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The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of the Philippines covering the period 2018 - 2019

Accompanying the document

Joint Report to the European Parliament and the Council

Report on the Generalised Scheme of Preferences covering the period 2018 - 2019

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The Philippines

1. Summary Assessment

There are a number of concerning issues in the case of the Philippines, including the war on drugs, shrinking civil society space, attacks on human rights defenders, the possible reintroduction of the death penalty, and the lowering the minimum age of criminal responsibility. Ongoing dialogue is constructive but more needs to be done. Meanwhile, the Philippines made progress in addressing poverty, hunger, and unemployment, and took some further measures on environmental protection.

Priorities

A GSP+ monitoring mission to the Philippines, which visited Manila and Cebu, took place from 27 September to 4 October 2018. The conclusions from the mission showed a mixed picture with continuing violations of civil and political rights and some positive developments in the socio-economic and environmental fields. During the reporting period 2018-2019, monitoring focused on several priority areas: the war on drugs and related extra-judicial killings; human rights defenders; the possible reintroduction of the death penalty; the discussions on lowering of the minimum age of criminal responsibility; the end of contractualisation/security of tenure bill; child trafficking; collective bargaining and freedom of association; and child labour.

Human Rights

Philippine authorities have made legislative efforts towards further **poverty reduction**, including introducing a Universal Healthcare Act (2019) and Magna Carta for the Poor (2019). Incidence of poverty is slowly receding. A further example of a positive effort is the creation of an implementation plan for the Children's Emergency Relief and Protection Act to tackle **child trafficking**. The country's national Human Rights Action plan was expected to be released by December 2019. Other legislative developments include the Special Protection of Children in Situations of Armed Conflict Act; the Philippine HIV and AIDS Policy Act; and the Safe Streets, Workplaces, and Public Spaces Act, which entered into law in 2019.

However, several areas of concern remain. Notably, the possible reintroduction of the **death penalty** for drug offences under the 18th Congress would be a worrying development. Reinstatement of the death penalty would constitute a violation of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which the Philippines ratified in 2007.

Similarly, a draft bill **reducing the age of criminal responsibility** from 15 to 12 years would, if passed, go against international standards, as well as recommendations and general comments of the Committee on the Rights of the Child. Moreover, lowering the age of criminal responsibility to 12 would be against the intention and spirit of the Convention of the Rights of the Child, since states are obliged to take into account the maturity and best interests of a child.

Persistent ongoing concerns since the last GSP report are the reports of thousands of **extra-judicial killings** of people allegedly involved in drug trade and use and the lack of proper investigation; as well as sustained attacks on **human rights defenders**, political opponents, members of the clergy, journalists, trade unionists, environmental defenders, and indigenous people.

Labour Rights

The veto by the President of a **security of tenure bill** came as a surprise as the bill was considered to be key policy to tackle abuse of labour contractualisation. Several legislative bills to align national labour legislation with the International Labour Organisation (ILO) Conventions on **collective bargaining and freedom of association** are still pending adoption. In practice, challenges remain in tackling anti-union discrimination and violence and regulating the practice of contractualisation. Given the high levels of informal work, it is essential to adopt legislation to bring people from the informal to the formal economy and to ensure their fundamental rights at work.

Child labour also remains an area where more progress is necessary. There is still no comprehensive identification and analysis of the challenge, given that the results of the pilot child labour survey have not been processed yet. In addition, there is a need to establish a National Child Labour Committee to ensure an overall mechanism to monitor the measures taken to fight child labour.

Some progress was noted in the efforts to establish and improve the functioning of tripartite structures and social dialogue, and the strengthening of the labour inspectorate. Nonetheless, efforts to improve enforcement and monitoring need to be sustained.

Environment

While the Philippines faces serious environmental challenges, the authorities have made further efforts, especially in the protection of **biodiversity** and endangered species. Legislation on Expanded National Integrated Protected Area Systems for biodiversity conservation was adopted in 2018, followed by related implementing rules. Under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Philippines supported new listings of endangered species in the area. While controlling **hazardous waste** shipments remains a challenge, authorities have had some success in this area.

Good Governance

The fight against corruption is a priority for the current Government. There have been further legislative efforts to tackle widespread corruption and a reduced societal tolerance towards corrupt individuals. In the area of drug control, the International Drug Control Board has expressed serious concern at the country's 'war on drugs', the related reports of extra-judicial killings, and the intentions to use the death penalty for drug-related crimes.

Status of ratification and reporting

The Philippines maintained ratification of all 27 GSP+ Conventions. The country fulfilled its reporting obligations, albeit with some delays, except under one human rights convention (International Convention on the Elimination of All Forms of Racial Discrimination - CERD). According to the Government the report was expected by the end of 2019. There were also

delays for four environmental conventions: CITES, UN Framework Convention on Climate Change (UNFCCC), Cartagena Protocol on Biosafety, and the Stockholm Convention.

2. Recent Developments

President Duterte, sworn in on 30 June 2016, won the elections on a programme to fight crime (drug abuse and corruption) and poverty and on the promise to address the violent conflicts in the country. Mid-term Parliamentary elections that took place in May 2019 gave him an even more comfortable majority in Congress. Moreover, the President's allies won most of the seats in the Senate of the Philippines, ensuring a smoother interaction between him and the legislative branch for the second half of his term.

In 2018, the Philippines (population 104 million) recorded the third highest **economic growth** (6.2%) in the region¹. The Philippines made further progress in addressing poverty, hunger, and unemployment, and remains on the upward track in terms of macro-economic policy indicators. Economic reforms are indeed having an effect: official unemployment figures continue to fall (from 7.0 % in 2014 to 5.6% at end 2018). The country is close to reaching upper middle income status, which is the target set by the Government in its long term development agenda *AmBisyon Natin 2040*. Nevertheless, incidence of hunger remains high (9.5%); and the Philippines' export-oriented sector remains weak and dependent on a few countries and sectors.

Bringing peace to the conflict-ridden parts of the country through the **Mindanao Peace Process** (MPP) and rounds of peace talks with the Communist Party of the Philippines (CPP), the New People's Army (NPA) as well as the National Democratic Front (NDF) has been an important component of the agenda of the Duterte administration. As far as the MPP is concerned, the Bangsamoro Organic Law (BOL) was signed by President Duterte on 27 July 2018 and was submitted to plebiscite in two phases on 21 January and on 6 February 2019. This was the culmination of a peace process which started in 1997 between the Government of the Philippines and the Moro Islamic Liberation Front (MILF), the main Bangsamoro rebel group in Muslim Mindanao.

The conduct of the two phases of the plebiscite led to the ratification of the BOL, the creation of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), the consequent abolition of the Autonomous Region in Muslim Mindanao (ARMM), as well as a limited territorial expansion of the autonomous region. The creation of BARMM can be considered a significant milestone in the history of the Philippines and a step towards lasting peace, sustainable development and prosperity in this region. The ongoing period of transition is certainly critical, but also presents an opportunity for all actors, national and international, to work in a constructive spirit in order to lay down a solid foundation for political, economic and social stability in Mindanao. Martial law was declared by President Duterte on 23 May 2017 for the whole island of Mindanao in response to attacks by ISIS-affiliated terrorist groups in the city of Marawi and has been extended by the Senate and the House of Representatives until the end of 2019.

Violent conflicts in the Philippines continue to have a negative impact on human rights, in particular in indigenous communities and cause population displacement (for Marawi alone, at least 66 000 people have been displaced according to UN statistics). During the reporting

¹ After China and Vietnam.

period, several terrorist attacks took place and the risk emanating from violent extremist groups in the country has been growing.

The Philippines' withdrawal from the International Criminal Court, declared on 17 March 2018, took effect on 17 March 2019, adding to negative developments regarding the fight against impunity.

EU – Philippines Bilateral Development Cooperation

A new **Mindanao Peace and Development Programme** (MinPAD) will be the main EU contribution to supporting inclusive growth and strengthening the peace building process in Mindanao. An overall amount of € 60 million has been earmarked for MinPAD. It will support the Mindanao peace and development road map and support peace-building at a grass root level, in the form of more jobs and improved livelihoods all over Mindanao for the populations that have been affected by years of conflict and neglect. The programme aims to contribute to achieving lasting peace and community resilience through early recovery, relief, and rehabilitation.

Under component I (**Support for Peace and Development**) of MinPAD, the programme will further strengthen the implementation of the Government road map to peace for Mindanao by supporting good governance, confidence building among diverse groups, expansion of networks for dialogue, and recovery from the immediate effects of conflict. EU contribution to a multi-donor trust fund is also foreseen.

Under component II (**Support to Inclusive Economic Growth and Job Creation**), the programme will use the cooperatives network for improving the services delivered to the farmers and create added value. It will contribute to rehabilitate the infrastructure networks and market access and will provide a better environment for the private sector to flourish.

3. EU –Philippines Trade and GSP

The Philippines is a member of the Association of Southeast Asian Nations (ASEAN) and thus a party to the ASEAN Free Trade Area and to the five regional Free Trade Agreements (FTAs) that ASEAN has concluded with six countries (China, South Korea, Japan, India, Australia and New Zealand), and also has a bilateral FTA with Japan. An FTA with European Free Trade Association (EFTA) countries entered into force in 2018. Negotiations with South Korea for a bilateral FTA are on-going.

The *OECD's FDI Regulatory Restrictiveness Index* highlighted that the Philippines is still one of the most restrictive countries to Foreign Direct Investment (FDI). FDI to the Philippines was lower in 2018 than 2017 and the influx from traditional investors (EU, US, Japan) fluctuates and is not aligned with the economic growth. The Philippines account only for 3-4 % of all EU FDI to the ASEAN region. Still, the EU is the largest foreign investor in the Philippines, with investments of over € 13.8 billion in 2017.

The country's overall trade performance was modest in 2018. Philippine exports grew at a slow pace, while the trade deficit widened significantly. Exports go to a few countries (Japan, China, US, and the EU) and cover a small number of products/sectors (electronics, business processing outsourcing).

As for the EU, in 2018, total bilateral trade amounted to €15.4 billion, from €14.2 billion in 2017, making it the EU's 40th trading partner. Trade in services was worth €4.8 billion in 2017 (€ 317 million surplus for the Philippines).

The Partnership and Cooperation Agreement (PCA) between the EU and the Philippines was approved by President Duterte in 2017, ratified by the Philippine Senate in January 2018, and entered into force in March 2018. The PCA establishes a comprehensive framework for bilateral cooperation in a vast array of policy areas (political to economic, trade, security, development, research, etc.) and further foresees cooperation on human rights, thus providing an institutional framework for engagement on all human rights issues on a regular basis. The first Joint Committee is expected to convene by early 2020.

Figures 1-3 below describe the Philippine's utilisation of GSP+ in the context of the EU's overall imports from the country².

The Philippines has slowly increased its use of GSP+ preferences, reaching 26% of total exports to the EU in 2018. However, the GSP+ utilisation rate of the Philippines (i.e. the use of GSP+ compared to all GSP+ eligible imports) was 74%. (see figure 1). Philippine exports benefit from the enhanced access to the EU market under GSP+ (22% growth from 2015 to 2018), particularly products like coconut oil, preserved tuna, bicycles, pineapple products, fruit jams, and some garments and footwear. The Philippines' main exports to the EU under GSP+ are relatively diversified, with significant portions of animal or vegetable oils and fats, electrical equipment, and foodstuffs.

Source for all statistics: Eurostat data as of September 2019.

Figure 1: Imports to the EU 2016-2018 – GSP+ utilization rate

Philippines - imports to the EU 2016-2018 (M€)				
	2016	2017	2018	trend 2016-2018
Total imports	6306.7	7241.9	7490.4	18.8%
GSP+ eligible	2361.8	2620.1	2618.1	10.8%
GSP+ preferential	1681.5	1937.6	1914.8	13.9%
Utilisation rate	71.2%	74.0%	73.1%	2.7%

² GSP-statistics only cover goods imported in the EU market, i.e. goods released for free circulation in the EU. The GSP statistics do not cover other EU-imports, like goods imported for the customs inward processing procedure or re-imports after the customs outward processing procedure

Figure 2: Imports to the EU 2016-2018 by regime

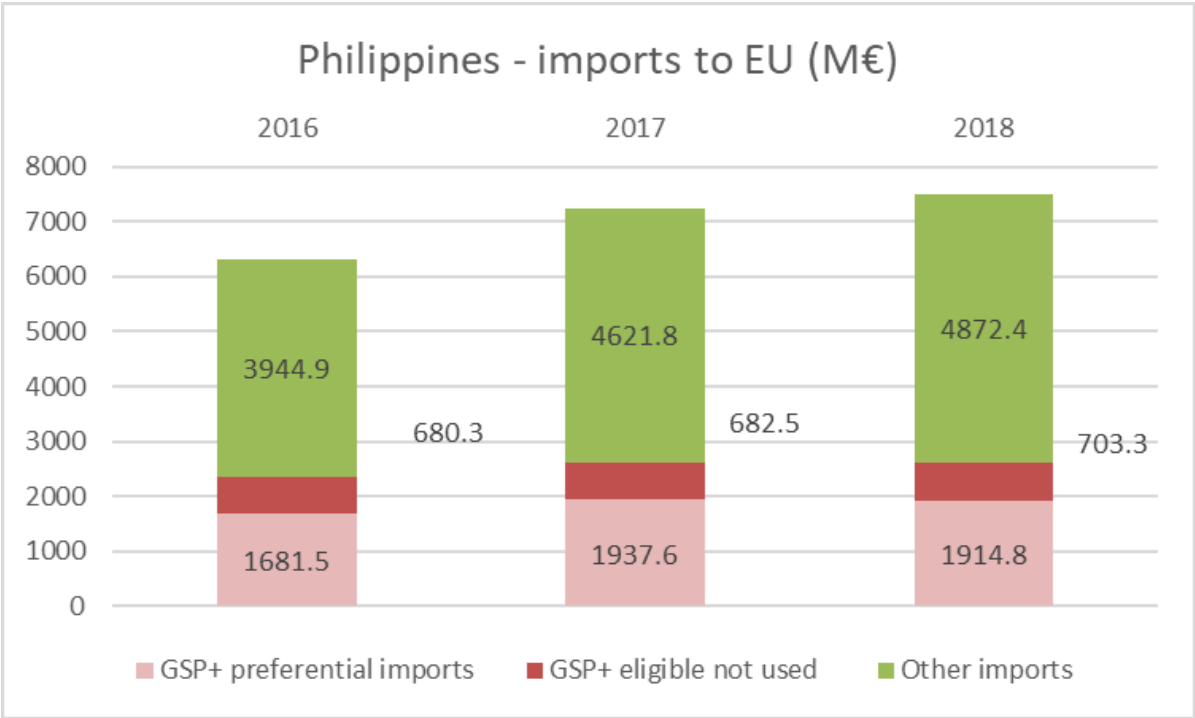
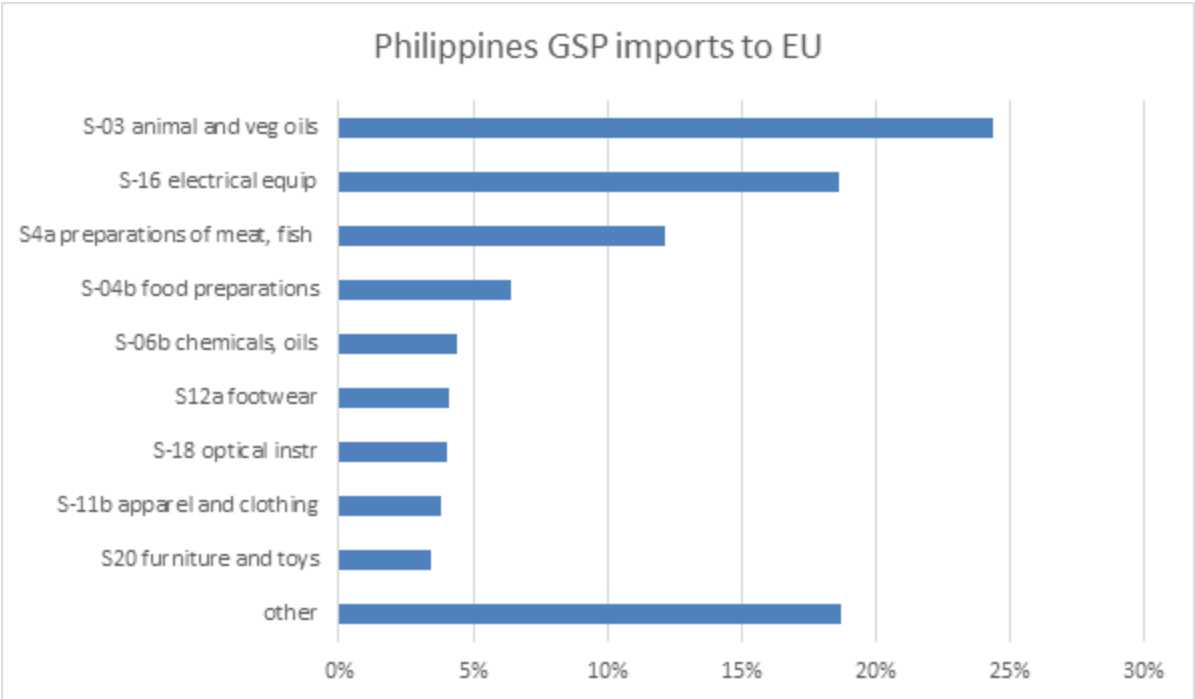


Figure 3: Product Diversification of GSP+ Preferential Imports, 2018



4. Compliance with GSP+ Obligations

4.1 UN Human Rights Conventions

In a resolution on the human rights situation in the Philippines adopted at the forty-first session of the Human Rights Council (HRC) in 2019, the HRC expressed ‘concern at the allegations of human rights violations in the Philippines, particularly those involving killings, enforced disappearances, arbitrary arrest and detention, the intimidation and persecution of or violence against members of civil society, human rights defenders, social activists, indigenous peoples, journalists, lawyers and members of the political opposition, and restrictions on the freedoms of opinion and expression, peaceful assembly and association’³.

On the occasion of the adoption of this resolution, the EU reiterated its concerns on the human rights situation in the Philippines, including the high death toll and the severe conditions in detention associated with the campaign against illegal drugs and called for prompt, effective, impartial and transparent investigations of all cases of death. In the run-up to the forty-first session of the HRC, 11 UN Special Rapporteurs stated that they ‘recorded a staggering number of unlawful deaths and police killings in the context of the so-called war on drugs, as well as killings of human rights defenders’ and that ‘very few independent and effective investigations have taken place’⁴.

The Philippines is a member of the HRC for the period 2019-2021. The Government has not invited any UN Special Rapporteur since 2016, but is considering inviting some special procedures in 2020 (leprosy and human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment).

International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

During its 95th session in May 2018, the Committee on the Elimination of Racial Discrimination issued a decision that ‘indigenous peoples and human rights defenders must be removed from a list of more than 600 individuals alleged to be affiliated with *terrorist organizations*’⁵ in the Philippines. Acting under its Early Warning and Urgent Action Procedures, the Committee expressed its concerns on the court petition by the Philippines State Prosecutor seeking to declare the Communist Party of the Philippines and the New People’s Army as terrorist organisations and the compilation of a related list of 600 individuals. A Manila court ordered the Department of Justice to trim down the list on 27 August 2018, thereby removing many names, including that of the UN Special Rapporteur on the rights of indigenous peoples.

In March 2018, Police in Zamboanga set up an **indigenous peoples’ desk** covering Western Mindanao responsible for the protection and promotion of the interests and well-being of indigenous peoples.^[2] The **Indigenous Navigator** provides a comprehensive indicators framework and set of tools for indigenous peoples to systematically monitor the level of recognition and implementation of their rights. It is funded by the EU and implemented by the ILO.

3 Resolution adopted by the Human Rights Council on 11 July 2019, Promotion and protection of human rights in the Philippines <https://undocs.org/A/HRC/RES/41/2>

4 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24679&LangID=E>

5 <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23084&LangID=E>

An Indigenous Peoples' Rights Act, creating a National Commission on Indigenous Peoples, was promulgated in 1997. However, indigenous peoples report that they continue to suffer from social discrimination, economic marginalisation, and political disempowerment. These concerns have been reiterated by the Observatory for the Protection of Human Rights Defenders in their report of February 2019, highlighting that **indigenous human rights defenders** are particularly at risk in the Philippines. Since the implementation of martial law in Mindanao in May 2017, human rights abuses against the Lumad peoples, reportedly have continued. Indigenous communities are accused of being sympathisers of the communist party and actively supporting the insurgency.

International Covenant on Civil and Political Rights (ICCPR)

The '**war on drugs**' with reports of thousands of extra-judicial killings remains of concern. In a joint statement⁶ of 11 UN special procedures on 11 June 2019, UN experts expressed their concern over the high number of killings which are being carried out across the country in an apparent climate of official, institutional impunity. They stressed that, in many incidents the alleged perpetrators of killings are members of the armed forces, paramilitary groups, or individuals linked to them.

The fight against illegal drugs and drug related crimes is a key priority of the Government, motivated by a drug addiction problem alleged to threaten national security⁷. The Government, through the Philippine Drug Enforcement Authority, also publishes statistics related to the number of operations and surrenderers.⁸ According to these statistics, 5,425 persons died in anti-drug operations from 1 July 2016 to 30 April 2019.

Claims by the Government regarding the conduct of the fight against illegal drugs stand in stark contrast to assessments by national and international actors⁹. Verifiable and independent figures do not exist. In January 2017, the Government claimed that more than 7,000 people had died in the war on drugs.¹⁰ In December 2018, the Philippines Commission on Human Rights (CHR) reported that the death toll could be as high as 27,000.¹¹

In addition, serious concerns have been raised about whether all killings are promptly and effectively investigated in an impartial and transparent manner, allowing for prosecution of those responsible. The only known case with criminal sanctions was that of the killing of a minor in one of the cities in Manila¹². To deal with the large number of drug related cases, the

6 Concluding observations of the Committee on Economic, Social and Cultural Rights on the combined fifth and sixth periodic reports of the Philippines 11 October 2016 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fPHL%2fC.O%2f5-6&Lang=en

7 According to the Government there are 4 million drug users, although the Drug Enforcement Agency had previously estimated a figure of 1.8 million.

8 DFA – Diplomatic Briefing on Human Rights-Related Issues – 3 June 2019.

9 See 'Country Reports on Human Rights Practices for 2016' by the United States Department of State of 3 March 2017; report by the High Commissioner for Human Rights of 11 September 2017; Amnesty International report 'If you are poor you are killed – extrajudicial executions in the Philippines' war on drugs' from 31 January 2017; Human Rights Watch 'Licence to Kill' from 2 March 2017; statements made at the Philippines' UPR, including a joint statement by 39 UN members at the 36th Human Rights Council.

10 Michael Bueza, "IN NUMBERS: The Philippines' 'War on Drugs'," Rappler, 21 January 2017. <https://www.rappler.com/newsbreak/iq/145814-numbers-statistics-philippines-war-drugs>

11 <https://news.abs-cbn.com/focus/12/05/18/chr-chief-drug-war-deaths-could-be-as-high-as-27000>

12 Report by the International Criminal Court on preliminary findings dated 5 December 2019, page 65, <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>. This report also states that other information available suggests that many killings by unidentified assailants took place in the context of, or in connection to, the Government's anti-drug campaign.

Supreme Court has authorised 965 national courts across the country and an additional 240 courts to handle drug cases.

In December 2017, the Supreme Court ordered the release of all *Oplan Tokhang* (war on drugs) reports of the Philippine National Police (PNP). Earlier, the high court ordered the Office of the Solicitor General to release all *Oplan Tokhang* police reports to human rights groups and relatives of those killed, allegedly for resisting arrest or fighting back during drug operations. The Office of the Solicitor General (OSG) filed an appeal against this decision in January 2018; the appeal was denied. Some documents have been released following negotiations between the Solicitor General and the Supreme Court.

Extra-judicial killings are not a new phenomenon in the Philippines and they are not limited to the war on drugs. In the May 2017 UPR report, the Committee on Economic, Social and Cultural Rights expressed concerns about the continuing cases of harassment, disappearance, threats and killings of **human rights defenders**. House Bill No 9199 or the Human Rights Defenders Protection Bill was approved on third and final reading in the House of Representatives but was not enacted into law in the 17th Congress, in place until 4 June 2019.

Although a national law against **enforced disappearance** is already in effect, the Philippines has not signed the UN Convention for the Protection of all Persons from Enforced Disappearance¹³. Under Executive Order 35 of 2012, a Technical Working Group has been mandated to examine alleged extra-judicial killings, media killings, and enforced disappearances. A Task Force “USIG” has also investigated such cases. Experts consider that the definition of extrajudicial killings in Executive Order 35 is too narrow and not in line with the UN Convention on Enforced Disappearances. The latest data from the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) on the Philippines shows 625 unresolved cases of enforced disappearances as of May 2018.¹⁴ The Philippine Government has formally asked the UNWGEID to delist these 625 cases of enforced disappearances, which are mainly attributed to Government forces between 1975 to 2012. Human rights advocates and families of the disappeared considered the request an ‘insult’ and strongly objectionable.¹⁵

The high number of killings and the related culture of impunity have led to a decline of the Philippines’ status on international rankings. In the 2018 Global Impunity Index¹⁶, the country was listed as having the 5th highest impunity level among the 69 countries investigated around the world.¹⁷ However, its rating improved in comparison with 2017, when it was on the first place. The Philippines participates in the UNESCO's impunity and accountability mechanism. Equally worrying is the Philippines ranking in the World Justice Project (WJP) Rule of Law Index 2019, where the Philippines remains among the lowest ranking countries, ranking 90th out of 126. In the 2017 to 2018 index, the country took 88th place out of 113 countries. The country also placed at the bottom of the roster for East Asia and the Pacific region, ranking

13 National Law against enforced disappearances is Republic Act 10353 of December 2012

14 UN Document A/HRC/39/46, available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/236/81/PDF/G1823681.pdf>

15 <http://freejonasburgosmovement.blogspot.com/>

16 <https://cpj.org/reports/2018/10/impunity-index-getting-away-with-murder-killed-justice.php>

It calculates the number of unsolved murders over a 10-year period as a percentage of each country's population

17 https://www.udlap.mx/cesij/files/IGI-2017_eng.pdf

13th out of 15, ahead only of Myanmar and Cambodia. It ranked 14th out of 30 among lower middle income countries.¹⁸

The current Secretary of the Department of Justice has expressed a commitment to strengthen Administrative Order 35 as a mechanism to facilitate a more effective handling of cases of extra-judicial killings.

In 2018, President Duterte signed Executive Order 70 creating the National Task Force to End Local Communist Armed Conflict (NTF). Following the Order, 2019 has seen an increase in ‘red tagging’, where authorities affiliate individual groups and organisations with the communist insurgency. The Securities and Exchange Commission (SEC) is also used to fight alleged terrorism. SEC has released a Memorandum (Memo No. 15, Series 2018, Guidelines for the protection of SEC Registered Non-Profit Organizations (NPOs) from Money Laundering and Terrorist Financing Abuse (‘NPO Guidelines’) which will have an impact on the work of human rights NGOs. The aim of the Guideline is to protect NPOs (i.e. CSOs and NGOs) from being used as conduits for terrorist financing¹⁹. However, CSOs, especially those who are critical of the Government, see this as a maneuver of the State to curtail their freedom of association and freedom of expression²⁰.

In the framework of the 2017 UPR, the United Nations country team stated, that, following the May 2016 elections, harassment and **attacks against media personnel** and citizen commentators had spiked. Despite the introduction of Administrative Order No. 1 in October 2016, which created the ‘Presidential Task Force on violations of the Right to Life, Liberty and Security of the Members of the Media,’ there is little evidence that the task force has actively pursued cases of attacks on journalists. The Observatory delegation was unable to obtain any information directly from the Task Force, as its numerous requests for a meeting went unanswered.²¹

Impunity related to the **killing of journalists** remains a concern. The Philippine Center for Investigative Journalism notes that of the 156 cases of journalists killed since 1986, only 17 were partly resolved.²² The latest numbers point to 12 journalists who were killed as a result of their work between July 1, 2016 and October 31, 2018.²³ Reporters Without Borders (RSF) reported four journalists killed in line of work in 2017. It classifies Philippines as one of the five deadliest countries for journalists (in 2018 it is no. 6). The 2019 World Press Freedom index is also downgrading the Philippines, at place 134 out of 180 (compared to 133 in 2018 and 127 in 2017)²⁴. Meanwhile, one of the two major broadcasting networks in the Philippines was threatened by President Duterte that their franchise to broadcast in radio and television due in March 2020 will not be renewed. The Philippine Congress ensured that due process would be upheld and fair deliberations would be done in the legislative hearings.²⁵

18 https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced_0.pdf

<https://news.abs-cbn.com/news/03/02/19/ph-improves-ranking-but-still-among-lowest-in-world-rule-of-law-index>

19 <http://www.sec.gov.ph/mc-no-15-s-2018guidelines-protection-sec-registered-non-profit-organizations-money-laundering-terrorist-financing-abuse-npo-guidelines-date-posted-09-november-2018/>

20 <https://hronlineph.com/2019/05/15/statement-reported-revocation-of-pahra-sec-registration-a-gag-order-idefend/>

21 https://www.omct.org/files/2019/02/25257/philippines_hrd_report_2019.pdf

22 <https://pcij.org/blog/2018/05/03/speak-truth-to-power-keep-power-in-check>

23 <https://pcij.org/stories/case-files-the-12-journalists-killed-under-the-duterte-administration/>

24 <https://rsf.org/en/philippines>

25 <https://www.rappler.com/nation/246399-house-not-tackle-abs-cbn-franchise-renewal-bill-2019-anymore>

In June 2019, the Senate was reported to push amendments to the Human Security Act or Republic Act 9372 aiming to enlarge an overly broad **definition of terrorism**, but did not succeed within the 17th Congress. The amendments, if passed, would remove human rights safeguards and accountability for potential violations on arbitrary arrest, torture, arrest without a warrant, and privacy. The bill to include libel as a terrorist crime also did not materialise in the recently concluded Congress.

Another area of serious concern is the possible reintroduction of the **death penalty**. Capital punishment was abolished in the Philippines in 2006 during the administration of President Macapagal-Arroyo. The House of Representatives passed a bill in March 2017 to reinstate the death penalty for drug related offenses, which has not been approved by the Philippine Senate, but has been reintroduced in the 18th Congress. Reinstatement of the death penalty would constitute a violation of the ICCPR's Second Optional Protocol (no withdrawal option), which the Philippines ratified in 2007.²⁶

A further area of concern is related to the public pronouncement by President Duterte to ban the use of vape and e-cigarette in public places, instructing police officers to make arrests without an Executive Order. Duterte then asked court judges not to meddle in his instruction by issuing temporary restraining orders. The Integrated Bar of the Philippines reiterated the separation of powers stated in the 1987 Philippine Constitution.²⁷

International Covenant on Economic, Social and Cultural Rights (CESCR)

Despite economic growth, **poverty** remains a challenge with 5.1% of the population living in extreme poverty. The highest proportion of the poor is found in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM).

In January 2019, the **unemployment rate** was down to 5.2%,²⁸ but the ILO estimated that 38.3% of workers work in the informal economy and do not have access to benefits and employer mandated social protection. A conditional cash transfer program, locally known as *Pantawid Pamilya Pilipino Program*, or 4Ps, has been put in place and benefitted more than 4.4 million households since 2016.²⁹ On 17 April 2019, President Duterte signed Republic Act No. 11310 or the *Pantawid Pamilyang Pilipino Program*, which institutionalises the anti-poverty measure^{30 31}. In addition, the *Magna Carta of the Poor* establishing the principle of making Government services more accessible to poor Filipinos (housing, education, decent work, health and food) was adopted in April 2019.

President Duterte's 10 point socio-economic agenda includes measures to address these issues and priorities for the first three years of the administration. However, the delay in the enactment of the 2019 national budget caused interruptions in the delivery of social services and infrastructure programmes, such as planned increases in the allocations for healthcare, education, infrastructure, and science & technology. Overall 38% of the budget is allocated to

26 http://www.ohchr.org/Documents/Countries/PH/OpenLetterHC_DeathPenalty.pdf

27 <https://cnnphilippines.com/news/2019/11/21/Duterte-vaping-ban-judges.html?fbclid=IwAR17ep4j3Kzp3rhc9MwOYvosHtCWVD5brUWiVj295PYviZpBFB0tRPLBnq0>

28 <https://psa.gov.ph/content/employment-rate-january-2019-estimated-948-percent>

29 <https://www.worldbank.org/en/country/philippines/brief/faqs-about-the-pantawid-pamilyang-pilipino-program>

30 <https://www.officialgazette.gov.ph/2019/04/17/republic-act-no-11310/>

31 <https://www.worldbank.org/en/country/philippines/brief/faqs-about-the-pantawid-pamilyang-pilipino-program>

social services (education, healthcare, social welfare), while 27% is allocated to economic services (infrastructure, agriculture and rural sectors, and jobs and livelihood).

The Philippines is a source country and, to a lesser extent, a destination and transit country for men, women, and children subjected to **sex trafficking and forced labour**. The US State Department's Trafficking in Persons Report of 2018 noted that the Government maintained law enforcement efforts.³² During the reporting period, the Government convicted 65 traffickers. In an effort to prevent trafficking of migrant workers, the Government increased its funding for the Commission on Filipinos Overseas (CFO) to facilitate anti-trafficking prevention campaigns for migrant workers and assisted 1,476 potential Filipino trafficking victims in the Middle East, Asia, and Europe.

One out of four **children** under five is underweight and one in three children under the age of five is stunted.³³ In February 2019, President Duterte signed the Universal Healthcare Act (UHC, Republic Act No.11223), which automatically registers all Filipino citizens in the National Health Insurance Program, run by PhilHealth (Philippine Health Insurance Corp).³⁴ The budget for the ambitious project is pegged at P257 billion (€4.4 billion) in the first year.³⁵ The Healthcare Act gives Filipinos access to a full spectrum of health services, from health promotion to prevention, treatment, rehabilitation, and palliative care. The Government set ambitious targets for improving health including to bring life expectancy from 69 to 71 (males) and 75 to 77 (females), reduce maternal mortality from 221 to 90, infant mortality from 23 to 15, and under five mortality from 31 to 22 by 2022.

In line with the health focus of the Government, the Philippines Mental Health Law (Republic Act 11036) was passed in June 2018. This regulation sets the path for integrating **mental health** into the country's public healthcare system.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

According to the 2018 World Economic Forum's Global Gender Gap Index, the Philippines is one of the top countries in the world to have **narrowed the gender gap** in education, decision-making positions, and participation in economic opportunities (rank 8)³⁶. However, according to the 2018 UNDP **Gender Inequality** index, the country still faces many issues reflected in its ranking (97)³⁷.

The Philippines still suffer from a high rate of **gender-based violence**. However, a positive trend can be observed since the enactment of the Magna Carta for Women (Republic Act 9710) that was adopted in 2009 and is considered as the national translation of the CEDAW. The Magna Carta has also created a Gender Ombudsman under the Commission on Human Rights, which specifically handles women's rights concerns. In November 2018, the Commission launched the Gender-based Violence Observatory.

32 <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>

33 <https://www.unicef.org/philippines/media/556/file>, p.18.

34 <https://www.who.int/philippines/news/feature-stories/detail/uhc-act-in-the-philippines-a-new-dawn-for-health-care>

35 <https://news.abs-cbn.com/news/02/20/19/health-care-for-all-duterte-signs-universal-healthcare-act>

36 http://www3.weforum.org/docs/WEF_GGGR_2018.pdf

37 <http://hdr.undp.org/en/content/gender-development-index-gdi>

The latest observations of the UN Committee on the Elimination of Discrimination against Women regarding implementation of the CEDAW are from July 2016. Principal areas of concern and recommendation included: ensuring the full implementation of the CEDAW; improvements to be made to the legislative framework (such as amendments to the Family Code, the Penal Code, the Anti-Rape Law, the Anti-Sexual Harassment Act and the Code of Muslim Personal Laws); access to justice; capacity building for the Philippine Commission on Women; fight against gender-based violence and trafficking and exploitation of sex workers; participation in public life, education, employment, health; as well as rights of women migrant workers. During the 2017 UPR the Philippines accepted the recommendations related to sexual orientation and gender.

In April 2019, a new law criminalising public **sexual harassment** was signed. However, the implementation of the law could face difficulties with the rise of a sexist public discourse that degrades and objectifies women.

Maternal health remains a concern in the Philippines. The United Nations Population Fund (UNFPA) reports that more than 11 mothers still die every day of preventable causes, related to childbirth and abortion in the Philippines; and for every woman who dies, 20 more suffer complications with serious or long lasting consequences.³⁸ This high maternal mortality rate can be explained by low rate of births performed by skilled health professionals; by low use of contraceptives; and limited access to family planning programmes.

The Responsible Parenthood and Reproductive Health Law enacted in 2014 aims to ensure people's access to reproductive health services, contraceptives and family planning. The law is now fully implemented thanks to the budget provision adopted for 2020. However, the law states that minors are not allowed to access reproductive health services without parental consent, thus encouraging a rise in **teenage pregnancy**. Moreover, the Philippines face the fastest growing **epidemic of HIV** in Asia. The number of new infections jumped from 4 400 in 2010 to 12 000 in 2017 according to UNAIDS. HIV risk among young people within key populations is of particular concern: since 2010, new HIV infections in the Philippines among young people (aged 15–24 years) increased by 170%.³⁹

Women's **labour force participation** rate is lower compared to men due to insufficient decent work opportunities, domestic labour, care constraints, and social norms. Women are more likely to have lower quality employment than men and fewer opportunities of access to social protection. Women entrepreneurs still face constraints including limited access to capital and credit, limited access to value enhancing inputs, lack of information, and high transactions costs on development services and credit.

In BARMM (Mindanao), the poorest area of the Philippines, women have limited access to education, health services, and political participation and are faced with vulnerability to violence and trafficking and lack of livelihood opportunities.

The Sexual Orientation and Gender Identity and Expression Equality Bill was adopted in 2017 in the House of Representatives, but is unlikely to pass in the Senate. The Bill aims at protecting people from discriminatory acts such as denial of access to public and health services, criteria for hiring and dismissal of workers, and harassment motivated by bias. While this development is on halt at the federal level, several local laws on this matter passed, for example in the city of Mandaluyong in May 2018.

38 <https://philippines.unfpa.org/en/topics/maternal-health-3>

39 https://www.unaids.org/sites/default/files/media_asset/unaids-data-2018_en.pdf
<https://www.unaids.org/en/keywords/philippines>

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

A **National Preventive Mechanism (NPM) on Torture** has yet to be established in compliance with the Optional Protocol to CAT. Discussions on establishing the NPM has been ongoing since 2008. The latest draft bill on its establishment is still pending in both houses⁴⁰. On 3 September 2018, the Commission on Human Rights (CHR) of the Philippines issued a resolution to undertake the role of an NPM and act as an interim NPM in the absence of a legal framework. The Sub-committee on the Prevention of Torture (SPT) has stated (last in its session 18-22 February 2019) that the self-designation of the CHR as an NPM was not considered by the SPT as an act of State and did not satisfy the OPCAT provisions by which State Parties had to designate or establish an NPM whose mandate and powers should be set in a constitutional or legislative text.

Mainly as a result of the 2002 Dangerous Drugs Act and of the 'war on drugs', **detention facilities** and prisons are increasingly overcrowded.⁴¹ The Philippines's jails are currently housing more than 140,000 inmates against their combined capacity of nearly 20,000, with inmates living in inhumane and degrading conditions.⁴² Various human rights NGOs maintain lists of incarcerated persons they consider to be political prisoners.

Convention on the Rights of the Child (CRC)

Over the last reporting period, 29 laws were enacted that relate to child rights protection⁴³: 13 laws on child protection (i.e., cybercrime, anti-pornography, anti-torture, juvenile justice, trafficking, and foster care); nine laws on education and sports (i.e., basic and early education, scholarships, science and technology); four laws on health (i.e., immunisation, breastfeeding, and reproductive health); two laws on youth involvement; and one law on the civil status of children. In addition, both Senate and House of Representatives created special committees related to child rights protection and increased the budget for child protection under the State's Council for the Welfare of Children (CWC) from P38.3 million (€ 653,000) in 2015 to P54.42 million (€ 929,000) in 2017.

In its contribution to the UPR of the Philippines in 2017, UNICEF pointed out that lowering the **age of criminal responsibility** from 15 years to 9 or 12 years would be an alarming development. It also pointed to the Supreme Court ruling that would deny children under the age of 18 years access to **reproductive health services**, despite the constant increase in rates of **teenage pregnancy**. This trend led to teenage pregnancy levels comparable to those in the 1960s.⁴⁴ Furthermore, the Philippines had not acted on the CRC recommendation to address the relatively low **age of sexual consent** of 12 years. The Committee on Torture has expressed its concern about **corporal punishment** and the situation of children subject to abduction and **recruitment** by military groups. The Committee on Economic, Social and Cultural Rights has expressed concerns over child labour, including in hazardous or dangerous conditions, as well as about children exposed to various forms of sexual and economic exploitation.

40 <http://chr.gov.ph/wp-content/uploads/2019/08/CHR-Advisory-on-the-Concluding-Observations-on-the-3rd-Periodic-Report-of-the-Philippines-on-the-Convention-Against-Torture-CHR-A2019-003.pdf>, 3 June 2019

41 In June 2017, the Commission on Audit estimated that the country's jails were overcrowded by 511%.

42 http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All&=Apply

43 See Annex 3 of the Combined fifth and sixth periodic reports of States parties on the Philippines under the Convention on the Rights of the Child for details.

44 <https://www.unicef.org/philippines/media/556/file>, p.16.

The adoption of amendments to the Juvenile and Welfare Act has been a key priority of the President. A bill was filed in Congress to amend Republic Act 10630 or the Juvenile Justice Act to lower the **age of criminal responsibility** for minors from 15 to 9 or 12 years. The bill was adopted in the lower house but was not prioritised in the Senate (Bill 2198). The proposed legislation might be reintroduced later under the 18th Congress. This Bill would run against the recommendation of the Convention on the Rights of the Child General Comment 24 of 2019, that the minimum age of criminal responsibility be 14 years.

Conclusions and priorities

The Philippines has established human rights institutions at the national level. A Charter for the Commission on Human Rights is still with the Congress. Its adoption and ensuring that this Commission has the necessary resources to fully carry out its mandate and functions would strengthen the human rights framework. The Commission is also developing a human rights action plan. Its approval would contribute to giving a specific agenda and roadmap to realise human rights commitments.

Legislation to reform the juvenile justice system and introduce a National Preventive Mechanism on Torture, as well as proposals on Anti-Discrimination and a Land Use Bill are still pending and expected to be raised before the newly-composed 18th Congress.

The possible re-instatement of the death penalty and the lowering of the minimum age for criminal responsibility would be against respectively the Second Optional Protocol to the the Convention on Civil and Political Rights and the recommendations and general comments of the Committee on the Rights of the Child.

The Philippines has to effectively take into consideration the recommendations of the UN periodic reports regarding implementation of the CEDAW, including the full implementation of the Magna Carta of Women.

Reinforcing the peace process to the conflict ridden parts of the country remains an important issue for the Government.

4.2 ILO Labour Rights Conventions

Overall, the Philippines has made some progress in improving the implementation of international labour standards, though some important challenges remain.

Plans to regularise **labour contractualisation** – after long discussions over this practice’s negative impacts on the labour rights – have continued during the reporting period and finally the Congress passed a law accordingly. However, following pressure from some stakeholders, the President vetoed the law and the legislative process needs to start anew, which raises further uncertainties on addressing this important challenge, even if discussions on the matter are still ongoing. According to estimates, the share of informal work is up to 38%, which leaves numerous workers outside labour protection. There has been some progress made through regularisation actions and preparation of new legislative framework for bringing workers into formal employment. It is important that these efforts are sustained and that the legislation is adopted.

Some progress has also been noted in the efforts to establish and improve the functioning of **tripartite structures and social dialogue**, and continuing to strengthen the **labour inspectorate**. Nonetheless, efforts to improve enforcement and monitoring need to be sustained.

Freedom of Association and Collective Bargaining (Conventions 87 and 98)

There has been limited progress in this area, despite some positive prospects in the past. The challenges remain both in the implementation in practice, related to allegations of **anti-union discrimination**, as well as on legislative aspects, related to the need to amend national legislation to comply with the fundamental ILO Conventions on **freedom of association and collective bargaining**⁴⁵.

The ILO supervisory bodies have repeatedly been making observations regarding allegations of **anti-union violence** and the lack of progress in the investigation of such cases, creating an atmosphere of impunity. The violations are of serious concern, as they affect the physical integrity of trade union members and activists. Regrettably, the Philippines has been considered again a country case at the 2019 International Labour Conference (repeated case from 2016), and a direct contacts mission was requested at this occasion. In addition, the Philippines was identified as a serious and urgent case at the Committee on Freedom of Association during the 2019 October-November session of the ILO Governing Body due to allegations on extra-judicial killings of trade union leaders and failure of the Government to adequately investigate these cases and bring the perpetrators to justice.

The ILO had repeatedly requested the Philippines to bring national legislation in line with the ILO Convention 87, among others to grant **trade union rights** to all workers in the country, including foreigners; reduce the excessively high **requirements for registration** of unions and establishment of federations or national unions; and limit **Government intervention** in labour disputes. The adoption of this necessary legislation has been pending for several years.

Monitoring bodies, including tripartite structures, tasked to deal with cases related to freedom of association and collective bargaining are in place in the Philippines. This has been a positive element and the Philippines has made some efforts to strengthen dialogue, implementation and monitoring of labour rights cases. In January 2018, the Operational Guidelines of the NTIPC-MB (National Tripartite Industrial Peace Council – Monitoring Body) and RTMBs (Regional Tripartite Monitoring Bodies) were adopted. The Guidelines apply for handling of cases at the ILO, labour-related killings, violations of freedom of association and violations of Department of Labour and Employment – Philippine National Police – Philippine Economic Zone Authority (DOLE-PNP-PEZA) Guidelines. Currently, the operational guidelines of the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons (IAC) are under review to improve its functioning and coordination with other bodies; however, there has been a stall in its functioning. DOLE, together with the ILO and tripartite partners under an EU funded project, signed a manifesto and national action plan to fully implement the findings of ILO's direct contact mission of February 2017. Efforts have also been made to increase dialogue and monitoring of labour rights in EPZs, although they need to be sustained to be able to show real progress in this area.

⁴⁵ ITUC 2018 Global Rights Index ranked the Philippines among 10 worst countries on the account of intimidation and dismissals, violence and repressive laws.

Enforcement capacities still need further strengthening, although there has been progress achieved. The established Labour Law Compliance System continues monitoring working conditions. Participation of workers' and employers' organisations in labour inspections was initiated. Furthermore, a new law on **occupational safety and health** was adopted.

The Philippines continues to be committed to increase financial, technical and human resources capacities of the **labour inspection**. According to the authorities there are around 600 inspectors, but their capacities still need strengthening. Further work is needed to improve the labour inspection system, such as addressing insufficient financial resources, low number of inspectors and their weak capacities to carry out specialised inspections. The Department of Labour and Employment (DOLE) announced plans to recruit another 200 labour inspectors and permits companies to undertake voluntary self-assessments of compliance.

The ILO-EU **GSP+ Development Cooperation Project on Freedom of Association and Collective Bargaining** (FoACB) was operational from May 2017 to May 2019. The project targeted the promotion of effective application of Freedom of Association and Collective Bargaining principles among government, workers and employers in the Philippines. The project produced the following outputs: (1) a National Action Plan on Freedom of Association and Collective Bargaining (2017-2022); (2) Reports on the existing investigative and monitoring mechanisms; (3) a FoACB Training Manual for Workers; (4) an Employers' Toolkit on Enhancing Compliance of ILS and Social Dialogue in MSMEs; and (5) the DOLE FoACB E-learning course on Labour Rights and Standards.

Abolition of Forced Labour (Conventions 29 and 105)

The Philippines has sustained efforts to address **human trafficking and exploitation. Migrant workers**, who play an important role for the economy, are particularly vulnerable. Progress to protect Filipino migrant workers abroad has been made, notably through the implementation of legislation on working and living conditions on board commercial fishing vessels. An integrated recruitment integration system is in preparation to ensure equal and better labour standards and assist employment agencies to improve compliance.

However, efforts to ensure better and effective enforcement of legislation including thorough investigations and prosecutions need to be strengthened. The number of convictions remains low. The Philippines has not ratified the ILO Protocol 29 on Forced Labour.

Minimum Age for Work and Worst Forms of Child Labour (Conventions 138 and 182)

Child labour also remains an area where more progress is necessary. There is a need to establish a National Child Labour Committee to ensure a mechanism to monitor the measures taken to fight child labour. The 2017-2022 strategic framework programme against child labour is in place, focusing on preventative activities and access of working children and their families to social protection, health care, and education. Administrative Order No. 142 from March 2018 instructed DOLE regional offices to conduct profiling of child workers, with focus on the informal sector. There is insufficient information on the training of labour inspectors on child labour.

In April 2018, President Duterte signed the Executive Order establishing the **National Council Against Child Labour**, which would replace and improve the National Child Labour Committee. It would be a step to creating a mechanism to oversee the work against child labour, with budgetary allocation and secretariat and permanent staff. However, the Council still needs to be formalised. Efforts need to be strengthened to establish proper data and statistics. There have been initial steps taken to regularly include child and forced labour in labour force surveys. However, the results of the pilot survey on child labour from the Labour Force Survey carried out in 2017 are still being processed.

The ILO urged the Philippines to ensure special protection and dissuasive punishment for persons who subject children to **hazardous or exploitative conditions**, but despite the DOLE guidelines on assessing and determining hazardous work in the employment of persons below 18 years of age, the number of convictions for **child trafficking** continues to be low. In February 2019, The House Committee on Welfare of Children also approved a bill introducing harsher penalties for child abuse, exploitation, and discrimination (House Bill No.9024).

Equal Remuneration and Elimination of Discrimination (Conventions 100 and 111)

Overall, the Philippines is considered a frontrunner in the region in promoting **gender equality**. In February 2019, new legislation was adopted, which extends **maternity leave** from 60-78 days to 105 days. Nonetheless, women continue to be overrepresented in low paid jobs and are less likely to participate on the labour market than men are. Progress would be further facilitated by improving the effectiveness of enforcement of the legislation and by increasing awareness about antidiscrimination.

Harassment at the workplace and other aspects of discrimination continue to be monitored through the labour law compliance system (LLCS). Efforts need to continue in the direction of a comprehensive gaps analysis to feed into comprehensive, targeted, and timely policy or legislative response. In the past years, ILO has been urging the Government to give full legislative expression to the principle of **equal remuneration** for men and women for work of equal value. In the **absence of an overarching antidiscrimination legislative instrument**, a number of regulations prohibiting discrimination exist, which leads to fragmentation.

The Philippines also continues to struggle with the persistence of **informal economy**, which is estimated to be affecting around 38% of the workforce. In January 2019, several draft laws were consolidated into one comprehensive legislative proposal (Senate Bill No. 2175) “Magna Carta for Workers, Enterprises, and Organizations in the Informal Economy”. The proposal aims to translate the ILO Recommendation 204 on transition from informal to formal economy. Its adoption would represent an important step towards addressing vulnerable

The EU funded **INSPIRED+ Philippines** project, implemented by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) from February to December 2018, focused on **land reforms affecting the rural poor**: farmers and farm workers, indigenous cultural communities, and small fisher folk. Project activities such as workshops, roundtables, and policy dialogues with stakeholders aimed at assessing the status of implementation of three major land and resource tenure reforms – the Comprehensive Agrarian Reform Program (CARP), the Indigenous Peoples’ Rights Act (IPRA), and the Fisheries Code.

employment and improving application of labour rights for all workers. According to the authorities, 176,286 workers were regularised between August 2016 and May 2018.

Conclusions and priorities

Overall, the Philippines has the institutional, policy and legal frameworks for the application of international labour standards. Despite some improvements achieved in strengthening the enforcement and implementation capacities, further efforts are needed to ensure effective implementation of the fundamental ILO Conventions. The follow-up discussions on the recently rejected Security of Tenure Act need to remain an absolute priority to address long lasting challenges about labour contractualisation.

Priority areas for monitoring also include adoption of long outstanding legislation to align with ILO Conventions 87 and 98 and to address violence and anti-union discrimination. The Philippines should continue to increase and strengthen the enforcement capacities of labour inspectorates and improve measures against human trafficking and child labour. The New National Child Labour Council needs to be institutionalised.

There has been a consolidated legislative proposal to define informal economy and formulate measures to facilitate transition of workers and economic operators to formal economy. Its adoption needs to be prioritised. A comprehensive legal framework in the form of a law on equal employment opportunities for women and men should also be adopted,

Efforts to improve freedom of association in Special Economic Zones need to be sustained to be able to achieve real progress. The project implemented with the ILO initiated tripartite efforts to support dialogue, which should be pursued towards the creation of the appropriate mechanisms to address labour issues.

4.3 UN Conventions on Environmental Protection and Climate Change

Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)

The Philippines' legislation is still classified under 'Category 2', but discussions are ongoing with the CITES Secretariat to obtain 'Category 1' status⁴⁶. The Philippines is one of the mega-diverse countries in the world⁴⁷.

In October 2018, during its 70th meeting, the Standing Committee to the CITES decided to release the Philippines, among other countries, from a process whereby they must report on steps taken to address their roles in illegal ivory trade. Exit was granted based on the

46 Category 1: legislation that is believed generally to meet all requirements for effective implementation of CITES. Category 2: legislation that is believed generally not to meet all of the requirements for the implementation of CITES. Source: https://cites.org/eng/legislation/National_Legislation_Project

47 For details, please refer to the biennial report for 2016-2017, SWD(2018) 32 final of 19.1.2018

favourable submissions made by the countries themselves, without the need for an independent verification mechanism⁴⁸.

In 2018, Philippines pilot tested the CITES Electronic Permitting and Management Information System (CEPMIS) in the National Capital Region to assess the effectiveness and functionality of the system. This is part of the country's adherence to the CITES.

In August 2019, at the CoP 18 in Geneva, the Philippines supported many of the EU's listing proposals. In particular, the Philippines proposed the listing of the Tokay gecko in Appendix II.

Basel Convention

Regarding the implementation of the Basel Convention, major challenges are the arrival of shipments in the Philippines without necessary importation clearance and incidences of illegal **traffic of hazardous waste**. The legislation in place seems to allow for an effective control of imports of hazardous wastes from developed countries. The non-ratification of the Ban Amendment, however, generated much criticism from environmental groups, who flagged the possibility of illegally labelled shipments. As a result, the Philippines prohibits the import of hazardous waste for final disposal, but continues to allow selected imports for recycling (about 100,000 MT/year).

Convention on Biological Diversity (CBD)

The Philippines has consistently met the requirements of the CBD, although the trend in biodiversity loss in the country remains worrying.⁴⁹ The Government has adopted the Philippine Biodiversity Strategy and Action Plan 2014-2025, a requirement under the Convention, with support from the Global Environment Facility (GEF). Furthermore, the Philippines has introduced a clearing house mechanism for information sharing, as well as a National Biosafety Committee.

The Philippines has identified a number of actions necessary to address the threats to biodiversity, among them direct actions (restoration of ecosystem functions, promotion of biodiversity-friendly livelihoods, and strengthening law enforcement) and enabling actions (communication, education and public awareness, capacity development, research, strengthening policy, promotion of biodiversity-friendly technology, and resource mobilisation).

Republic Act 11038, otherwise known as Expanded National Integrated Protected Area Systems (ENIPAS) Act of 2018, was signed into law on 22 June 2018. Salient provisions of the Act include the provision for scientific and technical support for biodiversity conservation; delineation and demarcation of boundaries; deputation of support especially on enforcement to the Protected Area Superintendent (PASu); regular reporting on the status of the Integrated Protected Area Fund (IPAF); and allocating 75% of all revenues raised to the Protected Area Management Board (PAMB). It also prohibits the use and possession of destructive fishing gear within the protected seascape.

48 SC70 Document 27.4 p.10

49 For details, please refer to the biennial report for 2016-2017, SWD(2018) 32 final of 19.1.2018

Stockholm Convention on Persistent Organic Pollutants

In the reporting period, there have been no notable developments in the implementation of the Stockholm Convention⁵⁰.

Cartagena Protocol on Biosafety

In the reporting period, there have been no notable developments in the implementation of the Cartagena Protocol⁵¹.

Conventions on Climate Change

With regard to the implementation of the Montreal Protocol, the measures to phase out ozone-depleting substances are in line with the provisions of the protocol and no non-compliance procedures are pending. The Philippines was planning to ratify the Kigali amendment of the Montreal Protocol by mid-2018, but it is still pending. The Government is, however, clearly committed to ensure progress towards development and implementation of an ambitious multi-sector Nationally Determined Contribution (NDC) that would allow the Philippines to improve alignment of the National Climate Change Action Plan (2011-2028) with the new climate regime under the Paris Agreement. According to its Intended Nationally Determined Contribution (INDC), submitted in October 2015 prior to the conclusion of the Paris Agreement, the Philippines intended to reduce greenhouse gas emissions 70% by 2030 relative to its business-as-usual scenario of 2000. The reduction will mainly come from energy, transport, waste, forestry and industry sectors. However, this is a conditional target subject to international support.

The EU's **Access to Sustainable Energy Programme** (ASEP) contributes to climate change mitigation and it is the first EU development cooperation programme on energy in the Philippines (€ 60 million). The programme provides advice on policy making and delivers solutions on rural electrification in remote areas, energy efficiency and labelling, subsidising solar home systems, solar farms and a pre-paid metering, and provides grants to innovative business solutions linked to productive use of these technologies. The project has been extended until December 2021-2022.

Meanwhile, since July 2018 the Philippines has engaged the NDC Partnership Facility as an international facilitator to harmonise, coordinate, and better target ongoing and prospective international support in priority areas of climate action. On 12 November 2018, a consolidated response from partners (including EU Delegation) to request for support put forward by the Government to international partners was sent to the Climate Change Commission. An unconditional commitment is currently under discussion by the Climate Change Commission with Government departments and the INDC is under revision with a view for developing the 1st NDC to be submitted to the UNFCCC before the end of 2019 with an enhancement of the Mitigation component. Announcements on continuous support for coal based electricity generation and increasing coal fired capacity, however, add uncertainties on the robustness of the Philippines NDC commitments.

50 Please refer to the biennial report for 2016-2017 for more background information, SWD(2018) 32 final of 19.1.2018

51 Please refer to the biennial report for 2016-2017 for more background information, SWD(2018) 32 final of 19.1.2018

Conclusions and priorities

During the reporting period 2018-2019, no specific problems have been reported in relation to the implementation of the CBD, Basel, and Stockholm Conventions. In relation to the CITES convention, the Philippines has supported the EU at CoP18 for new listings of endangered species. The country made progress on tackling illegal ivory trade.

The Philippines has ratified the Paris Agreement and has taken measures to address environmental and climate change challenges. In this context, the NDC implementation once completed will be a pivotal tool to raise ambition and mainstream mitigation and adaptation in public policies at all levels. However, effective implementation may be under threat since the Philippines is a fast growing country with consumption and production increasing rapidly. A strengthened dialogue with the Government and other stakeholders is necessary to facilitate an environmentally friendly growth agenda.

4.4 UN Conventions on Good Governance

International Drug Control Conventions

Reports of acts of violence and murder in the Philippines committed against individuals suspected of involvement in the illicit drug trade or of drug abuse, which may have been encouraged or condoned by members of the Government since July 2016, came to the International Narcotics Control Board (INCB)'s attention⁵².

In August 2017, the INCB issued a statement calling on the Government to issue an immediate and unequivocal condemnation and denunciation of extra-judicial actions against individuals suspected of involvement in the illicit drug trade or of drug abuse, to put an immediate stop to such actions, and to ensure that the perpetrators of such acts are brought to justice in full observance of due process and the rule of law. The INCB also brought to attention that extrajudicial action, purportedly taken in pursuit of drug control objectives, is fundamentally contrary to the provisions and objectives of the three international drug control conventions, under which all actions must be undertaken within the due process of law.⁵³

In November 2018, on the issue of capital punishment, the INCB felt compelled as part of the greater United Nations family to draw the attention of State Parties to the drug control conventions to developments within the UN system towards the abolition of capital punishment for this category of offence. Accordingly, the INCB continues to encourage all States that retain the death penalty for drug related offences to commute death sentences that have already been handed down and to consider the abolition of the death penalty for drug related offences⁵⁴.

52 For details, see the biennial report for 2016-2017 for more background information, SWD(2018) 32 final of 19.1.2018

53 https://www.incb.org/incb/en/news/press-releases/2017/press_release_20170818.html

54 Statement by Dr. Viroj Sumyai, President of the International Narcotics Control Board, at the fifth intersessional meeting of the sixty-second session of the Commission on Narcotic Drugs, Vienna, 7 November 2018 - Fostering a united approach to the effective implementation of the three international drug control conventions.

The main legal act related to drug enforcement is the Republic Act No 9165, called the Dangerous Drug Act of 2002. In the 17th Congress, numerous bills have been introduced to amend particular sections of the Dangerous Drugs Act 9165. These amendments contain sections to include the death penalty for drug-related ‘heinous’ crimes, strengthen the Philippine Drug Enforcement Authority, restore plea bargaining and probation laws, expedite the disposition of drug related judicial cases, with no specific provisions on proportionate sentencing.

In November 2018, the Dangerous Drugs Board developed the Philippine Anti-Illegal Drugs Strategy (Executive Order No. 66, series of 2018 signed by President Duterte) as a blueprint of the Government's strategies and programmes in addressing the Philippines' drug use problem. The national anti-illegal drugs strategy included suppressing the flow of illegal drugs supply through sustained law enforcement operations and reducing consumer demand for drugs and other substances through drug rehabilitation and massive preventive education and awareness programs.⁵⁵

The manufacture, trafficking and use of crystalline methamphetamine (*shabu* in the Philippines) continues to be the primary drug threat⁵⁶. It accounts for the vast majority of drug related arrests and drug treatment admissions in the country over the last five years. Sources of methamphetamine trafficked from overseas appear to have diversified. Philippine authorities seized an ecstasy manufacturing facility in 2018 for the first time since the monitoring of trends started in 2008. The Philippines has been increasingly targeted for trafficking of cocaine by sea, and there have been relatively large seizures recently.

UN Convention against Corruption (UNCAC)

The Duterte administration was elected on a platform of anti-corruption. The anti-corruption policy was reinforced with the issuance of Executive Order No.2 July 2016, more commonly referred to as Freedom of Information. In the 18th Congress, an Act Strengthening the Office of the Ombudsman and Increasing and Broadening the Scope of its Powers, and for Other Purposes was reintroduced and is yet to be debated on. The Congress amended the Anti Money Laundering Act to include casinos. The amendment was signed into law (Republic Act 10927) in 2018. This is further strengthened with the enactment of Republic Act 11211 to amend the mandate of the *Bangko Sentral ng Pilipinas* to include money service businesses, credit granting businesses, and payment system operators.

The Philippines ranked 99 out of 180 countries in the 2018 Corruption Perception Index with a score of 36 (still far for the Asia Pacific regional average score of 44). The 2017 country ranking was 111. Transparency International noted that the improvement was ‘probably due to the strong stance the Government has taken against corruption and mainly reflected in less tolerance towards corrupt individuals and more punishment’.

55 <https://www.ddb.gov.ph/newsroom/403-ddb-statement-on-the-remarks-of-united-nations-high-commissioner-for-human-rights>

56 Synthetic Drugs in East and South-East Asia, Trends and Patterns of Amphetamine-type Stimulants and New Psychoactive Substances, A Report from the Global SMART Programme March 2019, UNODC.

Conclusions and priorities

The campaign against illegal drugs in the Philippines continues to be a matter of grave concern, in particular the large number of related killings and prison overcrowding. Reintroducing the death penalty for drug related offences would be a worrying development and constitute a violation of the ICCPR's Second Optional Protocol. The Government is encouraged to reconsider its approach to drug related problems in line with the commitments undertaken by all UN Member States at the 2016 UN General Assembly Special session on the world drug problem. The outcome document⁵⁷ of that special session advocates for a health-based approach to the drug problem and contains clear language on proportionality of sentencing for persons having committed drug related offences and alternatives for incarceration. As stated by the International Narcotic Control Board and the UN Office on Drugs and Crime, the Philippines must reorient its fight against drugs from a law enforcement and sanction-oriented approach towards a health-oriented response, that fully respects due process of law and that is fully in line with the Philippines' international obligations, including on human rights and the three drug control conventions.

With regard to the fight against corruption, the Philippines has made progress but has still to ensure that legislation targetting corruption is passed into law and effectively implemented.

⁵⁷ Outcome document "Our joint commitment to effectively addressing and countering the world drug problem" (A/RES/S-30/1).

ANNEX

The Philippines – Treaty Ratification and Reporting

Convention	Status of ratification / reservations ⁵⁸	Compliance with reporting obligations to monitoring bodies
1. Convention on the Prevention and Punishment of the Crime of Genocide	Ratified: 07.07.1950 Reservations on Articles 4, 6, 7, 9	No reporting obligations
2. International Convention on the Elimination of All Forms of Racial Discrimination	Ratified: 15.09.1967 No reservations	Lack of compliance with reporting obligations Last report submitted on 30.06.2008. Latest report due 04.01.2012. Report expected in December 2019
3. International Covenant on Civil and Political Rights	Ratified: 23.10.1986 No reservations	Compliant with reporting obligations Last report submitted on 31.05.2019 (advance unedited version).
4. International Covenant on Economic, Social and Cultural Rights	Ratified: 07.06.1974 No reservations	Compliant with reporting obligations Last report submitted 25.11.2014. Next report due on 31.10.2021.
5. Convention on the Elimination of All Forms of Discrimination against Women	Ratified: 05.08.1981 No reservations	Compliant with reporting obligations Last report submitted on 16.01.2015. Next report due on 31.07.2020.
6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified: 18.06.1986 No reservations	Compliant with reporting obligations Last report submitted on 25.11.2014. Next report due on 13.05.2020.
7. Convention on the Rights of the Child	Ratified: 21.08.1990 No reservations	Compliant with reporting obligations Last report submitted on 01.03.2019.
8. Convention concerning Forced or Compulsory Labour, No. 29	Ratification: 2005	Compliant with reporting obligations Latest CEACR comments: Observation 2016.
9. Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87	Ratification: 1953	Compliant with reporting obligations Latest CEACR comments: Observation 2018; Direct Request 2018, scheduled for 2020.
10. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98	Ratification: 1953	Compliant with reporting obligations Latest CEACR comments: Observation 2018; Direct Request 2018, scheduled for 2020.

⁵⁸ Reservations do not apply in the ILO system, so there is no relevance to providing information on reservations under each of these conventions.

11. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100	Ratification: 1953	Compliant with reporting obligations Scheduled for 2020.
12. Convention concerning the Abolition of Forced Labour, No. 105	Ratification: 1960	Compliant with reporting obligations Latest CEACR comments: Observation 2016; Direct Request 2016, scheduled for 2019.
13. Convention concerning Discrimination in Respect of Employment and Occupation, No. 111	Ratification: 1960	Compliant with reporting obligations Scheduled for 2020.
14. Convention concerning Minimum Age for Admission to Employment, No. 138	Ratification: 1998 Minimum age specified: 15 years	Compliant with reporting obligations Latest CEACR comments: Observation 2016.
15. Convention concerning Minimum Age for Admission to Employment, No. 182	Ratification: 2000	Compliant with reporting obligations Latest CEACR comments: Observation 2016; Direct Request 2016.
16. CITES	Ratification: 18.08.1981. The Philippines has not agreed to the Bonn Amendment (on financial provisions).	Lack of compliance with reporting obligations Last (2017) Annual Report submitted on 08.11.2018. Last Biennial Report for 2013-2014 submitted on 02.11.2015. Biennial Reports for 2003-04, 2005-06, 2007-08, 2011-12, and Implementation Report 2015-17 are due. ⁵⁹ Annual Report on Illegal Trade for 2017 submitted.
17. Montreal Protocol	Accession: 17.07.1991 No reservations	Compliant with reporting obligations Most recent data for 2016 was submitted. No more recent reporting data is available.
18. Basel Convention	Ratification: 21.10.1993 No reservations	Compliant with reporting obligations Latest (2017) National Report submitted on 27.12.2018. No data on 2018 Annual National Report available.
19. Convention on Biological Diversity	Ratification: 08.10.1993 No reservations	Compliant with reporting obligations All reports submitted. Latest (Sixth) National Report submitted on 02.04.2019. Revised National Biodiversity Strategy and Action Plan submitted on 24.06.2016.
20. UN Framework Convention on Climate Change	Ratification: 1994 No reservations	Lack of compliance with reporting obligations First National Communication submitted on 19.05.2000. Second National Communication submitted on 29.12.2014.

⁵⁹ <https://www.cites.org/eng/resources/reports.php>

		Third National Communication outstanding. No Biennial Update Reports submitted. Biennial Update Reports are due every 2 years, while National Communications every 4 years.
21. Cartagena Protocol on Biosafety	Ratification: 05.10.2006 No reservations	Lack of compliance with reporting obligations First National Report submitted in 2008. Second National Report submitted on 28.10.2011. Third National Report submitted on 30.11.2015. Next (Fourth) National Report due on 01.10.2019.
22. Stockholm Convention	Ratification: 27.02.2004 No reservations	Lack of compliance with reporting obligations Latest (Second Round) National Report submitted on 05.08.2011. First Round (2006), Third Round (2014) and Fourth Round (2018) National Reports due.
23. Kyoto Protocol	Ratification: 20.11.2003 No reservations	No reporting obligations
24. UN Single Convention on Narcotic Drugs	Ratification: 02.10.1967 No reservations	Reviewing is fulfilled by the International Narcotics Control Board (INCB).
25. UN Convention on Psychotropic Substances	Accession: 07.06.1974 No reservations	See report of the INCB for 2018.
26. UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	Ratification: 07.06.1996 No reservations	
27. UN Convention against Corruption	Ratification: 08.11.2006 No reservations	Reviewing is fulfilled by the UN Office on Drugs and Crime (UNODC). The Executive Summary of the 2013 review as well as the full report were published on 10.12.2013.