



PERMANENT MISSION OF PORTUGAL
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The Permanent Mission of Portugal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to its request dated 13th of January, has the honor to enclose herewith the input of the Portuguese authorities to the report on violence, abuse and neglect of older persons of the Independent Expert on the enjoyment of all human rights by older persons.

The Permanent Mission of Portugal avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 20 March 2023

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Call for Inputs

Report on violence, abuse and neglect of older persons

Issued by: Special Procedures

Purpose: To inform the Independent Expert's forthcoming report to the 54th session of the Human Rights Council

1) Legal, policy and institutional frameworks: is there a non-discrimination law that prohibits discrimination based on age? Is there a legislation on violence against persons and/or domestic violence that includes violence, abuse and/or neglect of older persons? Does the law establish a specialised independent body receiving complaints of discrimination based on age? Is there a national plan, policy or strategy to address violence against older persons, that is overseen by a national mechanism to monitor and implement it? Please provide detailed information and relevant documents, if applicable.

A) Constitution of the Portuguese Republic

In the Portuguese legal system, article 1 of the Constitution of the Portuguese Republic states that "Portugal is a sovereign republic, based on the dignity of the human person..." and in article 13(1) it adds that "All citizens have the same social dignity and are equal before the law".

Older persons enjoy equal rights and duties and, above all, the State has the obligation to guarantee the conditions that allow the safeguarding of their dignity as persons, as defined in the following articles: Article 63 (protection of citizens in sickness, old age, invalidity, widowhood and orphanhood), Article 64 (creation of economic, social, cultural and environmental conditions that guarantee, in particular, the protection of childhood, youth and old age) and Article 67 (promotion of access to a national network of crèches and other social facilities to support the family, as well as an old-age policy).

Article 72 of the Portuguese Constitution is dedicated exclusively to the rights of older persons and envisions a transversal policy for older persons: "1. Older persons shall have the right to economic security and to housing conditions and family and community life that respect their personal autonomy and avoid and overcome isolation or social marginalisation; 2. Senior citizenship policy encompasses economic, social and cultural measures that tend to provide older persons with opportunities for personal fulfilment by means of an active participation in community life. "

B) Criminal Code

At criminal level, the Portuguese legislation seeks to safeguard older persons or particularly persons in vulnerable situations, as stated in several articles of the Criminal Code (CP). In fact, **article 132, no. 1** of the Criminal Code provides for a more serious criminal framework for aggravated murder if the death occurs in circumstances that reveal special censurability or perversity, such as being a descendant or adopted child, a spouse or ex-spouse of the victim or **a person who is in a particularly vulnerable situation due to age or illness**. The crime of domestic violence applies, among others, when the victim is a spouse or ex-spouse or a person

in especially vulnerable situation (**Article 152 of the CP**). The **vulnerability of the person due to age** is also a relevant element in the crime of Physical abuse (**art. 152-A of CP**). In the public crime of Threat (**Art. 153**) and Coercion (**Art. 154 of the CP**) the criminal framework is aggravated when the acts are carried out against a **person who is in a particularly vulnerable situation due to age** or illness (Art. 155º, 1(a) of the CP). In the crime of Illegal restraint (**art. 158, no. 2 paragraph e**) of the CP it is a motive for aggravation if the acts are committed against a **person who is in a particularly vulnerable situation due to age** or illness.

Besides these articles, there are also penalties for those who exploit or take advantage of the victim's situation of special vulnerability, in cases of Trafficking in Persons (**Article 160**), Qualified Robbery (**Article 204**) and Qualified Cheating (**Article 218**).

Finally, in the **Article 177 (c)** the penalties provided in **articles 163** (Sexual coercion), **164** (Rape), **165** (Sexual abuse of a person unable to resist), **167** (Sexual fraud), **168** (Non-consensual artificial procreation), **169** (Pandering) and **170** (Sexual harassment) shall be **aggravated by one-third**, in their minimum and maximum limits, **if the victim is in a particularly vulnerable situation, due to age, disability, illness or pregnancy.**

Also, article 112 of the penal code provides: "1 - Whoever, repeatedly or not, inflicts physical or psychological abuse, including corporal punishment, deprivation of liberty and sexual offenses: a) Spouse or ex-spouse; b) A person of another sex or of the same sex with whom the agent maintains or has maintained a dating relationship or a similar relationship to that of spouses, even if without cohabitation; c) The parent of a common descendant in the 1st degree; or d) **A person in a particularly vulnerable situation, namely on account of age, disability, illness, pregnancy or economic dependence, who cohabits with him; shall be punished with a prison sentence of one to five years, if a more serious sentence does not apply under another legal provision.**"

C) Specialised Independent Bodies

The **Ombudsman's Office** is, under the Portuguese Constitution, an independent State body that defends people who see their fundamental rights violated or feel harmed by unfair or illegal acts of the administration or other public powers. It works as a link between the people and the government and is completely free of charge for the citizen. It is a defender of the citizens and at the same time a promoter of a fair and efficient public administration. To that extent, it is an important element in strengthening democracy and the rule of law, as was reiterated as recently as 2019 by the Venice Commission for Democracy, the body that advises the Council of Europe on constitutional issues.

The Senior Citizen's Line is a free telephone line especially dedicated to the problems of the older population. It provides information about the rights and support that older people have, namely in areas such as health, social security, housing, facilities and services. The Ombudsman's employees who answer the Senior Citizen's Hotline provide personalized service and, with informality and speed, give the required clarifications, and may, if the case requires it, forward the situation to the competent entities (for example, the Institute of Social Security, I.P.) and contact the relevant institutions (such as health establishments).

The **Portuguese Association for Victim Support (APAV)** is a private institution of social solidarity, a legal person of public utility, whose statutory objective is to promote and contribute to the information, protection and support to citizens who are victims of criminal offences. It collaborates with the competent entities of the justice administration, police, social security, health, as well as the local authorities, autonomous regions and other public or private entities. It also has a Victim Support Telephone Line.

D) National Plan, Policy or Strategy

There is a National Strategy for Equality and Non-Discrimination (2018-2030 ENIND), where the issue of domestic violence in person is addressed but it is not a strategy or a specific plan for older persons. Within ENIND, its Action Plan for the prevention and combat of violence against women and domestic violence (PAVMVD) foresees, in two of its main areas - Support and protection - to expand and consolidate the intervention and Qualify professionals and services for intervention.

Specialization of intervention for other types of violence present in the IC and among vulnerable groups as well as the training of professionals to intervene with victims in especially vulnerable situations, due to the intersection of several discrimination factors, namely gypsy women, older persons, persons with disabilities, migrants, refugees and LGBTI persons.

2) Manifestations of violence: what forms of violence, abuse and neglect are older persons facing? In which settings does it happen? Please provide detailed information.

The most evident violence against older persons is physical, psychological and economic violence, exercised essentially by family members, spouses and other people who live with them. Psychological violence essentially translates into actions taken with the intention of causing emotional pain, anguish or despair, making disturbing comments, consciously criticizing your thoughts or actions. Economic violence/income deprivation, consist in actions whereby money or property is illegally taken and/or older person's assets are misused. Negligence is often associated with these cases, lack of care to meet the needs of persons in particularly vulnerable situations.

3) Intersectionality: how does violence, abuse and neglect affect specific groups of older persons (e.g., older women, older LGTBI persons, older persons belonging to ethnic and indigenous groups, older refugees and internally displaced persons, older persons with disabilities, etc.) Please provide detailed information.

One of the transversal lines in the definition and implementation of the ENIND is Intersectionality as a premise in the definition of measures directed at disadvantages that occur at the intersection of sex with other discrimination factors, including **age**, racial and ethnic origin, disability, nationality, sexual orientation, gender identity and expression, and sexual characteristics. It is thus intended that the ENIND recognises, deepens and prioritises, in all areas, interventions directed at intersectional disadvantages, such as those suffered by migrant women, women belonging to ethnic minorities, refugees, women with disabilities, single women with dependent offspring and **older women**. This premise also implies the articulation with other existing national strategies, plans and programmes aimed at certain groups such as the Strategic Plan for Migrations, the National Strategy for Disability, the National Strategy for the

Integration of Roma Communities, the National Strategy for the Integration of People in Situations of Homelessness, the **National Strategy for Active and Healthy Ageing**, among others.

4) Data: are data available at national and local level about violence, abuse and neglect of older persons? Are national surveys about violence including experiences of older persons? If available, please provide figures and data.

The Statistical Information System of the Ministry of Justice covers several areas, namely, the courts, the registry office, the police and investigation support bodies, the alternative dispute resolution bodies and the reintegration and enforcement of sentences and measures. The data on violence against older persons is included in the section “violent crimes”. No disaggregated data by age is available.

However, there are independent and civil society bodies, such as the Ombudsman's Office and the Portuguese Association for Victim Support (APAV), which compile statistical data on violence against older persons.

Ombudsman

DATA ON VIOLENCE AGAINST OLDER PERSONS 2021						
	2016	2017	2018	2019	2020	TOTAL
Abandonment	20	12	10	11	7	60
Material and financial abuse	58	62	27	42	21	210
Mistreatment	105	124	76	44	52	401
Negligence	115	95	96	121	72	499
Domestic violence			39	63	39	141
TOTAL	298	293	248	281	191	1311

Source: Ombudsman

The data presented refers to situations of abuse against older persons recorded between 2016 and 2020.

In general terms, abuse situations represent around 10% of the total number of calls received by the Elderly Care Line (minimum 6% in 2020; maximum 12% in 2017). As a rule, the abusers are people very close to older persons, namely their own children and grandchildren. The aggressors usually also have alcoholism, drug addiction or mental health conditions.

Portuguese Association for Victim Support (APAV)

DATA ON VIOLENCE AGAINST OLDER PERSONS 2021	
Number of victims	1594
Gender	female (70%)
Average age of victims	76 years old
Connection with the offender	father/mother (26.2%); spouse (16.5%)

Source: Portuguese Association for Victim Support (APAV)

The collection of procedural information was made in each one of APAV's proximity services (Victim Support Offices; Mobile Victim Support Teams; Mobile Service Units; Specialized Sub-Networks; Shelters; Integrated Distance Support System and Safe Internet Line) through the use of a computer platform.

Additionally, in the National Support Network for Victims of Domestic Violence, made up of reception responses and assistance structures, the data obtained in the monitoring for the year 2021 shows that 3% of persons sheltered were over the age of 65, and in the universe of 9% of persons who resorted to assistance structures were over the age of 65. It is likely that many older persons who are victims of domestic violence do not speak or even denounce their situation.

5) Access to justice: how does the State fulfil its obligations to ensure older persons' access justice, and to obtain remedies and reparations, when their human rights have been violated as a result of violence, abuse and neglect?

The Portuguese State fulfils its obligations to ensure older persons' access justice through the development of specific projects.

The **"Justiça+Proxima" Programme**, created in 2016, defined the lines of action for the modernisation and transformation of Justice, through more than 120 measures initially presented, and which currently number 197, distributed in four pillars - Efficiency, Innovation, Proximity and Humanisation and aimed at all areas of justice. Currently 132 measures have been concluded.

This programme is based on a model of trust in the judicial and registry systems and guarantees the protection of individual rights. Its purpose is to provide the implementation and conclusion of technological, administrative and legislative measures, designed to make justice more agile, simple and close to citizens, contributing to the strengthening of the democratic rule of law and the reinforcement of citizenship.

The "Proximity" pillar enables services to be created closer to citizens and companies, with simplification and clarity, eliminating formalities and procedures, with more integration and through different channels, bringing older persons, a group that is normally more prone to isolation, closer to public services.

Among these measures, the following stand out:

- To create services that are closer to citizens and businesses, with simplification and clarity, eliminating formalities and procedures, with more integration and on different channels.
- Citizen's Card in all the One-Stop Shops.
- To continue the project to simplify the texts of summonses and notifications sent to citizens (guaranteeing legal rigour and the procedural validity of acts).

As a complement to the digitalisation of public services and in order to bring them closer to the population, the "National Digital Skills Initiative e.2030, Portugal INCoDe.2030" was created, an integrated public policy initiative launched in 2017, which aims to promote the digital skills of the population, namely that of older persons who lack digital literacy.

Axis 3 - INCLUSION of this initiative aims to promote the development of critical and multifaceted thinking, inclusion, autonomy well-being and social justice, making the segments of the population that are digitally excluded, closer to digital public services.

Additionally, regarding granting compensation to victims of violent crimes, victims of crimes of domestic violence are covered by two possible regimes, under **Law No. 104/2009, of 14 September**:

a) **Crimes of Domestic Violence** (which includes persons who are "particularly vulnerable, namely due to age" - art. 152, no. 1 paragraph d) of the Penal Code). They can be financially supported, through a monthly instalment for a period of 6 months, which can be extended for an equal period - **article 5** (Advance of compensation for victims of domestic violence) and **article 6** (Amount of the advance);

b) **Violent crimes (defined in article 1, paragraph 2, a) of Law No. 104/09, 14 September, which refers to article 1º, paragraphs j) and l) of the Criminal Procedure Code)**. They may submit the application for advance payment of compensation under the provisions of **article 2** (Advance payment of compensation to victims of violent crimes), **article 3** (Amount of advance payment and other means of compensation) and **article 4** (Exclusion or reduction of advance payment of compensation).

The existence of two possible regimes for victims of the crime of domestic violence results from the double protection that the Portuguese legislation grants to this type of victims.

The Commission for the Protection of Victims of Crime (CPVC) is the body of the Ministry of Justice responsible for receiving, analysing and deciding the applications for compensation from the State, both from victims of violent crimes and victims of domestic violence.

Regarding the victims of domestic violence, it consists in the attribution of an indemnity by the State, in the form of a monthly income, to be attributed at the moment of the family rupture, provided that the victim, due to the crime, has been in a situation of serious economic need.

Law No. 112/2009, 16t September (THE APPLICABLE LEGAL REGIME FOR THE PREVENTION OF DOMESTIC VIOLENCE AND FOR THE PROTECTION AND ASSISTANCE OF ITS VICTIMS), Article 53-A, provides that, in the cases where the victims are older persons or dependent, priority should be given to the reception of the victims within the network of social services and facilities, without prejudice of the necessary articulation with the national support network for victims of

domestic violence. The security forces and services will act in close cooperation with the national support network for victims of domestic violence.

6) Access to information: How do you raise awareness about violence against older persons in the public? How does information about access to essential services (e.g., healthcare, legal assistance, social services, access to shelters) is made accessible and available for older persons?

In 2016, the Portuguese State launched a campaign entitled “Nunca é Tarde”, directed against domestic violence against older persons, especially older women, aiming to raise the population’s awareness of this problem. This campaign was part of the objectives of strategic area 1 – Preventing, raising awareness and educating – of the 5th National Prevention Plan to Combat Domestic and Gender Violence (2014/2017), which advocated, among others, the prevention of domestic and gender violence, the promotion of the values of equality, citizenship and a culture of non-violence, the elimination of gender stereotypes that legitimize the existence of unequal relations and discriminatory behaviour and the increase in the level of awareness and knowledge about domestic violence inflicted on older persons.

7) Please provide examples of good practices for preventing, monitoring and address violence and abuse against older persons.

Portugal is planning to open three specific shelter homes for older persons victims of domestic violence in the course of 2023 and beyond.

Also, the Support Program 65 – Older persons in Safety, is an initiative of the Ministry of Home Affairs that aims to support persons in particularly vulnerable situations, such as older persons, mainly those who live further away or isolated from the most active population centres, assumes a special relevance, and fits into the role of social support given by the GNR (National Republican Guard), within this new philosophy of serving socially. The Program intends to ensure the safety conditions and tranquillity of older persons; promote knowledge of the work of the GNR among this population; and help prevent and avoid risky situations.

In order to increase the degree of trust and knowledge, patrolling was directed, thus achieving a much better and more in-depth mutual knowledge. Exhaustive survey of older persons living in isolation, small communities were referenced, and lists of public and private institutions directly linked to the support that should be given to them were drawn up.

Other initiatives are the reinforcement of policing in public places most frequented by older persons; the creation of a network of direct and immediate contacts between older persons and the GNR, in case of need; and collaboration with other entities that provide support to older persons.

