

APRe!

Associação de Aposentados Pensionistas e Reformados

Guiding questions for the thirteenth session.

Focus area 1: Right to health and access to health services

National legal and policy framework

1. What are the legal provisions and policy frameworks in your country that guarantee the right of older persons to the enjoyment of the highest attainable standard of physical and mental health, including access to promotive, preventive, curative, rehabilitative and palliative health facilities, goods and services?

The right to health is guaranteed by the constitution but, in practice, there are many gaps in access to the highest quality care. Although a large amount of legislation has been produced over the last few years, The National Health Service (NHS) lacks appropriate services and sufficient number of trained health professionals and caregivers to meet the needs of older people in terms of accessibility, equity and proximity health surveillance. The private sector presents unaffordable cost for most retirement pensions in Portugal.

Legislation on Access to Healthcare for Older People:
<https://cej.justica.gov.pt/LinkClick.aspx?fileticket=BnXcbJhX2D8%3D&portalid=30>

Resolution of the Council of Ministers no. 84/2005 of 27 April, which approves the fundamental principles guiding the structuring of health care for the elderly and people in situations of dependency.

Law no. 36/98, of 24 July (Mental Health Law) - Amended by: - Law no. 49/2018, 2018-08- 14 (amends articles 5, 13 and 46); - Law no. 101/99 , 1999-07- 26 (amends article 30, no. 2)

Law No. 100/2019, of September 6, approving the Statute of the Informal Caregiver; (Informal Caregivers) Regulated by: - Ordinance No. 64/2020, 2020- 03-10; - Ordinance No. 2/2020 , 2020- 01- 10;

Regulatory Decree No. 1/2022, 10 January, establishing the terms and conditions of the informal caregiver status recognition as well as the supporting measures for informal caregivers and persons being cared for; (Informal Caregivers) - Repealed the following diplomas (cf. Art. 46): - Ordinance No. 2/2020 of January; Ordinance No. 64/2020, of March 10; - Ordinance No. 256/2020, of October 28; - Ordinance No. 37/2021, of February 15; - Ordinance No. 202/2021, of September 27; - Ordinance No. 286/2021, of December 7.

Law no. 25/2012, of July 16, which regulates the advance directive on health care, living wills and the appointment of a health care proxy; Health (End-of-life care) - As amended by Law no. 49/2018, of August 14;

Law no. 31/2018, of 18 July - Rights of people in the context of advanced illness and at the end of life; Rights regarding information and treatment; Informed consent; Palliative care; Health (End-of-life care) The provisions of this law do not prejudice the application of the legal regime on advance directives on health care, living wills and appointment of a health care proxy.

Decree-Law No. 101/2006, of 6 June, which Creates the National Network for Integrated Continued Care; Health (National Network for Integrated Continued Care) Amended by: - Decree-Law No. 116/2021 , 2021-12-15; - Law No. 114/2017 , 2017-12-29 (State Budget for 2018); - Decree-Law No. 136/2015 , 2015-07-28; The legislation on this matter is very abundant. In this document only some diplomas seeming more relevant from the citizen's perspective are included.

Normative Order No. 34/2007, September 19, which defines the terms and conditions under which Social Security shares the users for the charges arising from the provision of social support care in the Medium and Long Duration Units of the Network, with effect from July 1, 2007; Health (National Network of Integrated Continued Care). Amended by: - Order No. 326/2010 , 2010- 06-16; - Order No. 23613/2009 , 2009-10-28.

Ordinance No. 174/2014 of 10 September, which defines the conditions of installation and operation to which the inpatient and outpatient units must comply and the operating conditions of discharge management teams and integrated continuous care teams of the National Network for Integrated Continuous Care; Health (National Network for Integrated Continuous Care) Amended by: - Ordinance No. 249/2018 of 06 September; - Ordinance No. 50/2017 of 02 February; - Ordinance No. 289-A/2015 of 17 September;

Normative Order No. 14-A/2015 of July 29, which defines the conditions under which the social security co-payment is attributed to users for the provision of social support care, within the scope of integrated continued mental health care; Health (National Network of Integrated Continued Care) Repealed by: - Ordinance No. 45/2021 , 2021- 02-24; (keeps in force the present diploma, for the purposes of the provisions of Article 7 and Article 12(3) of that Ordinance)

Ordinance No. 17/2020 , 24 January, which defines the prices of health care and social support provided in the inpatient and outpatient units of the National Network for Integrated Continued Care; Health (National Network for Integrated Continued Care) Repealed by: - Ordinance No. 45/2021 , 2021- 02-24; (revokes, determining that all references to the present diploma are understood to be made to the corresponding norms of the new ordinance)

2. What steps have been taken to ensure that every older person has access to affordable and good quality health care and services in older age without discrimination?

We recognize that some efforts have been made to ensure that every older person has access to affordable and good quality health care and services, but older age discrimination still exists as seen, for example, with regard to age limits for cancer screening supported by the NHS or for terms and conditions for health insurance. In the field of prevention there are interventions or campaigns aimed to older people, namely influenza vaccination, currently associated to covid 19 vaccination. All people over 65 can receive the vaccine free of charge and are encouraged to get vaccinated. In recent years, Portugal reached the 75% influenza vaccination rate target proposed by WHO.

3. What data and research are available regarding older persons' right to health and access to health care and services? Please indicate how national or sub-national data is disaggregated by sex, age and inequality dimensions, and what indicators are used to monitor the full realization of the right to health of older persons.

Data are not sufficient and are not clearly systematised. We need to know more about the required human resources prepared to care for the OP. We assume that they are not sufficient for the current needs.

4. What steps have been taken to provide appropriate training for legislators, policymakers, health and care personnel on the right to health of older persons? Progressive realization and the use of maximum available resources.

We are not aware of any specific measures in those areas.

5. What steps have been taken to align macroeconomic policies and measures with international human rights law, to use maximum available resources for the realization of older persons' right to health, such as through expanding fiscal space, adopting targeted measures and international cooperation?

Portugal is one of the member states advocating a convention on the rights of older people. However, we do not know of any measures with the mentioned scope in the field of healthcare.

6. What are the challenges faced by older persons in their enjoyment of the right to health, including the impact of intersectional discrimination and inequality based on age, gender, disability and other grounds?

The NHS has been working quite well, but it is currently facing major difficulties caused by the inability to adapt to a new demographic framework, failing to respond to patients and to retain health professionals who leave the system, in large numbers, to the private sector or abroad.

Missing:

More qualified/specialised human resources in primary care

No age limit for diagnoses

A well-developed network of integrated care

7. What measures have been taken to eliminate ageism and discrimination based on age, including laws, policies, practices, social norms and stereotypes that perpetuate health inequalities among older persons and prevent older persons from enjoying their right to health? **None to our knowledge**

8. What measures have been taken to ensure that older persons are able to exercise their legal capacity on an equal basis with others, including making an informed consent, decisions and choices about their treatment and care?

None to our knowledge, with the exception of the supervised adult regime for people who have already lost their autonomy (2019)

Accountability

9. What judicial and non-judicial mechanisms are in place for older persons to complain and seek for the denial of their right to health?

People have the right to complain to the health regulator if they feel that a health care provider has not performed properly.

However, the effectiveness of this service is rather doubtful, unless the case is extremely serious or has major media impact.

10. What mechanisms are in place to ensure the effective and meaningful participation of older persons living in different geographic areas of the country in the planning, design, implementation and evaluation of health laws, policies, programmes and services that affect them

No mechanisms exist to ensure effective participation of older people. We believe it would be desirable to have ombudsmen at municipal (local) level to address specific complaints from older people in areas such as barriers to accessibility in public spaces, housing conditions, etc. It is essential to have a universal and general National Health Service (NHS), tending to be free of

charge, with permanent qualification and diversification, which has various responses at local level, including specific geriatric consultation in primary health care, to protect older people, thus adapting to the current demands of healthy ageing of the population. There is an urgent need to increase the number of units that enable true national coverage of an Integrated Network of Continued Care, as well as Palliative Care, along with the qualitative and quantitative reinforcement of human resources working directly with older people in situations of great vulnerability. The valorisation and differentiation of the Home Support Service (SAD) and other responses that guarantee conditions for people to "grow old at home" that are not an added financial effort for the elderly, are essential to delay institutionalisation as much as possible, maintaining a high level of care, dignity and quality of life.