(d) Updated statistics on the length of pretrial detention, including of juveniles.

**Freedom of expression (art. 19)**

25. Please indicate whether the State party is considering abolishing its criminal defamation laws. Please provide information on the application of such laws by courts in the last reporting period.