

**TARGETED STAKEHOLDER CONSULTATION 2023 RULE OF LAW REPORT**  
**UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)**

**PORTUGAL REVIEW**

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**I. Justice System**

**B. Quality of justice**

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

In its 2022 concluding observations, the UN Committee on the Elimination of Discrimination against Women Committee expressed its concern that access to justice remains hampered by the complexity of procedures and the conditions for granting legal aid, regarding women belonging to ethnic minorities. It also noted with concern that the exemption from court fees and the provision of free legal aid services were not available to women with limited economic resources, including women who submitted joint annual tax returns, in all areas of law and that insufficient information was available to women about facilitating complaints or accessing justice. The Committee urged Portugal to ensure that all women, particularly women with limited resources and women belonging to disadvantaged groups, have access to free legal aid, that administrative procedures are simplified and that the negative impact of submitting joint annual tax returns on women is minimized. The Committee also recommended that Portugal implement awareness-raising campaigns targeting disadvantaged groups of women, such as women with disabilities, Roma women, migrant women and older women, empowering them to submit complaints, to access free legal aid and to benefit from reparation to victims ([CEDAW/C/PRT/CO/10](#), paras 12 - 13).

In 2022, the Working Group of Experts on People of African Descent, in the report on its mission to Portugal, recommended that reporting processes for racial discrimination should be simplified and the management of such cases should be swift and highly responsive to the urgency of them. Further, the Government should expedite the amendment to article 240 of the Penal Code and closely monitor its implementation and effectiveness in ensuring justice for people of African descent facing racial discrimination. The Government should also build awareness of the right to and availability of free legal aid in various contexts. Such awareness-raising should also be accompanied by clear capacity-building for legal aid attorneys to specifically recognize, acknowledge and address racialized concerns facing their clients. The Working Group recommended that when cases of clear public misconduct are not adequately addressed without private counsel and individuals incurring costs, the State should reimburse the victims for their costs and expenses in assisting the State to play its important role in the administration of justice ([A/HRC/51/54/Add.2](#), paras 73, 76 and 81).

*Training of justice professionals (including judges, prosecutors, lawyers, court staff)*

In its 2022 concluding observations, the UN Committee on the Elimination of Discrimination against Women Committee declared that the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol thereto and the Committee's general recommendations were still insufficiently known, that they were not invoked in the courts at all levels of the judiciary and that no training was provided on them. The Committee urged Portugal to take all measures necessary to ensure that the Convention, the Optional Protocol thereto and the Committee's general recommendations are well known by all of society, in particular by women, to provide systematic training on the rights of women to those working in the administration of justice and to ensure that

the Convention, the Committee's general recommendations and its jurisprudence under the Optional Protocol are sufficiently known and applied by the judiciary ([CEDAW/C/PRT/CO/10](#), para. 11).

### **C. Efficiency of the justice system**

**Other – please specify**

#### **Equality and non-discrimination**

In 2022, the Working Group of Experts on People of African Descent in the report on its mission to Portugal recommended that the Portuguese courts should embrace and use their role as protectors of the equality and non-discrimination guarantees enshrined in Portuguese domestic law and in its international treaty obligations. The Working Group also recommended that the State and courts should lead revision and reform of the methods used to ensure the justice system actually confers racial justice. For example, justice professionals should recognize the importance of considering race and racial equality (that is to say the targeting of policing toward Black communities) as a relevant factor in evaluating the reasonableness of police conduct in stops, searches and other interactions with citizens, and embed such analyses into their judicial decision-making and their guidance for lower courts ([A/HRC/51/54/Add.2](#), paras 78 and 86).

#### **Trafficking and exploitation of prostitution**

In its 2022 concluding observations, the UN Committee on the Elimination of Discrimination against Women Committee noted Portugal's efforts to eliminate trafficking in women and girls, including under the fourth national plan to prevent and combat trafficking in persons (2018–2021). It remained concerned, however, about the lack of identification of victims of trafficking, in particular the identification of Portuguese women and girls who were victims of trafficking. It thus recommended that Portugal ensure effective mechanisms for the early identification and referral of victims to appropriate services and to strengthen the protection and reintegration of women and girls who are victims of trafficking, including by ensuring that they are not liable for violations of immigration law and that they have access to justice and temporary residence permits irrespective of their ability or willingness to cooperate with the prosecution authorities. The Committee recommended that Portugal invest in effectively improving the identification process ([CEDAW/C/PRT/CO/10](#), paras 24–25).

### **IV. Other institutional issues related to checks and balances**

#### **A. The process for preparing and enacting laws**

*Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process*

In its 2022 concluding observations, the UN Committee on the Elimination of Discrimination against Women Committee welcomed the introduction of quotas in its legislation to accelerate equal representation of women and men in parliament and in other decision-making positions in government, however, Portugal did not have a system for monitoring implementation and progress made, including in the autonomous regions of Madeira and the Azores. It also noted with concern the lack of temporary special measures in the national strategy for equality and non-discrimination for the period 2018–2030 and other sectoral policies, to address the needs of the most disadvantaged groups of women. The Committee recommended that Portugal continue its efforts to implement temporary special measures aimed at accelerating de facto equality between women and men in political and

public life or in any other sphere where women remain underrepresented, with a system to monitor their implementation and progress, including in the autonomous regions of Madeira and the Azores. It also recommends that Portugal include temporary special measures in its public policy on gender equality and other sectoral policies to address the needs of the most disadvantaged groups of women, such as women with disabilities, Roma women, migrant women and older women ([CEDAW/C/PRT/CO/10](#), paras 27-28).

## **B. Independent authorities**

*Independence, 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 2022 concluding observations, the Committee on the Elimination of Discrimination against Women noted the mandate of the Commission for Citizenship and Gender Equality to ensure the implementation of public policies promoting gender equality and addressing gender-based violence against women and trafficking in persons. However, the Committee noted with concern the increasing number of thematic issues under the purview of this Commission and the progressive absence of measures for the advancement of women and for the promotion of the human rights of women on equal terms with men, the insufficient budgetary allocations to deliver on its broad mandate, the lack of coordination, and the lack of a specific mechanism to empower and ensure the meaningful participation of civil society organizations for women in the Commission for Citizenship and Gender Equality. It thus recommended to: strengthen its mandate with measures for the advancement of women and for the human rights of women on equal terms with men; provide adequate human, technical and financial resources to the Commission for Citizenship and Gender Equality in order to enable it to fulfil its mandate with regard to the promotion of equality for women, combating gender-based violence against women, and gender mainstreaming, to establish a focal point to coordinate with the Office of the Ombudsperson of Portugal on complaints received; and establish a specific mechanism to empower and ensure systematic and meaningful participation of civil society organizations for women in the Commission for Citizenship and Gender Equality, including by providing financial resources, in relation to all legislative and policy initiatives affecting women ([CEDAW/C/PRT/CO/10](#), paras 14 - 15).

In 2022, the Working Group of Experts on People of African Descent in the report on its mission to Portugal recommended that an independent inquiry should be carried out into widespread allegations of police brutality with a view to identifying the victims and affording them redress. The Government should constitute an independent oversight mechanism to address allegations of police misconduct ([A/HRC/51/54/Add.2](#), para. 77).

## **D. The enabling framework for civil society**

*45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)*

In its 2022 concluding observations, the Committee on the Elimination of Discrimination against Women noted with concern the lack of a specific mechanism to empower and ensure the meaningful participation of civil society organizations for women in the Commission for Citizenship and Gender Equality, even though some of them are members of its Advisory Council ([CEDAW/C/PRT/CO/10](#), para.

14(c)).

In 2022, the Working Group of Experts on African Descent in the report on its mission to Portugal urged Portugal to adequately fund and strengthen the capacity of civil society of African descent and adopt effective measures to prevent reprisals against anti-racism human rights defenders ([A/HRC/51/54/Add.2](#), para. 102).