Reference: OHCHR/TESRPRD/DESIB/HRESIS

**Subject: Human Rights Council resolution 37/22**

The office of the United Nations High Commissioner for Human Rights (OHCHR) presents is compliments to all Permanent and Observer Missions to the United Nations Office at Geneva and has the honor to refer to Human Rights Council Resolution 37/22 on the rights of persons with disabilities.

The above-mentioned resolution requests the OHCHR “to prepare its subsequent study (on the rights of persons with disabilities with a focus) on article 8 of the Convention, in consultation with States and other relevant stakeholders, regional organizations, the Special Rapporteur on the rights of persons with disabilities, civil society organizations, including organizations of persons with disabilities, and national human rights institutions, requiring contributions to be submitted in an accessible format (paragraph 13) and to make it available prior to the forty-third session of the Council.

The OHCHR would be grateful to receive any relevant information for the preparation of this study. In particular, views and information would be welcome in relation to the following questions:

**1(a)** *Does your country have laws, policies, plans, strategies or guidelines at any level of government relating to raising awareness about persons with disabilities, in particular initiatives to:*

* *Foster respect for the rights and dignity of persons with disabilities;*
* *Combat stereotypes, prejudices and harmful practices relating to persons with disabilities; or*
* *Promote awareness of the contributions of persons with disabilities?*

Portugal is strongly committed to develop measures to promote the autonomy, participation and self-determination of persons with disabilities. It has been establishing conditions for their active and effective participation in society in equal circumstances with other citizens, in accordance with the principles established in the Constitution of the Portuguese Republic, in the Government’s program, as well as in the Convention on the Rights of Persons with Disabilities and in other international legal instruments subscribed by Portugal.

The Instituto Nacional para a Reabilitação (National Institute for Rehabilitation) is the public office within the Ministry of Labour, Solidarity and Social Security with the mission to promote the rights of persons with disabilities. As part of its mission, raising awareness programs/campaigns are led and carried out in partnership with Disabled Persons' Organizations (DPO), civil society and other public services. The goal is to raise awareness for the capabilities of persons with disabilities, to combat stereotypes and misconceptions. The answer to question 4(a) will provide more information about this raising awareness campaigns/programs.

Over the past four years Portugal has developed a set of policy measures that have made a decisive contribution to raising awareness of the rights of persons with disabilities and empowering these citizens.

The following measures are illustrative of this reality:

 **a) Creation of the governance area for the inclusion of persons with disabilities**

The appointment of a Secretary of State for the Inclusion of Persons with Disabilities within the Ministry of Labour, Solidarity and Social Security clearly demonstrates the political commitment made by Portugal to the realization of the rights of persons with disabilities.

**b) Social Benefit for Inclusion (PSI)**

With this new provision, a new approach has been established to strengthen the role of social support as a factor of inclusion and as a promoter of autonomy and conditions of equality for social participation, in particular in the context of labour participation, whenever possible.

The PSI base component, introduced in October 2017 by Decree-Law 126-A / 2017 of October 6, offers protecting to over 90,000 people by focusing on the disabled person's own resources and ensuring in cases of deeper disability, a level of protection that is independent of income from work or savings. Nevertheless in 2018 further efforts were made to introduce the second component of social benefit for inclusion: a supplement geared towards combating the poverty of people with disabilities living in a situation of insufficient economic resources. This new component supplements the PSI Base and promotes a clear reinforcement of social support for people with disabilities. In the context of a phased implementation, in 2019 the PSI will be extended to children and youth, reinforcing the rights and social support of children with disabilities. With this development PSI accompanies people with disabilities throughout their life course, according to their specific situation.

This provision has been developed alongside other mechanisms for strengthening social protection in the fight against poverty and promoting labour market integration and / or continuity and income support to promote the autonomy of persons with disabilities.

**c) Establishment of the legal regime for inclusive education**

In order to respond to the diversity of the needs and potentialities of each and every student by increasing participation in the learning processes and in the life of the educational community, Decree-Law No. 54/2018 of July 6 establishes the principles and norms that guarantee inclusive education.

In this way, a second generation of inclusive education policies began, following a positive path that Portugal has been treading since 2008. It is a regime that establishes learning support measures that allow each student to achieve his potential by focusing educational intervention at school through a "multidisciplinary work involving family, teachers and technicians". This law reinforces the right of students and their families to intervene actively in the educational process, respecting their wishes, motivations and vision of the future. At the same time, the importance of the curriculum is emphasized as well as its flexible management in order to ensure that all expected skills are attained by every pupil at the end of compulsory education, albeit through different learning pathways that allow everyone to progress in curriculum towards educational success. This new regime rejects the idea that it is necessary to categorize to intervene, abandoning approaches that start from the student's deficit and instead value their abilities and potential, bearing in mind that it is the responsibility of the Portuguese education system to educate all children and young people in a 12-year long compulsory education period. The recently approved scheme is perfectly in line with the principles set out in Article 24 of the Convention and resulted from a broad public consultation process. In this regard, Portugal has been one of the best performers on the international scene, with a participation level of around 98% of children with special educational needs in regular schools. At higher education level, scholarships for people with disabilities have been added, as well as a quota system for access to universities and polytechnic institutes.

**d) Creation of the “Independent Living Support Model” (MAVI) Program**

 Seeking to intensify the commitment to the right of persons with disabilities to live independently and to be included in the community, as called for in Article 19 of the Convention, Portugal approved by Decree-Law No. 129/2017 of October 9, this innovative measure that aims to make a decisive contribution in this regard. This program makes it possible to provide personal assistance to persons with disabilities to carry out a set of activities that they cannot perform on their own, according to their needs, interests and preferences. MAVI states that every person with a disability should receive appropriate support for their needs taking into account what they want for their life. Therefore, personal assistance follows an individualized plan that is defined by the disabled person himself, with the support of the Independent Life Support Centre (CAVI) which is the entity that will implement the personal assistance projects. This program also provides that persons with disabilities who benefit from residential social assistance in private institutions are temporarily entitled to receive personal assistance with a view to their independence in their own residential environment. The MAVI program is developed through three-year pilot projects for 2017-2020 and is funded under the Portugal 2020 framework.

**e) Approval of the new Legal Regime of the Accompanied Adult**

Another recent political milestone that contributes to the realization of the principles established in the UN Convention on the Rights of Persons with Disabilities and the Portuguese Constitution is the approval of the new Legal Regime of the Accompanied Adult (Law No. 49/2018 of 14 August) that eliminates the institutions of interdiction and unqualification provided for in the Civil Code, approved by Decree-Law No. 47 344 of 25 November 1966.

This new regime represents a paradigm shift as it starts from the full capacity of people with disabilities to regulate all aspects of their lives. Thus, judicial intervention in the field of restriction of rights, freedoms and guarantees of persons with disabilities is limited to the bare minimum, and such restrictions and their exact scope can only be determined after direct hearing of the persons concerned, and are preserved to all possible extent, the self-determination capacity of these citizens.

The new regime allows for adequate protection of persons with disabilities or in a state of permanent vulnerability that need protection, whatever the reason for determining this vulnerability, ensuring them the greatest possible degree of autonomy, seeking to fully implement the provisions of the Article 12 of the Convention.

**f) Promotion of employability of persons with disabilities**

Although a system of employment quotas for people with disabilities with a degree of functional disability of 60% or more has been in place since 2001, in all central, regional, autonomic and local government departments and agencies, this system has been extended to 2019 to the private sector, by Law No. 4/2019 of January 10. Thus, companies in the private sector or public sector bodies, not covered by the public administration scheme with 75 or more workers, will have to meet employment quotas for people with a 60% or more disability. . Medium-sized companies with 75 employees or more should employ no less than 1% of people with disabilities. For large companies with more than 250 employees, this share rises to 2%. This measure is intended to promote greater employability of people with disabilities who face significant obstacles in accessing the labour market. These objectives are reinforced by the introduction of a breach regime in the event of non-compliance and may even, in the event of a repeat offense, result in exclusion from participation in public procurement or tendering for up to two years.

**g) Priority service to persons with** disabilities in all public and private sector entities that provide customer services. Since equal opportunities for persons with disabilities can only be achieved when the various systems of society and social environment, such as services, activities, information and documentation become accessible, in 2016 Decree-Law No. 58/2016 of August 29 established the obligation to provide priority care to persons with disabilities at all times in both public and private sector entities that provide customer services.

**h) Inclusive customer services**

A network of “Inclusive customer services” was created in 2016 to provide information and specialized and affordable mediation to people with disabilities, their families, organizations and others who directly or indirectly intervene in the disability area. This network provides information by telephone, in writing and in person about the rights and benefits in accordance with the legislation in force, about existing resources and also makes referral and mediation / awareness-raising among the different services and agencies. This network covers the entire national territory and covers various themes (employment, health, education, leisure, sports, etc.).

**i) Autonomous residences**

Social services still have low capacity to respond to needs and it is important to invest in expanding social skills and facilities, as well as adapting them to paradigms that enhance the quality of life and empowerment of people with disabilities. The development and enhancing of this sector should not be read as opposite to the promotion of the autonomy of persons with disabilities, but rather as a better responsiveness to the diverse needs and living conditions of persons with disabilities and their families. Special relevance here is to increase the autonomous residences. Thus, it is absolutely critical to promote the complementarity of solutions and to foster synergies that allow, at each moment and for each person's specific situations, to materialize in the best way the fundamental principles of human rights.

**j) Accessibility of Public Administration websites and applications**

This commitment to creating the conditions for achieving equal opportunities for people with disabilities is also apparent in the effort of the Portuguese Government to create accessible public websites (https://eportugal.gov.pt/). Another example is the recent transposition of Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of websites and mobile applications of public sector bodies (Decree-Law no. 83/2018 of October 19). Among the measures of the Simplex Program (simplification of procedures in the public administration relationship with citizens and businesses), the highlight goes to the creation of a seal of recognition of accessibility for people with disabilities for public websites, which is being finalized

**1(b)** *What are the challenges to implementing the above?*

Despite the progress achieved, some context factors (architectural, information/communication and attitudinal) remain, limiting the achievement of the rights of persons with disabilities by their absence or presence. It is precisely in this field that we must continue to work to overcome the challenges that still lay ahead.

**2(a).** *What legislative and policy measures are taken to address hate crimes, hate speech and harmful practices against persons with disabilities?*

Regarding harmful practices against persons with disabilities, Law nº 46/2006 of 28 of August, forbids and punishes the discrimination of persons with disabilities due to their disability. Any person that feels that is being discriminated due to her/his disability can submit a complaint against the entity that, allegedly, has committed discrimination. This complaint is sent to national authorities responsible for the regulation of that specific economic activity in order to verify the facts submitted in the complaint. Annually a report is published with data of number of complaints under that legislation.

[http://www.inr.pt/documents/11309/183846/2018\_Relat%C3%B3rio+n%C3%A3o+discrimina%C3%A7%C3%A3o/82ac8576-789f-4ae1-9437-2ee89c9fdacb](http://www.inr.pt/documents/11309/183846/2018_Relat%C3%B3rio%2Bn%C3%A3o%2Bdiscrimina%C3%A7%C3%A3o/82ac8576-789f-4ae1-9437-2ee89c9fdacb)

**2(b).** *In particular, are there legal remedies available for persons with disabilities seeking compensation and reparation?*

*Are there legal provisions to sanction perpetrators, including through criminal law?*

*Please provide information on their application in practice (e.g. cases of persons*

*condemned for hate crimes against persons with disabilities).*

See answer 2 (a)

**3(a)*.*** *What steps have been taken to establish standards and/or good practices on the representation and portrayal of persons with disabilities in broadcast media, including codes, guidelines and other measures (legal, co-regulatory or self-regulatory)?*

An example is the *Guide to Good Practices for Journalists prepared by the "Consigo" team (INR and RTP – the public TV broadcaster) to help media professionals deal with issues of disability.*

<http://www.deficienciavisual.pt/txt-deficiencia-boas_praticas_jornalistas.htm>

*3(b). In addition, what legal framework, measures or good practices exist to regulate social media in accordance with Article 8 and human rights standards on freedom of expression?*

In 2016, the Entidade Reguladora para a Comunicação Social (Regulatory Entity for Media) adopted a Multiannual Plan that defines the obligations of TV network operators relating the accessibility of program services and on-demand audiovisual services by persons with special needs. This Multiannual Plan is valid until December 2020.

**4(a).** *Please provide information on the existence and implementation of the programmes and activities, including successful examples of campaigns, related to raising awareness about persons with disabilities and their rights, and combating negative attitudes including through initiatives of:*

* *Training, including human rights education;*
* *Research, including studies on perception and attitudes;*
* *Surveys and data collection.*

Examples of such initiatives carried out by INR and other entities are:

- The “Escola Alerta!” (School Alert!) Contest is an annually award addressed to students of elementary and secondary school and aims to raise awareness to the rights of persons with disabilities. This award invites students to submit innovative proposals that could contribute to improve persons with disability quality of life.

- The Prémio Ciências Sociais e Humanas (Social and Human Sciences Award) aims to encourage Master degree and PhD students to develop research about disability through the development of academic work in social sciences and humanities. Also, intends to combat discrimination on the grounds of disability and to promote equal opportunities and citizenship for persons with disabilities. Intends reduce the impact of social, cultural, behavioral and physical barriers to the inclusion and participation of persons with disabilities;

- The Prémio Município Mais Acessível (Accessible Municipality Award) aims to:

• To stimulate and mobilize local authorities, in order to guarantee access to physical environment and to information and communication technologies, as well as tourism / leisure.

• To combat discrimination on the basis of disability and promote equality of opportunities and citizenship of persons with disabilities.

• To reduce the impact of social, cultural, behavioral and physical barriers to the inclusion and participation of persons with disabilities.

- The Jaime Filipe Award aims to promote the research and development technologies that could promote the autonomy of persons with disabilities in daily, personal and social acts that stimulate and prolong their physical, cognitive and social capacities and contribute to a higher quality of life.

- The Prémio Praia + Acessível (Beach + Accessible Award) aims to distinguish the national beaches that show the best conditions of accessibility for persons with disabilities, constituting themselves as a reference to other national beaches.

- The Cartaz 3 de dezembro (December 3 Poster Award), aims to reward the graphic work that best represents the message underlying the celebration of this day, namely to celebrate the rights of persons with disabilities and to raise awareness of society to combat the prejudices and obstacles that prevent these citizens from exercising their rights.

**4(b).** *Please indicate their objective, scope, target audience, impact (including available data), partners and participants, particularly the participation of, and role of persons with disabilities and their representative organisations, and any key factors of success.*

The raising awareness programs/campaigns mentioned in 4(a) are led by National Institute for Rehabilitation. All information about those programs/campaigns, data, features is available on National Institute for Rehabilitation website. The raising awareness programs/campaigns objectives, scope and target audience are briefly explained in 4(a) answer.

<http://www.inr.pt/inr>

**5.** *Please provide information on the role of persons with disabilities and their representative organisations, including children with disabilities, in the design, implementation, monitoring and evaluation of all measures relating to awareness raising. Please provide detail in concrete mechanisms and activities undertaken for consultation and active involvement (e.g. regular meetings, online consultations, etc.).*

All raising awareness programs/campaigns mentioned in 4(a) have a jury to evaluate the applications. At least one DPO is part of the jury.

The OHCHR would be grateful to receive relevant information at United Nations Office at Geneva, CH 1211 Geneva 10; fax. +41 22 917 90 08; e-mail: registry@ohchr.org ; by 22 July 2019, in accessible format, so that it can be posted on OHCHR’s website. Please do not hesitate to contact Mr. Facundo Chávez Penillas or clarification.

The ORCHR avails itself of this opportunity to assurances of its highest consideration to all Permanent and Observes Missions to the United Nations Office at Geneva.

Geneva, 13 June 2019