



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Portugal

ILO
TECHNICAL
NOTE

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

National abbreviations:

NHS	National Health System
PES	Public Employment Services
MTSS	Inspectorate General of the Ministry of Labour and Social Solidarity

*CHAPTER I. Adequacy of social security
benefits: income and poverty indicators and
standards*

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Country profile by Eurostat indicators, National indicators and ILO minimum standards

Eurostat	EU-Avg 2013	2005	2012	2013	2014
At-risk-of-poverty threshold (40%, single person)	€ 462.3	€ 239.8	€ 277.4	€ 272.6	€ 274.3
At-risk-of-poverty threshold (50%, single person)	€ 577.8	€ 299.8	€ 346.8	€ 340.8	€ 342.8
At-risk-of-poverty rate - 50%, before social transfers	19.5%	18.6%	17.6%	19.3%	20.7%
At-risk-of-poverty rate - 50%, after social transfers	10.2%	12.5%	11.4%	12.6%	13.8%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%	16.6%	16.2%	17.4%	19.1%
In-work poverty rate - 50% threshold	5.2%	8.0%	6.3%	6.8%	7.2%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%	11.9%	5.8%	5.4%	7.1%
Aggregate replacement ratio	55%	60%	58%	59%	63%
Severe material deprivation (% of total population)	9.6%	9.3%	8.6%	10.9%	10.6%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		6.6%	8.3%	6.8%
Social protection expenditure as % of GDP	25.0%	24.5%	26.9%	28.4%	
Gini coefficient before social transfers	36.1%	41.3%	38.7%	38.4%	38.7%
Gini coefficient after social transfers	30.5%	38.1%	34.5%	34.2%	34.5%

<u>National indicators</u>		
Absolute poverty threshold	€ 409.0	2012, The Report on the European Code of Social Security 2014
Social integration income	€ 189.5	2014, The Report on the European Code of Social Security 2014
Social Support Index	€ 419.2	2014, The Report on the European Code of Social Security 2014
Minimum wage	€ 485.0	2014, The Report on the European Code of Social Security 2014
Social pension	€ 199.5	2014, The Report on the European Code of Social Security 2014
Average wage	€ 1307.2	2014, United Nations Economic Commission for Europe
Average old-age pension	€ 481.7	2011, The Report on the European Code of Social Security 2013

<u>Government Report under the ECSS submitted in 2015</u>				
Reference wage of skilled worker	Gross amount : € 940.4			
Reference wage of unskilled worker	Gross amount : € 700.8			
Social Security branch	Standard beneficiary	St benefit amount	Total benefit	Gross RR
Part III Sickness benefit	Art. 65-6b, +family benefit	€ 465.5	€ 523.9	52,5%
Part IV Unemployment benefit	Art. 65-6b, +family benefit	€ 546.6	€ 617.0	61,8%
Part V Old-age benefit	Art. 66-4b	15 years career - €274.8 40 years career - € 523.4		39.2% 74.7%
Part VI Employment injury benefit	Not ratified	-		-
Part VII Family benefit	Art. 66	€ 29.2 per child, varies		
Part VIII Maternity benefit	Art. 65-6b	€ 940.4		100.0%
Part IX Invalidation benefit	Art. 66-6b, +family benefit	Relative 15 years - € 274.8 Absolute 15 years - € 379.0	€ 345.2 € 449.4	45.5% 59.2%
Part X Survivor's benefit	Art. 66-6b, +family benefit	15 years career - € 247.3 40 years career - € 471.0	€ 317.7 € 541.4	41.8 % 71.3 %

Fig. 1. Income and poverty - single person, 2014

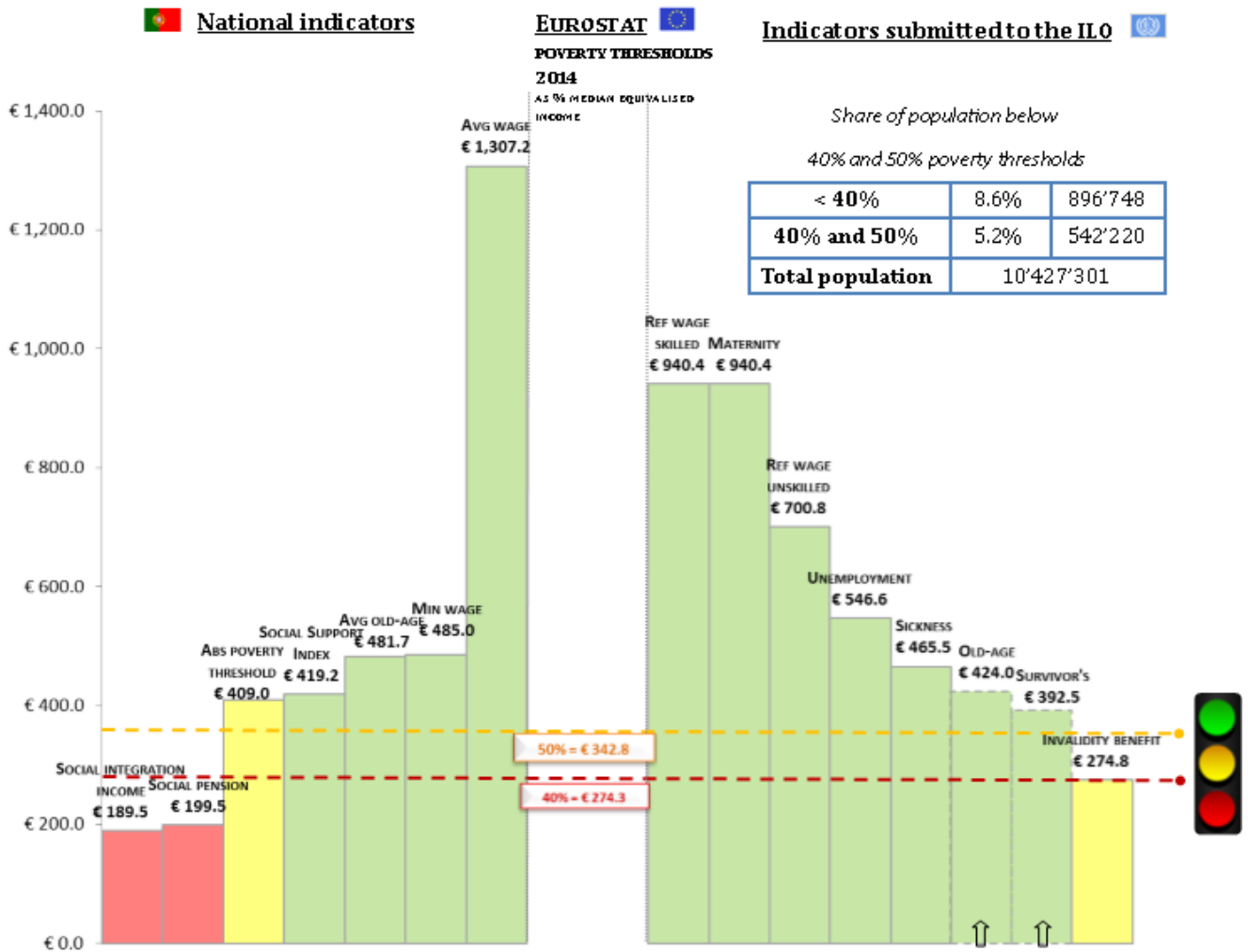


Fig. 2. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status, 2013

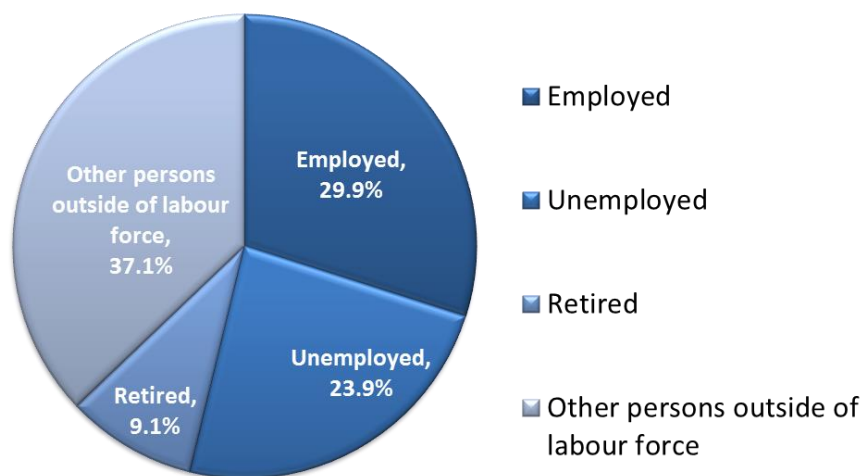
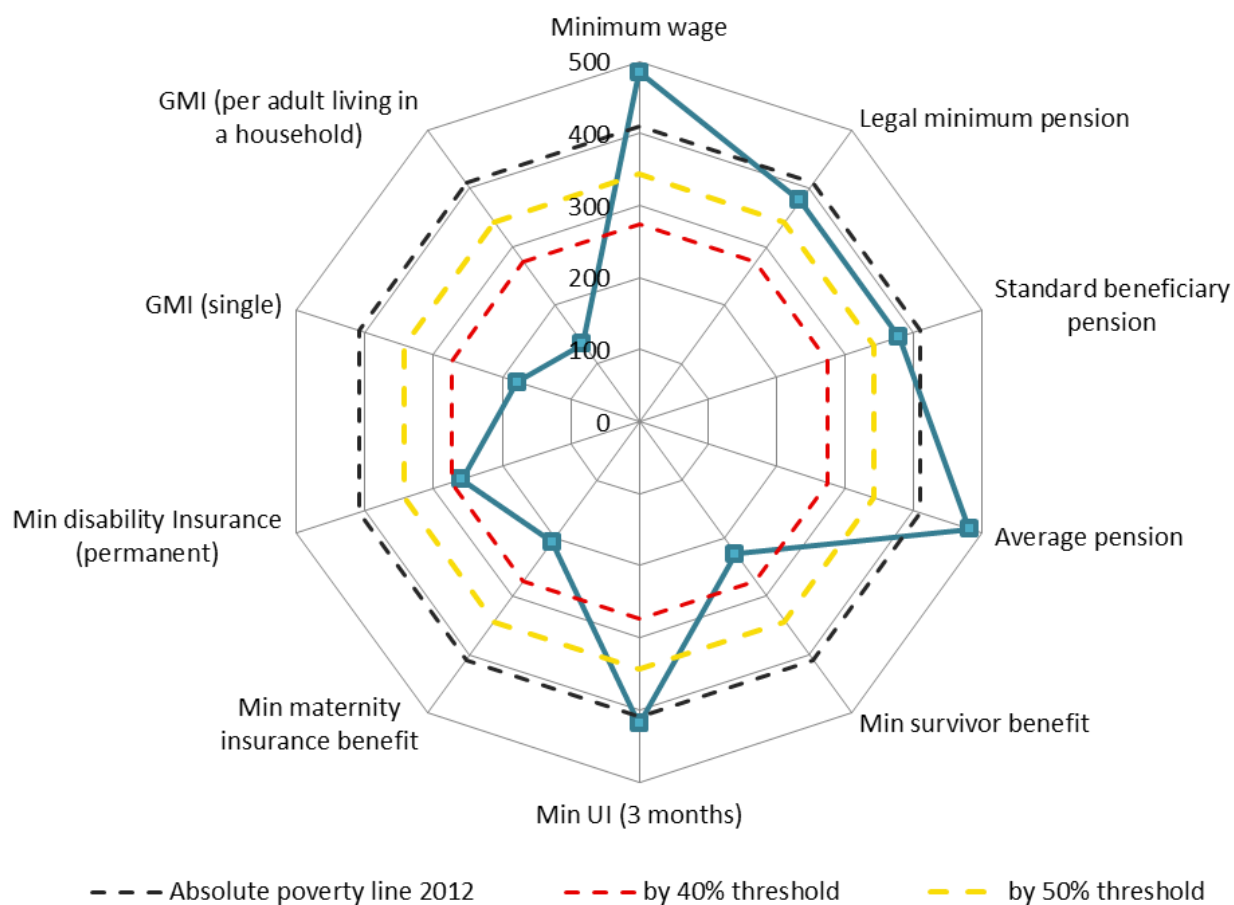
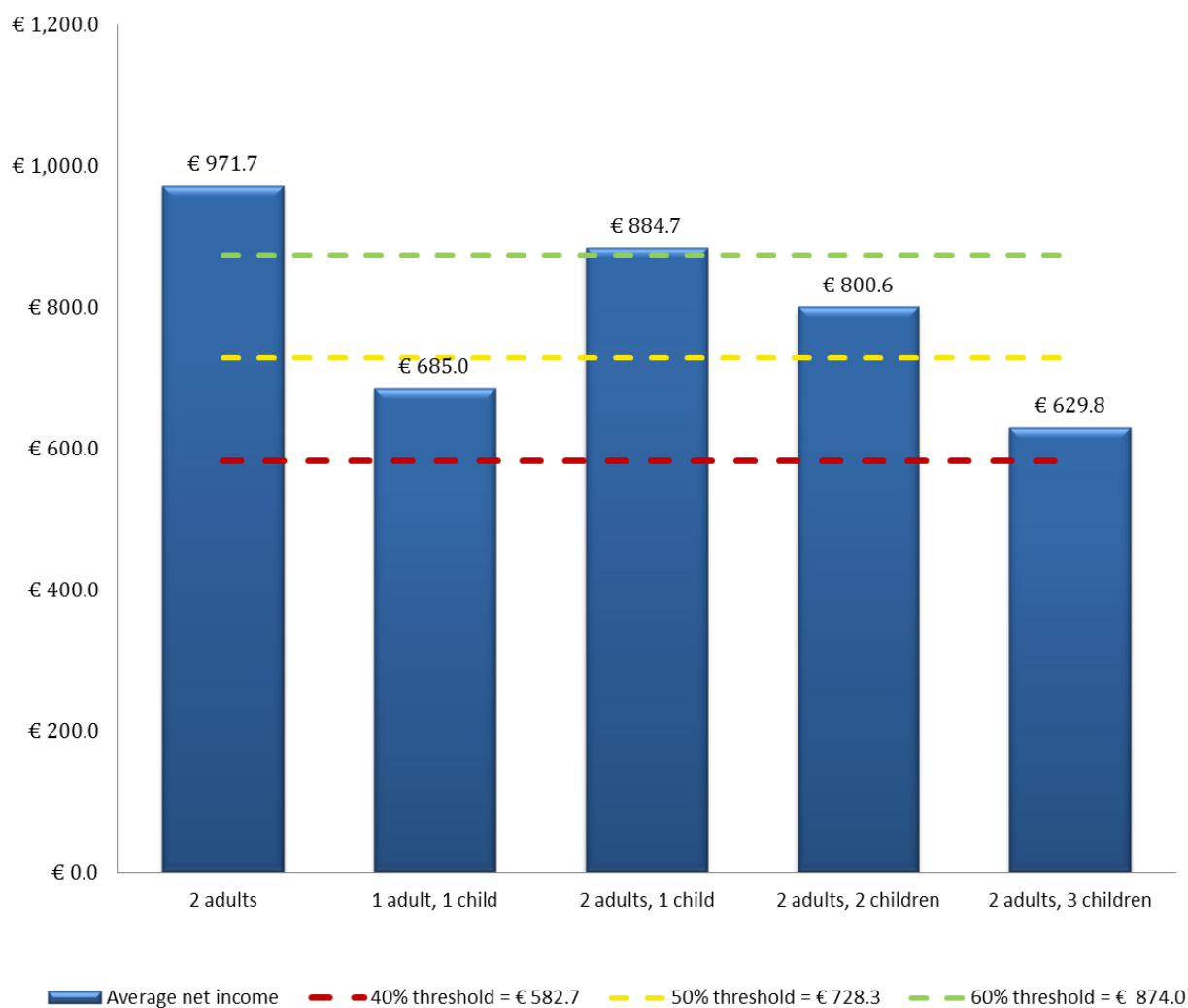


Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds and national social protection floors, 2013



Benefits/payments	Amount per month	Sources
Minimum wage	€ 485.0	MISSOC, 2014
Legal minimum pension	€ 379.0	MISSOC, 2014
Standard beneficiary pension	€ 379.0	Pension for average case worker, Government Report 2014
Average pension	€ 481.7	MISSOC, 2014
Survivor benefit	€ 227.4	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 419.2	MISSOC, 2014
Maternity insurance benefit	€ 206.1	MISSOC, 2014
Disability Insurance (permanent)	€ 259.3	Social Insurance Bank, 2014
GMI (single)	€ 178.2	Social Insurance Bank, 2014
GMI (per adult living in a household)	€ 133.6	Eurostat, 2014

Fig. 4. Income and poverty indicators by type of household, 2012



Household composition:	Average net income	At risk of poverty rate (60% threshold)
2 adults	€ 971.7	16.5 %
1 adult, 1 child	€ 685.0	30.5 %
2 adults, 1 child	€ 884.7	16.2 %
2 adults, 2 children	€ 800.6	17.0 %
2 adults, 3 children	€ 629.8	41.2 %

Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat thresholds in 2013-2014, by decile

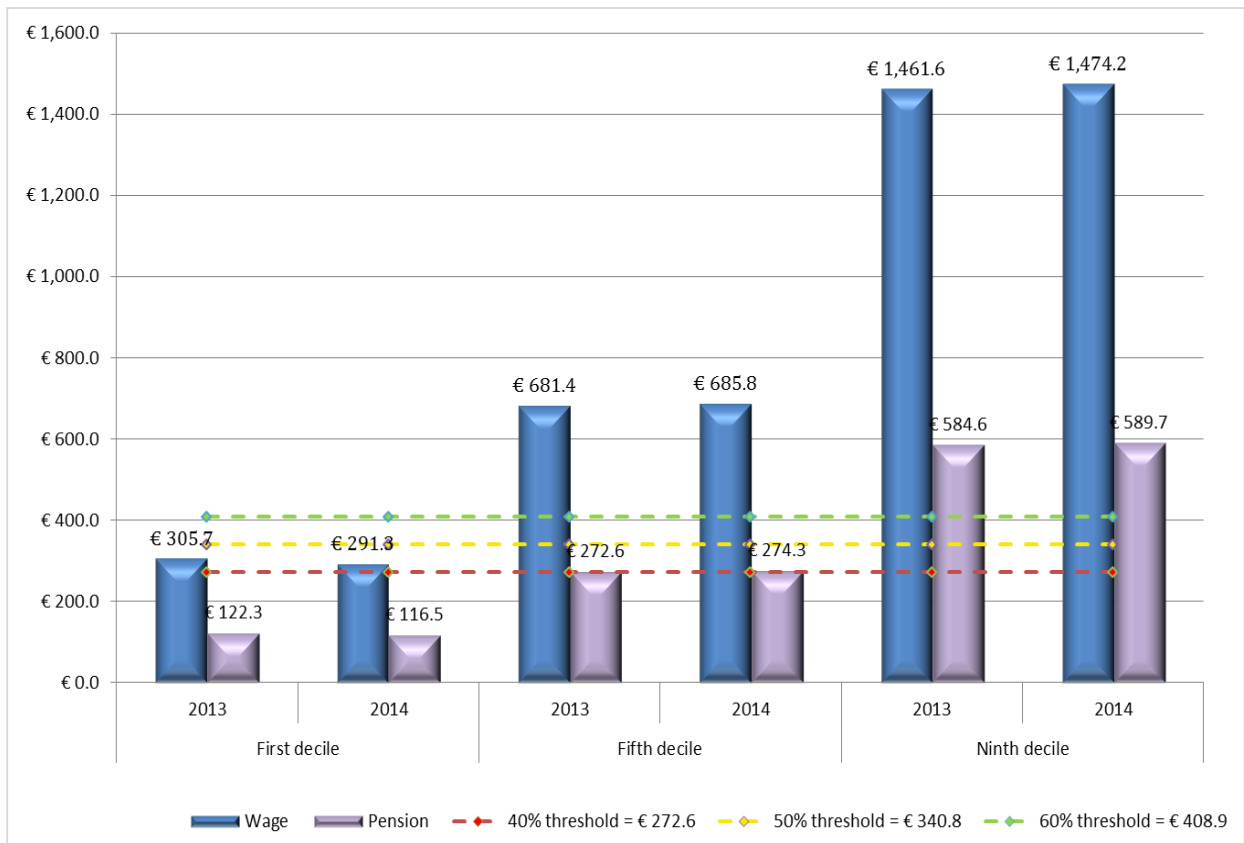


Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012

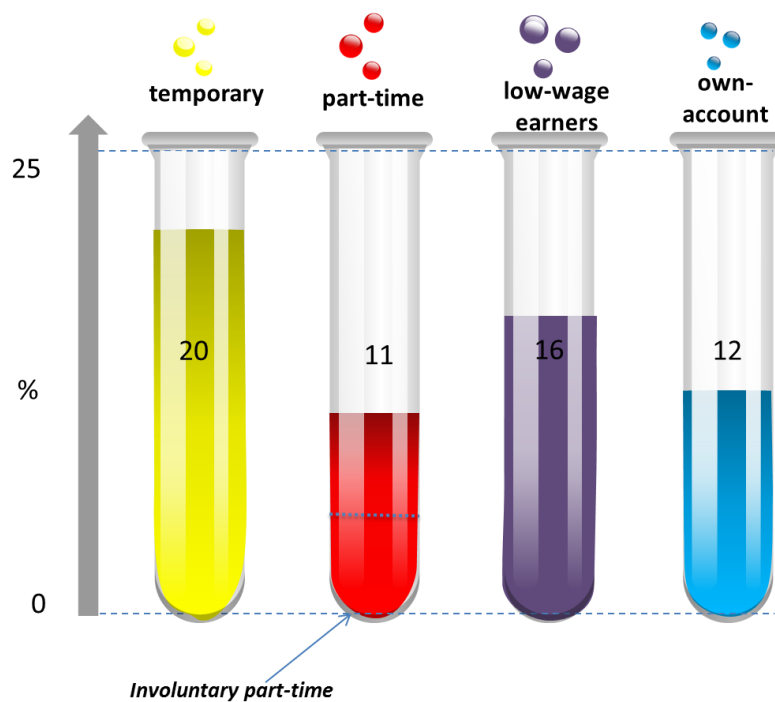
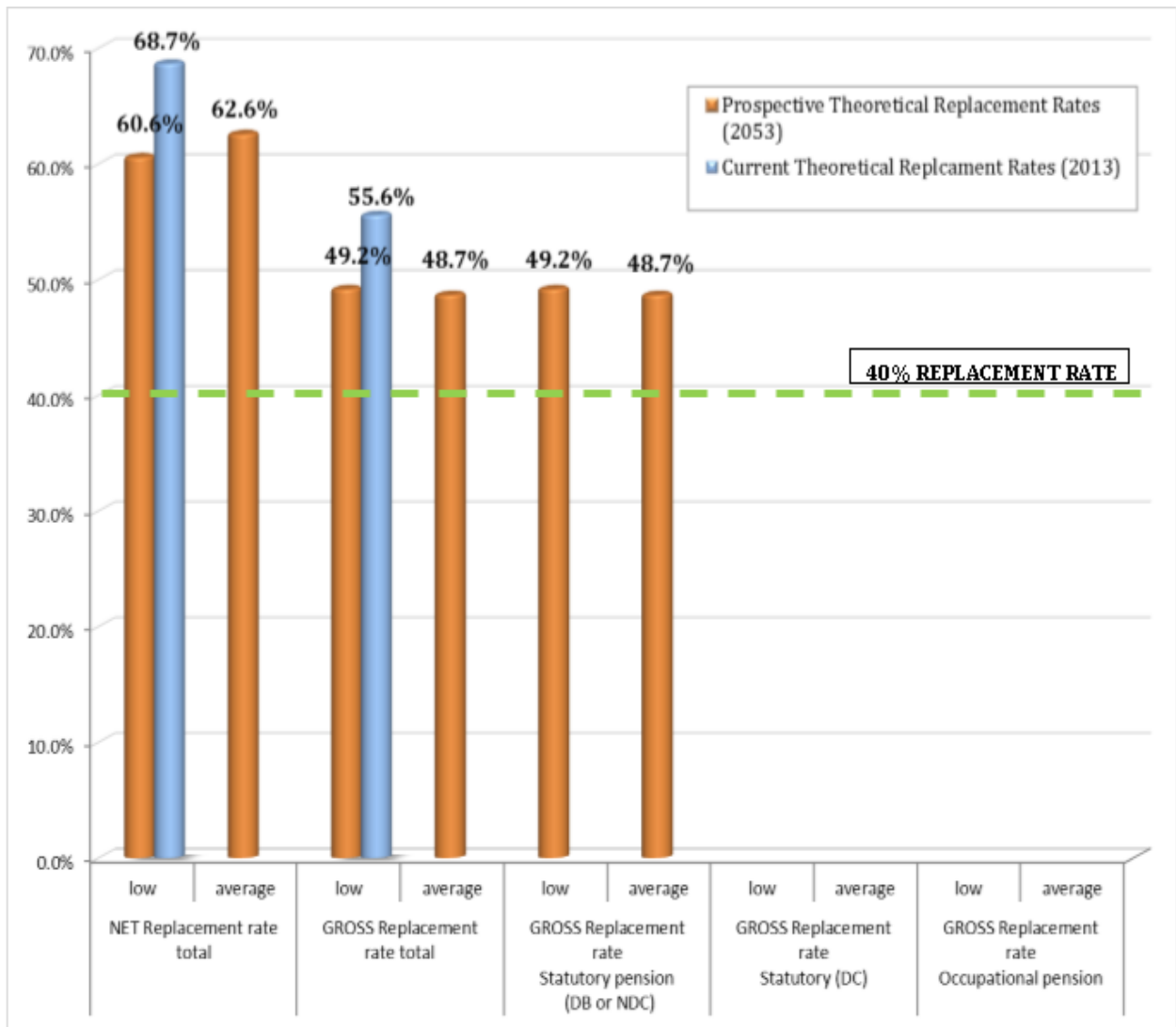


Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053



Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work. 10 years of career break in the middle of the career

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
2053	60.6%	62.6%	49.2%	48.7%	49.2%	48.7%	-	-	-	-
2013	68.7%	-	55.6%	-	-	-	-	-	-	-

Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU, Volume I

Social security and reduction of poverty.

Extracts from the 2015 Government report on the European Code of Social Security.

Concerning social security and poverty reduction:

a. Firstly, in order to clarify the technical nature of the Social Support Index (IAS), it is important to point out that the IAS is not a social benefit in itself, but a reference value used for the determination, calculation and adjustment of contributions, pensions and other social benefits provided by the social security system. For instance, minimum pensions of the insurance system, social pensions of the non-contributory scheme, as well as other non-contributory benefits, are indexed to the IAS in different percentages, as described in the table below that updates figures provided in the last report:

Social Benefits	Indexation to IAS
Minimum old-age and invalidity pensions (contributory scheme), according to the contribution period:	
<ul style="list-style-type: none"> • pensioners with up to 15 contributions years • pensioners with 15 to 20 contributions years • pensioners with 21 to 30 contributions years • pensioners with more than 30 contributions years 	62,485%
	65,548%
	72,332%
	90,416%
RESSAA (Special scheme for agricultural workers)	57,683%
Social Pension (Non-contributory scheme)	48,073%
Social Integration Income (RSI)	42,495%

For 2007, the year of its entry into force, the value of the IAS was defined as the 2006 mandatory minimum wage updated by the consumer inflation of that year (Law 53-B/2006). In what concerns rules for IAS updating, this Law also provided that the rule for IAS updating in the coming years was to be identical to the rule for updating lower pensions, i.e. pensions under 1,5 IAS, under a “no policy change” general rule that takes into account annual changes in the rate of the Consumer Price Index (CPI) and of the Gross Domestic Product (GDP), as described below:

	If GDP real variation rate was less than 2%	If GDP real variation rate was from 2% to 3%	If GDP real variation rate was equal to or higher than 3%
Social Support Index (IAS) updating	CPI change rate	CPI change rate + 20% GDP real variation rate (minimum: CPI change rate + 0,5%)	CPI change rate + 20% GDP real variation rate

However, due to the financial crisis and to the country’s overall public problems of financial sustainability, rules for updating the IAS were temporarily suspended in 2010 and its value (€419,22) frozen.

b. The Social Support Index (IAS) replaced, as from 2007, the National Minimum Wage as the reference for the indexation of pensions and other social benefits, in order to assure that the National Minimum Wage itself constitutes an instrument of labour market. This means that annual updates of the National Minimum Wage can be agreed by the social partners and

approved by the Government with limited impact on social security expenditure in the short-term, contrary to what happened before. For instance, after four years of suspension, in 2015 National Minimum Wage was increased from € 485 to € 505, while the IAS remained frozen to control expenditure in social security.

There are no clear prospects for its potential re-establishment, but in 2014 there was an attempt by the Portuguese Government to adopt a new technical solution for the IAS and pensions' updating. The proposal was nevertheless left behind after the negative decision of the Constitutional Court concerning the adoption of a new social contribution (contribution of sustainability), which was also included in the reform of the pensions system not implemented, along with other comprehensive measures.

Despite this strategic option taken by the Portuguese government and the decision to maintain in 2015 the nominal value of pensions and IAS frozen, it should be noted that lower pensions indexed to the IAS, both contributory and non-contributory (minimum pensions correspondent to up 15 contribution years, social pensions and pensions granted by similar schemes), were exceptionally updated, above the inflation rate, as it happened in 2012, 2013 and 2014, in order to increase the purchasing power of the most disadvantaged.

c. In what concerns the solidarity supplement for the elderly (SSE), a targeted minimum income social benefit specific for pensioners adopted in 2006:

i. The criteria taken into account to determine in 2006 the original financial threshold serving as reference value for the solidarity supplement for the elderly (SSE) was the poverty threshold calculated by the Eurostat at 60 per cent of the median income. The financial threshold of this social benefit has been updated afterwards taken into account the Consumers Price Index, the GDP, the distribution of wealth and value judgments about the fairness and the social priorities of our public policies.

ii. In order to justify the co-existence of two different financial references for the value of the IAS and for the value of the solidarity supplement for the elderly, respectively, it is necessary to clarify that these two references play a very different role in the Portuguese social security system – while the IAS consists mainly in a reference value to which some social benefits are indexed as a percentage, as described under point III (a), the SSE is a targeted minimum income social benefit for pensioners in financial difficulties.

d. As far as Social Integration Income - SII (Rendimento Social de Inserção) is concerned, its reference value (€ 178,15, in 2015) was set below the National Minimum Wage to bound the “poverty trap” phenomenon associated to benefits of this kind, since, contrary to the solidarity supplement for the elderly (SSE), this minimum income benefit is also granted to working-age population. Indeed, as pointed-out by specialized literature, means-tested benefits may encourage individuals to rely on state support and create a perverse incentive to not work if there is not a significant gap between the minimum income guaranteed by the social security system and the minimum income provided by means of participation in the labour market (i. e. the National Minimum Wage).

Precisely to avoid the “poverty trap” and prevent individuals from remaining dependents on social aid, the SII is granted in conjunction with an integration contract aimed at ensuring that individuals and their family have sufficient financial resources to cover their basic needs, while promoting their gradual social and professional integration. Terms contained in the integration contract normally include acceptance of proposed jobs and vocational trainings, attending courses, participation in occupational programmes or other temporary programmes stimulating labour market integration or meeting social, community or environmental needs, undertaking professional counseling or training actions, taking steps regarding prevention, treatment or rehabilitation of drug addiction and incentives to take up a self-employed activity. Some categories of persons are exempted from participating in the integration contract (insofar as active availability for professional integration is concerned) and from registering with the job

centre, namely persons with long-term or permanent incapacity for work, minors aged 16 or persons aged 65 or over and persons taking care of a family member.

Although the reference value of the SII is lower than the poverty threshold and than the minimum level of other social benefits in Portugal, both contributory and non-contributory, it is important to note that, in situations of economic and social need, the SII can be combined with other temporary and exceptional cash benefits, benefits in kind, support programs and special social services, granted by the social-action sub-system, according to the assessment made by the social workers from the social security services.

Concerning the SII calculation rules, the amount granted is differential and corresponds to the difference between the maximum theoretical amount of the SII in relation to the number of family members and the entire family income. Since 2012 (Statutory Decree 133/2012), the value of the SII in accordance with the composition of the household is calculated according to the OECD-modified equivalence scale, which assigns a value of 1 to the household head, 0,5 to each additional adult member and 0,3 to each child, due to economies of scale in the consumption of some goods and services in larger households.

Thereby, the SII corresponds to the following maximum amounts, according to the composition of the household:

- Single adult: € 178,15
- Couple: € 267,22
- Single-parent family, one child: € 231,59
- Single-parent family, two children: € 285,03
- Couple with 1 child: € 320,66
- Couple with 2 children: € 374,10
- For larger households: plus € 89,07 (50%), for each additional adult, and € 53,44 (30%), for each additional child.

e. In what concerns the poverty lines and the subsistence minimum levels, other than poverty line correspondent to the at-risk of poverty threshold calculated at 60 per cent of the equivalized median income, it is considered for data purposes and for the evaluation of our social policies the material deprivation rate and the severe material deprivation rate, total and by sex. According to the metadata of the Eurostat, used in the EU-SILC national survey (EU statistics on Income and Living Conditions) that is carried out by the INE – Statistics Portugal¹, the material deprivation rate corresponds to the percentage of the population with an enforced lack of at least three out of nine material deprivation items in the 'economic strain and durables' dimension, while the severe material deprivation rate corresponds to the percentage of the population with an enforced lack of at least four out of the nine material deprivation items considered.

The nine items considered are: *a)* capacity to face unexpected financial expenses (set amount corresponding to the monthly national at-risk-of-poverty threshold of the previous year); *b)* capacity to afford to pay for one week's annual holiday away from home; *c)* arrears on mortgage or rent payments, utility bills, hire purchase installments or other loan payments; *d)* capacity to afford a meal with meat, chicken, fish (or vegetarian equivalent) every second day; *e)* ability of the household to pay for keeping its home adequately warm; *f)* household cannot afford a washing machine; *g)* household cannot afford a colour TV; *h)* household cannot afford a telephone; and *i)* household cannot afford a car.

Although the social security system does not take directly into consideration the evolution of the material deprivation levels when sets and updates the minimum levels of social benefits,

¹ Survey available on the internet:

https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_destaques&DESTAQUESdest_boui=223346238&DESTAQUESmodo=2&xlang=pt

Portugal considers that its social security system is designed to guarantee the physical subsistence of all persons, independently of their participation into the labour market.

In fact, the Portuguese social security system, as a whole, includes the insurance system (contributory), mandatory for all workers, the supplementary system (individual and collective voluntary savings), but also the system for social protection of citizenship (non-contributory). This last system is addressed to all citizens, mainly those in socio-economic need, and includes, other than the solidarity sub-system (responsible among others by the payment of minimum income benefits), the social action sub-system. The aims of the social action sub-system are precisely to prevent and repair situations of need and social exclusion, promote social and community integration and protect the most vulnerable groups, such as children, young people, handicapped, elderly people and other people in situation of economic or social need. These aims are carried out both by public entities (State and Local Administration) and by private social solidarity institutions (non-profit) and are achieved through the allocation and financing of social establishments and services (social canteens, temporary residential centres, community centres), support programs aimed at fighting against poverty and social exclusion, cash benefits, temporary and exceptional, and benefits in kind (food, cloths, shelter).

f. Although the economic and financial assistance program of the International Monetary Fund (IMF), the European Commission (EC) and the European Central Bank (ECB) for Portugal has come to an end, Portugal is still committed, like other European countries, with the necessity to ensure the sustainability of its public finances, which leaves tight budgetary constraints to face additional pressures to increase spending in social security.

Indeed, in the context of growing ageing population, economic crises and with the Portuguese public social security system having reached maturity, social security expenditure, namely with pensions, recorded a marked upwards trend in the last years, reaching 26,9% of the GDP, in 2013. This means that reforms in the social security system have to tackle the main problem of its financial sustainability and that future adjustments to increase the levels of social protection and the distributive impact of social transfers cannot jeopardize the system's medium and long-term viability.

g. Despite ongoing changes in social security, it is important to recognize that Portugal made several efforts in identifying the most urgent social problems and in implementing targeted solutions that aimed to improve the situation of the most vulnerable, namely elderly persons with low incomes, families affected by unemployment and persons at risk of poverty and social exclusion.

For instance, other than the exceptional increase of lower pensions, changes in the unemployment support scheme were also adopted to increase social protection, including the possibility of partial payment of the lump sum of unemployment benefits, the extension of the unemployment protection to some categories of self-employed workers (with an entrepreneurial activity and economically dependents on a single contracting entity), the reduction of the contributory period for eligibility to receive unemployment benefits and the temporary increase of unemployment benefits for unemployed couples or lone parents with dependent children (10% plus).

This specific social security measures were implemented along with other special social assistance measures as part of the Social Emergency Program, adopted in 2011 by the Portuguese government for a period of four years. Social assistance measures specially designed to mitigate the social impact of austerity on the most vulnerable groups included the creation of social tariffs for public transportation, gas and energy, provision of housing at rents below market prices in cooperation with banks which have repossessed properties, reinforcement of the number of social canteens in order to ensure two daily meals for those in need, the increase of the free distribution of basic goods, enhancement of the response of the national emergency hotline to include the dimensions of poverty and social exclusion, development of microcredit, incentives for volunteering and the expansion of public crèches and elderly homes.

The implementation of a comprehensive public program to tackle the emerging social problems generated by the economic and financial crisis, combining both social security and social assistance measures, demonstrates that the philosophy of Portuguese social policies has not deviated from the principles of good governance of the social security system, as well as the substantive commitment of the Portuguese Government with the provisions of the European Code of Social Security.

CHAPTER II. Selection of the Article 65, 66 or 67 under C102/ECSS and determination of the Standard Reference Wage used for calculating the replacement level of benefits

- [Fig. 1. Article 65: Type of social security schemes and method of benefit calculation](#)
- [Fig. 2. Article 66: Type of social security schemes and method of benefit calculation](#)
- [Fig. 3. Article 67: Type of social security schemes and method of benefit calculation](#)
- [Extracts from the Government Reports \(2013-2015\) on the ECSS concerning the Reference Wage](#)
- [Table 1. Calculation of the reference wage under all options permitted by Articles 65-66 of the ECSS/C102](#)
- [Fig.4. Comparison of the reported reference wage to other wage indicators in Portugal](#)

Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

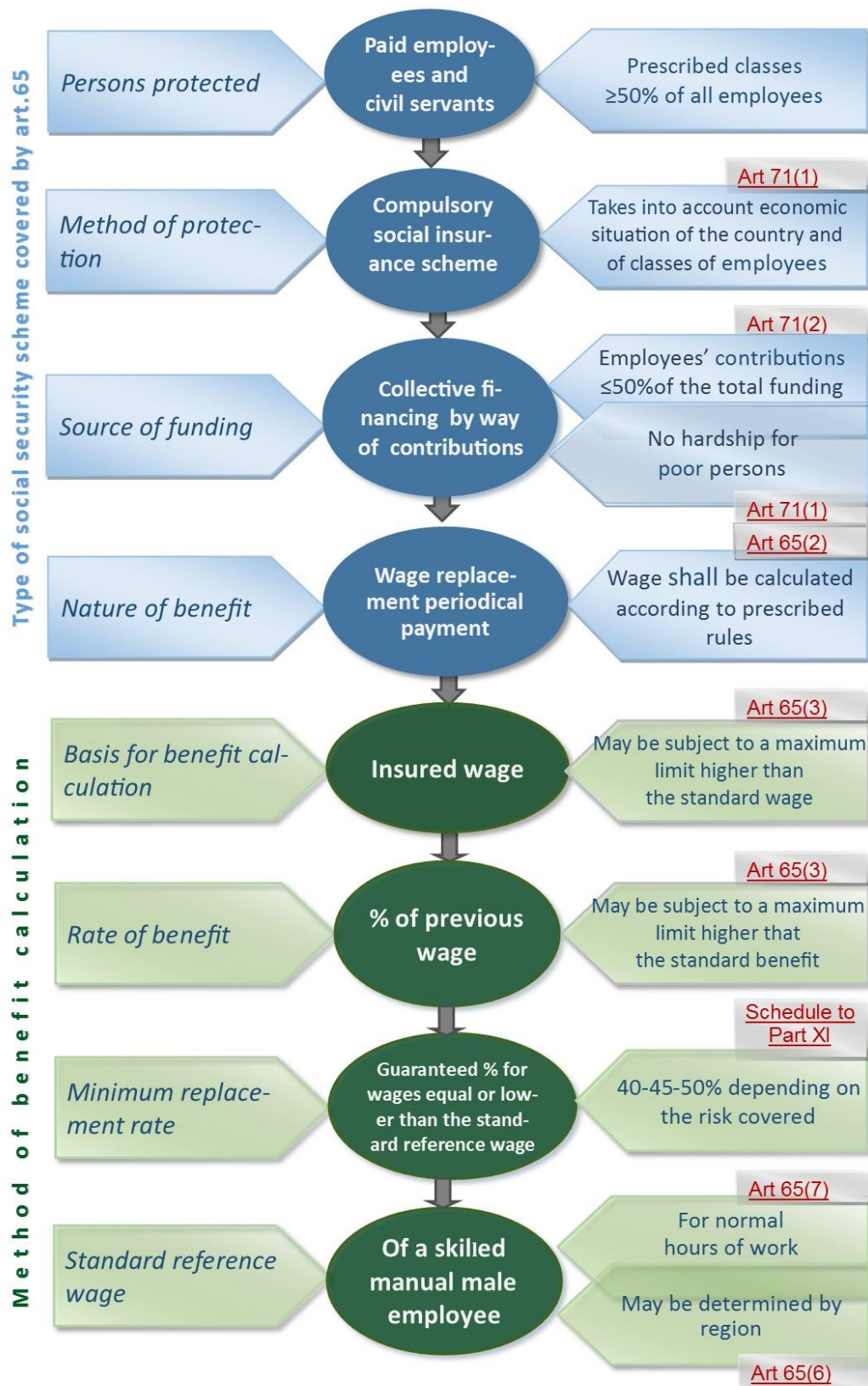


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

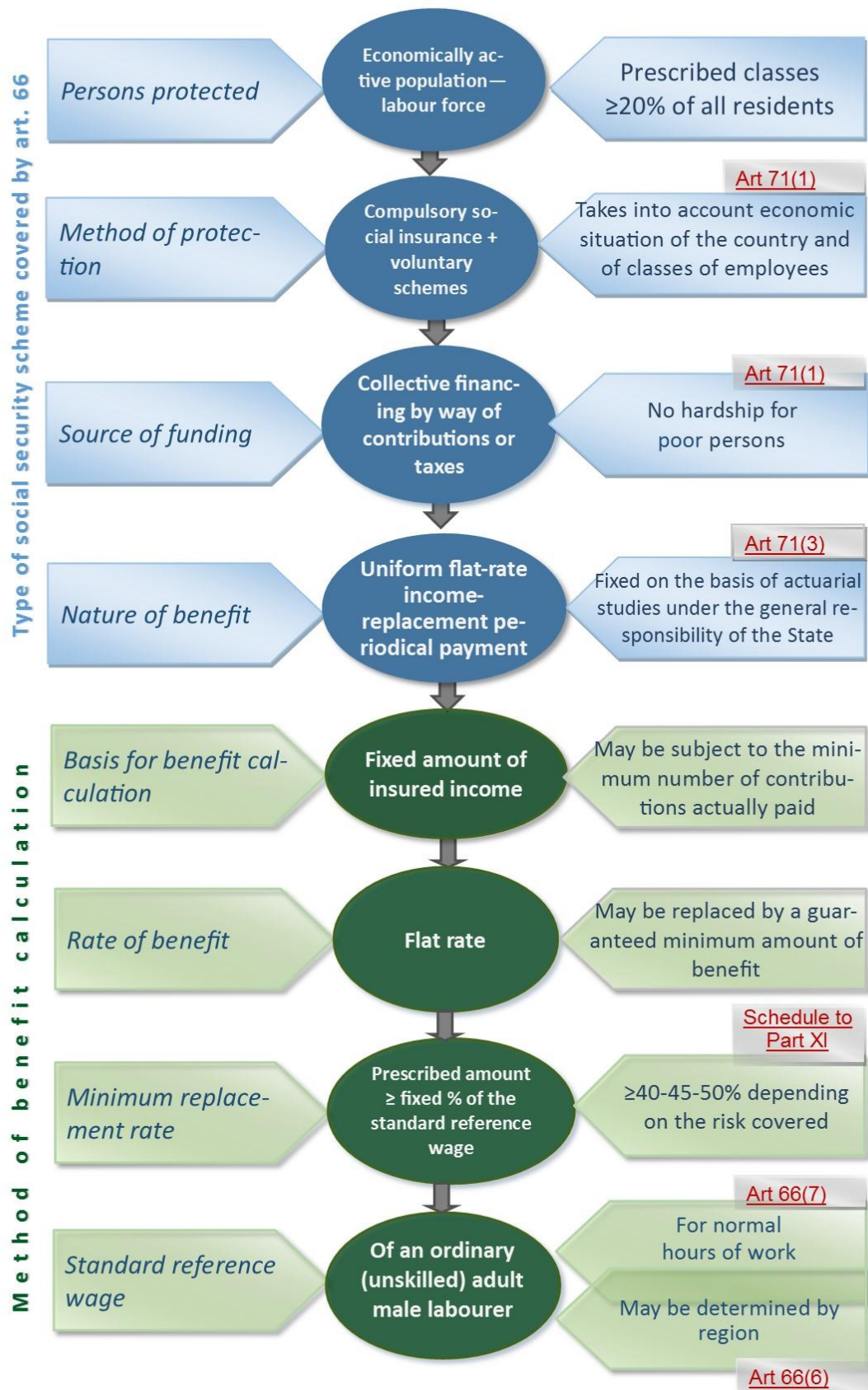
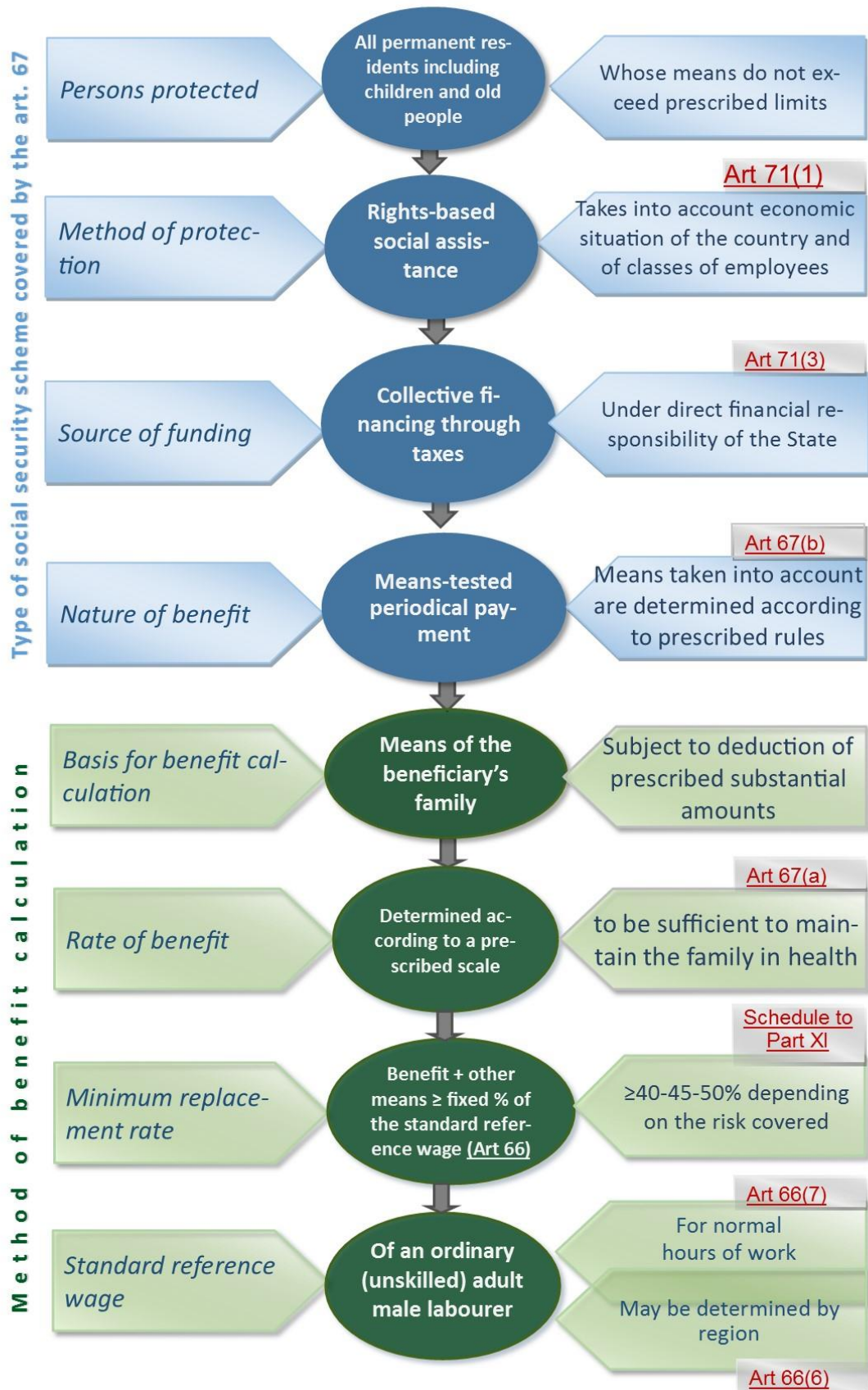


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation



Extracts from the Government Reports (2013-2015) on the ECSS concerning the Reference Wage

Report of Portugal under Article 74 of the European Code of Social Security and its Protocol (1 July 2014 - 30 June 2015)

L'ouvrier-type considéré pour l'application de l'article 65 est l'ouvrier qualifié des industries de transformation – fabrication de produits métalliques sauf machinerie et équipements

Montant du salaire mensuel de l'ouvrier qualifié en 2013 - € 940,37²

Ouvrier-type : manœuvre ordinaire de l'industrie de transformation - fabrication de produits métalliques sauf machinerie et équipements

Salaire mensuel³ : € 700,80 (en 2013)

Report of Portugal under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p.8, 10, 18, 19, 26, 29

En utilisant l'alinéa b) du paragraphe 6, l'ouvrier-type considéré pour l'application de l'article 65 est l'ouvrier qualifié de l'industrie textile.

Article 65

Ouvrier-type: ouvrier masculin qualifié de l'industrie textile – p. 18

Ouvrier qualifié-type, du sexe féminin, de l'industrie textile – p.29

Salaire mensuel: €531,00 – 2010

Salaire mensuel du manœuvre textile: €475,00 – 2010 – p.26

² Gain mensuel moyen – Gabinete de Estratégia e Estudos / Ministério da Economia, Quadros de Pessoal (Cabinet de Stratégie et Etudes du Ministère de l'Économie, Tableaux des effectifs)

³ Gain mensuel moyen – Gabinete de Estratégia e Estudos / Ministério da Economia, Quadros de Pessoal (Cabinet de Stratégie et Etudes du Ministère de l'Économie, Tableaux de effectifs)

Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations ⁴ -2010	Government ⁵
Article 65 (para 6): a skilled manual male employee				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 ⁶ (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 ⁷ group with the highest number of male employees: typical skilled male worker in manufacturing	907euros ⁸	Part III, IV: skilled male worker in textile industry: €531,00 (2010) ⁹ <i>L'ouvrier-type considéré pour l'application de l'article 65 est l'ouvrier qualifié des industries de transformation – fabrication de produits métalliques sauf machinerie et équipements</i> <i>Montant du salaire mensuel de l'ouvrier qualifié en 2013 - €940.37</i>
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used	1539 euros ¹⁰ (full-time and part-time employees)	
Article 66 (para 4): an ordinary male labourer				
Option 4	Art.66 (4)a and (7): a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b and (5): a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: typical unskilled male worker in manufacturing	740 euros ¹¹	Part V, VII, IX, X: ordinary labourer in textile industry: €475 (2010) ¹² <i>Ouvrier-type: manoeuvre ordinaire, adulte, masculin, de l'industrie de transformation, - fabrication de produits métalliques sauf machinerie et équipements.</i> <i>A. Montant de l'allocation familiale pour les enfants et les jeunes jusqu'à l'âge de 24 ans</i> <i>Montant moyen mensuel - € 64.389.679,57</i> <i>B. Salaire mensuel¹³: € 700,80 (2013)</i>

* Gross wages are used unless stated otherwise

⁴ ILO calculations based on EUROSTAT data from Labour Force Survey - LFS-2013 and SES-2010 (see detailed information further)

⁵ Reference wage reported by the Government on the application of ECSS and C.102

⁶ ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow) <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

⁷ ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

<http://unstats.un.org/unsd/cr/registry/isic-4.asp>

⁸ Structure of earnings survey (SES)– Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

⁹ Report of Portugal under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p.18

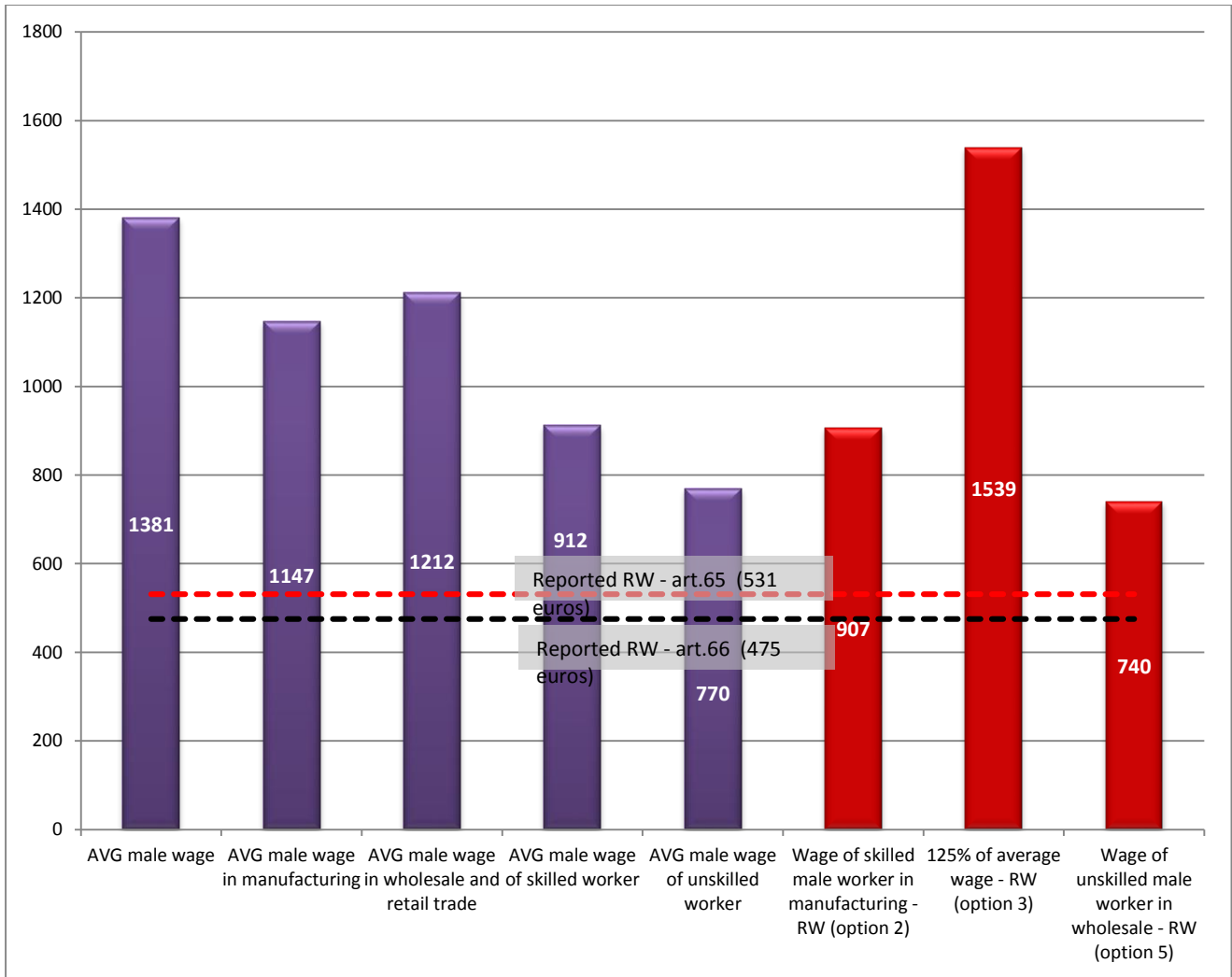
¹⁰ Structure of earnings survey (SES) – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en

¹¹ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

¹² Report of Portugal under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p.18

¹³ Gain mensuel moyen – Gabinete de Estratégia e Estudos / Ministério da Economia, Quadros de Pessoal (Cabinet de Stratégie et Etudes du Ministère de l'Économie, Tableaux des Effectifs)

Fig 4. Comparison of the reported reference wage to other wage indicators in the Portugal, 2010



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en - 125% of average wage (include both full-time and part-time employees)

CHAPTER III. Integrated Management of compliance and reporting obligations of Portugal under social security provisions of the ratified international treaties on social rights

- [Table 1. Up-to-date social security standards in force](#)
- [Table 2. Pending comments of the supervisory bodies](#)
- [Table 3. Up-to-date standards on which reports are due in 2016](#)
- [Table 4. Up-to-date standards on which reports are due in 2017](#)
- [Next detailed report of Portugal under Article 74 of the ECSS. \(Extract from CEACR 2015 Conclusions\)](#)
- [Coordination of reporting between the ECSS and C102. Form for the annual report on the European Code of Social Security](#)
- [Fig. 1. Time management of the 5 years reporting cycle \(2011-2016/17\) on international and European social security standards](#)
- [Fig. 2. Time management for reporting on social security standards in 2016](#)

Table 1. Up-to-date social security standards in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	<i>Right to Social Security Art.9</i>										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1, 13§1§2§3, 14, 30	
	<i>Right to Social Security Art.12§1§2§3</i>										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

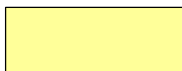


Social Security Standards in force for Portugal



Social Security Standards not in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.13§1		Art.1§1	Art.23	Art.3§1§2§4, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1, 13§1, 14§1, 30	
	Art.11		Art.1§3		Art.3§3					Art.13§2§3, 14§2	
	Right to Social Security Art.12§1										
	Art.12§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	<i>Right to Social Security Art.9</i>										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1	
					Art.15§2					Art.13§1§2 §3, 14, 30	
	<i>Right to Social Security Art.12§1§2§3</i>										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2016

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1	
	Right to Social Security Art.12§1§2§3										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2017

Table 4. Up-to-date standards on which reports are due in 2017

Next detailed report of Portugal under Article 74 of the ECSS

(Extract from CEACR 2015 Conclusions)

In accordance with the reporting cycle on the Code, in July–August 2016 the Government shall submit a detailed report covering the period of five years from 1 July 2011 to 30 June 2016. In accordance with the reporting cycle on Convention No. 102, in June–August 2016 the Government shall also submit a detailed report for the period from 1 June 2011 to 31 May 2016. The Committee draws the Government’s attention to the alignment of the reporting obligations under the Code and Convention No. 102 and to the similarity of the report forms on both instruments, the objective of which is to reduce the administrative workload and avoid duplication of reports. For this purpose, the report form on the Code expressly stipulates that, if a Government is bound by similar obligations as a result of having ratified ILO Convention No. 102, “it may communicate to the Council of Europe copies of the reports it submits to the International Labour Office on the implementation of this Convention”. The Committee points out that this simplified procedure can be used next year to report on all accepted Parts of the Code. Conversely, the information provided by the Government in its annual reports on the Code is regularly taken into account by the Committee in assessing the application of Convention No. 102.

Furthermore, by 31 October 2016, Portugal will also report on the application of the accepted provisions of the European Social Charter under the thematic group “Health, social security and social protection”, which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of elderly persons to social protection (Article 23) and the right to protection against poverty and social exclusion (Article 30). The Committee observes that these Articles of the Charter are directly related to many provisions of the Code and ILO social security Conventions, which form a single legal space of the international social security law. Taking into account that the reference period for the report on the Charter (1 January 2012–31 December 2015) falls inside the reference periods for detailed reports on the Code and Convention No. 102, the Government is invited to coordinate the fulfilment of its compliance and reporting obligations under these instruments in order to improve the quality and consistency of the information provided. Such coordination could be extended further to include reporting on the social security provisions of the United Nations human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, Portugal’s fifth periodic report on which is due in 2019.

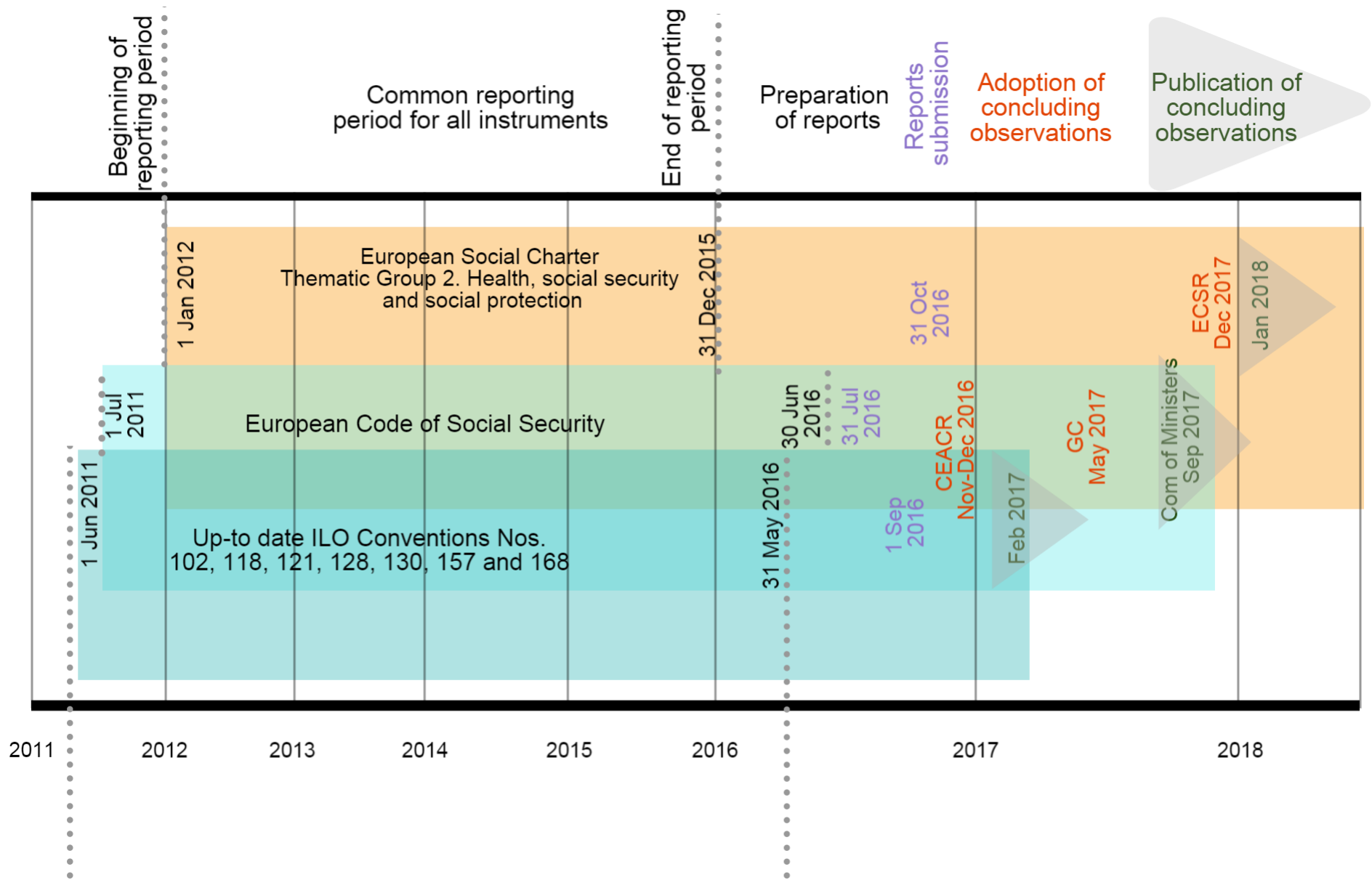
With regard to coordination of compliance obligations, the Committee recalls that, in formulating its country conclusions on the application of the Code, it takes account of the relevant observations made by other supervisory bodies, such as the European Committee of Social Rights and the United Nations Committee on Economic, Social and Cultural Rights. To facilitate the integrated management of Portugal’s obligations under the social security provisions of the main European and international treaties on social rights, the Committee refers the Government to the coordination tables and reporting timelines presented in the attached ILO technical note, together with the structured compilation of the comments made by their supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply the rights-based approach to its fiscal consolidation policy and complement it by the legal consolidation of all international obligations binding Portugal to the full respect of social security rights.

Coordination of reporting between the ECSS and C102
Form for the annual report on the European Code of Social Security (as modified
by the Protocol additional thereto)

If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards



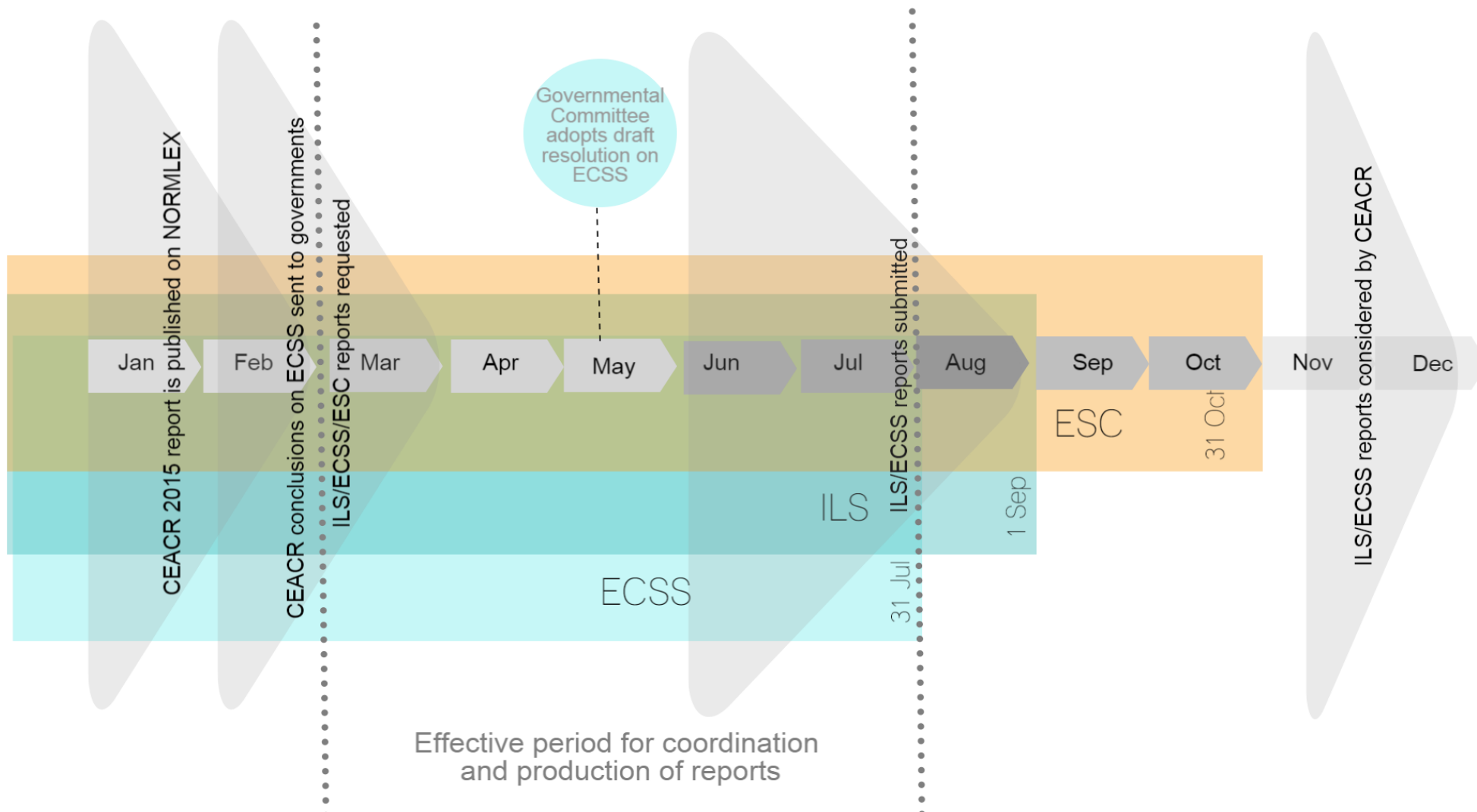


Fig. 2. Time management for reporting on social security standards in 2016

Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by Portugal](#)
 - [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)
1. **[United Nations](#)**
 - [International Covenant on Economic, Social and Cultural Rights](#)
 - [Convention on the Rights of the Child](#)
 - [Convention on the Elimination of All Forms of Discrimination against Women](#)
 - [Convention on the Right of Persons with Disabilities](#)
 2. **[Council of Europe](#)**
 - [European Social Charter](#)
 - [European Code of Social Security](#)
 3. **[International Labour Organization](#)**
 - [Social Security \(Minimum Standards\) Convention, 1952 \(No.102\)](#)
 4. **[EU Country-Specific Recommendations: 2015](#)**

Table 1. In force international treaties on social rights ratified by Portugal

Body	International Treaty	Entry into force for Portugal	Next report due on
United Nations	ICESCR	31 Jul 1978	30 Nov 2019
	Convention on the Rights of the Child	21 Sep 1990	20 Oct 2017
	Convention on the Elimination of All Forms of Discrimination against Women	30 Jul 1980	Submitted 18 Oct 2013, tbc 2015
	Convention on the Rights of People with Disabilities	23 Sep 2009	Submitted 8 Aug 2012, tbc in 2016
Council of Europe	European Code of Social Security	16 May 1985	1 Jul - 31 Aug 2016
	European Social Charter	30 May 2002	31 Oct 2015
International Labour Organization	Convention 102	17 Mar 1994	1 Jun - 1 Sep 2016
	Convention 103	2 May 1985	Automatic Denunciation by C183
	Convention 121		
	Convention 128		
	Convention 130		
	Convention 168		
	Convention 183	8 Nov 2012	1 Jun - 1 Sep 2018
European Union	Country-Specific Recommendation of 14 July 2015		

Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

<i>Instrument</i>	<i>Supervisory body</i>	<i>Type of a State party report/Reporting cycle</i>	<i>Comments of the supervisory body</i>
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

International Covenant on Economic, Social and Cultural Rights – Concluding observations 2014

(the numeration of comments is kept in accordance to the original file)

[UN Office of the High Commissioner for Human Rights website link, Treaty bodies database](#)

Unemployment

The Committee is concerned that the unemployment rate remains exceptionally high, affecting disproportionately young people under the age of 24, whose unemployment rate has more than doubled since 2008. The Committee also notes that long-term unemployment has increased from 48.2 per cent in the second quarter of 2008 to 56 per cent in the second quarter of 2013 (art. 6).

The Committee recommends that the State party step up its efforts to reduce unemployment, in particular unemployment among young persons, with a view to moving progressively towards the full realization of the right to work, inter alia, by:

(a) Strengthening the programmes and strategies aimed at reducing unemployment rates and ensuring that policies to promote employment effectively target groups disproportionately affected by unemployment;

(b) Addressing the causes of youth unemployment, creating employment opportunities for young people and enhancing the quality of technical and vocational training and education, taking into account labour market opportunities, including by implementing the Portuguese Youth Guarantee Implementation Plan, which entered into force in January 2014, and other active labour market measures;

(c) Reinforcing the support for jobseekers, with special focus on the long-term unemployed, including by providing them with adequate training to enhance their skills.

In that regard, the Committee refers the State party to its general comment No. 18 (2005) on the right to work.

Minimum wage

The Committee notes the increase in the proportion of employees who earn the minimum wage from 5.5 per cent in April 2007 to 12 per cent in October 2013 and, while it welcomes the decision of the State party to increase the minimum wage per month from €485 to €505 as of 10 October 2014, after it had been frozen since 2011, it remains concerned that the level of the minimum wage is still not sufficient to provide workers and their families with a decent living (arts. 7, 9 and 11).

The Committee recommends that the State party ensure that the minimum wage enables workers and their families to enjoy a decent living and that it is periodically reviewed and adjusted in line with the cost of living, in accordance with article 7, paragraph (a), of the Covenant.

Poverty and social security

The Committee is concerned that the benefits that are based on the social support index ("*Índice de Apoios Sociais*"), which was frozen in recent years as part of austerity measures, as well as the minimum amount of sickness benefit, are not sufficient to provide recipients and their families with a decent standard of living, affecting in particular the most disadvantaged individuals and groups. In addition, the Committee is concerned that, despite the State party's efforts to combat poverty, including through social transfers, the resident population at risk of poverty reached 18.7 per cent in 2012, the highest value since 2005, with households that include dependent children, persons aged under 65 years, children and unemployed persons at a greater risk of poverty. The Committee is further concerned at the high level of income inequality in the State party (arts. 9 and 11).

The Committee draws the attention of the State party to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10) and recommends that the State party strengthen its efforts to combat poverty, in particular among households with dependent children, persons aged under 65 years, children and unemployed persons by, inter alia:

(a) Addressing, in its post-crisis economic and social efforts, the gaps in social protection coverage and the adequacy of benefits, and ensuring that the social assistance system targets effectively those at high risk of poverty;

(b) Adjusting the social support index in line with the evolving needs of the recipients, with a view to reducing income inequalities and eventually eliminating the adverse impact of austerity measures on the enjoyment of the right to an adequate standard of living;

(c) Raising progressively the reference threshold of the guaranteed minimum income scheme (*Rendimento Social de Inserção*), with a view to increasing the number of eligible beneficiaries.

[Convention on the Rights of the Child – Concluding observations 2014](#)

[UN OHCHR website link, Treaty bodies database](#)

Children with disabilities

The Committee notes with satisfaction the adoption of laws and policies pertaining to children with disabilities, in particular relating to non-discrimination, access to education and the promotion of social inclusion, as well as establishing specialized support mechanisms concerning referral, evaluation, and monitoring, including Decree Law Nos. 38/2004 and 3/2008 creating a new regime supporting students with special needs education, and the National Strategy for Disability (2011-2013). The Committee is nonetheless concerned that:

(a) Austerity measures have negatively affected the implementation of the National Strategy for Disability, including in regard to support services required for the successful mainstreaming of children with disabilities;

(b) Children with disabilities are not effectively integrated into all areas of social life;

(c) According to reports, children in institutions are allegedly subjected to ill-treatment; (d)

According to complaints made to the Ombudsperson's Office, there are delays in processing applications for special education subsidies for children with disabilities, who are disproportionately at risk of poverty.

In the light of article 23 of the Convention and of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to:

(a) Adopt a human rights-based approach to disability and continue to strengthen its efforts to promote and protect the rights of children with disabilities, including by allocating the necessary resources for the effective implementation of the National Strategy for Disability;

(b) Take all the necessary measures to ensure that children with disabilities are fully integrated into all areas of social life, including recreational and cultural activities;

(c) Ensure that schools and care facilities are adequately staffed and funded, and that children with disabilities are treated with dignity and respect, and benefit from effective protection;

(d) Address the alleged delays in the assessment of requests for the special education subsidy and in the processing of payments, review legislation to clarify aspects that have been hindering the process of granting the allowances, and ensure a fair and transparent review procedure in cases of initial rejection;

(e) Ensure that training is provided for professionals working with children with disabilities, such as teachers, social workers and health, medical, therapeutic and care personnel.

Health and health services

The Committee welcomes the progress achieved in the key child-health indicators, including infant mortality, under-5 mortality and child tuberculosis rates, and the adoption of the National Plan for Mental Health. The Committee also welcomes the information that health services are available to all children free of charge up to the age of 12, including children who are not nationals but are residing in Portugal, and undocumented children. Following a period of significant increases in investments in the National Health System (NHS), the Committee is, however, concerned about recent reductions in the National Health Service budget, which will negatively impact the fulfilment of children's right to health.

The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), and recommends that the State party minimize the impact of financial restrictions in the area of health care, and also recommends that austerity measures in the area of health care should be evaluated on the basis of a child-rights impact assessment to ensure that such measures do not have a negative impact on child health and well-being.

Standard of living

The Committee welcomes the State party's decision to increase family allowances and benefits for vulnerable households with children, i.e. single-parent families, families with two or more children, families with children with disabilities and families living in persistent poverty, the expansion of the school meal programme and the implementation of the Social Emergency Programme in 2011 with the aim of minimizing the social impact of the financial crisis on the most vulnerable households. The Committee is nonetheless concerned at the high level of

deprivation among children and the implementation of austerity measures which have a negative impact on families, significantly increasing the risk of children being exposed to poverty and affecting the enjoyment of many of the rights protected by the Convention, including the rights to health, education and social protection.

The Committee urges the State party to intensify its efforts to address, both in the short term and in a sustained manner, the high level of child poverty, including the design of public policies and a national plan to combat child poverty. These should establish a coherent framework identifying priority action against the exclusion of children, with specific and measurable objectives, clear indicators, deadlines and sufficient economic and financial support.

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2015

[*UN OHCHR website link, Treaty bodies database*](#)

Employment

35. The Committee recommends that the State party:

- (a) Take targeted measures, including temporary special measures, such as providing financial incentives for the employment of women;
- (b) Enhance access to the employment market for women, especially young women, and apply the principle of equal pay for work of equal value in all sectors of the economy;
- (c) Increase employment opportunities for disadvantaged and marginalized groups of women, such as Roma, migrant and older women, including by providing training and opportunities for women's entrepreneurship;
- (d) Take all measures necessary to eliminate discrimination against pregnant women and new mothers in terms of employment.

Convention on the Right of Persons with Disabilities – Concluding observations

No concluding observations available yet.

2. Council of Europe

European Social Charter

[Official website of the European Social Charter. link to conclusions](#)

Article 1 – Right to work – Conclusions 2012

Paragraph 1 - Policy of full employment

Employment situation

The level of unemployment among young workers reached 27.7% in 2010 (up from 20.4% in 2007). The long-term unemployment rate (as a percentage of all unemployed persons) also increased, by more than five percentage points between 2007 and 2010, reaching 52.3%.

The Committee notes that the labour market situation in Portugal deteriorated during the reference period as a result of the economic crisis, as shown by the increase in the different unemployment rates mentioned above.

Employment policy

The Committee notes from Eurostat that the activation rate in Portugal, that is, the number of persons taking part in an active measure as a percentage of the unemployed, was 32.4% in 2009. This was above the EU-27 average that year, which stood at 28.9%. Also according to Eurostat, public expenditure on active labour market policies in Portugal amounted to 0.75% of GDP in 2009, which was around the average of the EU-27 countries (which stood at 0.78% that year). The Committee moreover notes that the level of spending on active measures has increased since the last report (0.5% in 2006).

The Committee takes note of the programmes targeted at specific categories of unemployed, namely young persons (vocational internships, training, tax reductions and other fiscal incentives, etc.). The Committee asks to be kept informed on the implementation of the different programmes/measures mentioned in the report, and whether they have had a positive impact on employment opportunities.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 3 - Free placement services

The Committee asks the next report to provide updated information on the operation of the Public Employment Services (PES), in particular on the number of placements made by the employment services. The next report should therefore include information (for the different years of the reference period) on:

- the number of vacancies notified to the PES;
- the number of placements made by the PES (and the placement rate, measured as a percentage of the total vacancies notified);
- the placements made by the PES as a percentage of total hirings in the labour market.

The Committee also asks what is the number of counselors in the PES involved in placement services, and the ratio of placement staff to registered jobseekers. The report containing no information, the Committee considers there is nothing to show that employment services are operated in an efficient manner. ”

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 1§3 of the Charter on the ground that it has not been established that employment services operate in an efficient manner.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

The Committee notes that risk prevention measures and measures to raise employers' and employees' awareness exist at the level of the authorities. It also notes that the IGT is involved in fostering a culture of occupational health and safety and, as part of its prevention activities, it shares the knowledge about risks and risk prevention it gleans from its experience on inspection visits. The Committee asks for information in the next report on the national system for occupational risk prevention. It also asks for information on how enterprises put their obligations regarding risk prevention, workplace risk-assessment, preventive measures geared to the nature of the risks identified, and information and training for workers into practice. It also asks for information on the rules on the functioning, certification and provision of occupational health and safety services provided for in Articles 73 et seq. of Act No. 102/2009. The Committee asks for the next report to state whether the National accreditation system includes the verification of occupational health and safety conditions. It also asks for information on the involvement of the authorities in scientific and technical research on occupational health and safety.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 3§1 of the Charter.

Paragraph 2 - Safety and health regulations

The Committee takes note of the information contained in the report submitted by Portugal.

Risks covered by the regulations

It previously concluded (Conclusions XVI-2 and 2009) that the scope of risks covered specifically by the legislation and regulations was in conformity with the Charter.

The report describes the changes that were made to the relevant legislation and regulations during the reference period and the transposition of the EU acquis. According to another source, Commission Directive 2006/15/EC of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC was transposed into domestic law by Legislative Decree No. 305/2007 of 24 August 2007 transposing Directive 2006/15/EC into domestic law and Law No. 102/2009 of 10 September 2009 on the legal requirements for the promotion of occupational health and safety.

The Committee takes note of this information. It notes that most of the relevant EU acquis has been transposed into domestic law. It considers therefore that current laws and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards.

The Committee requests nonetheless that the next report also describe the measures taken to transpose the more recent EU acquis into domestic law, particularly the following Directives: Directive 2000/54/EC of the European Parliament and the Council of 18 September 2000 on the

protection of workers from risks related to exposure to biological agents at work; Directive 2008/46/EC of the European Parliament and of the Council of 23 April 2008 amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields); Commission Directive 2009/161/EU establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC; and Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2006/42/EC with regard to machinery for pesticide application. It also asks for information on the measures taken to remedy the failing found by the Court of Justice of the European Communities in the transposition into domestic law of Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances. It also asks for clarification on the laws and regulations covering risks in the autonomous regions of the Azores and Madeira.

Conclusion

The Committee concludes that the situation in Portugal is in conformity with Article 3§2 of the Charter.

Paragraph 3 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Portugal.

Occupational accidents and diseases

It previously concluded (Conclusions XVI-2 and 2009) that the situation was not in conformity with the Charter on the ground that the number of fatal accidents was manifestly high. It asked for data on cases of occupational disease.

According to the report, the number of occupational accidents (including commuting accidents; excluding technological accidents) declined slightly during the reference period (from 240 018 in 2008 to 215 632 in 2010). The number of inquired fatal accidents increased during that period (from 120 in 2008 to 130 in 2010). Construction, manufacturing and agriculture had the highest levels of fatal accidents. The representative of the Government informed the Governmental Committee (Report concerning Conclusions 2009, § 42) that the prevention of fatal accidents remained a major concern.

EUROSTAT data confirms the decline in occupational accidents (more than three days of absence; excluding commuting accidents) during the reference period (from 138 077 in 2008 to 99 502 in 2010). The incidence rate for such accidents declined as well (from 3 039.46 in 2009 to 2 980.71 in 2010), but remained at a level which was far above the average level observed in the EU-15 and the EU-27 (from 1 936.71 in 2009 to 1 582.71 in 2010). The number of fatal accidents declined during the reference period (from 138 in 2009 to 105 in 2010), as did the incidence rate for such accidents (from 3.31 in 2009 to 3.15 in 2010). The latter remained far above the average rate in the EU-15 and the EU-27 (from 1.94 in 2009 to 1.87 in 2010). According to the report, the number of cases of occupational disease certified by the National Centre for Protection against Occupational Risks (CNPRP) decreased during the reference period (from 3 174 in 2008 to 2 598 in 2010). There are no figures on cases of fatal occupational disease.

The Committee notes from the report that some inquiries into reported fatal accidents were postponed. It infers from this information that discrepancies between the data provided in the report and those published by EUROSTAT may result from differences in methodology. It would ask the next report to comment on this assumption.

The Committee also notes that incidence rates for occupational accidents and especially fatal accidents have considerably decreased since the previous reference period. The trend continued during the reference period. It considers, however, that the overall level of occupational accidents is still too high in comparison with the average rates in the EU-27 for the right to safe and healthy working conditions to be secured. It therefore reiterates its conclusion of non-conformity.

The Committee also notes the low number of certified cases of occupational disease, and asks that the next report provide information on the results of the measures already taken, and on any further steps taken to counter inadequate reporting or recognition of cases of occupational disease in practice, including by clarifying Act No. 98/2009 of 4 September 2009 regulating the compensation scheme of occupational accidents and diseases, including the professional rehabilitation and reintegration under Article 284 of the Labour Code. It further asks for data on cases of fatal occupational disease.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

Paragraph 4 - Occupational health services

The Committee takes note of the information contained in the report submitted by Portugal. It previously examined (Conclusions 2009) the general framework for occupational health services. It deferred its conclusion pending receipt of information on measures taken to implement the relevant legislation and on the proportion of enterprises which have occupational health services.

In reply, the report states that occupational safety, hygiene and health services must issue annual reports, in accordance with a standard model set out in Ministerial Order No. 55/2010 of 21 January 2010. The numbers of joint services (115 500 in 2008 and 141 325 in 2009), external services (32 830 in 2008 and 34 225 in 2009) and occupational safety and health technicians (6 503 in 2008 and 12 218 in 2009) have increased during the reference period. According to the report, in 2009 there were some 2 659 occupational physicians, i.e. 0.358 occupational physicians per 1 000 workers, according to the labour force published by ILOSTAT.

Act No. 102/2009 of 10 September 2009 on the legal regime to promote occupational safety and health upholds obligations under the previous legislation. In particular, employers who lack adequate resources may request exemption from the obligation to establish internal occupational safety, hygiene and health services, provided they do not carry out high-risk activities; incidence rates for serious occupational accidents in the last two years were below the sector average; no cases of occupational disease are recorded; no sanctions for serious offences to occupational health and safety laws and regulations were inflicted in the last two years; no infringements to exposure limit levels were established by risk assessment and inspection reports (Article 80 para. 1). Authorisations to set up joint services by agreement between establishments are now subject to renewal every five years (Article 78 para. 3). Such authorisations are now issued by the Working Conditions Authority (ACT) Inspector-General for aspects of occupational safety, and by the Director-General for Health in the Ministry of Health on those of occupational health, in accordance with request forms and procedures set out in Ministerial Order No. 255/2010 of 5 May 2010. The failure to set up occupational safety, hygiene and health services is now qualified as a very serious offence (Article 73 para. 1).

Act No. 102/2009 also set out obligations for employers to organise periodical medical examination and take the occupational physician's opinion into account when taking protection and prevention measures; to promote long-term health surveillance; to ensure that all workers exposed to risk for the genetic heritage receive medical examination. Such medical examination includes the take up of the workers' medical and occupational history; the individual examination of the workers' state of health; and screening of early and reversible symptoms (Article 44 para. 2). Occupational physicians shall inform workers about its results in medical terms, and employers about its results in matters of risk prevention (Article 45).

According to another source, enterprises, establishments or establishments sets located within a distance of 50 Kms which employ less than ten employees, and which are not involved in high-risk activities, may request to have the activities of occupational safety, hygiene and health services exercised by the employer (after required training in 18 safety material, health, ergonomics and work organisation), or by a designated employers' representative who underwent such training. Authorisations, which imply visits of the establishment by the ACT, are subject to renewal every five years (Article 81).

The Committee takes note of this information. It notes that the statutory and regulatory framework includes a strategy in the event occupational safety, hygiene and health services are not set up in all undertakings. It also notes the increase in the number of joint and external occupational safety, hygiene and health services during the reference period.

The Committee points out that in accepting Article 3§4 of the Charter, States Parties undertake to ensure that all workers have access to occupational health services in all branches of economic activity and in all enterprises. It therefore reiterates its request for the percentage of enterprises and establishments which, in practice, provide access to external or joint safety, hygiene and health services. It also asks that the next report provide information on the following aspects: the relevant laws and regulations applicable in the autonomous regions of Madeira and the Azores; the actual content of occupational safety, hygiene and health services provided by the employer or his designated representative; the occurrence and periodicity of medical examinations in law and practice; and the accreditation and supervision of external providers of occupational safety, hygiene and health services.

In view of the progressive nature of the obligations set out in Article 3§4 of the Charter, the Committee further asks that the next report contain information on any strategy to improve access to occupational safety, hygiene and health services in small and medium-sized enterprises (SMEs), in consultation with employers' and workers' organisations.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Portugal is in conformity with Article 3§4 of the Charter.

Article 4 - Right to a fair remuneration – Conclusions 2014

Paragraph 1 - Decent remuneration

According to Statistics Portugal figures for 2012, the net median monthly wage stood at €808, with low-pay jobs including manual workers and assimilated (€466), skilled workers in agricultural, forestry and fishery (€557) and workers in trade and service (€615); and low-pay sectors including agriculture, forestry and fisheries (€615) as well as industry, construction, energy and water (€740).

According to EUROSTAT data for 2012, the average annual income (table "earn_nt_net") of single workers without children (100% of an average worker) was €17 040.00 gross (€1 420.00 per month) and €13 158.03 net (€1 096.50 per month). The gross minimum wage (table

"earn_mw_cur"), paid for 14 months, was €565.83 (adjusted to 12 months). The minimum wage as a proportion of average monthly earnings (table "earn_mw_avgr2") was 43.30%. The Committee points out that, in order to ensure a decent standard of living within the meaning of Article 4§1 of the Charter, wages must be no lower than the minimum threshold, set at 50% of the net average wage.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 4§1 of the Charter on the grounds that the minimum wage for private sector workers does not ensure a decent standard of living.

Article 8 - Right of employed women to protection of maternity – Conclusions 2011

Paragraph 1 - Maternity leave

Right to maternity leave

According to Article 41§§1 and 2 of the Labour Code, employed women are entitled to take 30 days of leave before birth and there is a compulsory postnatal leave of 6 weeks. In addition, Article 40§1 provides that both parents are entitled to 120 or 150 days which they can decide to share after the birth, without prejudice to the other right to leave to which mothers are entitled. In the absence of any indication from both parents, this period of leave is attributed to the mother. This leave can be extended in case of multiple births. The Committee recalls that right to maternity leave must be at least 14 weeks. However, it also recalls that national law may permit women to opt for a shorter period of maternity leave (Conclusions VIII, Statement of Interpretation on Article 8§1). In the case at issue, women are entitled to 10 weeks to which they may decide to add up to 150 days of leave, shared or not with the father according to a joint decision of both parents. In view of this situation and the fact that the period of compulsory postnatal leave is of 6 weeks, the Committee considers that the situation is in conformity. The Committee asks whether the same regime applies to women employed in the public sector.

Right to maternity benefits

Maternity benefits amounting to 100% of the employee's reference remuneration are paid during the whole period of leave provided for by law. In order to be entitled to this benefit, the beneficiary must have worked for 6 months (consecutive or not). In addition, social parental allowances exclusively for mothers are available as well as a specific risks allowance representing 80% of the Social Support Index Value (around €400 in 2008 and 2009). In accordance with Executive Law No. 308-A/2007 of 5 September 2007, a prenatal family allowance was also created to provide women with an incentive for having children by compensating them for the additional costs they incur during pregnancy. The amount of this allowance will depend on a number of criteria including the household's income and cannot be higher than five times the Social Support Index Value; it is payable as of the month following that in which the woman reaches the 13th of pregnancy and is awarded for 6 months. This allowance is increased by 20% in case of single-parents households. The Committee asks whether the same regime applies to women employed in the public sector.

Conclusion

Pending receipt of the information received, the Committee concludes that the situation in Portugal is in conformity with Article 8§1 of the Charter.

Article 11 Right to protection of health – Conclusions 2013

Paragraph 1 - Removal of the causes of ill-health

Right of access to health care

The report indicates that with a view to mitigating the lack of coverage which still exists in certain areas, due to a lack of GPs or certain specialised services such as dental care, a number of initiatives have been developed, including the expansion of the system of agreements with the private sector, tele-medicine services or financial subsidies for citizens in vulnerable situations to access dental care.

Another priority mentioned in the report is promoting access to hospital care: access to surgery, to outpatient consultations, treatment of oncological diseases, ambulatory surgery and improving emergency services. Also with a view to enhancing access and quality of healthcare a set of compulsory clinical norms will be prepared in consultation with health professionals. Finally, the involvement of the community in the management of primary healthcare will also be explored. The Committee asks to be kept informed on the implementation of these different initiatives and on their results.

As regards pharmaceutical products, according to the report a number of initiatives are underway to increase the number of medicines that can be purchased without a medical prescription, through increased availability of generic drugs in pharmacies. The aim is also to develop electronic prescriptions, as well as to increase subsidies for the purchase of medicines. The Committee asks the next report to provide information on the level of co-payments for pharmaceutical products.

The report states that the accelerated demographic ageing of the population is one of the key challenges of the health system. It also states that a National Network for Integrated Long Term care is being developed with public sector involvement, as a means of struggling against factors that threaten social cohesion. The Committee asks to be kept informed of the measures introduced to this end.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 11§1 of the Charter.

Paragraph 2 - Advisory and educational facilities

Education and awareness raising

In reply to a question by the Committee on whether health education was included in the school curricula of all Portuguese schools, the report confirms that such is the case, indicating that health promotion and education are included in school curricula from preschool education to secondary school. In preschool, health education matters are addressed in topics such as world knowledge, personal and social training, education on values and education for citizenship. In secondary school, health education is included in the sciences area, but is also transversally addressed in other subjects of the national curriculum.

Counselling and screening

The report fails to provide, for the second time, any relevant information on counselling and screening for the population at large. The Committee recalls that pursuant to this provision there should be screening, preferably systematic, for the diseases which constitute the principal

cause of death. Preventive screening must play an effective role in improving the population's state of health. The Committee therefore asks again what mass screening programmes are available in the country. In the meantime, it considers that it has not been established that prevention through screening is used as a contribution to the health of the population.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that prevention through screening is used as a contribution to the health of the population.

Paragraph 2 - Advisory and educational facilities – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Portugal in response to the conclusion that it had not been established that prevention through screening is used as a contribution to the health of the population (Conclusions 2013, Portugal).

The Committee recalls that screening should exist and preferably be systematic for all the diseases that constitute the principal causes of death (Conclusions 2005, Republic of Moldova). The Committee has ruled that "where it has proved to be an effective means of prevention, screening must be used to the full" (Conclusions XV-2 (2001), Belgium).

The report states that the National Health Service carries out regular population-based screenings in the areas of cancer and diabetes. Population screening is organised on a regional basis under the responsibility of the five Regional Health Administrations.

Cancer is the main cause of death before age 70 (i.e., the main cause of premature death) and it is the second leading cause of death in all age groups. According to the Government secondary prevention, based on early diagnosis and prompt treatment provision, requires the organization of effective screening tests, and people's access to the screenings must be guaranteed with full respect for the equity principle.

The Committee notes that one of the goals of the National Programme for Cancer Diseases is to continue with the implementation of the Council Recommendation (2003/878/EC) and conduct cervical cancer screenings with cervical cytology aimed at women aged 30-60, breast cancer screenings with mammography, every two years, aimed at women aged 50-69, and colorectal cancer screenings with faecal occult blood test aimed at the population aged 50-74. Further to the adoption of Order No. 4803/2013 of 8 April, population-based screening programmes of cancer diseases (colon and rectum, cervix and breast) are to be periodically monitored. The Government explains that standardization of monitoring indicators (the same for all the Regional Health Administrations) and the follow-up of the screening programmes' evolution will allow real-time monitoring of the situation at national level.

The Committee takes note of the information on the geographical coverage of the various cancer screening programmes as well as on early detection efforts in respect of oral cancer.

With respect to diabetes the Committee notes that one of the specific goals of the National Programme for the Prevention and Control of Diabetes is to ensure regular screenings for diabetic retinopathy, diabetic foot and diabetic nephropathy. In this respect it also notes the statistical information on diabetic retinopathy screening programme.

The Committee asks that the next report contain up-dated information on any other screening programmes (for example in respect of cardiovascular diseases) as well as on coverage rates

(number of persons screened from the target population and on the impact of all existing screening programmes (impact on early diagnosis rates, survival rates, etc.).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 11§2 of the Charter as regards the use of screening as a contribution to the health of the population.

Paragraph 3 - Prevention of diseases and accidents

The report provides no information on measures adopted in the field of environmental health. The Committee therefore asks the next report to include updated information on the main regulations/legislation in the field of environmental protection, namely for the protection of air quality, water safety, noise, as well as in the areas of ionising radiation, asbestos and food safety. It also wishes to receive information on the levels of air pollution, as well as on cases of water and food intoxication during the reference period. Meanwhile, the Committee reserves its position on this point.

The report mentions several projects and campaigns on child injury prevention, road safety and home accidents involving elderly persons. The Committee asks to be kept informed on the implementation and results of the different initiatives mentioned to prevent accidents.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 11§3 of the Charter.

Article 12 Right to social security – Conclusions 2013

Paragraph 1 - Existence of a social security system

Risks covered, financing of benefits and personal coverage

The Committee takes note of the information regarding personal coverage of social security risks. It notes that the personal coverage of sickness risk is 98%, of unemployment risk it is 89% and of old age risk it is 49%. The Committee notes from the report of Portugal for the European Code of Social Security that 51% of all residents were covered against old-age.

The Committee understands that this indicator is significantly lower than that for other risks because it represents a percentage of all population, while for other risks it represents a share of ensured persons out of the total active population.

The Committee notes that the personal coverage of social security risks is satisfactory and asks the next report to provide updated information regarding the number of persons protected against income-replacement benefits (old age, unemployment and sickness) out of the total active population and the number of persons covered by healthcare out of the total population.

Adequacy of the benefits

The Committee notes from Eurostat that 50% of the median equivalised income stood at € 350 in 2011.

The report states that the Reference of Social Support (IAS) which is the basis for setting the levels of minimum benefits was raised in 2008, 2009 and 2010 in line with the consumer price index.

As regards sickness benefit, the Committee notes from MISSOC that the minimum amount of this benefit stood at 30% of the IAS (€419.22) and thus amounted to € 125. The Committee

considers that this level is manifestly inadequate and the situation is not in conformity with the Charter.

As regards unemployment benefit, in 2010 within the context of the Stability and Growth Pact (SGP) of the Government a set of measures were introduced to rationalise the social benefits granting with a view to supporting the unemployed and encouraging their active reintegration in the labour market.

The Committee notes that during the first year of benefit payment the beneficiary can no longer refuse a job offer that ensures a gross salary equal or higher than the amount of the benefit, plus 10%. After the first year, the unemployed person should accept any job offer that ensures a gross salary equal to the amount of the benefit he/she receives. The amendments were introduced to the concept of suitable employment in order to specify and clarify the latter and allow a better and swifter return of unemployment benefit beneficiaries to the labour market, as a way to prevent long-term unemployment. The competences and professional experience of the employee are to be taken into account and the job offer may lie in a sector, activity or occupation different from the one in which the worker was engaged before the unemployment situation.

In this connection, the Committee recalls that under Article 12§1 there should be a reasonable initial period (e.g. three months) during which a worker should be able to refuse an unsuitable job offer without losing entitlement to unemployment benefit. The Committee asks what rules apply in this regard following the amendments implemented.

As regards the minimum level of unemployment benefit, the Committee notes from MISSOC that it corresponds to the IAS, unless the net value of the reference wage is below that level, in which case, the benefit amount corresponds to the reference wage. The Committee considers that the IAS amount is adequate as it is above the 50% of the Eurostat median equivalised income. However, the Committee asks under what circumstances the reference wage may fall below the IAS level.

As regards the old-age pension, in its previous conclusion the Committee found that the minimum monthly invalidity and old-age pension of persons who had contributed less than 15 years was inadequate and there was no evidence to determine the adequacy of the minimum monthly invalidity and old-age pensions for persons who had contributed more than 15 years and less than 30 years.

In this regard the Committee notes from MISSOC that the pension amount cannot be lower than the minimum values set by law and they are indexed to the IAS, which stood at €419.22 in 2011. The percentages vary according to the contribution period:

- Minimum for pensioners with up to 15 contributions years: 61.25% of the IAS indexing reference per month.
- Minimum for pensioners with 15 to 20 contributions years: 65.54% of the IAS indexing reference per month.
- Minimum for pensioners with 21 to 30 contributions years: 72.33% of the IAS indexing reference per month.
- Minimum for pensioners with more than 30 contributions years: 90.41% of the IAS indexing reference per month.

The Committee notes that all values except that of persons with more than 30 years of contributions are below 50% of the Eurostat median equivalised income and would therefore, not be in conformity with Article 12§1.

However, the Committee notes from MISSOC that the solidarity supplement for the elderly (complemento solidário para idosos) is paid to pensioners aged 65 years or more, justifying a residence in Portugal during the last six years and whose annual income is lower than €4,909

(single person). They are paid a supplement corresponding to the difference between their income and this amount.

The Committee understands that all persons earning the minimum contributory pension would qualify for the solidarity supplement for the elderly as their pension levels clearly fall below the annual income of €4,909, which, calculated per month would amount to € 409. The Committee asks whether this signifies that all persons earning the minimum pension would get a top up to the level of € 409, or in other words whether the minimum level of contributory pension in any event amounts to € 409, including the supplement.

The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity as concerns the minimum contributory pension benefit.

The Committee asks what are the minimum levels of maternity and invalidity benefits.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 12§1 of the Charter on the ground that the minimum level of sickness benefit is manifestly inadequate..

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

The Committee notes from the Resolution CM/ResCSS(2012)13 of the Committee of Ministers on the application of the European Code of Social Security by Portugal (period from 1 July 2010 to 30 June 2011) that the law and practice in Portugal continue to give full effect to the parts of the Code.

Conclusion

The Committee concludes that the situation in Portugal is in conformity with Article 12§2 of the Charter.

Paragraph 3 - Development of the social security system

According to the report, new legislation established that rehabilitation, professional reintegration and adaptation to the job are ensured to the worker that suffered a work-related accident. It also introduced new rules concerning the right of the worker to a part-time job. It established that the survivor's pension is payable as from the month after beneficiary's death if the application is filled in the 12 months immediately after the death.

The Committee considers that the legislative developments are in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Portugal is in conformity with Article 12§3 of the Charter.

Article 13 - Right to social and medical assistance – Conclusions 2013

Paragraph 1 - Adequate assistance for every person in need

Types of benefits and eligibility criteria

The Committee had asked what forms of social assistance may be refused to people not complying with the integration schemes, whether the assistance was withdrawn in its entirety and whether the withdrawal of such assistance may amount to the deprivation of means of subsistence for the person concerned. It understands from the report that, while the RSI is

suspended in these cases, the Social Action System provides for exceptional short-term benefits of limited amount covering minimum subsistence expenses. It asks the next report explicitly to confirm that these benefits are available to people whose RSI has been suspended for not accepting a suitable employment offer. As regards medical assistance, the Committee previously noted (Conclusions 2006) that people in need were exempted from the national health service fees and asked whether this continued to apply when the RSI is withdrawn for failure to comply with the integration scheme. It reiterates this question and holds that, if the next report doesn't provide information in this respect, there will be nothing to establish that medical assistance is provided free of charge to all persons in need.

Level of benefits

To assess the level of social assistance during the reference period, the Committee takes note of the following information:

- Basic benefit: according to MISSOC data, the Social Integration Income takes into account the composition of the household and was in 2011 €195.40 for a single person without resources living alone;
- Additional benefits: the Committee notes from the report that Decree-Law No. 70/2010 revoked the granting of additional benefits and supplements. Among the remaining benefits, the report mentions social security benefits such as the solidarity supplement for the elderly, family allowances for children and young people, prenatal family allowance, death grant, disability and dependence benefits. The Committee recalls that it considers as social assistance benefits for which individual need is the main criterion for eligibility, in the sense that benefits must be payable to "any person" on the sole ground that he/she is in need. This does not mean that specific benefits cannot be provided for the most vulnerable population categories, as long as persons who do not fall into these categories are entitled to appropriate assistance. Accordingly, it does not consider that the benefits referred to in the report of Portugal are relevant to Article 13§1.
- Medical care: see above.
- Poverty threshold, defined as 50% of median equalized income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value: estimated at €350 per month in 2011.

The Committee recalls that, according to Article 13§1, the assistance is appropriate when the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold. In the light of the above data, the Committee concludes that the levels of social assistance paid to a single person without resources are manifestly inadequate.

Personal scope

The Committee previously noted that all persons legally residing in Portugal are entitled to social assistance and asked whether any length of prior residence requirement applied to be entitled to social benefit. According to the report, foreign nationals are entitled to RSI if they have been legally resident in Portugal for at least three years, except in the case of EU/EEA nationals. The Committee recalls that, in accordance with the Appendix to the Charter, nationals of other Parties, who are legally resident in the territory of another Party and lack adequate resources must enjoy an individual right³⁴ to appropriate assistance on an equal footing with nationals. This implies that entitlement to assistance benefits, including income guarantees, is not confined in law or in practice to nationals or to certain categories of foreigners and that additional conditions such as length of residence, or conditions which are harder for foreigners to meet may not be imposed on them. Accordingly, the Committee holds that the situation is not

in conformity with Article 13§1 of the Charter insofar as non-EU/EEA nationals of member states to the Charter are not entitled to social assistance on an equal footing with nationals

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 13§1 of the Charter on grounds:

- that the level of social assistance is manifestly inadequate, and
- that the granting of social assistance benefits to nationals of other States Parties, other than EU/EEA nationals, is subject to an excessive length of residence requirement.

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee previously noted that under Article 26 of the Constitution everybody is entitled to legal protection against any form of discrimination and that restrictions on civil capacity may only occur as provided by the law.

Since political rights such as the right to vote are in principle restricted to nationals, on the grounds that they imply a role in the exercise of public authority, the Committee has ruled that “[any] assessment of a possible discrimination on this basis must of course be made in the light of the political rights these foreigners may claim under domestic law, it being understood that foreigners with a certain length of residence may enjoy more extensive rights. In the light of the clarification above, the Committee asks the next report to confirm that no restrictions apply, in law or in practice, to the social and political rights of beneficiaries of social assistance.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 13§2 of the Charter.

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee reiterates its question as to what means (in terms of staff and budget) are provided to social services dealing with persons without adequate resources or at risk of becoming so and whether such means are sufficient to give appropriate assistance as necessary.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 13§3 of the Charter.

Article 14 - Right to benefit from social services – Conclusions 2013

Paragraph 1 - Promotion or provision of social services

Effective and equal access

The Committee asked in its previous conclusion what remedies were available for users to assert their rights. In this regard, the report mentions the existence of complaint books in each institution providing social services where the user is free to complain about the service provided. The Committee wishes the next report to indicate whether a right of appeal to an independent body in urgent cases of discrimination and violation against human dignity does exist.

Quality of services

The Committee notes from its previous conclusion that the quality control of social services is carried out by the Inspectorate General of the Ministry of Labour and Social Solidarity (MTSS), which conducts inspections and audits on public and private social services providers. Despite repeated requests from the Committee the report fails to provide figures on the number of staff working in social services and information on staff qualifications. The Committee therefore concludes that the situation is not in conformity on the ground that it has not been established that there is an adequate number of staff providing social services and that the staff has sufficient qualifications. The Committee notes from the report that the legislation on labour law ensures the protection of personal information of staff. In addition, the Committee wishes to know whether there is a legislation on personal data protecting the right to privacy of users.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 14§1 of the Charter on the grounds that it has not been established that:

- there is an adequate number of staff providing social services;
- social services staff have sufficient qualifications.

Paragraph 1 - Promotion or provision of social services – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Portugal in response to the conclusion that it had not been established that there is an adequate number of staff and that staff have sufficient qualifications (Conclusions 2013, Portugal).

The Committee recalls that social services must have resources that match their responsibilities and the changing needs of users, which implies, inter alia, that staff shall be qualified and in sufficient numbers (Statement of interpretation on Article 14§1, Conclusions 2005, Bulgaria).

The report states that the number of human resources and their academic and training requirements are provided for in legislation and regulations in force. Each social service ("social response") has its own legislation which defines the categories and ratios of professionals necessary to meet the needs of a defined number of users. It is the responsibility of the Social Security Institute to ensure that the ratios established in the legislation are completely fulfilled, either through cooperation agreements concluded with solidarity sector institutions, or on the basis of operating licenses granted to profit-oriented private service providers.

However, the report also states that the Social Security Institute does not have statistical data on staff numbers and their qualifications. It emphasises that the absence of data does not mean that the established conditions are not fulfilled.

The Committee underlines that in order to make a proper assessment of the situation it must be provided with information on staff numbers and their qualifications. It asks that the next report provide this information both overall and broken down by the different types of social services. In this respect it also asks to receive information on the staff-user ratios referred to above and it would also be interested to know how the Government monitors compliance with the ratios fixed by statute in the absence of any statistical data.

Meanwhile, the Committee reiterates its conclusion that it has not been established that the situation is in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 14§1 of the Charter on the ground that it has not been established that there is an adequate number of staff and that staff have sufficient qualifications.

Paragraph 2 - Public participation in the establishment and maintenance of social services

According to the report, in 2011, total funds awarded to private and voluntary social services amounted to €1.1 billion.

The report fails to indicate the total number of volunteers and their qualifications, therefore, the Committee reiterates its request. If this information does not appear in the next report, there will be nothing to show that the situation is in conformity with Article 14§2.

In the absence of information concerning discrimination, the Committee wishes to know whether and how the Government ensures that the services managed by the private sector are effective and accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 14§2 of the Charter.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012

Paragraph 1 - Education and training for persons with disabilities

Definition of disability

According to the Government White Paper 40 (2002-2003) disability "occurs when a gap exists between the capabilities of the individual and the functional requirements of his or her surroundings." The Committee wishes to be informed of the definition of disability given by the law.

Anti-discrimination legislation

The Committee recalls its previous conclusion of non-conformity on the ground that antidiscrimination legislation covering education for persons with disabilities was inadequate. The report indicates that the Anti-Discrimination and Accessibility Act, that entered into force on 1 January 2009, provides protection against discrimination on the basis of disability in schools and educational institutions. The Act contains notably the requirement regarding universal design that applies to the adaptation of physical conditions to the needs of the general public, i.e. pupils, in schools and educational institutions. Thus, in order to ensure equal educational opportunities, school buildings, teaching premises, and canteens, etc. used by pupils attending the school have to be "universally designed". The report stresses that this Act enables persons with disabilities to have the opportunity to attend normal school and educational institutions.

In view of the above, and pending the information requested the Committee considers that the situation as regards anti-discrimination legislation is in conformity with the Charter.

Education

The Committee recalls from its previous conclusions that mainstreaming is ensured in compulsory schooling and even in child day-care for all children with disabilities. In its previous conclusion (Conclusions 2008), the Committee asked to be informed on any case law and complaints brought to the appropriate institutions with regard to discrimination in compulsory schooling. The report does not provide a reply and the Committee, therefore, reiterates its question. The Committee also reiterates its request for information about specialised education facilities.

Vocational training

The Committee asks the next report to provide updated information on the projects under way, and to provide information on the number of persons with disabilities attending mainstream vocational training; the number of those attending special training facilities; the percentage of persons with disabilities entering the labour market following mainstream or special training.

Conclusion

The Committee concludes that the situation in Portugal is in conformity with Article 15§1 of the Charter.

Paragraph 2 - Employment of persons with disabilities

Measures to encourage the employment of persons with disabilities

The number of people covered by occupational rehabilitation activities seems to have decreased almost by a third between 2009 and 2010 (from 17,103 to 11,718 people). The Committee requests an explanation in this respect to be included in the next report.

In addition, as noted in the previous Conclusions (2008), there are quotas for employment of persons with disabilities (5% in the public sector, 2% in the private sector) under Law 38/2004, but the 2010 Report on measures to combat discrimination states that these quotas are not enforced in practice, although the law foresees fines for their non-respect. The ANED report 2009 on employment of people with disabilities confirms that these quotas are not effectively regulated by Article 28 of the Fundamental Law (Law 38/2004). In the light of these comments, the Committee reiterates its question as to how the quota system is implemented in practice and whether workers employed under the above mentioned schemes are subject to the usual terms and conditions of employment including pay.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 15§2 of the Charter.

Paragraph 3 - Integration and participation of persons with disabilities in the life of the community

Anti-discrimination legislation and integrated approach

According to the 2010 Report on measures to combat discrimination (drawn by the European Network of Experts in the non-discrimination field), non-respect for rules on buildings and facilities is widespread (for example, some 60% of court buildings allegedly still do not have adequate facilities for persons with disabilities) and violations of these rules are allegedly rarely prosecuted. However, the same report acknowledges that the abovementioned laws and Plans adopted in 2006-2007 represent an important step forward. The Committee takes note of the

above-mentioned initiatives and requests next report to provide updated information on the state of implementation of the planned measures and their impact. It also reiterates its request for information on any relevant case-law covering the subject areas of Article 15§3.

Housing

The Committee reiterates its request for information in the next report on grants available to individual people with disabilities for home renovation work, lift installation and the removal of barriers to mobility, the number of beneficiaries of such grants and the general progress made on improving access to housing

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Portugal is in conformity with Article 15§3 of the Charter.

Article 16 - Right of the family to social, legal and economic protection - Conclusions 2011

Family benefits or taxations provisions

The system of family benefits which came into force in 2003 includes the allowance for children and young persons and the allowance for funeral expenses. The amount of the allowance is fixed according to the age and number of beneficiaries and the family's tax relief with respect to dependents. There are five income levels. According to MISSOC2 , in 2009, the amount of the allowances ranged from 174.72€ per month at level 1 to 33.88€ at level 5 for children under 12 months. For children over 12 months, it ranges from 43.68€ at level 1 to 11.29€ at level 5. The birth or integration in the household of a second child entails the doubling of child benefit for each child aged between 12 and 36 months; the birth or integration of a third child and of all following children leads to the tripling of child benefit, granted under the same age conditions. There is also an additional benefit for persons with disabilities. Beneficiaries at the first income level who are between the ages of 6 and 16 are entitled to an additional identical amount to offset school expenses. These amounts are adjusted once a year. Act No. 308-A/2007 of 5 September 2007 on the prenatal family allowance introduced an allowance for pregnant women, which is paid from the 13th week of pregnancy onwards and ranges between €33.88 and €174.72 depending on the parents' income. The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of median equivalised income. The Committee recalls that it previously considered that the amount of benefits was sufficient. The Committee notes that basic family allowances have risen compared with the previous reference period. Based on the information at its disposal, the Committee considers that the amount of family benefits is sufficient.

Vulnerable families

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee consequently asks what measures are taken to ensure the economic protection of Roma families.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

In its previous conclusion, the Committee noted that under Framework Act on Social Security No.32/2002 of 20 December 2002, the award of family benefits was subject to a residence

requirement. In order to assess the situation with regard to nationals of other states party to the 1961 Charter and the Charter, the Committee asked for specific information on the length of residence required and reserved its position on this point. The report does not provide the information requested and the Committee repeats its question. If the next report does not provide the necessary information, there will be nothing to show that the situation in Portugal is in conformity with Article 16 of the Charter.

Conclusion

Pending receipt of the information requested the Committee defers its conclusion.

Article 23 - Right of the elderly to social protection – Conclusions 2013

Legislative framework

The Committee previously asked whether anti-discrimination legislation to protect elderly persons outside the field of employment existed or whether the authorities planned to legislate in this area. No information has been provided on this issue in the report. Therefore the Committee concludes that no such legislation exists and that the situation is not in conformity with the Charter in this respect.

It further asked for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. Again no information is provided in the report on this issue. The Committee repeats its request for information and refers to its interpretative statement in the general introduction in this respect.

Adequate resources

The Committee notes in its conclusion under Article 13§1 that the poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value was estimated at €350 per month in 2011.

The Committee previously found that that the level of old age pensions (both contributory and non-contributory) were manifestly inadequate for a large part of the elderly population during the previous reference period (Conclusions 2009).

According to the report reference values for the old age pension (non -contributory) increased during the reference period. The social old age pension amounted to €197,55 in 2013 per month.

The report refers to the existence of several supplements such as the Solidarity Extra Supplement which increases the amount of the social old age pension for persons aged less than 70 years by €17,54 and for those over 70 by €35,06. There also exists a supplement for a dependent spouse. This means that the income of those in receipt of the social pension will be €215,09 for those under 70 years of age and €232,61 for those over 70 years of age.

In addition person in a position of dependency will receive a specific benefit to assist with covering the necessary costs. Recipients of the solidarity supplement will also receive certain benefits to cover the costs of certain medical expenses. Elderly persons in receipt of the social old age pension may also be entitled to the social integration income. The report also mentions a Solidarity Seniors Complement which is a monthly payment for elderly persons over 65 years of age on low incomes. However, the Committee notes its conclusion under Article 12§1 that according to MISSOC that the solidarity supplement for the elderly (complemento solidário para idosos) is paid to pensioners aged 65 years or more, justifying a residence in Portugal during the last six years and whose annual income is lower than €4,909 (single person), which,

calculated per month would amount to €409. They are paid a supplement corresponding to the difference between their income and this amount.

The Committee therefore wishes to receive clarification of the situation; it asks whether this signifies that all persons in receipt of the social pension would get a top up to the level of € 409. The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity as concerns the social pension.

Housing

The Committee asks the next report to provide comprehensive information on the housing situation of elderly persons, including information on subsidised housing financial assistance for housing costs as well as for the adaptation of homes

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 23 of the Charter on the grounds that no anti-discrimination legislation exists protecting elderly persons against discrimination on grounds of age outside the employment sphere.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment - Conclusions 2011

Paragraph 1 - Participation in working life

The Committee takes note of the information contained in the report submitted by Portugal.

Working conditions, social security

According to the report, various flexible work organisation formats are provided by law, such as part time work, flexible working hours or the reduction of normal working hours, with a view to promoting equal opportunities for workers with family responsibilities. As regards part-time work, Article 152 of the Labour Code stipulates that collective agreements must establish preferential admission to part time regimes for workers with family responsibilities. It is possible for a part-time worker to switch to full-time work, or the other way, either definitely or for a given period, by written agreement with the employer (Article 155). The Labour Code also foresees the possibility of flexible working schedules, in which the employee may choose, within certain limits, the hours of start and end of the working day. Employers can only refuse requests to work under one of these regimes on the grounds of imperative requirements linked to the operation of the enterprise or the impossibility to replace the worker, and subject to a formal opinion by the competent authority in the area of equal opportunities between men and women (CITE). Finally, the Labour Code contains other measures that aim at reconciling work and family life, such as teleworking, which allows work to be done in different locations, including the worker's home.

During 'Additional Parental leave' (see Article 27§2), or whilst working part-time, employees retain all their rights except remuneration. They will continue to be entitled to medical assistance as well as for the purchase of medicines. The Committee notes that these periods are also taken into account in the calculation of old-age pensions.

Child care facilities and other childcare arrangements

The report states that the Programme for the Expansion of the Network of Social Facilities (PARES), which is publicly funded, aims at, inter alia, providing more and better care services to families with a view to helping them reconcile their parental responsibilities with the exercise of an occupation. One of the Programme's primary objectives is to foster the creation of new

crèches places, particularly by incentivising private investments and partnerships at the local level.

In 2007, the PARES Programme supported a significant number of projects in the early childhood area, which led to the creation of 14,000 crèche places. In 2008, the focus was on expanding the network of crèches in the Lisbon and Porto metropolitan areas, where the coverage of this type of facility is asymmetrical, and 4,500 new places were created. The Committee asks what is the exact number of childcare places that are missing across the whole country and if any measures are envisaged to increase their provision.

The Committee notes there are other forms of childcare services for children under school age, namely family minders and preschool. It asks to what extent these childcare arrangements are used. It also wishes to know what forms of financial assistance are available for parents of children attending the various types of childcare facilities.

The report indicates that in 2007 new regulations were adopted concerning the licensing and inspection of social support services and establishments, with a view to ensuring the quality of facilities. The licensing and operation of facilities has been simplified, in a context of cooperation between the State and the voluntary sector. The Committee recalls that staff working in nurseries should be suitably qualified (Conclusions 2006, Lithuania). It asks in this respect how qualifications of personnel and the quality of child care services in general are monitored.

Finally, the Committee notes that leave can be taken by parents in cases of medically certified illness or accident of a child.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Portugal is in conformity with Article 27§1 of the Charter.

Article 30 - Right to be protected against poverty and social exclusion – Conclusions 2013

Measuring poverty and social exclusion

According to Eurostat, in 2011, there were 2 601 000 persons in a situation of poverty and/or exclusion in Portugal, corresponding to 24,4% of the total population (a decrease of 92 000 persons compared to 2010). The monetary poverty risk rate decreased during the reference period, reaching 18% of the population in 2011. However, the number of low work intensity households increased, as participation in the labour market worsened, the groups particularly affected by the rising unemployment being young people (aged 15-24) and long-term unemployed persons. As regards severe material deprivation, the report underlines the difficulties felt by more than half of the Portuguese population (57,2%), in the 'capacity to afford one week's holiday away from home'; 29,1% in the 'capacity to afford an unexpected expense' and 26,8%, in the 'financial ability to keep the home adequately warm'.

Approach to combating poverty and social exclusion

The report indicates that total spending on social protection in Portugal corresponded to about 27% of GDP in 2010 which was below the average for the EU-27 (29.37%). However, it underlines that the structure of expenditure on social protection for redistributive purposes in Portugal has been growing consistently in the last years, as in 2001 for example the expenditure represented just 21,87% of the GDP. It also draws some conclusions on the impact of social transfers in reducing the poverty risk of the total population, stating that a clear effect of pensions in the reduction of monetary poverty among the elderly has been noted. 2010 was the year in which social transfers to combat poverty were most effective, with an average impact on

poverty reduction of 32,2%, i.e. without this set of social transfers aimed at families, the poverty rate of the Portuguese population would have been 26,4% instead of 17,9%.

The Committee asks that the next report contain more detailed information on resource allocation for measures to combat poverty and social exclusion, including on whether the allocations match the increase in poverty rates.

In its previous conclusion the Committee held that the situation in Portugal was in conformity with Article 30 pending receipt of some information, namely the practical results of the measures taken and quantified indicators of the means deployed and the results achieved for each measure. The information contained in the present report is still not sufficient on the latter. The Committee therefore reiterates its request for more detailed information on these points in the next report.

Monitoring and assessment

The report provides no information on how the measures to combat poverty and social exclusion are monitored and evaluated in Portugal. The Committee asks that the next report contain detailed information in this respect.

Follow-up to collective complaints European Roma Rights Centre (ERRC) v. Portugal, Complaint No. 61/2010, decision on the merits of 30 June 2011

The Committee refers to its decision on the merits in which it found that the inability and unwillingness of central authorities to correctly oversee/coordinate the implementation of housing programmes at the local level taking into consideration the specific situation of Roma demonstrated the lack of an “overall and coordinated approach” in this area, amounting to a violation of Article E taken in conjunction with Article 30.

As the present report does not address the follow-up to this complaint, the Committee asks the next report to provide additional information on the situation showing that the violation has been remedied.

Conclusion

The Committee concludes that the situation in Portugal is not in conformity with Article 30 of the Charter on the ground that there was a lack of a co-ordinated policy in housing matters with regard to Roma (Collective Complaint No. 61/2010).

European Code of Social Security

Resolution CM/ResCSS(2015)14 on the application of the European Code of Social Security and its Protocol by Portugal

(Period from 1 July 2013 to 30 June 2014)

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to adopted by the Committee of Ministers resolutions](#)

The Committee of Ministers notes:

I. concerning Part V (Old-age benefit), Article 26(2) of the Code, Retirement age:

a. that Act No. 83 A/2013, of 30 December, amended sections 63 and 64 of Act No. 4/2007 of 16 January establishing the general basis of the social security system, by providing that the normal age for entitlement to an old-age pension may be adjusted in accordance with fluctuations in average life expectancy indices, and that the reference year for the envisaged average life expectancy may be modified when the demographic situation and the financial viability factor of the pensions system so requires, by applying the new financial viability factor for the calculation of future pensions. Legislative Decree No. 167/2013, of 13 December, introduced modifications in the legal framework for invalidity and old-age pensions of the General Social Security Scheme consisting of: (1) amending the formula for the calculation of the viability factor by changing the initial reference year for average life expectancy at 65 years, from 2006 to the year 2000; (2) adjusting the normal age of entitlement to an old-age pension in 2014 to the formula for determining the viability factor; and (3) introducing the new manner of determining the normal age for entitlement to an old-age pension in relation to fluctuations in life expectancy at the age of 65. Order No. 378-G/2013, of 31 December, set the coefficient of the financial viability factor applicable for the calculation of old-age pensions under the General Social Security Scheme in 2014, and the coefficient for invalidity pensions granted for a period equal to or lower than 20 years, and which have been converted into old-age pensions. The normal age of entitlement to an old-age pension under the General Social Security Scheme was set at 66 years for 2014 and 2015;

b. with regard to the consequent setting of the normal age for entitlement to an old-age pension at 66 years, the Committee of Ministers observes that Article 26(2) of the Code allows the age of 65 years to be exceeded if the number of residents having attained the increased age is not less than 10 per cent of the number of residents under that age but over 15 years of age. It is also recalled that ILO Convention No. 102 in that case permits the retirement age to be increased only with due regard to the real capacity for work of older persons in the country, and not through an automatic link to fluctuations in average life expectancy indices;

II. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, that the reference wage for the calculation of periodical payments under Parts III and IV of the Code was determined by the government in its 26th report in accordance with Article 65(6)(b) of the Code in relation to a skilled employee in the manufacture of textiles, which is the group of economic activities with the largest number of protected persons in

manufacturing, while for Part VIII (Maternity benefit), it was determined in relation to a skilled female employee in the textile industry, which is the group of economic activities with the largest number of female protected persons in the manufacturing sector. With regard to Parts V, VII, IX and X of the Code, the reference wage was determined for an ordinary labourer in the manufacture of textiles. The Committee of Ministers draws the government's attention to the fact that, in accordance with Articles 65 and 66 of the Code, the skilled employee and the ordinary labourer have to be male and selected in the group of economic activities with the largest number of male protected persons in the manufacturing sector, which in Portugal is the manufacture of fabricated metal products, with the exception of machinery and equipment;

III. concerning social security and poverty reduction:

a. that in its Resolution [CM/ResCSS\(2014\)14](#), the Committee of Ministers requested the government to assess the impact of the past and future fiscal consolidation measures on the poverty situation in the country, on the understanding that the social security system would not fulfil its role if its benefits were not capable of maintaining workers above the poverty threshold. In reply, the government recalls that, during the period covered by the report, social policies have been formulated within the framework of the implementation of budgetary consolidation measures and structural reforms imposed by the economic and financial assistance programme to Portugal concluded in May 2011 with the International Monetary Fund, the European Commission and the European Central Bank. In this respect, the Committee of Ministers notes with interest that this programme has just come to an end in 2014 and that, despite the economic measures and the long-lasting containment of expenditure in the social security system which, among other effects, has resulted in the nominal freezing of pensions, the government has maintained the guarantee of social protection for the most vulnerable members of the population, particularly through the Social Emergency Programme established in 2011 for a period of four years. More particularly, the report refers to three income protection mechanisms: (1) the indexation of social support (IAS) used for the determination, calculation and adjustment of contributions, pensions and other social benefits provided by the social security system; (2) the solidarity supplement for older persons which supplements their pension up to a certain level of guaranteed income; and (3) the social integration income (RSI), which offers a guaranteed level of income for active persons. As from 1 January 2007, the IAS replaced the minimum monthly guaranteed remuneration (RMMG) as the reference for the indexation of benefits, with the objective that the national minimum wage could operate as a veritable mechanism for the regulation of the labour market. The rate of the IAS is not intended to represent a minimum subsistence level, particularly because it has no statutory relationship with the poverty threshold, but the amount of the IAS has traditionally been close to that threshold;

b. the report indicates that the annual adjustment of the IAS is determined as a function of GDP growth and the average variation over the past 12 months of the consumer price index (CPI) so as to allow the automatic recovery of the purchasing power of beneficiaries. However, this mechanism was suspended in 2009. Accordingly, the value of the IAS (€419.22 in 2014) has remained unchanged since that date, as has the minimum rate of invalidity and old-age pensions, adjusted at a zero rate for 2014 by Order No. 378-B/2013, of 13 December;

c. moreover, the report indicates that the minimum rates of pensions of the contributory scheme and the non-contributory scheme remain below the financial poverty threshold, namely:

- the minimum rate of invalidity and old-age pensions of the general scheme for careers with periods of contribution lower than 15 years – €259.36, and from 21 to 30 years – €303.23;
- invalidity and old-age pensions of the special agricultural scheme – €239.43;
- invalidity and old-age pensions of the non-contributory scheme – €199.53;
- dependency supplement under the General Social Security Scheme – €99.77 for the first level and €179.58 for the second level;
- dependency supplement of the special agricultural scheme, the non-contributory scheme and similar schemes – €89.79 for the first level and €169.60 for the second level.

However, since 2005 these pensions have been complemented by the solidarity supplement for older persons in cases where their annual income is lower than a financial threshold (€4,909 or €409 for a single person, or €8,590.75 for a couple in 2014) which is close to the financial poverty threshold. This non-contributory supplement is means tested and corresponds to the difference between the pensioner's individual income and this threshold, which has allowed a more appropriate allocation of public resources towards the population in a situation of poverty;

d. that the Portuguese social security system also provides social protection to active members of the population experiencing financial difficulties and whose income is lower than a certain subsistence threshold through the allocation of the social integration income. The social integration income (RSI) follows the same social protection logic as the solidarity supplement for older persons, as a differential allocation to guarantee a minimum level of resources equivalent to the difference between the overall monthly income of the family and a reference financial threshold, calculated according to the composition of the household. However, the reference value of the RSI (€178.15 in 2014) is lower than the value of the solidarity supplement for older persons in order to prevent the RSI from acting as an obstacle to the re-entry of beneficiaries into the labour market;

e. the Committee of Ministers thanks the government for the detailed analysis of the impact of the economic and financial crisis on social policies intended to combat poverty. The minimum values of the social benefits provided by the government have been gathered in a figure which has been included in the above-mentioned "Technical note", transmitted to the government, which shows that the social security system in Portugal continues to operate to a large extent below the poverty threshold and that the minimum rates of pensions and other benefits of the contributory scheme and the non-contributory scheme remain below the severe poverty threshold (€272.30 or 40 per cent of the average wage in 2013). The Committee of Ministers recalls in this respect that the supplementary allowances which raise the minimum levels of social security benefits up to the poverty threshold, but which are means tested, such as the solidarity supplement for older persons and the social integration income (RSI), are not normally taken into account for the purposes of the application of Articles 65 and 66 of the Code, which apply to benefits provided without means testing. The Committee of Ministers adds that certain of the minimum amounts, such as that of the social pension, the value of the RSI, the minimum rate of sickness benefit, could be below the physical subsistence threshold, calculated in terms of basic needs and the minimum consumer basket. As the report does not provide information on this subject, the Committee of Ministers understands that this physical subsistence level has not been determined in Portugal. The Committee of Ministers is bound to repeat that the social security system is no longer credible if its benefits do not guarantee the physical subsistence of the persons protected. It believes that the national social protection floor would be more solid if it were based on indicators of the subsistence level for various age groups of the population reflecting the financial value of a set of necessary goods and services

and serving as a reference for the minimum rates of social security benefits, as suggested by the ILO Social Protection Floors Recommendation, 2012 (No. 202);

f. that, despite the income protection mechanisms for the most vulnerable, the current structure of the system of minimum social security benefits has not permitted the government to stop the rise in poverty in the country, which has continued to increase, even after social transfers are taken into account for all categories of the population, with the exception of person aged over 65 years. The Committee of Ministers also notes with concern the constant increase since 2009 of the risk of poverty among the active population and the fact that nearly one third of the poor (29.9 per cent) are made up of employed persons, most of whom are on precarious contracts. As a consequence, since the reference wage of an ordinary male labourer is close to the poverty threshold, the old-age pension of the contributory scheme, which may be claimed after 30 years of contributions, is below that threshold. In a context of increased precarity on the labour market, the Committee of Ministers notes that, although the Portuguese social security system has operated as a veritable automatic stabiliser of the income of the most vulnerable persons, without additional resources and adjustments to the various parameters, there is a risk that it will no longer guarantee that all protected persons are provided with the benefits guaranteed by the Code at the necessary level to maintain the families of beneficiaries outside poverty and in conditions of health and decency;

g. with a view to this reversal of social policy for protected persons, the Committee of Ministers notes that the new measures to reduce pensions and other conditions imposed on sickness and unemployment benefits, as envisaged by Act No. 83-C/2013, of 31 December, approving the State budget for 2014, were found unconstitutional by the Constitutional Court, in ruling No. 413/2014 of 26 June 2014. With regard to the financing of the social security system, so that it can once again fulfil the role of an automatic stabiliser, the report indicates that the government was planning an increase in the rate of social security contributions by workers. Although this measure was not implemented, the Committee of Ministers recalls that it is not only workers who have to bear the consequences of the impact of the financial and economic crisis on the social security system by paying higher contributions to receive lower benefits, and that the principle of the collective financing of the system set out in Article 71(1) of the Code implies the proportional and equitable distribution of the financial burden throughout society in accordance with methods which prevent persons with low incomes having to bear too high a burden. The Committee of Ministers also recalls that, when accepting general responsibility for the provision of the benefits guaranteed by the Code, the government undertook, in accordance with Article 71(3) of the Code, to take decisions on any changes in the level of contributions or benefits on the basis of the necessary actuarial studies and calculations to maintain the financial equilibrium of the system and its capacity to prevent poverty. By accepting general responsibility for the proper administration of the system, the government undertook, in accordance with Article 72(2) of the Code, to take those decisions in consultation with the representatives of the persons protected in a context of broad and effective social dialogue. Finally, the principle of the general responsibility of the State in relation to social security, which underlies all the provisions of the Code, requires all the authorities of the State to act together and to ensure that the fiscal and financial consolidation policy does not represent an obstacle to the achievement of the social and human objectives set out in the Code, at least at a level sufficient to maintain the protected population in conditions of "health and decency" (Article 67(c) of the Code);

Reserves its finding on the application in law and practice in Portugal of Part VIII of the Code and Parts III, IV, V, VII, IX and X of the Protocol, while awaiting calculations showing on the basis

of the revised reference wage that social security benefits reach the minimum level prescribed by these instruments and keep the great majority of the persons protected above the poverty threshold;

Decides to invite the Government of Portugal:

I. concerning Part V (Old-age benefit), Article 26(2) of the Code, Retirement age:

a. to show in its next report, supported by figures in accordance with Article 71(3) of the Code, that the demographic situation and the financial viability factor for pensions required the modification of the reference year for average life expectancy at the age of 65 from 2006 to the year 2000, by comparing life expectancy in 2000 with that in 2006 and 2013, when the decision to make the modification was taken;

b. to provide the corresponding data on the percentage and the general state of health of the population at the retirement age demonstrating that higher life expectancy also results in higher life expectancy in good health and without a significant loss in the capacity to work of older persons;

II. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, in view of the significant difference between the wage of a skilled and a non-skilled employee in the manufacture of textiles and the manufacture of fabricated metal products, to recalculate, in its next detailed report, the replacement rates of the benefits provided under all the Parts of the Code which have been accepted in the light of the information contained in above-mentioned "Technical note", which explains and calculates for Portugal all the options allowed by the Code for the same reference period (2010) for which complete Eurostat data are available. The government is also requested to update the statistics used in the "Technical note" with an indication of the exact source of the data for future reference;

III. concerning social security and poverty reduction:

a. to explain in its next report the criteria taken into account to determine the value of the indexation of social support (IAS), which has traditionally been close to the minimum subsistence (at-risk-of-poverty) level referred to in the report (and calculated by Eurostat at 60 per cent of the median income – €408.50 in 2013);

b. to explain how the announced objective, namely that the national minimum wage can operate as a veritable mechanism for the regulation of the labour market, is achieved in a situation in which the mechanism for the annual adjustment of the indexation of social support (IAS) has been suspended for nearly six years. The government is asked to indicate the prospects for its potential re-establishment and the percentage of purchasing power lost by beneficiaries since 2009;

c. to explain:

i. the criteria taken into account to determine the financial threshold serving as a reference for the solidarity supplement for older persons, which brings it closer to the poverty threshold calculated by Eurostat at 60 per cent of the median income; and

ii. the reasons justifying the co-existence of different references for the value of the indexation of social support (IAS) (€419.22) and the solidarity supplement (€409), both of which almost correspond to the poverty threshold as calculated by Eurostat as 60 per cent of the median income (€408.50);

d. to explain which other criteria, apart from the concern to maintain the rate of the social integration income (RSI) below that of the solidarity supplement for older persons, are taken into account to determine the financial subsistence threshold serving as a reference for the RSI, as the value of the RSI is the lowest among all the minimum social benefits in Portugal. The government is also asked to explain the rules for the calculation of the RSI in accordance with the composition of the household of the standard beneficiary for the Parts of the Code which have been accepted;

e. to consider the matter referred to under point III(e) above, for example with reference to the experience of Estonia in this field;

f. as the economic and financial assistance programme of the International Monetary Fund, the European Commission and the European Central Bank for Portugal has come to an end, to aim social policy more towards the provision of additional resources to the social security system, rather than withdrawing resources from the system;

g. to confirm in its next report that its policy has not deviated from these principles of good governance of the social security system, by providing positive and specific examples of its substantive commitment to bringing an end to the progressive impoverishment of broad categories of beneficiaries.

CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by Portugal

As a result of its examination, the Committee finds that the social security system of Portugal continues to give effect to the accepted Parts of the Code (II and VIII) and the Protocol (III, IV, V, VII, IX and X), but operates to a large extent below the poverty threshold being unable to prevent the spread of poverty among the majority of the persons protected.

Part II (Medical care). Provision of medical care to children. The report states that following the fourth and fifth amendments to the Legislative Decree No. 113/2011 of 29 November (on access to the benefits of the National Health Service, on cost-sharing arrangements and the application of special social security schemes), by Legislative Decree No. 117/2014 of 5 August and Legislative Decree No. 61/2015 of 22 April, all minor persons, and not only children up to the age of 12 as was the case previously, have been exempted from sharing the cost of medical care. Decree No. 87/2015 of 23 March defined the maximum time frame to be observed to obtain non-urgent medical care and published the Charter on the right of access to care. Provisions regarding priority access to hospital care for minor and adult persons have been approved respectively by Decrees Nos 1057/2015 and 3765/2015.

The Committee notes that these developments give better effect to provisions of *Articles 9 and 10* of the Code by improving coverage and access to care for minors in the context of tight

budgetary constraints. It notes in this connection that in view of the concurrent impact of cost cuts in health care and of the high level of child poverty on the enjoyment by children of the highest attainable standard of health, the United Nations Committee on Economic, Social and Cultural Rights, in paragraph 48 of its concluding observations of 2014 on the application by Portugal of the Convention on the Rights of the Child, recommended a child-rights impact assessment of the austerity measures in the area of health care to ensure that such measures do not have a negative impact on child health and well-being. The Committee of Experts points out in this respect that the Code provides three major safeguards against the concurrent negative impact on health and well-being of children of the financial constraints of the State and the poverty of its citizens: (1) extend to the children of the persons protected the guaranteed minimum set of medical-care services listed in *Article 10(1)(a)* of the Code; 2) provide preventive care for children and encourage the persons protected to avail themselves of the general health services placed at their disposal by the public authorities (*Article 10(4)*); and (3) limit the participation of the persons protected in sharing the costs of medical care so as to avoid hardship (*Article 10(2)*). **The Committee requests the Government to explain in its next report what use it makes of these provisions of the Code to safeguard poor children from deprivation of their right to the highest attainable standard of medical care under Part II of the Code.**

Part IV (Unemployment benefit), Article 23 of the Code. Qualifying period. The Committee recalls that, under the terms of Legislative Decree No. 64/2012 of 15 March, the qualifying period for entitlement to unemployment insurance has been reduced from 450 to 360 days of salaried employment over the 24 months immediately preceding unemployment. **Please indicate whether any further modifications of the qualifying period for the unemployment benefit were made in the subsequent period.**

Part V (Old-age benefit), Article 26(2) of the Code, as amended by the Protocol. Retirement age. The Committee notes that Decree No. 277/2014 of 26 December sets the pension age under the general social security scheme at 66 years and two months for the year 2016. *Article 26(2)* of the Code allows the age of 65 years to be exceeded if the number of residents having attained the increased age is not less than 10 per cent of the number of residents under that age but over 15 years of age. Convention No. 102 in that case permits the retirement age to be increased only with due regard to the real capacity for work of elderly persons in the country. Taking into account that the capacity for work of manual employees, who constitute the main category of the persons protected, is likely to decrease after 65 years, the Protocol established for them a higher standard of protection by expressly prohibiting the increase of the pension age above 65 years where the pension scheme protects employees only. With respect to these requirements, the report indicates that in 2013 the number of residents having reached the age of 65 in relation to the number of residents under that age but over 15 years reached 30.3 per cent. As regards the working capacity of older workers, the statistics show that in Portugal higher life expectancy results in higher life expectancy in good health and, consequently, in an increase of the capacity to work of elderly people. The report adds that increase of the legal retirement age was justified by the strategic challenges for social security that emerged due to the negative evolution of the main demographic indicators reflecting increase in life expectancy, ageing population and the old-age dependency ratio. Associated to economic crisis, these demographic factors pose additional problems for the financial sustainability of the Portuguese pension system (for instance, growth of pensions at a faster rate than contributions), which operates on a pay-as-you-go (PAYG) basis and is based on an intergenerational logic.

The Committee takes due note of the Government's explanations and the statistical data justifying the increase of the pension age beyond 65 years. It notes that the scope of coverage of Part V of the Code, as amended by the Protocol, is defined in the **26th annual report** of the Government by reference not to employees under option (a) of *Article 27*, but to the economically active population; under option (b) of this Article, however out of 5,449,437 economically active persons protected under the Part V employees account for 4,518,729 or 83 per cent. With this number in mind, the Committee recalls that the Protocol expressly prohibits the increase of the pension age above 65 years where the pension scheme protects employees only. With respect to schemes extending coverage to the economically active population, higher life expectancy in good health of the persons protected as the measure of their capacity for work beyond 65 should be calculated with respect to those persons who have been working all through their life and are expected to continue working up to the increased pension age. The calculation should be based on the indicators that are commonly used to compare the health status of populations through time and to assess healthy ageing and fitness for work, such as healthy life expectancy (HLE), which pertains to life spent in good health, and a disability-free life expectancy (DFLE), which corresponds to life free from a limiting chronic illness or disability. From the statistical point of view, these indicators should be determined with respect to the persons protected under Part V who are aged 65 to 67 and fulfill the qualifying conditions as to the period of employment (30 years) and the level of previous earnings applied to the standard beneficiary established under this Part. From the labour market point of view, postponing retirement from 65 to a higher statutory age would be justified only if this category of elderly workers would conserve not only the physical ability but a fair chance to stay in the labour market and maintain their employability. ***The Government is therefore asked to include in its next report the statistics on HLE and DFLE as well as on the labour market participation rate for persons aged 65 to 67 years and belonging to the categories of skilled and unskilled workers engaged in manual labour, including in onerous and hazardous occupations entailing premature physical ageing.*** With regard to other factors justifying a higher pension age, the Committee notes the country-specific recommendation of the European Council of 14 July 2015 on the 2015 National Reform Programme of Portugal, which stressed the need to improve the medium-term sustainability of the pension system in parallel with ensuring a durable correction of the excessive deficit in 2015 and achieving a fiscal adjustment of 0.6 per cent of GDP towards the medium-term budgetary objective in 2016. ***Please indicate what gains in terms of the sustainability and deficit reduction of the pension system are expected to be achieved in the medium term through the ongoing increase of the legal retirement age and what alternative strategies were considered in this respect.***

Part XI (Standards to be complied with by periodical payments), Articles 65 and 66. Reference wage. In the **30th annual report**, the reference wage used for the calculation of replacement rate of benefits under Parts III, IV and VIII of the Code is determined as the average monthly wage of a skilled employee in the manufacture of fabricated metal products, except machinery and equipment (Division 25 of the International Standard Industrial Classification of All Economic Activities), which in Portugal is the group of economic activities in manufacturing with the largest number of male employees. According to the Cabinet of Strategy and Studies of the Ministry of Economy, Tables of Personnel (*Gabinete de Estratégia e Estudos/Ministério da Economia, Quadros de Pessoal*), in 2013 this wage amounted to €940.37. With regard to Parts V, VII, IX and X of the Code, the reference wage is determined as the average monthly wage of an ordinary labourer in the same Division and amounted to €700.80. The Committee notes that the calculations of the replacement rates of the benefits made on the basis of the above reference wages surpass the minimum level under all accepted Parts of the Code, except Part X where the

replacement rate of the survivors' pension of a widow with two children after 15 years of contributions (41.8 per cent) does not attain the 45 per cent prescribed by the Protocol. However, as the method of choosing the reference wage is not sufficiently explained in the report, the Committee once again points out that, in accordance with *Articles 65 and 66* of the Code, the skilled employee and the ordinary labourer have to be *males* and their reference wage should be determined as the average monthly wage of *males* in the category of skilled or unskilled workers. ***The Committee therefore asks the Government to determine the reference wage on the basis of the gender segregated data on wages and to confirm its choice for this purpose of the option foreseen by Article 65(6)(b) and Article 66(4)(b) of the Code. Please explain in detail the method used for presenting data on wages and determining the categories of the skilled and unskilled workers by reference to the ISCO 08 Major groups 7 (Craft and related trades workers) and 9 (Elementary occupations) and indicate the exact source of the data used for future reference.***

Article 66(8). Adjustment of benefits to the cost of living. The report states that the mechanism for the annual adjustment of benefits based on their indexation to the Social Support Index (IAS), which serves as a reference value for the determination, calculation and adjustment of pensions and other social benefits, has been suspended since 2009 and that Law No. 82-B/2014 of 31 December has extended this suspension for the year 2015 as well. The report further states that there are no clear prospects for the potential re-establishment of the IAS adjustment mechanism, since the 2014 attempt by the Portuguese Government to adopt a new technical solution for the IAS and pensions' updating met with the negative decision of the Constitutional Court concerning the adoption of a new social contribution (contribution for sustainability), which was also included in the proposed reform of the pensions system. Despite the decision to maintain frozen in 2015 the nominal value of pensions and of the IAS, the report stresses that lower pensions indexed to the IAS, both contributory and non-contributory (minimum pensions to pensioners with up to 15 contribution years, social pensions and pensions granted by similar schemes), were exceptionally updated, above the inflation rate, as it happened in 2012, 2013 and 2014, in order to increase the purchasing power of the most disadvantaged.

The Committee observes that suspension of the IAS annual adjustment constitutes a major obstacle to national efforts to combat poverty by means of social security benefits and notes that, under the International Covenant on Economic, Social and Cultural Rights, Portugal received the recommendation, in paragraph 14 of the 2014 concluding observations of the United Nations Committee on the Economic, Social and Cultural Rights, for "adjusting the social support index in line with the evolving needs of the recipients, with a view to reducing income inequalities and eventually eliminating the adverse impact of austerity measures on the enjoyment of the right to an adequate standard of living". With respect to unclear prospects for the IAS adjustment, the Committee recalls that Law No. 53-B/2006 established the rule for IAS updating, which was to be identical to the rule for updating lower pensions, i.e. pensions under 1.5 IAS, under a "no policy change" general rule that takes into account annual changes in the rate of the Consumer Price Index (CPI) and of the Gross Domestic Product (GDP). In particular, if the GDP real variation rate was less than 2 per cent, the IAS was to be updated to the CPI change rate. The Committee observes that this rule would permit maintaining the purchasing power of social benefits vis-à-vis inflation and to give effect to *Article 66(8)* of the Code. ***It hopes that the Government would be able to re-establish this rule and to restore the purchasing power lost by benefit recipients since 2009. The Committee expects the Government's next detailed report to contain full information and statistics on the adjustment of benefits for the period 2011-16 requested in the report form on the Code under Title VI of Article 65.***

Adequacy of social security benefits. The Committee notes the extensive information supplied in reply to the issues raised in its previous comments with respect to the role of social security, and in particular of the guaranteed minimum benefits, in the reduction of poverty. In view of the variety of ways in which social security and statutory social assistance are used to prevent or reduce poverty and the complexity of indicators used to assess the adequacy of benefits, the Committee requested the ILO to summarize the relevant information in the country technical notes attached to its conclusions. ***The Committee invites the Government to update and supplement the statistical information in the 2015 technical note in its next detailed report, which shall also include for the same time basis (see Article 65(4) of the Code) updated statistics on social security coverage, amount of the reference wage and calculations of the replacement rate of benefits.*** The Committee will examine the question of the adequacy of social security benefits under accepted Parts of the Code on the basis of this comprehensive information.

Article 74. Next detailed report on the Code. (See above under Chapter III)

3. ILO Conventions

Social Security (Minimum Standards) Convention, 1952 (No. 102) Portugal (Ratification: 1994)

Observation (CEACR) - adopted 2012, published 102nd ILC session (2013)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

With reference to its observation of 2007, the Committee notes the Government's report received in September 2011 accompanied by observations from the General Confederation of Portuguese Workers (CGTP-IN) and the General Union of Workers (UGT). The Committee also notes the annual reports from Portugal on the application of the European Code of Social Security for the 2008–12 period. According to these sources, even though the minimum standards established by the Convention continue to be applied in the country, recent developments in the national social security system in the context of the economic and financial crisis have featured austerity measures aimed at reducing social expenditure and resulting in greater precarity and poverty. The Committee recalls that the social security system would not fulfil its role if its benefits are incapable of keeping workers above the poverty threshold. ***In view of the fact that poverty reduction is one of the main objectives of the Convention, the Committee requests the Government to send in its next report the most recent and comprehensive statistics on the dynamics of poverty in the country, including data on the number of beneficiaries and the minimum amounts of social benefits in comparison with the poverty threshold. The Government is also requested to demonstrate, on the basis of statistics for the period covered by the next report, that the readjustment of benefits for all protected persons has enabled the real value of benefits in relation to the cost of living to be maintained, in accordance with Article 65(10) of the Convention.***

Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Part VI of the Convention. Employment injury benefit. The Committee notes the Government's reports on the application of Conventions Nos 17 and 102, as well as the communications made in August 2011 by the General Confederation of Labour of Portugal (CGTP) and the General Workers' Union (UGT). The Committee also notes the adoption of Act No. 98/2009 of 4 September 2009 regulating the compensation of industrial accidents and occupational diseases (pursuant to section 284 of the Labour Code, Act No. 7/2009 of 12 February 2009).

Article 35. Rehabilitation and reintegration. The CGTP considers that the new regime established by Act No. 98/2009 continues to consider workers as mere economic or productive entities, disregarding all harm not directly linked to the loss of earnings or working capacity, such as psychological harm, to the detriment of human dignity and decent work. It points out however that, for the first time, the scheme contains provisions regulating occupational rehabilitation and reintegration of victims of employment injuries. While this feature is considered as a positive measure, the social partners were not sufficiently consulted by the Government in the preparation of the implementing regulations that are currently being drafted. The Committee also notes the UGT's indication that the National Council for Safety and Health in the Workplace, authority responsible for promoting consultation and the sharing of responsibilities between the State and the social partners, had not met in 2010 but is expected

to meet in 2011. The Committee wishes to point out in this respect that *Part VI* of the Convention ensures comprehensive protection of the victims of employment injuries by placing at their disposal appropriate medical care services, vocational rehabilitation services and employment and placement services and providing for their close interaction with a view, first of all, to maintaining, restoring or improving the health of the persons concerned and their ability to work (*Article 34(4)*) and, secondly, to the re-establishment of persons with disabilities in suitable work (*Article 35(1)*). The approach taken by the Convention is therefore directed at restoring also the social and professional status of the victim and is not limited to the mere compensation of lost earnings. The Committee hopes that the employment injury branch in Portugal will be developed along these lines in close consultation with the representatives of the persons protected. ***It would like the Government to supply in its next report detailed information on how the measures currently developed to make operational the provisions of Act No. 98/2009 regarding the establishment of occupational rehabilitation and reintegration services have been implemented, how these services are coordinated with the medical rehabilitation institutions and what role is played in this process by the organizations of the persons protected. The Committee would also like to be informed of the related activities of the National Council for Safety and Health in the Workplace.***

Article 36. Payment of compensation in the form of a lump sum. Section 75 of Act No. 98/2009 provides for the compulsory redemption of the pension in the case of permanent partial incapacity of less than 30 per cent or in the case of any annual pension, provided, in both cases, the amount does not exceed six times the indexing reference of social support IAS (*indexante dos apoios sociais*). According to the UGT, such redemption is not in the pensioners' interests as it does not fulfil the purpose of the benefit to provide supplementary income by compensating existing incapacity. On the other hand, this system has obvious advantages for insurance companies which enjoy greater certainty when payouts are made in the form of lump sums only. The Committee has to observe in this respect that the possibility of converting pensions into lump sums was included in *Article 36* of the Convention in the interest of the workers and not of the insurance companies. This is the reason why such conversion is permitted only where the competent authority is satisfied that the lump sum will be properly utilized. ***The Committee would like the Government to verify how private insurance companies comply with these requirements of the Convention in applying section 75 of Act No. 98/2009 and whether they have recourse to redemption of pension rights in situations where loss of capacity exceeds 30 per cent.***

Part XI. Standards to be complied with by periodical payments. Article 65(10). Review of the rates of employment injury pensions. Referring to its observation, the Committee notes that Decree-Law No. 47/2010 of 10 May suspended the mechanisms established by Decree-Law No. 185/2007 of 10 May aimed at reviewing the rates of periodical payments. However, contrary to other social security pensions, employment injury pensions were updated in 2011 at 1.2 per cent by effect of Order No. 115/2011 of 24 March. Notwithstanding, the CGTP considers that the purchasing power of employment injury pensions is not guaranteed given that their mean value is already very low. Moreover, in successive years there has been an unjustified delay in uprating the pensions since the update is only published in May of the year in which it is applicable instead of December of the previous year, with seriously prejudicial consequences. The Government concurs with the CGTP in that delays in the publication of uprated pension rates should be avoided, but stresses that even when the publication of the update is delayed, the beneficiaries are paid the updated rate retroactively to January of the same year. It adds that, although the adoption of Decree-Law No. 185/2007, of 10 May, instituted an autonomous uprate mechanism, in practice, the uprating of employment injury pensions continues to take

into account the consumer price index and the growth of GDP, as in the case of other social security pensions. The Committee takes note of this information. ***Stressing that employment injury pensions constitute the only source of income for many persons and would not fulfil their purpose if their purchasing power was not adequately maintained and adjusted in time, the Committee hopes that the Government will in future issue the reviewed rates of employment injury pensions in December as for other social security pensions.***

Part XIII (Common provisions), Article 69. Suspension of employment injury benefits. According to sections 14, 15, 16 and 17 of Act No. 98/2009, employers' liability to compensate occupational accidents would not be engaged, inter alia, in case of gross negligence, force majeure or where the accident is due to another worker or a third person. In its report on the application of Convention No. 17, the Government indicates that these cases of exclusion of employers' liability are naturally applicable to the insurance carriers, given that the insurance contracted by employers for cases of occupational accidents aims at transferring to the insurer the obligations of the employer. The Committee observes that *Article 69* of the Convention would not allow employment injury benefits to be refused in a number of situations envisaged by Act No. 98/2009 depending on how it is implemented by regulations and applied in practice through judicial and administrative decisions. The Committee therefore hopes that, in drafting the implementing regulations of the Act, the Government will take into account that the established grounds for the suspension of benefits may go beyond what is permitted by the Convention and are not usually found in the legislation of other countries which have ratified the Convention. ***In the meantime, the Government is asked to inform the competent administrative and judicial authorities that sections 14–17 of Act No. 98/2009 should be applied in the light of the international obligations assumed by Portugal under Convention No. 102 and the European Code of Social Security (ECSS).***

Application in practice and enforcement. The UGT points out that insurers are reported to be slow in paying compensation, especially in the case of incapacity, and that subcontractors in such sectors as civil engineering, where the highest rates of workplace accidents are recorded, do not conclude the required insurance policies, making it more difficult, if not impossible, to compensate workers. In reply, the Government reiterates that the national legislation on employment injuries applies to all workers, including those employed through subcontracting arrangements, and stresses that the means of labour inspection in terms of human resources have been strengthened during the period 2009–10. ***The Committee hopes that these measures have helped to improve compliance with national legislation and would appreciate it if, to illustrate their effectiveness, the Government would supply statistics on the number of inspections carried out and of sanctions imposed, as well as relevant extracts from inspection reports. In particular, the Government is asked to assess whether the nature and scale of applicable sanctions is such as to produce a sufficiently deterrent effect on contraventions and whether increased sanctions would not help ensure greater compliance with the law. Please also explain the ongoing restructuring of the statistical system covering workplace accidents and professional diseases referred to by the UGT.***

4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of Portugal and delivering a Council opinion on the 2015 Stability Programme of Portugal (2015/C 272/25), (18.08.2015 C 272/94, *Official Journal of the European Union*).

[Official Website of the European Commission](#)

(11) Significant progress has been made regarding the deployment of active labour market policies and the reform of public employment services. However, challenges remain as regards reaching the young people who are neither in employment nor in education or training. There is a need to increase the digitisation of services in charge of labour market matching. Ensuring adequate coverage of social assistance, in particular the minimum income scheme, remains a key challenge. Some progress has been made in improving the quality and labour-market relevance of education. Portugal has reformed curricula and teachers' statutes in order to improve the quality of education. The use of the monitoring tool and the diversification of pathways with new vocational education and training programmes should address early school leaving and help improve performance rates. Recent reforms are designed to upgrade the vocational education and training system, but making it more attractive to students remains a challenge. Fostering knowledge transfers between higher education, private-sector firms and research organisations also represents a challenge.

HEREBY RECOMMENDS that Portugal take action in 2015 and 2016 to:

1. Ensure a durable correction of the excessive deficit in 2015 by taking measures as necessary. Achieve a fiscal adjustment of 0,6 % of GDP towards the medium-term budgetary objective in 2016. Use windfall gains to accelerate the deficit and debt reduction. Enforce the

commitment control law to better control expenditure. Improve the medium-term sustainability of the pension system. Safeguard the financial sustainability of state-owned enterprises. Further improve tax compliance and the efficiency of the tax administration.

3. Improve the efficiency of public employment services, in particular by increasing outreach to non-registered young people. Ensure effective activation of benefit recipients and adequate coverage of social assistance, in particular the minimum income scheme.