HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

QUESTIONNAIRE ON

IMPLICATIONS OF PLASTIC POLLUTION FOR THE FULL ENJOYMENT OF HUMAN RIGHTS

Input from Portugal

I. Core questions for all

1. Please explain in what ways plastics affect human rights. What are the human rights impacts that you associate with the different phases of the full life-cycle of plastics (*e.g.,* during extraction of raw materials; during production of primary plastic precursors, design and production of plastic products; during packaging and distribution; during use and maintenance; and during recycling, reuse, recovery or final disposal)? Where possible, please provide concrete data, studies, etc.

Plastics, while playing an important role in modern societies and economies, generate significant adverse impacts on the enjoyment of human rights throughout their full life cycle.

Most plastics are derived from fossil fuels, primarily oil and gas. Extraction activities are associated with environmental contamination of air, soil and water, including emissions of hazardous substances with known adverse health effects. Such impacts may interfere with the right to health, the right to safe drinking water and sanitation, and, in severe circumstances, the right to life, particularly for communities residing near extraction and refining sites. Indigenous Peoples and other communities are often disproportionately affected through land degradation, impacts on traditional livelihoods, and insufficient access to information and participation. These situations raise concerns related to non-discrimination, effective participation in decision-making, and respect for internationally recognised collective rights.

Plastic production involves complex industrial processes and the use of numerous chemical substances, some of which are associated with carcinogenicity, endocrine disruption and reproductive toxicity. Occupational exposure in the plastics and petrochemical industries highlights the relevance of the right to just and favourable conditions of work and the right to the highest attainable standard of health, including the prevention of occupational diseases. More broadly, plastic production contributes to climate change and air pollution, which are recognised as major threats to the enjoyment of human rights, including the rights to health, food, water and housing.

Product design practices, particularly the widespread production of short-lived and single-use plastic products, significantly increase waste generation and environmental pressures. Limited transparency regarding chemical composition and product impacts may undermine consumers' right to information and the capacity of public authorities to take informed regulatory action. Children and other potentially vulnerable groups may face heightened risks from exposure to certain plastic additives present in food contact materials and consumer products. For this reason, plastics policies are increasingly aligned with obligations arising from international human rights instruments, including those concerning the rights of the child.

During use and after environmental release, plastics fragment into microplastics and nanoplastics, which are now widely detected in food, drinking water, air and human tissues. While scientific uncertainty remains regarding the full spectrum of health effects, international

health authorities have identified emerging evidence of potential risks to immune function, cardiovascular health and reproductive systems. The pervasive and persistent nature of such exposure raises legitimate concerns regarding the right to health, the right to a clean, healthy and sustainable environment, and intergenerational equity, as future generations may be exposed to cumulative and potentially irreversible impacts.

The EU is developing a set of measures aimed at developing a circular economy for plastics and reducing pollution and protecting the environment and human health, which can be found here: Plastics - Consilium.

A study regarding plastics, entitled "*Global health burdens of plastics: a lifecycle assessment model from 2016 to 2040"*, can be found here.

2. In your case, what are the main challenges slowing the progress in combating plastic pollution? List and describe them briefly.

Portugal has made significant efforts to address plastic pollution, in line with European Union legislation and national waste and circular economy strategies. Nevertheless, several challenges continue to slow progress. The main ones are outlined below:

a) High consumption of single-use plastics: Despite regulatory measures and awareness-raising efforts, the consumption of single-use plastic products remains high, particularly in food packaging, takeaway services and tourism-related activities. Behavioural change among consumers and businesses remains gradual, and alternatives are not yet consistently available or economically competitive in all sectors;

b) Structural limitations in waste prevention and reuse: While recycling systems are relatively well established, waste prevention and reuse remain less developed. The economic model continues to favour disposable products, and reuse systems (e.g. packaging reuse and refill systems) face logistical, regulatory and market barriers that limit their large-scale deployment. Although the Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 commits to reinforcing the essential requirements for packaging with a view to making all packaging reusable or recyclable, implementation challenges remain significant;

c) Complexity and heterogeneity of plastic waste streams: The diversity of plastic polymers, multi-layer materials and products containing additives complicates sorting and recycling processes. Certain plastic waste streams remain technically or economically difficult to recycle, leading to continued reliance on landfilling or energy recovery;

d) Capacity constraints in collection, sorting and recycling infrastructure: Although Portugal has invested in waste management infrastructure, capacity constraints persist, particularly in selective collection and advanced sorting facilities. Regional disparities also exist, affecting the efficiency and consistency of plastic waste management across the territory;

e) Economic viability of recycling and recycled materials: Volatility in secondary raw materials markets and competition with low-cost virgin plastics affect the economic viability of recycling operations. This challenge is particularly relevant for lower-quality recycled plastics, which struggle to find stable end-markets;

f) Governance complexity and implementation challenges: The plastics value chain involves multiple actors, including producers, distributors, waste operators, municipalities and consumers. Ensuring effective coordination, compliance monitoring and enforcement across all levels of governance remains complex and resource-intensive;

g) Data gaps and tracing of plastic flows: Despite progress in reporting and monitoring, data gaps persist regarding the precise quantities, composition and final fate of certain plastic waste streams. These limitations constrain evidence-based policymaking and the evaluation of policy effectiveness;

h) Awareness, engagement and behavioural change: While public awareness of plastic pollution has increased, translating awareness into consistent behavioural change remains challenging. Continued efforts are needed in education, communication and stakeholder engagement to support long-term shifts in consumption and production patterns.

3. What measures (legislative, administrative, institutional, or other), if any, exist to address plastics and plastic pollution? Have human rights implications been taken into account in their adoption and implementation? Are there good practices or lessons learned in regulating plastics and plastic pollution that include a human rights-based approach?

Portugal has adopted a comprehensive set of legislative, administrative and institutional measures to address plastics and plastic pollution, largely aligned with European Union policies on waste, circular economy and chemicals management. These measures address plastics across their life cycle and increasingly reflect concerns related to human health, environmental protection and social equity, which are closely linked to human rights.

At the legislative level, Portugal has transposed and implemented key EU instruments, including the Waste Framework Directive through Decree-Law No. 152-D/2017, of 11 December, and Decree-Law No. 102-D/2020, of 10 December, the Single-Use Plastics Directive through Decree-Law No. 78/2021 and through Decree-Law No. 83/2022, and extended producer responsibility (EPR) schemes for packaging through Decree-Law No. 152-D/2017, Ordinance No. 150/2024/1, of 8 April, and Decree-Law n. 102-D/2020, with specific obligations concerning plastic products. National legislation promotes waste prevention, reduction of single-use plastics, selective collection, recycling targets, eco-design requirements and the use of recycled content, while regulating the management of plastic waste and specific plastic waste streams.

While plastics policies in Portugal are primarily framed as environmental and public health measures, their human rights implications are increasingly recognised and taken into account. Protection of human health, access to safe water and food, environmental quality, workers' safety and protection of vulnerable groups are core objectives underpinning legislation and policy implementation.

In line with the EU legal framework and international human rights law, Portugal's approach incorporates principles closely associated with a human rights-based approach, including precaution, prevention at source, the polluter-pays principle, access to information and public participation. Public consultation procedures, environmental impact assessments and access-to-information mechanisms support transparency and participation, while occupational health and safety legislation addresses risks associated with plastics production and waste management.

Portugal actively supports ongoing international efforts to address plastic pollution through a legally binding Global Plastics Treaty, under negotiation within the framework of the United Nations Environment Assembly, and promotes measures aimed at prevention at source, sustainable production and consumption, sound chemicals management, waste reduction, and improved waste management, while recognising the importance of integrating human rights

considerations, including the protection of human health, vulnerable groups, access to information, public participation and intergenerational equity.

A summary of measures adopted by the European Parliament to reduce plastic waste can be found here.

4. What gaps or challenges in existing national, regional and international policies and legal frameworks have you observed? What recommendations do you have in order to address the gaps? Please, list them according to priority.

Current policies remain heavily centred on downstream waste management, particularly recycling, while measures to reduce overall plastic production and consumption – especially single-use plastics – remain limited or fragmented. Reuse and refill systems are not yet sufficiently supported at scale, and economic incentives continue to favour disposable products. It is recommended to: (i) strengthen binding targets for plastic reduction at source, particularly for single-use and short-lived products; (ii) prioritise prevention and reuse measures over recycling in national, EU and international frameworks; and (iii) ensure that the Global Plastics Treaty establishes clear upstream obligations covering production, product design and consumption.

A lack of comprehensive transparency regarding the chemical composition of plastics undermines risk assessment, limits safe recycling and restricts consumers' right to information. Regulatory frameworks for plastics, chemicals and products remain insufficiently integrated. It is recommended to: (i) improve transparency requirements on chemical additives across the plastics life cycle; (ii) strengthen alignment between plastics policies and chemicals legislation at EU and international levels; and (iii) promote the inclusion of robust provisions on chemicals of concern in the Global Plastics Treaty.

Differences in administrative capacity, infrastructure and enforcement across regions result in uneven implementation of plastics legislation. Limited resources for monitoring, inspections and compliance reduce policy effectiveness. It is recommended to: (i) reinforce administrative and technical capacity at national and local levels; (ii) promote harmonised implementation and enforcement across EU Member States; and (iii) support capacity-building and technical assistance as a core element of international cooperation under the future Global Plastics Treaty.

Existing international rules do not fully prevent the transfer of environmental and health burdens associated with plastics to countries with more limited waste-management capacity, raising concerns of environmental injustice. It is recommended to: (i) strengthen controls on transboundary movement of plastic waste; (ii) promote shared responsibility and international solidarity in addressing plastic pollution; and (iii) use the Global Plastics Treaty as a framework to ensure equitable burden-sharing and protection of environmental and human rights globally.

5. What are the particular impacts of plastics and plastic pollution on human rights of individuals, groups and peoples in vulnerable situations (*e.g.*, marginalized communities, workers at heightened risk of occupational exposure, in particular waste pickers/reclaimers, peasants, people living in poverty, low-income households, children, youth, women, persons with disabilities, people of African descent, older persons, Indigenous Peoples, coastal communities), and how should these be mitigated, remediated and prevented?

Plastic pollution has differentiated implications for the enjoyment of human rights, particularly where multiple forms of vulnerability converge, including elevated exposure to pollution, socio-economic disadvantages, limited institutional protection, and dependence on ecosystems already affected by contamination.

In this regard, the human rights impacts of plastic pollution are not evenly distributed but are shaped by the interaction between environmental exposure and pre-existing conditions of poverty, discrimination, labour precarity, territorial marginalization, and ecological dependence.

Effective responses must therefore move beyond generic waste management measures and explicitly prioritize the populations facing the highest and most cumulative burdens.

6. To what extent does the expansion of fossil fuel extraction and petrochemical production contribute to plastic pollution? How do subsidies, tax incentives, or public financing for fossil fuel or petrochemical industries affect States' ability to meet their human rights obligations in the context of plastic pollution?

The expansion of fossil fuel extraction and petrochemical production is a primary upstream driver of plastic pollution, since most conventional plastics are fossil-based. By increasing virgin polymer output, it reinforces linear material flows and locks in future waste, environmental leakage, and exposure to plastic-associated pollutants across the life cycle. By channelling public resources into sectors that aggravate plastic pollution, States reduce both the fiscal space and the policy coherence needed to invest in environmental monitoring, health surveillance, remediation, and the protection of populations facing disproportionate exposure.

7. What are the measures to protect human rights in the transition to sustainable economies and societies and what lessons could be learnt from other sectors in this regard? Are there alternatives to or substitutes of plastics? What are their social and human rights implications?

Measures to protect human rights in the transition to sustainable economies should combine upstream reduction of unnecessary plastic production, elimination of hazardous chemicals, support for reuse-based systems, protection for workers across the value chain, and meaningful participation of affected communities in decision-making.

Protecting human rights in the transition to sustainable economies requires a just transition approach, including the protection of workers' rights, social dialogue, access to information, public participation, and safeguarding vulnerable groups. Lessons from the energy and chemicals sectors highlight the importance of prevention, transparency, precaution, and support for affected workers and communities.

Alternatives to plastics already exist, including reuse systems, innovative packaging models and substitute materials such as paper, glass or bio-based materials; however, these alternatives may also have social and human rights implications related to resource use, labour conditions and affordability.

Therefore, lifecycle-based assessments and a human rights-based approach are essential to ensure that substitutes and solutions reduce overall harm and support a fair, inclusive and sustainable transition.

8. What are the particular impacts of plastics and plastic pollution on Small Island Developing States (SIDS), Least Developed Countries (LDCs) and Landlocked Developing Countries (LLDCs), and how should these be mitigated, remediated and prevented?

From a human rights perspective, the implications are generally most acute where plastic pollution interacts with economic fragility, ecological dependence, and limited state capacity. In SIDS, contamination of coastal and marine ecosystems can directly undermine fisheries, tourism-based livelihoods, and food security. In LDCs and LLDCs, by contrast, inadequately controlled waste systems can intensify exposure risks for low-income communities and waste workers, particularly where collection, treatment, and regulatory oversight remain limited.

9. What strategies or initiatives (local, national, regional, or international) are most effective in raising awareness about human rights implications of plastics across its lifecycle, reaching out to all relevant stakeholders and rights-holders, including consumers and societies at large?

At the regional and international levels, the most effective initiatives are those that combine scientific synthesis, policy translation, and public participation.

Effective awareness-raising strategies on the human rights implications of plastics include integrated public information campaigns, education programmes, and transparent product labelling that link plastic pollution to health, environmental, and social impacts.

Multi-stakeholder initiatives involving public authorities, civil society, the private sector, and academia are particularly effective in reaching consumers, workers and vulnerable groups.

At national and regional levels, alignment with EU policies and reporting mechanisms supports coherence and credibility, while at the international level, UN-led processes – such as the Global Plastics Treaty negotiations – play a key role in elevating human rights considerations and fostering shared understanding.

Overall, combining accessible information, participation, and international cooperation has proven most effective in engaging societies at large and promoting informed behavioural change.

10. What specific barriers in business conduct hinder efforts to end plastic pollution and reduce plastic production? Are there any examples on how these barriers have been addressed or overcome? What (human rights-based) minimum standards should States impose on plastic producers to hold them responsible for the entire lifecycle of their products?

The first barrier is the structural preference for low-cost virgin plastic, which remains more economically attractive than reuse, redesign, and recycled content. A second barrier is the fragmentation of responsibility across the value chain. Some of these barriers can be addressed through the implementation of more ambitious policies and regulatory measures, as is the case with the new EU Packaging and Packaging Waste Regulation (PPWR), which links producer responsibility to upstream requirements on packaging minimization, recyclability, reuse, labelling, and recycled content.

11. How should the State regulate chemicals used in plastics, including additives to protect the rights to health and a clean, healthy and sustainable environment? Do States apply the precautionary principle or approach to plastic associated chemicals? If not, what legal or institutional barriers prevent the application of this principle?

States should regulate chemicals in plastics through a full life cycle, precaution-based approach that recognizes plastics as materials capable of releasing hazardous substances throughout production, use, ageing, recycling, and disposal.

12. What is the national framework to ensure access to information on plastics-related risks and harms, including identified hazards and contamination (e.g., across the plastics lifecycle and related health and environmental impacts)?

In Portugal, access to information on plastics-related risks and harms is ensured through the general framework on access to environmental information rather than through a plastics-specific law. The Portuguese Constitution grants all citizens the "right of access to administrative archives and records, without prejudice to the provisions of the law on matters relating to internal and external security, criminal investigations and the identity of individuals" (Article 268(2)), without the need to demonstrate any specific interest in accessing that information.

Law on access to information on environmental matters (Law No. 26/2016, of 22 August) grants the right of access to environmental information held by or for public authorities and private entities that, in some way, perform public functions (Article 4).

According to Law No. 26/2016, public authorities are required to make environmental information that they hold available to any applicant at his request and without having to state an interest (Article 5(1)).

In the event of a failure to reply, a refusal, or any other decision restricting access to administrative documents – which must be issued by the body to which the request was addressed within 10 days – citizens are entitled to either lodge a complaint with the Commission for Access to Administrative Documents (CADA), under Article 16 of the Law No. 26/2016, or to bring an urgent action before the Administrative Courts, known as a "summons to provide information, consult files or issue certificates" (Articles 104 to 108 of the Code of Procedure in the Administrative Courts).

Decisions by CADA are delivered within a maximum of 40 days and the procedures are free of charge, although there may be costs associated with the physical reproduction of documents. CADA's decisions are not legally binding on the public administration but provide guidance on what should be the public administration's action. According to the statistics provided by the Ministry of Justice, a total of 5488 procedures were opened between 2020 and 2024.

The Constitution also grants all citizens the "right to be informed, whenever they so request, of the progress of proceedings in which they have a direct interest, as well as the right to be informed of the final decisions taken in those proceedings" (Article 268(1) of the Portuguese Constitution). This right is also enforced under Articles 104 to 108 of the Code of Procedure in the Administrative Courts.

13. Where litigation or formal complaints are necessary, what measures does the State provide to facilitate effective and prompt access to justice and remedies for individuals

and communities, including clear standing rules, legal aid or other support, and protection against retaliation?

In Portugal, access to justice and to formal complaint mechanisms in environmental and human rights-related matters is based on a general framework of judicial protection and public participation, rather than on a specific regime dedicated to plastic pollution.

The Portuguese Constitution guarantees that everyone has the right to a humane, healthy, and ecologically balanced living environment (Article 66(1)). To ensure the right to a healthy environment, the Constitution states that it is the responsibility of the State, through its own agencies and with the involvement and participation of citizens (Article 66(2)), to prevent and control pollution and its effects, as well as harmful forms of erosion (Article 66(2)(a)), and to promote the integration of environmental objectives into various sectoral policies (Article 66(2)(f)).

The Portuguese Constitution also guarantees the right to health protection through the creation of economic, social, cultural, and environmental conditions that ensure, in particular, the protection of the most vulnerable (Article 64 (2)(b)).

The scope of access to justice and legal standing in Portugal is wide, particularly in relation to the protection of general or diffuse interests such as public health, the environment, quality of life, and cultural heritage, allowing any individual to bring a claim relating to harm suffered by a third party – the so-called "public interest claim".

The right of Popular Action (*actio popularis*) is granted by the Constitution and governed by the Popular Action Law (Law No. 83/95, of 31 August), which since 1995 has protected general or diffuse interests and establishes the right to participate in administrative procedures and to initiate judicial procedures.

Popular Action can take the form of any civil or administrative judicial procedure, recognizing locus standi to: (i) any citizen in full enjoyment of their civil and political rights, whether or not they have a direct interest in the claim; (ii) associations and foundations for the protection of the interest at stake that fulfil the requirements established by law; and (iii) municipal authorities seeking to protect the general interests of the residents within their respective area of competence.

Through Popular Action, a citizen or NGO can enforce substantive provisions or procedural rights, such as access to information or participation in decision-making. It enables the judge to grant suspensive effect to a judicial appeal, in cases where procedural law does not provide for such effect, in order to prevent irreparable or hardly reparable damage (Article 18).

In Popular Action proceedings, pre-payment of costs is not required (Article 20(1)) and applicants are exempted from payment of court fees if they win the case or if the claim is partially upheld (Article 20 (2)). If the case is dismissed, the judge will, based on the economic situation of the plaintiff and the grounds for dismissal, determine reduced court fees of between one tenth and one half of the total costs (Article 20(3)) and the "loser pays" principle will apply.

Other types of civil or administrative procedures may also be relevant in environmental litigation.

In addition to interim measures, special procedures (injunctions) for the protection of fundamental rights are provided for under administrative and civil law. This is the case of the special procedure for the protection of fundamental rights (article 878 of the Code of Civil Procedure) and the Injunction for the Protection of Rights, Freedoms and Guarantees provided for in Articles 109 to 111 of the Code of Tax and Administrative Procedure.

These are alternative means of urgent protection used to request measures appropriate to the circumstances of the case, with a view to preventing a threatened violation or mitigating the effects of an infringement already committed or, when other means are inadequate, obtaining a swift decision compelling the Administration or third parties to adopt or cease certain conduct in order to protect fundamental rights.

Compensation for damages is also available under administrative and civil law.

Unless otherwise established by special law, administrative procedures are generally free of charge (Decree-Law No. 4/2015, Article 15(1)). In addition, the legal framework on Access to the Law and the Courts (Law No. 34/2004, of 29 July), which grants legal protection for the resolution of any type of legal dispute or litigation, whether administrative or otherwise, includes legal advice and legal aid through total or partial exemption from court fees and the appointment and payment of legal counsel. Court fees include the judicial fees and party costs intended to reimburse the legal costs incurred by the successful party.

The assessment of eligibility for legal aid is made by the Social Security Services, and application forms may be obtained free of charge through the Social Security website in both Portuguese and English.

Under Law No. 35/98, which establishes the status of environmental non-governmental organisations, environmental NGOs are granted the right to participate in and initiate administrative procedures pursuant to the Code of Administrative Procedure (Article 9 of Law No. 35/98).

Moreover, environmental NGOs are granted the following judicial rights, regardless of whether they have a direct interest in the claim (Article 10 of Law No. 35/98): (i) initiate legal action necessary for the prevention, correction, suspension, and cessation of actions and omissions by public and private entities that represent, or may represent, a cause of environmental degradation; (ii) initiate legal action to enforce civil liability in relation to such actions and omissions; (iii) challenge actions and administrative regulations that violate legal environmental protection provisions; and (iv) submit complaints or accusations, participate in criminal proceedings concerning environmental crimes as observers, and monitor the process of compliance.

Environmental NGOs may also use civil judicial proceedings to protect the environment by requesting the court, whether separately or in the same application: (i) to declare the existence of a right to a healthy environment; (ii) to prohibit an activity that is damaging or threatens to damage the environment; or (iii) to award compensation for environmental damage.

In the context of such proceedings, environmental NGOs are exempt from court fees.

The Criminal Code also establishes a number of environmental crimes, including fires, explosions and other particularly dangerous activities (Article 272), forest fires (Article 274), damage to nature (Article 278), pollution (Article 279) and dangerous pollution and environmentally hazardous activities (Article 279-A). These offences are punishable by fines or imprisonment, and both natural and legal persons may incur liability.

Anyone may report environmental crimes in Portugal – including members of the public, organisations, and businesses – including anonymously, to the police or other relevant authorities.

Public Prosecutors are the main law enforcement authorities in criminal matters. The Public Prosecutor is entitled to initiate criminal proceedings for the protection of the environment ex officio, except where proceedings depend upon a complaint by the injured party or another legally competent entity.

The Public Prosecutor's Office may receive reports, even without legal representation, in person, in writing, or electronically, and may either pursue the appropriate follow-up action or refer the matter to the competent authority. These mechanisms are particularly relevant in cases involving environmental infringements, insufficient enforcement, or administrative action liable to affect legally protected rights or interests.

Furthermore, where the submission of a formal complaint is necessary, the Portuguese National Human Rights Institution – the *Provedor de Justiça* – provides a free avenue for reviewing unjust or unlawful acts or omissions by the public administration. Complaints may be submitted by form, letter, email, or in person.

Regarding protection against retaliation, Portugal has established a general whistleblower protection regime through Law No. 93/2021, of 20 December, which transposes the relevant EU Directive. This regime protects whistleblowers against retaliation, applies to the environmental sector, and criminalises retaliatory practices. It provides for internal and external reporting mechanisms, confidentiality safeguards, protection against reprisals, and penalties for non-compliance.

In the context of criminal proceedings, Law No. 93/99 establishes a comprehensive system of protection of witnesses at risk, including measures ranging from identity concealment to life rehabilitation programmes, while ensuring an appropriate balance between witness protection and the principles of criminal procedure.

14. Are you aware of any reprisals that individuals and civil society, including scientists and human rights defenders, face for their work regarding plastics and plastic pollution?

No.