

**Universal Periodic Review (33rd session, April-May 2019)**  
**Contribution of UNESCO**

**Portugal**

**I. Background and framework**

Scope of international obligations: human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO.

<i>Title</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
<i>Convention against Discrimination in Education 1960</i>	State Party to this Convention (08/01/1981)	Reservation to this Convention shall not be permitted		Right to education
<i>Convention on Technical and Vocational Education 1989</i>	Not a State Party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	30/09/1980 Ratification			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	21/05/2008 Ratification			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	16/03/2007 Ratification	<i>Declaration of the European Community in application of Article 27(3) (c) of the Convention</i>		Right to take part in cultural life

		<p><i>indicating the competences transferred to the Community by the Member States under the Treaties, in the areas covered by the Convention.</i></p>		
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## II. Promotion and protection of human rights on the ground

### Right to Education

1. The **Constitution of the Portuguese Republic of 1976, as amended in 2005**<sup>1</sup>, guarantees the right to education in **Articles 73 and 74**. **Article 74** provides that “everyone shall possess the right to education, and the right to equal opportunities and to access to and success in school shall be guaranteed”. It adds under Article 74 (2) that the state shall be charged with “a. ensuring universal compulsory and free basic education”. **Article 13** enshrines the principle of equality before the law. The general guidelines for education policies are rooted in the **Comprehensive Law on the Education System** (Law no. 46/86, of 14th October<sup>2</sup>, republished by Law no. 49/2005, of 30 August<sup>3</sup>).

### Freedom of opinion and expression

#### ➤ Constitutional and Legislative Framework:

2. Articles 37 and 38 of the Constitution of Portugal guarantees freedom of expression and freedom of press and media. Exercise of these rights may not be hindered or limited by any type or form of censorship.<sup>4</sup>

3. Defamation remains a criminal offence in Portugal under Article 180 of the Penal Code, punishable by up to six months of imprisonment or a fine. Under Articles 183 and 184, if the offense is committed by means of publicity or social communication, or committed against a public official by reason of the performance of his duties, the penalties are aggravated.<sup>5</sup>

<sup>1</sup> <http://www.unesco.org/education/edurights/media/docs/3f4513167f27001cdb95932e601d13bc0797aab3.pdf>

<sup>2</sup> <http://www.unesco.org/education/edurights/media/docs/029be0ac57c8cb497b641b5179174a19abb6433d.pdf>

<sup>3</sup> <http://www.unesco.org/education/edurights/media/docs/70e55fafad230e363ac8f094dde453eaa3f6cc08.pdf>

<sup>4</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=179405](http://www.wipo.int/wipolex/en/text.jsp?file_id=179405)

<sup>5</sup> : [http://www.pgdliisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=109&tabela=leis&so\\_miolo=](http://www.pgdliisboa.pt/leis/lei_mostra_articulado.php?nid=109&tabela=leis&so_miolo=)

4. Freedom of information has existed in Portugal since 2003, in addition to the 1993 Law of Access to Administrative Documents.

➤ Implementation of Legislation:

5. The Portuguese Regulatory Authority for the Media is an independent administrative body established by the law n. 53 of November 8th, 2005. The Authority's regulation mission comprises all legal persons pursuing mass media activities, within the jurisdiction of the Portuguese State, which include press agencies, newspapers, and radio and television operators; the Authority is authorized to issue licenses for broadcasters.

6. The Authority comprises the chairperson, the vice-chair and three board members. Four of the five members of the regulatory board are elected by the Parliament by a majority of two thirds of the deputies and the fifth member is co-opted by the previously elected four. All members shall take office before the President of the Portuguese Parliament.<sup>6</sup>

➤ Safety of Journalists:

7. UNESCO recorded no killing of journalists in Portugal since 2008.

### III. Review and specific recommendations

8. A number of recommendations was addressed to Portugal during the previous UPR cycle concerning the need to address the significant level of discrimination in access to education, in particular against vulnerable groups such as the Roma population, women and girls, and children of migrant background. Recommendations also included the need to increase human rights education.

#### Legislative framework

- The **Comprehensive Law on the Education System (CLES)** provides the legislative framework on education (Law no. 46/86, of 14th October<sup>7</sup>, republished by **Law no. 49/2005**, of 30 August<sup>8</sup>. Education is **compulsory for all from 6 to 18 years of age**, according to **Law no. 85/2009**, of 27 August. Under this latter, compulsory education has been enlarged until the age of 18 years or until students complete secondary education.
- **Law no. 65/2015** (the first amendment to Law no. 85/2009) foresees the **universality of pre-school education** for all children from the year they reach the age of 4 years, and establishes the mechanisms for assessing the possibility of extending universality to children from age 3 years<sup>9</sup>.
- Education is **universal and free** under Article 3(1) of **Law no. 85/2009**.

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<sup>6</sup> <http://www.erc.pt/pt/fs/erc-in-english>

<sup>7</sup> <http://www.unesco.org/education/edurights/media/docs/029be0ac57c8cb497b641b5179174a19abb6433d.pdf>

<sup>8</sup> <http://www.unesco.org/education/edurights/media/docs/70e55fafad230e363ac8f094dde453eaa3f6cc08.pdf>

<sup>9</sup> State report of the 9th consultation on the implementation of the Convention and Recommendation against Discrimination in Education, p17, [http://www.unesco.org/education/edurights/media/resources/file/Relat\\_rio\\_-\\_UNESCO\\_Conven\\_o\\_Recomenda\\_o\\_discrimina\\_o\\_no\\_ensino\\_15DEC\\_E\\_.pdf](http://www.unesco.org/education/edurights/media/resources/file/Relat_rio_-_UNESCO_Conven_o_Recomenda_o_discrimina_o_no_ensino_15DEC_E_.pdf)

### Access to education

- Portugal reported to have increased its efforts in recent years to: 1/ **generalize secondary education** as the minimum level of qualifications; 2/ strengthen **lifelong learning opportunities** for all and at all levels and types of learning; 3/ value the process of **recognition, validations and certification** of competences; 4/ invest in **double certification**; 5/ ensure a **smooth transition** between education and training and employment; 6/ anticipate and identify **qualification needs**; 7/ develop **adequate guidance systems**<sup>10</sup>.
- **Decree-Law n° 88/2006** regulates the creation of post-secondary education programmes aimed at increasing access and availability of technical and vocational education.
- With regard to the **lifelong learning** attendance rate, there was a significant improvement; in 2015, at 9.7%, Portugal stands very close to the average participation in the European Union<sup>11</sup>.

### Quality of education

- **Decree-Law n. 396/2007** of December 31 regulates the **National Qualifications System (NQS)** and integrates a set of structures and instruments that ensure the relevance of training and learning<sup>12</sup>.
- Concerning human resources, in particular **teaching staff**, legislation exists in the field of teachers' placement (legal framework of placement's competition) and the qualification of the teaching staff in order to ensure the quality of teaching<sup>13</sup>.

### Non-discrimination and inclusive education

- **Article 13** of Portugal's Constitution guarantees **equality before the law** and the principle of non-discrimination. The **Statute to the Student and School Ethics** (2012) enshrines the principle of non-discrimination as a right and a duty and prohibits differences in treatment<sup>14</sup>.
- Despite great improvement, immigrants, foreigners and ethnic and racial minorities, including the Roma minority and people of African descent, continue in practice to face discrimination in access to education<sup>15</sup>.
- Regarding **children with educational needs**, **Decree-Law no. 3/2008** establishes the right of children and young people with special educational needs to non-discrimination in access to and attendance at regular schools, from pre-school to secondary levels. **Ordinance no. 201-C/2015** of July 10th defines the curricular matrix framing the planning

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<sup>10</sup> Ibid, p8.

<sup>11</sup> State report of the 9th consultation on the implementation of the Convention and Recommendation against Discrimination in Education, p23.

<sup>12</sup> Ibid, p7.

<sup>13</sup> Ibid, p27.

<sup>14</sup> Ibid, p9.

<sup>15</sup> Concluding observations on the combined third and fourth periodic report of Portugal, Committee on the Rights of the Child, p7.

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPRT%2fCO%2f3-4&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPRT%2fCO%2f3-4&Lang=en)

of the individual curricula<sup>16</sup>. Measures implemented include educational measures that integrate the adequacy of the teacher and learning process and penalties for school that do not respect the right of pupils with educational needs to priority in enrolment.<sup>17</sup>

- Portugal's **Educational Territories for Priority Intervention Programme (ETPIP)** is adapted to the needs of **learners and schools in disadvantaged contexts** and currently supports 17% of Portuguese schools<sup>18</sup>. The **Choices Programme** also aims to promote social inclusion of children and young people from vulnerable contexts, particularly children of some ethnic or migrant backgrounds<sup>19</sup>.

### Gender equality

- The 2013 **National Plan for Gender Equality, Citizenship and Non-Discrimination, 2014-2017** provides a set of measures aimed at promoting gender equality.
- Concerns were expressed over the **sex segregation** of certain fields of study. This results in similar sex segregation of occupations in the labour market and higher unemployment rates for young women in spite of their higher rate of certification compared with employed males<sup>20</sup>. Concerns were also expressed over **high school dropout rates** among Roma girls owing to childbirth and/or forced marriage<sup>21</sup>.

### Minorities and migrant population

- The Roma population has a low level of education Portugal, as reflected by their poor school enrolment. The **National Strategy for the Integration of Roma Communities, 2013-2020** was adopted in April 2013 to improve their situation. The plan sets a number of priorities such as: ensuring access to pre-school education, promoting secondary education and encouraging higher education, preventing early school leaving, ensuring access to lifelong learning. Those priorities are not, however, unique to the Roma community, as they apply to all children and young people in vulnerable settings<sup>22</sup>.
- The **Strategic Plan for Migration 2015-2020** was adopted in March 2015. In view of the current migratory crisis and the growing number of refugees, Portugal reported a number of measures including<sup>23</sup>:
  1. **Extraordinary educational measures** for the integration of refugee children and young people in Portuguese schools. In addition to the specific guidelines for the granting of equivalence of foreign qualifications, **a progressive integration into the Portuguese curriculum is foreseen**, along with a reinforcement of Portuguese language learning.

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<sup>16</sup> State report of the 9th consultation on the implementation of the Convention and Recommendation against Discrimination in Education, p15.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid, p12.

<sup>19</sup> Ibid, p13.

<sup>20</sup> Concluding observations on the combined eighth and ninth periodic reports of Portugal, Committee on the Elimination of Discrimination against Women, p8,

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPRT%2fCO%2f8-9&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fPRT%2fCO%2f8-9&Lang=en)

<sup>21</sup> Ibid, p10.

<sup>22</sup> State report of the 9th consultation on the implementation of the Convention and Recommendation against Discrimination in Education, p8.

<sup>23</sup> Ibid, p10-11.

2. The "**Not Just Numbers**" **Project**, which seeks to foster knowledge about migration and asylum in the European Union.
  3. **Conclusion of a cooperation protocol** between the National Agency for Qualifications and Vocational Education<sup>7</sup> (ANQEP) and the Platform for Support to Refugees.
- Regarding **resident foreign citizens**, Portugal has had **Portuguese language courses** for foreigners for several years, since it considers the right to learn the host country's language to be a priority<sup>24</sup>.

#### **IV. Specific recommendations**

9. Portugal should be encouraged to intensify its efforts to address discrimination in access to education, which, despite being forbidden by the law, continues to occur in practice, especially against ethnic minorities, women and girls, people from a migrant background and disadvantaged contexts.
10. Portugal should be encouraged to continue its efforts to address the needs of children with disabilities and strengthen its inclusive education system.
11. Portugal should be encouraged to take comprehensive measures to increase levels of education and enrolment rates of Roma communities. With regard to women and girls in particular, Portugal should be strongly encouraged to address harmful practices such as child marriage which prevent the right to education from being fully realized.
12. Portugal should be strongly encouraged to foster educational opportunities for migrants and refugee populations.
13. Portugal should be encouraged to pursue its efforts to integrate human rights education in national curricula.
14. Portugal should be encouraged to continue submitting comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments.
15. Portugal should be encouraged to share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education.<sup>25</sup>

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#### **Freedom of opinion and expression**

16. Portugal is recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.

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#### **Cultural rights**

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<sup>24</sup> Ibid, p10.

<sup>25</sup> <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

17. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)<sup>26</sup>, the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)<sup>27</sup> and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)<sup>28</sup>, Portugal is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Portugal is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

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### **Freedom of scientific research and the right to benefit from scientific progress and its applications**

18. **Portugal** submitted its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). **Portugal** reported that action had been taken in the country to promote the guiding principles of the 1974 Recommendation among multiple stakeholders, including the principles of respect for autonomy, freedom of research, non-discrimination, and respect for the human rights of researchers. In future, **Portugal** is encouraged to report to UNESCO on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to the Right to Science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists' rights of autonomy, freedom of research, expression and publication.

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<sup>26</sup> Periodic Report available at: <http://whc.unesco.org/en/activities/862>

<sup>27</sup> Periodic Report available at: <http://ich.unesco.org/doc/download.php?versionID=37512>

<sup>28</sup> Periodic Report available at: <http://en.unesco.org/creativity/governance/periodic-reports/2016/portugal>