

Universal Periodic Review
(19th session, May –June 2014)
Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III - F, J, K, and P)

Portugal

I. BACKGROUND AND FRAMEWORK

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

I.1. Table:

<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>
Convention against Discrimination in Education (1960)	Ratification 08/01/1981	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education (1989)	Not 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	16/03/2007 (ratification)			Right to take part in cultural life

Expressions (2005)				
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II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

Constitutional Framework:

2. The **1976 Constitution of the Portuguese Republic**¹ guarantees the right to education in Articles 73 and 74. **Article 13** ensures that “All citizens possess the same social dignity and **are equal before the law**” and that “**No one may be privileged, favored, prejudiced, deprived of any right** or exempted from any duty for reasons of ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs education, economic situation, social circumstances or sexual orientation”. According to **Article 43**, “**The freedom to learn and to teach is guaranteed**”, and “the state may not program education and culture in accordance with any philosophical, aesthetic, political, ideological or religious directive”. More, article 43 provides “**the right to create private and cooperative schools**”.

Legislative Framework:

3. The basic legislative framework for education in Portugal is made up of:

- The **Comprehensive Law on the Education System (No. 46/86 dated 14 October 1986)**².
- **Law No. 115/97 of September 19th, 1997**³, which amends Law No. 46/86 of October 14th which decrees **the Basic Law of the Education System. Law No. 49/2005**, of August 31st⁴ is a second amended to this Law, and the first amended to the **Basic Law of Financing Higher Education**.
- **Law No. 85 of August 27th, 2009**⁵ establishes the regime of compulsory schooling for children and youths that are of school age, and enshrines universal pre-school education for children starting from the age of 5 years old.
- **The Decree-Law No. 3/2008 of January 7th**, which defines the specialized support given to pupils (in pre-school, primary and secondary education) with permanent special educational needs.

¹ <http://www.en.parlamento.pt/Legislation/CRP/Constitution7th.pdf>

² <http://dre.pt/pdf1sdip/1986/10/23700/30673081.pdf>

³ <http://dre.pt/pdf1sdip/1997/09/217A00/50825083.pdf>

⁴ <http://dre.pt/pdf1sdip/2005/08/166A00/51225138.pdf>

⁵ <http://dre.pt/pdf1sdip/2009/08/16600/0563505636.pdf>

Policy Framework:

4. According to his National Report submitted in 2006, the Government has outlined a medium/long-term strategy designed to give Portugal a direction for its modernization and development. It has also laid down a set of social policies that are intended to ensure social cohesion. The major objectives of the government's efforts are thus to:

- **Fight school failure and early school leaving** (by promoting measures such as the progressive expansion of school attendance, the consolidation of basic education, compulsory attendance of schooling for all young people up to the age of 18).
- **Expand the opportunities for lifelong learning** (to attract to school the active members of the population who need to pursue or complete their academic or qualification paths).
- **Make school the center of educational life.**

5. Work done in schools is designed to ensure that all students enjoy the conditions needed to achieve educational success. The Ministry of Education and other government bodies had create a whole range of measures that together encompass pre-school, basic and secondary education:

- **Alternative curricular paths:** schools are responsible for proposing and managing specific measures designed to diversify their curricular options. They're also responsible for forming classes with alternative curricular paths for students up to the age of 15 who find themselves in those situations: repeated school failure; problems with integration into the school community; a risk of marginalization, social exclusion or dropping out.
- **Rehabilitation and development plans:** in order to respond to every kind of learning difficulty, rehabilitation plans include differentiated teaching methods in the classroom, specific Portuguese language teaching activities for students from foreign countries.
- **Program to generalize the provision of school meal.**
- **Program to integrate pupils for whom Portuguese is not a mother-tongue.**
- **Education for children of itinerant professionals.**

- **Inclusive Education**

6. The government has paid special attention to the immigration and ethnic minority field and has established a set of priorities that are based on the principle that we must fight all forms of ethnic/racial discrimination and any form of xenophobia, particularly where work, education and citizenship are concerned.

7. The **High Commission for Immigration and Ethnic Minorities** (ACIME)⁶ has laid down a number of major lines of action:

⁶ <http://www.acidi.gov.pt/es-imigrante/legislacao/legislacao-portuguesa/acime>

- Guarantee the real exercise of rights and fulfilment of duties by foreign citizens in Portugal.
- Promote the teaching of Portuguese Language and Culture to immigrants, particularly those who are not from Portuguese-speaking countries, so as to facilitate their integration.

8. Moreover, the national policy for gender equality is based on the core of principles of the Beijing Platform for Action.

Cooperation:

9. Portugal is party to the 1960 UNESCO Convention against Discrimination in Education (CADE) since 1981. Portugal did not report for the Eighth Consultation on the measures taken for the implementation of the Convention against Discrimination in Education (covering the period 2006-2011). However, it reported for the:

- Sixth Consultation of Member States (covering the period 1994-1999).
- Seventh Consultation of Member States (covering the period 2000-2005).

10. Portugal did not report within the framework of the Fourth Consultation of Member States on the measures taken for the implementation of the 1974 UNESCO's Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (covering the period 2005-2008). It has not yet reported within the framework of the Fifth Consultation of Member States the measures taken for the implementation of the 1974 Recommendation (covering the period 2009-2012).

11. Portugal reported within the framework of the First and Second Consultations (1993 and 2011) on the measures taken for the implementation of the 1976 Recommendation on the Development of Adult Education.

12. Portugal is not party to 1989 UNESCO's Convention on Technical and Vocational Education.

Cultural rights

Freedom of creative activity, artistic freedoms, right to conduct cultural practices – cultural heritage practice

Normative framework:

13. The Portuguese cultural and natural heritage falls under the law 11/1987 that applies to natural heritage and under the law 107/2001 that applies to cultural heritage. Law 11/1987 creates the bases of the environmental policy to establish a human and ecologically balanced environment, and to enhance and guarantee the continuity of use of natural resources,

qualitatively and quantitatively, as a prerequisite sustainable development. Law 107/2001 establishes the basis for the policy and cultural heritage protection regime. It defines that all immovable cultural heritage sites inscribed on the List of World Heritage are automatically classified as “national monument” and thereby protected by the State. Its articles 7, 10 and 11 set out in particular the rights and responsibilities of all citizens with respect to the fruition of cultural heritage (article 7), the creation of associations defending cultural heritage (article 10), as well as the responsibility to preserve, defend and valorize cultural heritage (article 11). In addition to the above-mentioned laws, specific legislation applies in the autonomous regions of Madeira and the Azores.

Institutional framework:

14. At the national level, three institutions conduct complementary activities in the fields of architectural and archaeological heritage: the General Directorate for Cultural Heritage and Museums (DGPC), the Portuguese Institute for Archaeology (IPA) and the Portuguese Institute for Conservation and Restoration (IPCR). In 2012, these institutions have undergone noteworthy merging and administrative reconfiguration. At the local level, certain site-specific departments of the national entity exist in order to coordinate the implementation of the national legislation and responsibilities.

Policy measures:

15. In specific World Heritage properties, agreements between the national authorities and the municipalities are set up to provide a framework for the implementation of the legal requirements. Furthermore, the legal figure of a “public company” has been created to respond to the need to assemble a large number of public and private partners in the governing board while ensuring a joint funding system and a daily management entity. Most cultural heritage entities depend on public core funding. Public funding thus determines their economic viability, including the amount and quality of services delivered to the citizens in terms of information, education and dissemination. Ratification of the 2005 UNESCO Convention did not immediately engender specific measures or policies arising from implementation of the Convention. However, the principal guidelines underpinning Portuguese public policy recognise that the Convention’s values are of fundamental importance for Portugal.

Work with civil society:

16. The Portuguese Law 107/2001 supports the creation of non-governmental groups and associations for the defense of cultural heritage. The national level’s work with civil society consists mainly of the publication of specific information documents and the provision of administrative guidance upon request. For the 2005 Convention, the key challenge is to achieve greater involvement of civil society through major reinforcement of the dissemination and promotion of the Convention. Strong and close collaboration between the various entities is also indispensable, including the public and private sector, central, regional and local government, public administration and civil society.

Freedom of scientific research

17. With regard to contribution of science and technology to development, Portugal reported to UNESCO within the framework of the on-going consultations with Member States on the monitoring of the implementation and a possible revision of the 1974 Recommendation on the Status of Scientific Researchers. In general, in Portugal, the principles and practices related to the development of scientific research correspond to the provisions of the 1974 Recommendation which are aimed at guaranteeing freedom of scientific research.

Freedom of opinion and expression

Constitutional and Legislative Framework:

18. Freedom of expression and press freedom are guaranteed under Article 37 and Article 38 of the Constitution of Portugal (2005).

19. Defamation remains a criminal offence in Portugal under Article 180 of the Penal Code, punishable with 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.

20. A freedom of information has existed in Portugal since 2003 in addition to the 1993 Law of Access to Administrative Documents.

Media Self-Regulation:

21. Media self-regulating mechanisms are developed in Portugal through such entities as the Portuguese Journalists' Union.

Safety of Journalists:

22. UNESCO recorded no killing of journalists in Portugal between 2008 and 2012 and journalists work in a safe environment.

III. RECOMMENDATIONS

Right to education

23. Portugal should be encouraged to submit state reports for the periodic consultations of UNESCO's education related standard-setting instruments.

24. Portugal could be encouraged to strengthen its efforts to improve access to education for children and students from Roma communities and to provide them with equal education opportunities.

25. Portugal could be encouraged to intensify its efforts to make the education system inclusive, particularly for immigrant and ethnic minorities, as well as for girls and women.

26. Portugal could be encouraged to pursue its efforts to combat illiteracy and to establish an effective system for adult education and training.

27. Portugal could be encouraged to incorporate ethics, aesthetics and civics, as well as human rights education, in school curricula.

Cultural rights

28. Promotion of cultural heritage protection through school curricula and university programmes could be enhanced so as to ensure increased awareness and appreciation of cultural heritage and its crucial role for the socio-economic well-being of communities and the country as a whole.

Freedom of opinion and expression

29. Portugal is encouraged to decriminalize defamation and place it under the civil code in line with international standards.