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Replies of Portugal to the list of issues in relation to its fifth periodic report* **

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* The present document is being issued without formal editing.

** The annex to the present report may be accessed from the web page of the Committee.



I. General Information

Reply to paragraph 1 of the list of issues E/C.12/PRT/Q/5

Cases in which provisions of the Covenant are applied or invoked by the State party's courts, including regarding the number of cases, and examples

1. In Portugal, it is only possible to resort to a 'term search' for judicial decisions in the jurisprudence databases of higher courts. The examples below represent the entirety of the search when using the term "ICESCR", where reference to this international treaty forms part of the reasoning of the decision and declarations of vote.
2. Constitutional Court case 1: The dispute concerned the issue of a property that was the permanent home of eight persons in a situation of proven economic fragility, including children, to settle a debt arising from a personal credit. In a dissenting opinion, one of the judges made a reference to Article 11(1) of the Covenant.
3. Constitutional Court case 2: In this judgment, about the constitutionality of certain norms repealing subsidised credit and subsidised youth credit, the Constitutional Court affirmed the undeniable importance of the right to housing as a result of human dignity, which is indispensable to the realisation of other human rights, on the basis of Article 11(1) of the ICESCR.
4. Supreme Court case 1: The applicant claimed that the State should be ordered to compensate him for the material and non-material damage suffered by his unlawful pre-trial detention. The Court ruled that the pre-trial detention was unlawful as a result of a gross error, due to lack of evidence that the offence was committed by him. Disagreeing with the majority reasoning given, while agreeing with the sentence to compensate and the amount thereof, one of the judges, in a declaration of vote, invoked Article 2(2) of the ICESCR, to substantiate the right to compensation based on the legal regime of the State's liability for lawful facts.
5. Appeal Court of Porto case 1: In the grounds of the decision, with regard to the hierarchy of the ECHR and the decisions of the ECtHR, the panel of judges also affirmed the constitutional relevance of the ICESCR.
6. Appeal Court of Porto case 2: Basing the decision on Article 10(1) of the ICESCR and other international instruments, the sentence reversed the decision of the first instance court by fixing a less onerous protection measure to a minor.
7. Appeal Court of Porto case 3: The Court relied on Article 11(1) of the ICESCR and other international instruments to densify the concept of housing contained in a title constituting the horizontal property in which it was established that a certain fraction was intended for housing. Considering housing as the place where the fundamental rights inherent to the physical and moral personality materialise, the Court ruled out the possibility of the fraction intended for housing being used for local accommodation (touristic/rental) purposes.
8. Appeal Court of Porto case 4: In order to rule on the possible unconstitutionality of a literal interpretation of Article 106(1) of the Insolvency and Corporate Recovery Code on grounds of infringement of the right to housing, the Court based its decision on Article 11(1) of the ICESCR.
9. Appeal Court of Porto case 5: The Court of Appeal relied on Article 10(3) of the ICESCR to justify the adoption of special protection and assistance measures to all children and adolescents that guarantee them effective judicial protection. The Court reversed a decision rejecting the application to move the child's residence abroad, on a provisional basis, which jeopardised the employment contract which the mother had obtained and the need for the child to enter the foreign school system in good time.

Overall awareness of the Covenant rights among the population in the State party and on activities undertaken to raise awareness of economic, social and cultural rights and their justiciability

10. Most of the economic, social, and cultural rights provided for in the Covenant are also enshrined in Title III of the Constitution of the Portuguese Republic and are provided for in ordinary law. They are all justiciable in national courts.

11. National legislation enshrines the right to information that allows citizens to exercise their rights to citizenship and self-determination. This is particularly visible in the mandatory application of usability and accessibility standards in the construction of Government websites. To improve access to information by persons with disabilities, the provision of information in Braille and the translation into sign language has been generalized.

12. The National Strategies to combat homelessness (ENIPSSA 2017–2023), to promote child rights (ENDC 2021–2024), to combat poverty (ENCP 2021–2030), to ensure the rights of persons with disabilities (ENIPD 2021–2025), all had public consultations during their drafting process, and some foresee concrete measures to ensure access to information by the target groups.

13. All legislative measures in the social and labour areas are discussed in the Economic and Social Council with social partners and other representatives of civil society, and are well-publicized in the Government website and by the media before being approved. The entities responsible for the implementation of the legislation often carry out events and national awareness campaigns.

14. Regarding school-age children and young persons, education for citizenship plays an important role in raising awareness to economic, social and cultural rights. The National Strategy for Citizenship Education aims to help students to develop and to participate actively, namely through projects that promote fairer and more inclusive societies within the context of democracy, respect for diversity and the defence of human rights. The curricular framework integrates the component ‘Citizenship and Development’ in the structure of all education and training provisions (from primary education to upper secondary education), being an autonomous subject from 5th to 9th grades.

15. In the area of culture, with a view to strengthening the protection of human rights, combating all forms of discrimination, and promoting accessibility and inclusion for all persons to the equipment and services within the purveyance of the Ministry of Culture, the Strategy for Promoting Accessibility and Inclusion of Museums, Monuments and Palaces 2021–2025 has been adopted.

Reply to paragraph 2 of the list of issues

16. Unfortunately, the action plan has not yet been adopted. The draft Action Plan on Responsible Business Conduct and Human Rights (PNACERDH) is currently under final political validation. It went through consultations within the National Human Rights Committee, having received contributions from all its relevant members.

17. In Portugal, reparation for human rights violations resulting from the action of a company can be sought in the courts, including in those competent in civil, criminal, administrative and labour matters. This includes actions committed by Portuguese companies abroad.

18. Regarding criminal offenses committed outside the national territory involving companies, Portuguese law can only be applied when the facts are committed by a company or against a company that has its head office in Portugal and the nationality or residence of the victim is not relevant.

19. Under civil law, the rules contained in Regulation (EU) No. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast Brussels I Regulation) apply.

Reply to paragraph 3 of the list of issues

20. Portugal committed to reach carbon neutrality by 2050 and set ambitious targets to 2030 in regard to GHG emission reduction, renewable sources and energy efficiency. Portugal managed to reduce greenhouse gas emissions by 32% when compared to 2005 and to reach a 59% renewable share in electricity generation. Portugal is currently a coal free country, and we are accelerating renewable energy uptake, focusing mainly on solar, to reach 80% by 2030.

21. Portugal made a contribution of €2 million for the Green Climate Fund (GCF) in 2015 and another contribution of €1 million in 2019.

II. Issues relating to the general provisions of the Covenant (arts. 1–5)**Maximum available resources (art. 2 (1))****Reply to paragraph 4 a), b), c), d) and e) of the list of issues**

22. Please see annex 1.

Non-discrimination (art. 2 (2))**Reply to paragraph 5 of the list of issues**

23. The Portuguese authorities have implemented and are implementing a set of strategies, programmes and measures to tackle inequalities through different approaches.

24. In a sectoral approach, some examples: National Strategies to combat homelessness (ENIPSSA 2017–2023), to promote child rights (ENDC 2021–2024), to combat poverty (ENCP 2021–2030), to protect and promote the rights of persons with disabilities (ENIPD 2021–2025), to improve youth employment (PNI-GJ), several Active Labour Market Measures (ALMP).

25. In a territorial approach, some examples: National Programme on Territorial Policy (PNPOT); Integrated Territorial Approaches; Strategy for Territorial Cohesion; Local Social Development Contracts (CLDS); Programme +CO3SO Employment in the Interior.

26. In a combined approach: the recently approved Recovery and Resilience Plan (RRP) contains important measures to strengthen the responsiveness of the Portuguese economy and society to the repercussions of COVID-19. The RRP includes measures to increase the education and professional qualifications of the population and thereby to combat inequalities, measures such as:

- Modernization of the educational and vocational training establishments. It aims to expand, improve and diversify the technical and pedagogical capacity of educational and training spaces, contributing to strengthening the quality of training and the capacity of the Institute of Employment and Vocational Training (IEFP) and the Schools to provide training responses, in turn impacting on the increase of young persons' skills and qualifications, in a perspective of promoting the competitiveness of companies, thus enhancing the creation of skilled jobs;
- “Impulso Adultos”: a program aiming at the postsecondary professional qualification of adults;
- “Impulso Jovens STEAM”: a programme aiming to promote higher qualification of young persons in science, technology, engineering, arts, humanities and mathematics.

27. Another central objective in the RRP is the fight against precariousness and labour market segmentation based on the promotion of collective bargaining, the enhancement of training and qualification, and the defence of adequate wages and decent incomes. To achieve these objectives, the government has launched “Compromisso Emprego Sustentável”, a

hiring support measure foreseen in the RRP that aims the creation of permanent jobs, through direct support to the employer.

Reply to paragraph 6 of the list of issues

Statistics and disaggregated data

28. Framed within the remit of the National Plan for Combatting Racism and Discrimination 2021–2025 (PNCRD), Statistics Portugal is conducting a survey – for the first time – on living conditions, origins and trajectories of the resident population. The pilot survey took place between 18 October 2021 and 16 January 2022, and its main purpose is to test a questionnaire containing a question on the respondents’ ethnic origin self-identification as well as modules specifically focused on discrimination experiences. Moreover, the pilot survey aims to test the sample design, trying to ensure that the diversity of the resident population, such as specific ethnic minority groups, is part of the sample.

29. Moreover, the PNCRD includes several other measures relating to the production of relevant data and studies, namely:

- Creating the Independent Observatory on Hate Speech, Racism and Xenophobia, with a view to producing, collecting, processing and disseminating information and knowledge in the various areas and sectors covered by the PNCRD;
- Designing and launching a survey on diversity and inclusion at work within the Public Administration;
- Creating an intersectoral task force for reflection and the sharing of data collection approaches in Public Administration, based on the diversity and inclusion survey, and implementation of harmonised methodologies;
- Defining and implementing a model to encourage research projects, based on existing models such as the School Profile of Roma Communities;
- Launching a special call for tender to support research projects on the memory of slavery and colonialism and the historical presence of discriminated groups;
- Producing more knowledge on the paths and level of representation of discriminated groups in the Promotion and Protection of Children and Young Persons System;
- Producing more knowledge on the prison system and educational guardianship, at the level of trajectories and the presence of discriminated groups;
- Monitoring indicators related to the activity of the security forces.

30. Furthermore, every year and since 2017, the Commission for Equality and Against Racial Discrimination (CICDR) prepares and publishes an annual report containing the main trends and statistical data concerning discrimination based on ethnic and racial origin, nationality, ancestry and territory of origin. In this report we can find data disaggregated by type of discrimination, most used expressions conveying discrimination or racism and others. These data are also disaggregated by the sex of the victim(s).

Citizen’s card

31. Portugal has attempted to simplify procedures in order to obtain a citizen’s card and to ensure that persons without a fixed address could still obtain an identification card. Law 61/2021 now provides that a national citizen without a physical postal address may indicate, for the purposes of obtaining a citizen’s card, the address of the territorially competent social security service or, if there is no such address, that of the town hall, association or non-profit civil society organisation, the address of a PO box or a telephone number or e-mail address if the other alternatives prove to be unfeasible.

32. The legislator’s concern was directed in particular to the communities of persons traditionally without a fixed address, namely homeless persons and communities with traditionally nomadic lifestyles, such as the Roma communities. It is not yet possible to measure the impact of this measure given that it is very recent.

Equal rights of men and women (art. 3)

Reply to paragraph 7 of the list of issues

Project “The value of unpaid work of women and men – care and domestic work”

33. Below are some of the preliminary conclusions of this project:

- It is likely that, in 2030, the relative weight of unpaid care provided by families will decrease from 44% to 34,5% of care consumption needs;
- The value of unpaid care and domestic work in Portugal could represent, at least, around €40 billion per year (national minimum wage methodology), €62 billion (average remuneration of the professions that usually perform these activities methodology), €65 billion (national average remuneration methodology) or almost €78 billion (national average earnings methodology);
- Women are responsible for almost 70% of the monetary value of all unpaid care and domestic work;
- The weight of unpaid work would fluctuate between 15.6% and 26.6% of total GDP, depending on the calculation methodology used.

Social Security

34. The integration of unpaid informal care into the social security system was firstly operated through its inclusion in the solidarity subsystem of the Citizenship Social Protection system. In this subsystem, informal carers may receive the Social Integration Income (RSI) benefit and be entitled to the informal caregiver support allowance, if applicable, subject to a means test. They also have the possibility of enrolling in the Voluntary Social Insurance scheme.

35. During 2020 and 2021, taking into account the impact of the pandemic, several extraordinary and temporary supports were created linked to the work of caregivers. For example, the possibility was created of using the Home Support Service (Serviço de Apoio Domiciliário – SAD) and the National Network of Integrated Long-Term Care (RNCCI) as resource and support measures. For 2022 and beyond, legislation has already been passed to extend pilot projects to the entire national territory, introducing changes to streamline and expand the system of recognition and measures applicable to informal caregivers as an important measure of social policy. It is also worth noting the simplification of the process of recognition of the statute of informal caregiver and the extension of the recognition of care provided to more than one family member.

36. At the same time, and in the context of supporting the progression and development of their activity, it is planned to promote the integration of informal caregivers into the labour market, access to Recognition, Validation, and Certification of skills, access to the Student-Worker Statute, and the regulation of the reconciliation between professional activity and the provision of care, with a regime of absences, leaves, and organization of working time, and measures that promote the reconciliation between professional activity and the provision of care.

III. Issues relating to the specific provisions of the Covenant (arts. 6–15)

Right to work (art. 6)

Reply to paragraph 8 of the list of issues

37. The Constitution of the Portuguese Republic guarantees the fundamental right to freely choose a profession or type of work (article 47). Freedom to exercise any work, craft or profession was conceived by the constitutional legislator as a right with an essentially negative or defensive dimension, which implies, on the one hand, the right not to be forced

to work and, on the other, the right not to be prevented from choosing and exercising a free (any lawful activity for which the law does not require specific requirements to be fulfilled) or protected (for which the law requires certain requirements to be fulfilled) profession.

38. Considering the fundamental right of freedom to choose work and other fundamental rights, slavery is prohibited as a crime against personal freedom, provided for and punished by article 159 of the Penal Code.

39. Combating trafficking in human beings, as a form of modern slavery, is a priority of the Portuguese State provided for in article 160 of the Penal Code. This provision, as well as the successive National Plans to Prevent and Combat Trafficking in Human Beings, are part of the commitments made by Portugal in various international fora. The legislative technique to criminalise this phenomenon is based on the definition of non-restricted standard examples – namely, trafficking for sexual exploitation, labour exploitation, begging, slavery, the removal of organs or the exploitation of other criminal activities, punishing all those who offer, deliver, recruit, entice, accept, transport, house or host a person for the purpose of exploitation.

Reply to paragraph 9 of the list of issues

Digital

40. In line with the Action Plan for Digital Transition, the targets for the indicator of women ICT specialists were fixed at 25% in 2025 and 30% in 2030.

41. Huawei, the DNS.PT association and INCoDe.2030 (a public policy initiative to promote digital skills) signed a memorandum of understanding in which Huawei commits to launch a scholarship programme, which aims to benefit a total of 50 Portuguese higher education students in STEAM areas. *Portugal Digital* and the Commission for Citizenship and Gender Equality (CIG) will monitor the Programme management, in order to encourage equal participation of male and female students in the digital transition. The programme was launched the last quarter of 2021 and interested students could apply on the official website until the 1st of March 2022.

42. The Project “Engenheiras por um dia”, an initiative of the Secretary of State for Citizenship and Equality, as part of the National Strategy for Equality and Non-Discrimination 2018–2030, promotes the option of engineering and technology among non-higher education female students, deconstructing the idea that these are male domains, using role model and mentoring activities. It involves a network of 78 partner entities (10 of which are municipalities), 46 basic and secondary schools and 16 higher education institutions. Since its creation, in 2017, it has reached 10 411 young people from primary and secondary education, in 460 activities, including laboratory practices, role model sessions and mentoring.

43. The ‘Promote Gender Equality Opportunities in Senior Management’ project, promoted by CIP – Confederation of Portuguese Business, aims to identify and develop female talent with leadership potential, to foster their promotion to top management roles in companies, thus contributing to reducing the gender gap and to break down existing barriers in accessing leadership positions and functions.

44. INCoDe.2030 also includes initiatives to ensure the monitoring of gender balance, the disaggregation of data and measures to increase the participation of women.

45. Gender equality targets were also included in the recently approved R&D Public Investment Programme 2021–2030.

Dismissal and parental leave

46. Although pregnant, puerperal, or breastfeeding female workers and workers on parental leave enjoy special legal protection, their dismissal is not prohibited by law.

47. However, according to national legislation, the intention to dismiss these workers must be communicated in advance to the Commission for Equality in Labour and Employment (CITE), to check for evidence of discrimination and to issue a legal opinion

before dismissal. If CITE's legal opinion is unfavorable to dismissal, the employer can only do so after a Court decision that recognises that there is reason to do so. Dismissal due to a fact attributable to a pregnant, puerperal or breast-feeding female worker, or to a worker on parental leave, is always assumed to be done without just cause.

48. The vast majority of these legal opinions issued by CITE refer to cases concerning women. In more than half of all the cases, CITE opposed the dismissal, considering that the dismissal would be discriminatory on grounds of gender.

49. Concerning fixed-term employment contracts, the Labour Code provides (paragraph 3, article 144), that the reason for the non-renewal of a fixed-term contract of a pregnant, puerperal, or breast-feeding female worker, or to a worker on parental leave, must be communicated to CITE, within the maximum period of five working days.

50. In the last 4 years, the number of legal opinions before dismissal as well as the number of notifications of non-renewal of fixed-term employment registered a significant increase only in 2020, which can be explained by the economic situation resulting from the COVID-19 pandemic, which had a particular impact on the workers who are more exposed to the precariousness of work, as is the case of women, who are even more vulnerable when they have family responsibilities (it is also women who work the most on fixed-term contracts).

Reply to paragraph 10 of the list of issues

51. The situation of young persons is marked by structural challenges of insertion in the labour market – namely the transition costs between education/training and the labour market, but also by the more acute exposure to non-permanent contracts, more vulnerable in periods of economic crisis. The COVID-19 pandemic particularly affected young persons, first and foremost because they are over-represented in jobs with more precarious employment relationships. Young NEETs (Not in Employment, Education or Training) are a heterogeneous group at various levels, from educational attainment levels and professional qualifications to age and gender, as well as citizenship and degree of urbanisation, demanding tailored responses.

52. As such, tackling youth unemployment and promoting decent jobs are top priorities for Portugal, namely through well-tailored Active Labour Market Policies (ALMPs) and fine-tuning the labour law. The Government recently approved a legislative proposal (subject to discussion and approval by Parliament) entitled “Agenda towards Decent Work and Valuing Youth”. This proposal picks on the 2019 reform of employment legislation and includes measures designed specifically to reinforce the protection of young workers and trainees, but also broader initiatives to tackle labour market segmentation and to mitigate the resource to fixed-term contracts and temporary agency work, which are expected to have an impact on hiring practices, especially among youth, prone to be subject to non-standard employment forms.

53. The strengthening of the National Implementation Plan for a Youth Guarantee is based on 6 strategic axes: (i) Labour market insertion; (ii) Skills and qualification; (iii) Green and digital transition; (iv) Inclusion of vulnerable publics; (v) Integrated signalling, guidance, and monitoring system; (vi) Governance model and will be implemented through public policy measures at national, regional and local level.

54. The ALMPs set up initially to quickly react/address the emerging employment challenges have been kept and adapted for the recovery phase from the COVID-19 pandemic and progressive resumption of economic activity. For example, *ATIVAR.PT* (Strengthened Programme of Support for Employment and Vocational Training), designed to guarantee an adequate and rapid response of active policy, includes the more recent measures Social Employment Incubators (Incubadoras Sociais de Emprego) and Compromisso Emprego Sustentável.

Reply to paragraph 11 of the list of issues

55. Law 4/2019 established that the private sector compliance with the quota for workers with disabilities is compulsory from 1 February 2023 for Employers with more than 100 employees, and 1 February 2024 for Employers with 75 to 100 employees.

56. The main obstacles encountered in fulfilling the right to work of persons with disabilities are still prejudice and discrimination. Other obstacles exist, such as communication, physical barriers, and, in some cases, lack of skills and competencies.

57. Law no. 93/2019 of 4 September 2019, amending the Labour Code and the Code of Contributory Regimes of the Social Security, introduced affirmative action measures in favour of a worker with a disability or chronic condition. The employer must adopt adequate measures so that the person with a disability or chronic condition has access to employment, can exercise it, progress and has professional training.

58. The transition from sheltered employment to supported employment in the open labour market is facilitated by a recruitment and selection process adjusted to the characteristics of each person, as set out in the Quota Law, complemented by financial support, information measures, evaluation, and support for qualification and employment, namely through mediation and post-placement monitoring. This process is done at the regular Employment Centres of the PES (IEFP) network and, more recently, also through a dedicated entity “Valor T” as a result of a partnership between the PES and Santa Casa da Misericórdia de Lisboa.

Reply to paragraph 12 of the list of issues

59. The National Strategy for Roma Communities Integration (ENICC) continues to be implemented, with an overall implementation rate going from 60.14% in 2019 to 73.53% in 2020, with measures under strategic objectives 2 “promote inclusive citizenship and non-discrimination”, 5 “ensure effective conditions for access to education, educational success, and lifelong learning for Roma”, and 6 “ensure the conditions for full and equal participation of Roma in the labour market and professional activity” registering the highest implementation rates.

60. In terms of social and professional integration of Roma, the High Commission for Migrations implemented the following measures:

- The Operational Programme on Social Inclusion and Employment (POISE), funded by the European Social Fund, was launched with the objective of promoting the social and professional integration of the Roma Community through the following activities: career counselling actions, training (minimum 400 hours, including 300 hours of on-the-job training), information and awareness raising actions that contribute to promote entrepreneurship and skills acquisition as well as actions for employers focused on deconstructing prejudice and promoting equal opportunities. A call was opened to civil society organizations that work with Roma Community population and 9 projects were approved;
- The High Commission for Migrations also offers training and awareness raising actions for public and private entities (including potential employers) on Roma history and culture, with the objective of reducing prejudice and promoting inclusive practices;
- In 2019, the Observatory of Roma Communities created the “ObCig Integrating Companies Award” aimed at companies that employ five or more Roma people with a work contract.

Right to just and favourable conditions of work (art. 7)

Reply to paragraph 13 of the list of issues

61. Measuring the impacts of the recently adopted measures, such as the new measures inserted in the revised Youth Guarantee in December 2021 requires more time.

62. The tripartite agreement of 18th June 2018, signed between the Government and the Social Partners within the Permanent Commission of Social Concertation, had the primary objective of fighting precariousness and reducing labour segmentation, and promoting greater dynamism in collective bargaining. With this agreement, the Government and the

social partners agreed to develop a set of measures that included changes to the Labour Code. The main measures implemented to achieve this purpose were:

- Limitation of the legal possibilities of using fixed-term employment contracts and the promoting greater protection for workers, namely by reducing the maximum duration of fixed-term contracts from three to two years or uncertain term contracts from six to four years;
- Creation of new rules regarding the renewal of fixed-term contracts, making the initial period of the contract coincide with the period strictly necessary to satisfy the company's temporary need, and the total duration of the renewals cannot exceed the duration of the initial period of the contract;
- Revocation of the rule that allows fixed-term contracting for workers looking for their first employment and the long-term unemployed;
- Removal of the possibility for collective agreements to change the legal regime of fixed-term contracts.

63. In the last years, Portugal implemented a holistic strategy to overcome the high level of labour market segmentation, namely through the introduction of legislation changes above mentioned, but also through ALMPs.

64. One of the main goals of the labour legislation reforms was to combat the misconception on the risks of hiring permanently and on the culturally constructed idea that temporary contracts are a sort of “prolonged trial period” and to prevent irregular uses of temporary contracts while, at the same time, stimulating permanent hiring. The new rules entered into force a few months before the beginning of the COVID-19 pandemic and the pandemic's effect on the labour market may distort the analyses of the Labour Force Survey (LFS) data, namely the decrease, in 2020, of the share of temporary contracts, because it might be partly explained by the higher exposition of these workers to unemployment. Nevertheless, we need more time-series data to run over a proper evaluation of the labour legislation reforms, which will be made within the Social Dialogue framework. The LFS data shows a gradual reduction of the labour market segmentation, as the difference in percentage points between the Portuguese level and the EU level went from 6.6 percentage points in 2016 to 5.7 percentage points in 2019. In 2020 the difference was reduced to 4.3 pp, according to the latest available data (employees aged 15 or over).

65. Concerning the mechanisms to combat the misuse of service contracts in employee-employer relationships on “false employment”, if the labour inspector verifies, in the relationship between a person who performs an activity and another person or persons who benefit from this activity, the existence of characteristics of an employment contract, in the terms foreseen in article 12 of the Labour Code, the inspector will draw up a report and notify the employer to regularise the situation within 10 days or to make a statement. The procedure is immediately closed if the employer proves the regularization of the worker's situation, namely through the presentation of the employment contract or document proving the existence of an employment contract, reported on the date of commencement of the employment relationship. If at the end of the 10 days the situation of the worker in question has not been regularised, the Authority for Working Conditions will send, within 5 days, a report of the facts to the services of the Public Prosecutor's Office at the court of the location where the activity is carried out, with all the evidence collected, to file an action for recognition of the existence of an employment contract.

66. Concerning the gig economy legislative developments, a draft law was presented in October 2021, to amend the labour legislation in the broader context of the “Decent Work Agenda”, which includes further regulation of new forms of work associated with new work changes and with the digital economy, including the digital platform work. It was proposed the creation of a presumption of the existence of an employment contract with the platform operator as well as the strengthening of the duties of information and transparency regarding the use of algorithms and other artificial intelligence systems in the workplace.

Reply to paragraph 14 of the list of issues

67. The legislation approved during the COVID-19 crisis simplified the scheme for the temporary reduction of the normal work period or suspension of the work contract, already provided for in article 298.º of the Labour Code, as well as defined and regulated the financial support for workers and companies covered by these schemes and strengthened the means and powers of the Authority for Working Conditions (ACT).

68. The ACT, on its initiative or at the request of any interested party, can terminate the application of the temporary reduction of the normal work period or suspension of the work contract scheme for all or some workers in the following cases:

- Failure to verify or cease the existence of the ground invoked;
- Lack of communication or refusal to participate in the information and negotiation procedure by the employer;
- Failure to comply with any of the duties referred to in article 303.º/1/2.

69. The decision terminating the application of the measure shall indicate the workers to whom it applies and shall take effect from the moment of notification to the employer.

70. In addition, the workers also had the possibility of resorting to the judicial means of a precautionary measure to suspend dismissal, foreseen and regulated in article 33.º-A and following of the Code of Labour Procedure (CLP), and to an action to contest the dismissal (Article 98.º-B and following of the CLP). Nevertheless, the main remedy available to aggrieved employees is the possibility to request an inspection intervention.

71. The monitoring was/is made through inspection activities:

- Following requests for intervention addressed to the ACT, through the various channels made available for this purpose (website, postal service, electronic mail, information service);
- Planned by the deconcentrated services of ACT considering the identification of the needs of intervention at regional/local level;
- Planned by the central service of ACT considering the identification of the needs of intervention at the national level.

72. In 2020, 14.786 requests for inspection intervention were made to the ACT, and the ACT carried out 34.816 inspection visits covering 565.124 workers.

73. About the information, awareness-raising, and advice to workers and employers, due to the limitations of opening face-to-face assistance to the public, there was a need to mobilise resources to reinforce telephone and written services/assistance (including through social networks).

74. In promoting the control of technical prevention measures against contagion in the workplace, in addition to the routine activity, four specific actions were developed:

- National COVID-19 Action (01/03/20–14/08/20): carried out about 1.700 inspection visits;
- National OSH Action – Economic Activity Restart (01/03/20–14/08/20): carried out 1.000 inspection visits;
- National OSH Action (27/07/20–28/08/20): carried out 1.200 inspection visits;
- Local Action Lisbon Construction Sites (08/06/20–18/07/20): carried out about 860 inspection visits.

75. In addition, to promote the control of administrative measures to prevent contagion in the workplace, a Teleworking National Action was developed (25/11/2020–11/12/2020). And finally, the monitoring of situations in business crisis (procedural legality in situations of reduction or temporary suspension of employment contracts, closure and temporary reduction of activity, collective dismissal, extinction of jobs, late salary payments, and insolvency), considering the economic situation caused by the pandemic, also deserved

special attention by the ACT, with the Lay-Off National Action (01/04/2020–21/09/2020) carrying out about 2.740 inspection visits.

Reply to paragraph 15 of the list of issues

76. Within the context of the Strategic Plan for Migration (2015–2020), several measures were taken to both deter and combat trafficking and the exploitation of undocumented migrant workers in the agricultural sector and to promote knowledge, prevention tools and best practices. In this regard the following results were achieved:

- 22.406 inspections were carried out by the Immigration and Borders Service (SEF) and the Authority for Labour Conditions (ACT) with the objectives of monitoring employers, prevent and combat trafficking in human beings, labour exploitation, forced labour and undocumented work;
- 11 training sessions on labour rights and duties were jointly developed and implemented by the High Commission for Migrations (ACM) and ACT. The training targeted the staff at National and Local Support Centres for Migrant Integration (CNAIM and CLAIM, respectively) that work directly with migrant populations and civil society organizations (165 officers attended these sessions);
- A Guideline of Seasonal Activities within the agriculture sector, that included information on the existing work opportunities, was published in 2015 to improve migrants' integration in the agriculture labour market.

77. In addition, the ACM plays a fundamental role in facilitating the reporting of violations of labour rights, not only because it carries out a mediating role, but also because the CNAIM and CLAIM are recognised as safe places for migrants, including those that are undocumented. Moreover, ACM collaborates closely with other relevant public entities, municipalities, and local organizations to better identify and respond to emerging needs.

78. Within the National Plan for the Implementation of the Global Compact on Migration, adopted in 2019, the government and several entities have been implementing several measures to remove obstacles to integration, namely:

- The allocation of the Social Security Identification Number to all immigrants who are working, a measure to remove obstacles in the regularisation process, has already covered more than 230.000 citizens;
- A platform for the automatic renovations of residence permits, allowing the renovation of more than 163.000 residence permits.

79. During the COVID-19 pandemic, seasonal migrants working in the agriculture sector became increasingly exposed to exploitation and human rights violations and abuses. For that reason, the ACM worked together with other public entities and civil society organizations, to implement the following measures: conduct regular inspections to migrant's work and living facilities, carry out training and awareness raising actions on the ground, develop info materials in different formats (e.g.: posters, videos) and in six different languages, mediate between migrants and other private and public entities, offering information and support to ensure migrants' safe enjoyment of rights (food, health, housing, social security) and services (vaccination, social security support schemes, regularisation). The ACM staff also liaised with various entities and created a job pool to help integrate into the labour market migrants affected by the pandemic and/or those who had been victims of exploitation.

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Equal work for equal pay

80. Since the entry into force of Law no. 60/2018, CITE has received five information requests regarding pay discrimination and two cases concerning allegations of pay discrimination based on gender, one concerning a male worker and the other a female worker. CITE had issued a binding opinion regarding the male worker case, where it concluded that there is evidence of wage discrimination based on gender. CITE notified the worker and the employer of its binding opinion, so that the latter can justify the evidence of discrimination

or present corrective measures adopted, within 180 days. As the employer failed to do so, the CITE opinion was sent to the labour inspectorate.

81. Regarding the case presented by the female worker, CITE binding opinion also concluded that there was evidence of wage discrimination based on gender. The deadline for the employer to justify this evidence or to present corrective measures adopted within 180 days is running.

Workers of African descent

82. According to the Constitution, the IEFPP – the Portuguese Public Employment Service – does not register in its information systems the race or ethnic origin of jobseekers.

83. The IEFPP develops training and other activities to promote ‘blind recruitment’ for its staff, workers of Human Resources companies, and the unemployed themselves. It develops awareness sessions for employers within the scope of recruitment and in articulation with the social partners. The IEFPP is an active member of the Portuguese ‘Charter for Diversity’ and a partner in the implementation of the National Plan to Combat Racism and Discrimination (NPCRD) 2021–2025.

84. The ACT also participates in the implementation of the NPCRD 2021–2025 with measures to support pilot projects that promote the intervention and representation of trade union movements among workers in more precarious and atypical work contexts, and respective articulation with anti-racist, immigrant, Roma, and other relevant associations; the development of a checklist to be applied in ACT’s inspection actions regarding non-discrimination; and specific inspections on non-discrimination and the development of mechanisms for coordination between the ACT and other entities.

85. Finally, the ACM launched a Guide to Inclusive Recruitment, within the context of the Working Group for Employability promoted by the Portuguese Association for Diversity and Inclusion (APPDI). The document is intended to inspire and offer tools to promote inclusive and diverse working environments. Since 2021, the ACM’s training catalogue also includes a module on the ‘Law against discrimination, which focuses on Law No. 93/2017 that established a new legal regime for the prohibition, prevention, and fight against discrimination on grounds of racial or ethnic origin, colour, nationality, ancestry, and territory of origin; in 2021, the module reached 137 participants.

Workers earning less than the minimum wage

86. Under article 275 of the Labour Code, reduction of the minimum monthly wage may be applied to a practitioner, apprentice, trainee or trainee in a certified training situation (20% during one-year maximum and subject to other criteria); a worker with reduced work capacity (the difference between the full capacity for work and the coefficient of effective capacity for the activity contracted, if the difference is greater than 10%, with a limit of 50%).

87. In addition to these categories, earning less than the minimum wage can also be explained by the remunerations of part-time workers or those with incomplete remunerations, for example, due to illness.

Right to social security (art. 9)

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88. The amounts of social support, including minimum pension values, are established based on the social support index (IAS). This reference value is updated annually, taking into account a set of relevant criteria, namely price developments and economic growth that ensure respect for the principle of intergenerational equity and financial sustainability of the social security system. When, due to the foreseen rules, the annual update of the IAS tends negative, this update is suspended. The adequacy of the benefits paid during the COVID-19 crisis followed these rules.

89. The pandemic led to the adoption of several exceptional social protection measures, in which various social benefits were reinforced and extended, and other forms of support

were created. For example, measures to provide extraordinary financial support for income were created for employees, self-employed workers, domestic workers, and for their families, employers, and members of statutory bodies/managing partners, informal workers, and specific social support for professionals in the performing arts.

90. Concerning combating poverty, the following actions were taken: within the scope of Family Allowance, improvement of access criteria and the 'one-off' allocation of a base value of complementary allowance/year for the first 3 income brackets; the capacity of the Food Program was doubled; creation of a special scheme for access to the Social Integration Income, its attribution not depending on an insertion contract, training having been encouraged ensuring the accumulation of this benefit with a training grant, and attribution based on income at the time and not the previous 3 months; extension of the minimum subsistence payments whose concession or renewal ended by a certain date; extraordinary suspension of revaluations of the conditions for maintaining social security benefits; granting financial support to persons who were not mandatorily covered by the social security scheme and who declared the beginning or resumption of self-employed activity, maintaining it for a minimum of 24 months after the cessation of payment, this support subject to a means-test.

91. In the area of unemployment protection, temporary and exceptional measures were created for the attribution of the various benefits, namely the reduction of qualifying periods, and the possibility of accessing them for shorter periods and regardless of age or contributory career; temporary and extraordinary extension of the periods for granting benefits, allowing access to other support at the end of the extension; increase in the minimum limit and amount of unemployment benefits, with certain family conditions.

92. In the area of sickness protection, attribution of occupational disease allowances to employees and self-employed workers in the health sector, prevented from working because of COVID-19, with rules different from those of sickness benefit, concerning amounts and no waiting period; creation of the COVID-19 sickness benefit, granted without a qualifying period or waiting period, having its value been higher than the normal sickness benefit for a maximum of 28 days, in force until the end of 2021.

93. Seeking, through dematerialisation of processes, to minimise human intervention in the management cycle, to ensure uniformity of processing and to simplify access to benefits by applicants, projects, improvements have been developed in recent years in the various digital information subsystems, particularly in the area of social benefits for inclusion. Citizens are now able to apply for benefits through Social Security Direct (SSD) and the awarding and managing process of the benefit is dematerialised.

94. Within the scope of the Disability Allowance benefit, whose cases were pending decision, following the changes introduced to the legal regime of family benefits by Decree-Law no. No. 136/2019, as they were awaiting analysis based on the criteria that would be defined within the scope of the disability proof, the work carried out following the publication of Order-in-Council No. 108/2021 and Order-in-Council No. 5265-C/2021 enabled the Multidisciplinary Medical and Educational Assessment Teams to be set up and work on the assessment and decision of situations pending since October 2019.

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95. The Social Inclusion Benefit (PSI) is a monthly cash benefit, paid to national and foreign citizens, refugees, and stateless persons, who have a disability which results in a degree of incapacity equal to or greater than 60% established by a medical assessment carried out based on a comprehensive table of established physical disabilities.

96. The benefit was designed with three components to cover all situations and the conditions of access and amounts were defined, as far as possible, to meet the conditions of the vulnerability of these persons. The PSI coverage comprises: the basic component intended to compensate for the general accrued charges derived from the situation of disability, and to promote the autonomy and social inclusion of the individuals with disabilities; the complement that aims to combat the situations of poverty of the individuals with disabilities; and the top-up aiming to compensate for specific charges derived from the situation of disability, which is to be regulated on a subsequent phase.

97. The monthly amount of the PSI depends on the recipient's level of incapacity, age, personal income and work status. The maximum monthly amount of the basic component is €275,30 (50% when the beneficiary is under 18). All personal income is taken into consideration and deducted from the annual reference value of the benefit (€3.303,58). There is special treatment for professional income, as it is possible to combine the basic income with professional income up to the amount of €9.215,01 to encourage labour participation. The amount of the complement depends on the household's income. The maximum monthly amount is €438,22, increased by 75% for each entitled member of the household.

98. Adequacy of the eligibility requirements and the amounts of the social inclusion benefit take into consideration that it is possible to combine the benefit with other benefits for persons who are in a situation of socioeconomic need, namely the social integration income (RSI). Moreover, the amount of the basic component is increased by 35% if the beneficiary under 18 is part of a single-parent family.

99. As of October 2019, the Social Assistance for Inclusion was extended to children and young persons with disabilities, starting the third phase of implementation of the measure, maintaining, however, the possibility for children aged under 11 to continue to have access to the disability allowance. The measure has a life cycle logic, modelled according to the circumstances of the person, reinforcing the support already granted in other benefits. According to the available data, there is a sustained increase in the number of beneficiaries since the measure was first released, which has reached its maximum in October 2021 (for a total 118.267 beneficiaries, 0,2% more than in September 2021 and 6,3% more than in November 2020).

100. Unemployed higher education graduates are entitled to the Social Integration Income, as long as they fulfil the entitlement conditions foreseen in the law. They may also benefit from special ALMP such as paid training and hiring incentives.

Protection of the family and children (art. 10)

Reply to paragraph 19 of the list of issues

101. Starting in 2020, the national programme *Radar Social*, through pilot projects, proceeded with the identification and monitoring of older persons to promote active and healthy ageing, through social support services at home. In 2021, the Social Radar Programme was extended to the entire country, for signalling and monitoring isolated older persons at risk.

102. Also starting in 2020 and in force until the end of the year, the Adapt Social + Programme created an incentive system for entities with cooperation agreements for the development of social responses, and to private entities that develop licensed social support activities, to mitigate the added costs of restoring the functioning of social responses, after their closure due to the pandemic. This was translated into support for the adaptation of social facilities, changes in work organization methods, in the relationship with users, family members, and others, to guarantee the implementation of preventive measures against contagion, in this sense supporting the costs of acquiring personal protection for workers and users, hygiene equipment, disinfection contracts, reorganization of workplaces and changes in the layout of social response equipment, as well as costs for training workers.

103. In 2021, and taking effect until the end of that year, the Adapt Social + / Reactivation and Reinforcement Programme reinforced the implementation of a set of rules and special safety conditions in the organization and functioning of institutions that guarantee social responses, to support the acquisition of personal protective equipment suitable for the safety of the elderly and people with disabilities within the scope of social responses Residential Establishment for Elderly People (ERPI) and Residential Home, consisting of financial support of a fixed amount per user, always up to the limit of installed capacity.

104. As a response to the COVID-19 pandemic and in order to contain the spread of disease in prisons, Portugal also established the Exceptional Regime of Flexibility in the Enforcement of Penalties and Measures of Grace, which, among other measures applicable to the prison population in general, established an extraordinary regime of pardon of

sentences specifically directed to the elderly. Under this exceptional regime, the President of the Republic could grant total or partial pardon from prison sentences to prisoners aged 65 or older who had a physical or mental illness or a degree of autonomy incompatible with their normal stay in prison, in the context of this pandemic. This exceptional regime of flexibility in the enforcement of sentences and measures of grace, in the context of the COVID-19 pandemic, was repealed in November 2021.

Right to an adequate standard of living (art. 11)

Reply to paragraph 20 of the list of issues

105. A new strategy for fighting poverty in Portugal 2021–2030 (ENCP) has been approved on 29 December 2021, following a process of public consultation. The strategy is structured around six intervention axes: i) reducing poverty among children, young persons and their families; ii) promoting the full integration of young adults into society and reducing their risk of poverty; iii) boosting employment and upskilling as factors for the elimination of poverty; iv) reinforcing public policies for social inclusion and promoting social protection for the most vulnerable people and groups; v) promoting territorial cohesion and local development; vi) turning the fight against poverty into a national goal.

106. The new strategy places children at the heart of the fight against poverty and social exclusion – the first axis of the strategy targets children specifically. In-work poverty is recognised as a major problem that needs to be addressed as well. Overall, it is expected a reduction in the number of people at risk of poverty or social exclusion by at least 660 thousand people by 2030, including at least 170 thousand children and 230 workers.

107. While the Social Integration Income (RSI) on its own is not sufficient to reduce the risk of poverty, it plays an important role in mitigating the intensity and severity of poverty in very-low-income households. From 2016 onwards, adjustments were made to the RSI's legal framework to expand coverage and improve the living conditions of households with incomes considerably below the poverty threshold, especially larger households with children. Both the equivalence scale and the RSI reference value have been modified and updated. The modified OECD equivalence scale (which in Portuguese legislation gives a weight of 1.0 to the first household member, 0.5 to each additional adult, and 0.3 to each member under 18 years old) was replaced by the OECD equivalence scale, now giving a value of 1 to the first household member, 0.7 for each additional adult and 0.5 for each child. The use of this scale takes into account differences in size and age composition between households when the RSI value is calculated by social security services. The RSI reference value was settled at a higher level (€178,15 in 2016, €183,84 in 2017, €186,68 in 2018 and €189,66 from 2019) and procedures have been simplified to reduce non-take up (namely, automatic renewal).

108. Accordingly, the at-risk of poverty or social exclusion rate fell between 2016 and 2019, reaching its lowest rate (16,2%). The general improvement in poverty and social exclusion indicators is also in line with labour market improvements in the period, particularly with the sustained fall in the unemployment rate. For 2020, the results of the Survey on Living Conditions and Income (EU-SILC) indicate that 18,4% of residents were at risk of poverty. This negative evolution (2.2 pp more than in 2019) means a reversal of the downward trend observed since 2015, reflecting the first social impact of the COVID-19 pandemic.

Reply to paragraph 21 of the list of issues

109. The National Strategy for the Integration of People in Homelessness Situation (ENIPSSA 2017–2023) is based on bi-annual Action Plans. In June 2020, a Social Insertion Programme has been initiated with the implementation of the projects 'Housing First' (with 324 places) and 'Housing Led-shared apartments' (with 260 places). In December 2021, almost 600 people were effectively in 'Housing First' and 'Housing Led' projects. In March 2022, the accumulated number of places offered is 824.

110. Within the coordination framework of the existing ENIPSSA 2017–2023, the majority of the measures identified in the context of the COVID-19 pandemic were taken in

cooperation with the municipalities and NGOs. Since the declaration of the ‘state of emergency’, all available emergency shelters, including those envisaged only for temporary use during the winter, were opened. In addition, 21 new shelters were created all over the country, giving shelter to about 500 persons. The shelters provide all kinds of care, namely health care, hygiene care, food and clothes.

111. In order to guarantee the protection of family members during the COVID-19 crisis, ensuring their residential stability and the conditions for a safe lockdown, the Portuguese Government suspended evictions and foreclosures during the ‘state of emergency’, also prohibiting landlords to demand any compensations for the postponement of the rent payments.

112. Furthermore, in order to help families in financial need as a result of the COVID-19 pandemic, the Government created a no-interest loan to support rent costs. In cases of families with very low incomes, or in persistent financial difficulties, it also became possible to require the conversion of the loan into a subsidy. Also, when a household’s income decreased by 20% or more as result of the COVID-19 pandemic and their rent represented more than 35% of the income, moratoriums were granted in rent payments. The payments could be delayed during the ‘state of emergency’ and the following month. Total value in debt is then later paid in monthly instalments (as low as 1/12 of the total debt), starting the second month after the end of the ‘state of emergency’.

Reply to paragraph 22 of the list of issues

113. Law no. 37/2018 implemented the programme *1.º Direito* (‘First Right’), pursuing the objective of providing a response to families living in a situation of severe housing shortage and the reinforcement of the public housing sector. This programme aims to eradicate all the situations of precarious and unworthy housing conditions, guaranteeing the access to a housing to all the families and citizens who do not have the financial capacity to access an adequate solution for living.

114. The programme is based on a cooperative effort between different levels of government, namely the national and local levels, assigning to the municipalities the task of identifying the housing shortage and the situations of unworthy housing conditions in their territory and to define the solutions to overcome those needs. The Institute for Housing and Urban Rehabilitation (IHRU) then provides financing both to the municipalities and to the households for the rehousing, rehabilitation or construction of new or improved housing. Currently, 168 collaboration agreements have been signed by IHRU and municipalities, as well as 4 with municipal housing companies and 1 with a third-sector entity, covering 46.506 housing solutions for families.

115. The programme ‘Da Habitação ao Habitat’ is an experimental program, that aims to promote the socio-territorial integration and cohesion of public rental neighbourhoods, improving the overall living conditions of their residents. This programme is designed to explore and identify innovative solutions and good practices for a more integrated and participative management of neighbourhoods, coordinating and articulating local actors and communities, in a collaborative decision-making process.

116. Collaboration agreements were signed in July 2019 for 3 territories (Ponte de Lima, Elvas and Vila Nova de Gaia). In May 2020, the programme’s Local Action Teams promoted a Good Practices Presentation/Discussion Session, in which one of the partner entities from each neighbourhood presented an overall balance and the knowledge acquired in each of the three interventions. Due to the pandemic, the programme has been extended until December 2022.

Right to physical and mental health (art. 12)

Reply to paragraph 23 of the list of issues

COVID-19

117. In 2020, a set of international recommendations and national strategic guidelines emerged, specifically to promote the resilience of the health sector, improve basic infrastructures, respond to the most vulnerable geographic areas and social groups, strengthening investments in primary health care and mental health, supporting health promotion, healthy lifestyle programmes and intersectoral actions to increase equity and resilience in health.

118. These led to a set of strategies and plans that are being developed in order to respond to these challenges. At the national level, it is important to highlight the following:

- The new Health Law, approved in September 2019;
- The Economic and Social Stabilization Program (PEES), approved in June 2020, which determines measures to strengthen the NHS, value the NHS professionals, value the public health and invest in information systems networks in health;
- The National Health Plan (PNS) 2021–2030, which is under preparation;
- The designation of a Commission for Monitoring the National Response in Intensive Care with the main goal of maximizing the response in this area, combined with an investment of 86 million euros in equipment, infrastructures and health professionals' support;
- The creation of a financing program to reinforce and expand the diagnostic network;
- The investment on eHealth, that helped increase access to care, facilitated communication and had a strong impact on both efficiency and sustainability of the NHS.

119. In order to strengthen the health system response to the pandemic, the Portuguese Government adopted several measures in 2020 and 2021 to reinforce the number of health professionals and created exceptional mechanisms to manage these professionals. As a result of these actions, in 2020 the workforce registered an increase of 9.193 health professionals when compared to 2019. The compensation of the workers involved in the COVID-19 pandemic covered about 25.000 NHS health professionals and had a cost of 23 million euros. These measures include:

- Reactivate backup structures to vulnerable patients who no longer need hospitalisation;
- Hiring retired nurses for COVID-19 contact tracing;
- Special rules for hiring ICU nurses and doctors and expansion of ICU beds;
- Issuing isolation declaration through the SNS (NHS) 24 hotline;
- Creation of a specific subsidy to help compensate the health professionals directly involved in the pandemic's response, due to the increased risk related to their functions.

120. Since 2019, Portugal's strategic objective is to reduce and eliminate the waiting lists for consultation ≥ 9 months and the waiting list of surgeries ≥ 12 months. Analysing the National Health Service (NHS) activity, it can be concluded that there is a recovery of the activity in October 2021 compared to the previous year, with emphasis on scheduled surgeries (+27,9%) and first consultations (+19,1%). Additionally, in view of the homologous period of 2019, before the COVID-19 pandemic, there are already very similar or even a improved response in the case of scheduled surgeries (+1,3%). In the case of waiting lists for consultations for a period of 9 months or more, there has been a steady reduction since August 2020, now reaching almost half the value of December 2019. In the case of surgeries, the values are at levels similar to pre-pandemic.

121. Due to the relevance of the recovery of care activity not carried out due to the pandemic, measures were created to strengthen the NHS, namely in the dimension of the recovery of access to health care (Economic and Social Stabilisation Programme (PEES) of June 2020). An exceptional regime of financial incentives stands out, which increases the additional production premiums to the respective teams, within the scope of the first consultation and surgery, as a way of encouraging the increase of the care activity carried out in the establishments and services of the NHS.

Undocumented migrants

122. The Portuguese NHS is designed to ensure access to all persons, including the most vulnerable ones. It is a “universal, comprehensive and tendentially free-of charge” health system which provides universal coverage and a broad range of benefits. The Portuguese constitutional and legal framework guarantee access to health care to both to regular and irregular migrants, making them beneficiaries of the NHS.

123. Thus, the actions promoted by the Ministry of Health that qualitatively aimed to protect the health of certain vulnerable groups were:

- Order No. 3863-B/2020, and later Order No. 4473-A/2021, which determined that in the period from March 18, 2020 to April 30, 2021, all foreign citizens with pending proceedings in the Foreigners and Borders Service (SEF), were in a regular situation in national territory. Thus, by submitting certain documents (the proof of the scheduling in the SEF; the document of expression of interest; request issued by the platforms in use in the SEF) it was possible to request the assignment of a national number of user, and consequently have access to the same health services as a national citizen;
- Order No. 6452/2020, within the framework of the national epidemiological surveillance information system (SINAVE), was included in the National Register of Users of national and foreign patients without a national user number, ensuring, by that way, the respective unambiguous identification in the clinical and laboratory notifications to be carried out;
- Ordinance No. 248/2017 established the governance model of the National Vaccination Program (PNV), as well as other vaccine strategies for the protection of public health and risk groups or in special circumstances, with the objective of ensuring its high standards of effectiveness and efficiency and its gains in health for the entire population living in Portugal. Migrants, with or without legal residence, asylum seekers and refugee status, seasonal migrant workers, with active registration and user number of the NHS or with provisional registration of National User Number were included in the Vaccination Plan;
- Publication of Information No. 10/2020 of 8 May by the Directorate-General for Health, reinforcing the right to health protection and access to health care by migrants and refugees. It also mentions the removal of administrative barriers to access to the NHS, regardless of the status of migrants, and these populations are enjoy the same conditions as national citizens;
- Issuing the Directorate-General for Health Guidance 35/2020 of 30 July on COVID-19 prevention measures, aimed at populations in situations of greater social and economic vulnerability;
- Migrants who did not have an NHS user number assigned or did not have provisional registration of the National User Number, because they never contacted the NHS health care network, were encouraged to link with regional and local immigrant support groups, including National Migrant Integration Support Centres (CNAIM), Local Migrant Integration Support Centres (CLAIM) and the High Commissioner for Migration (MCA), strategies that have allowed them to signal and accommodate support for the vaccination plan.

Reply to paragraph 24 of the list of issues

124. To address the impact of the COVID-19 pandemic on mental health, specific measures have been taken following the WHO 4-step model. At the first level (self-care), the aim was to increase the population's literacy about the impact of the pandemic, through the media and online platforms; at the second level (community), telephone helplines were created, both for general population and health professionals; at the third level (Primary Care), Local Mental Health Centres were activated within the Primary Care network, in close connection with the psychiatric services from the same areas; at the fourth level, an increase in the offer of mental health services was made available to maintain close contact with patients, and to support staff working on the in general hospitals (ICU, general wards). Psychiatry was the only area that was able to increase the number of consultations in 2020, among all medical areas.

125. Regarding homeless persons with mental health conditions, a direct path to mental health services was established throughout the country.

126. An organizational and legislative reform of mental health is currently underway. Portugal is progressively increasing funding and reshaping mental health services, by:

- Making mental health a priority within the Government's health policy;
- Improving access to outreach care, through the launching of community teams for adults and children and adolescents;
- Launching innovative therapeutic approaches, such as Open Dialogue;
- Including users and families in the National Mental Health Programme team;
- Setting independent monitoring of mental health facilities;
- Replacing interdiction and disqualification practices with person-centred monitoring (new legal framework);
- Reshaping the forensic system, through the creation of less restrictive half-way houses, fostering the integration of forensic patients in the community;
- Updating the Mental Health Law in accordance with the principles and norms of the Convention on the Rights of Persons with Disabilities.

Right to education (arts. 13–14)**Reply to paragraph 25 of the list of issues***Schooling, non-discrimination and COVID-19*

127. Educational policies to guarantee equal access to public school and promote educational success, have been consubstantiated in a set of guiding principles, namely:

- Fostering the improvement of teaching and learning quality;
- Guaranteeing an inclusive school, which fosters equality and non-discrimination;
- Valuing the community and the students' linguistic diversity, as an expression of individual and collective identity;
- Promoting citizenship and personal, interpersonal, and social intervention development education throughout all compulsory schooling.

128. To ensure equality, equity and inclusion principles for every child and student, the Portuguese Ministry of Education adopted a set of actions that constitute the framework for the construction of a curriculum for the 21st century, namely the approval of the following legal documents:

- Student's Profile by the End of Compulsory Schooling, that establishes the matrix of principles, values and competence areas, to which the curriculum development must comply;

- Decree-Law no. 55/2018, which defines the implementation of an educational policy with a person-centred approach as a priority, ensuring equity in the access to public education and promoting educational success and equal opportunities for all;
- Decree-Law no. 54/2018, which establishes the principles and norms that ensure inclusion, as a process that aims to respond to the diversity of needs and potential of each and every student, through increased participation in learning processes and in the life of the educational community.

129. During the COVID-19 pandemic, the Ministry of Education together with the national public TV channel RTP launched the project #EstudoEmCasa (‘studying at home’), from the 20th April 2020, to ensure equity, inclusion and success of all students regarding the access to education. This project was targeted to students from primary and secondary education. In April 2020, the document *9 Guiding Principles for the Monitoring of Students who attend #EstudoEmCasa* was published, explaining the purpose of the project, i.e., making educational resources available firstly for students with no/limited access to Internet and computers, regardless of other educational strategies used by teachers/schools. The classes broadcast on television had additional educational activities, which could be handed to students at home whenever necessary. Furthermore, students were closely accompanied by teachers-mentors from their schools who were responsible for monitoring their learning.

Roma students

130. One of the priority objectives of the National Roma Communities Integration Strategy is to ensure effective access to education, educational success, and lifelong learning for Roma. To that end, Portugal has rolled out specific programmes to improve access to quality education for Roma children and young persons, including two National Scholarship Programmes managed by the High Commission for Migration (ACM) – Roma EDUCA (for upper secondary and secondary education) and OPRE (for higher education).

- Roma EDUCA – in its first edition (2019–2020 academic year) awarded 49 scholarships (13 girls and 36 boys). In the second edition (2020–2021), the number of scholarships awarded increased to 120 (62 girls and 58 boys). Due to the high influx of applications (446) and interest in the Programme, ACM signed a protocol with a company that allowed for 21 additional scholarships;
- The OPRE Programme funded 37 students of Roma origin (19 girls and 18 boys) in 2019/2020 and 41 students (19 girls and 22 boys) in 2020/2021. Currently in its 6th edition, the programme funded 39 students (17 girls and 22 boys) in 2021/2022.

131. Every 2 years, the Ministry of Education launches a national pool in public school monitoring Roma student’s educational performance. The two reports produced under this pool show improvement in some fields, namely the rising number of Roma children in preschool, the improvement of academic success and the reduction of early school dropout.

132. In addition to these, the High Commission for Migrations promotes the Choices Programme which is a nationwide public Programme intended to foster equality and social cohesion by promoting the social inclusion of children and young persons, between 6 to 25 years old, from the more vulnerable socioeconomic backgrounds, particularly migrant descendants and Roma children. Currently in its 8th edition, 105 projects are being implemented all over the country. During 2021–2022, 27.704 individuals are foreseen to be involved, of which 21% from Roma communities.

133. In the context of the Choices Programme, one of the main objectives has been to ensure that the girls from the Roma community stay in school, and avoid early dropout, particularly among girls from the ages of 11/12. The programme provides mediation between the school and the family in order to raise awareness on the importance of education for the future of these girls and to prevent early marriages and pregnancies.

Reply to paragraph 26 of the list of issues

134. In 2014–2015, 1.023 social scholarships for higher education were awarded to persons of African descent and 1.114 in 2018–2019. These numbers refer to scholarship holders with any member of the household national of an African country. As for persons with disabilities,

in 2017–2018 a specific scholarship was created for higher education students with disabilities (equal to or greater than 60%), awarded to 524 students in that initial year, number which has been increasing, having already reached 1.088 scholarship holders in the current year of 2021–2022.

135. Regarding the number of candidates who applied through the special call for scholarship students from Portuguese-speaking African countries, there was a total of 558 in 2014–2015 and 1.273 in 2018–2019. Regarding the number of candidates who applied through the national call for the special contingent for students with disabilities, there was a total of 129 in 2014–2015 and 255 in 2018–2019. Both have increased significantly.

Cultural rights (art. 15)

Reply to paragraph 27 of the list of issues

Promotion of cultural activities for the most disadvantaged communities

136. During the Portuguese Presidency of the Council of the European Union, and under the National Arts Plan 2019–2024 (PNA), the Porto Santo Charter was developed, focusing on the role that culture, arts, heritage and education sectors play in promoting democracy and contains 37 recommendations that encourage European authorities, cultural institutions and citizens to contribute to the promotion of citizens’ cultural rights.

137. Through the School Cultural Programme, PNA Academy (a series of training actions) or the National Cinema Plan, Portugal attempts to promote the participation of all, especially young persons and persons from the most disadvantaged communities in cultural activities.

Recovery from COVID-19

138. Regarding the way in which the recovery from the pandemic will be addressed, by PNA and in other cultural policies, the following actions can be indicated:

- Return to ‘normality’ of the planned policy measures, with reinforcement of actions that promote access and participation of the most vulnerable persons, as well as an approach related to situations of greater fragility in the post-pandemic period, such as mental health and poverty;
- Enhancement of virtual solutions developed in the pandemic context, namely through the provision of pedagogical resources, films, exhibitions and others;
- Support measures, such as the Guarantee Culture Program, a universal support mechanism (without tender), non-refundable, which aimed to mitigate the impacts of the pandemic crisis on the cultural sector and stimulate the gradual resumption of activity, allowing the remuneration of technical work and supporting artistic creation or programming activities, to be carried out in physical or digital formats and contexts;
- Launch, at the end of 2021, by the Directorate-General for the Arts of a new partnership support programme, of which the projects “Multiculturalism”, in partnership with the High Commission for Migrations, and “Art and Active Aging”, in partnership with Santa Casa da Misericórdia de Lisboa, may stand out.

Implementation of General Assembly resolution 70/76

139. The matter has been object of reflection in order to analyse and define possible measures. However, so far, no request has been made to Portugal for the return of cultural goods, namely to National Museums.
