

Introduction

The Portuguese Ombudsman (*Provedor de Justiça*) is an independent constitutional body, and it is the National Human Rights Institution accredited with A-status by GANHRI. It was appointed as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman frequently receives complaints on the rights of older persons. Many issues concerning the older persons are addressed to the Ombudsman through the Senior Citizens Helpline. Besides providing information, this Helpline also carries out a significant practical role in combating the isolation and exclusion to which many older persons are subjected to.

The Portuguese Ombudsman's Office would like to stress the importance to the collaboration with Open-Ended Working Group on Ageing (OEWGA) bearing in mind that, over the last few decades, the ageing of the Portuguese population has increased very sharply, and it is expected to continue to grow at a very high rate comparing with the European Union average¹. In this submission, we would like to present a set of questions that arise from our activity and emerging trends.

Identification of possible gaps in the protection of the human rights of older persons and how best to address them

QUESTIONNAIRE

Equality and non-discrimination

The increasing digitalization of the Portuguese public sector raises concerns regarding the older people affected by digital illiteracy, especially those who are economically and culturally disadvantaged.

¹[Portugal está a envelhecer a um ritmo mais acelerado do que restantes países europeus | União Europeia | PÚBLICO \(publico.pt\)](#)(not available in English)
[Archive:Estrutura populacional e envelhecimento - Statistics Explained \(europa.eu\)](#)

The Senior Citizens Helpline has received a large number of complaints about the impossibility of contacting and thus accessing essential public services such as health, social security and taxes².

Violence, neglect and abuse

The Ombudsperson has received complaints on physical and/or psychological abuse of older people and regarding the appropriation of older people's resources³.

Long-term care and palliative care

Another issue of concern is that the current long-term care and palliative care networks are not sufficient to meet the needs of the population, especially the older persons.

With regard to the penitentiary system, there are no structures to provide long-term or palliative care. Furthermore, the figure of the inmate providing care to peers does not exist in Portugal. It should be considered by the competent authorities as a way of improving assistance and support to the older persons deprived of liberty⁴.

Autonomy and Independence

With regard to violations of the right to autonomy, the Ombudsperson has received complaints on the rights of people living in residential care homes, such as:

- i) older persons admitted into residential care against their will.
- ii) older persons admitted in a residential care home that are deprived of their personal belongings (such as documents, house keys);
- iii) older persons admitted in a residential care home that are not allowed to contact with the outside world or access to their own bank accounts.

² [Relatório 2022.pdf \(provedor-jus.pt\)](#), p. 31 (not available in English)

³ [Violência contra Idosos – Um levantamento da atuação da Provedoria de Justiça – Provedoria de Justiça \(provedor-jus.pt\)](#), (not available in English).

⁴ [Relatório MNP 2022.pdf \(provedor-jus.pt\)](#), p. 55. (not available in English)

Regarding the intersection between ageing and disability, the Ombudsperson received complaints about the difficulties in accessing assistive devices (time-consuming and bureaucratic and complex system). The delay in the publication of the annual decree-law that determines the amount of funding available has exacerbated this situation⁵.

Protection and Social Security (including minimum protection)

As expressed in the Ombudsperson's annual reports of the recent years, there have been significant delays in the payment of some social benefits, such as old-age pensions⁶ and the granting of the dependent person's allowance.

These delays have serious consequences for older people, threatening their financial autonomy and their independence.

In the field of social assistance, it is important to take into account that the network of solidarity and public residential care homes and day-care centers do not reach all those in need. There are frequent complaints about the difficulties in accessing these facilities, especially in the most densely populated Portuguese cities.

In this context, there are care homes operating illegally, in which specific concerns were identified, including improper management of residents' health and inadequate living environments⁷.

Economic Security

In Portugal, the older population faces an at-risk-of-poverty threshold with social transfers included equivalent to 17%, with a higher percentage of women than men⁸.

⁵ [Relat2021_PJ_final.pdf \(provedor-jus.pt\)](#), p. 82-83 (not available in English)
[Relatório à Assembleia da República – 2020 \(provedor-jus.pt\)](#), p. 96 e 97 (not available in English).
[Relatório 2022.pdf \(provedor-jus.pt\)](#), p. 80 e 81 (not available in English)

⁶ [Relatório à Assembleia da República – 2020 \(provedor-jus.pt\)](#), p. 98 e 99 (not available in English)
https://www.provedor-jus.pt/documentos/Relat2021%20PJ_final.pdf, page 76 (not available in English)

[Relatório 2022.pdf \(provedor-jus.pt\)](#), p. 80 e 81 (not available in English)

⁷ [Segurança Social identifica mais de mil lares ilegais desde 2020 e fecha em média dois por mês – Observador](#) (not available in English).

⁸ [Portal do INE](#).

In the past, some Portuguese women had no access to paid or well-paid jobs and, consequently, their contributions to pension schemes were very low or even inexistent. This resulted in lower old-age pensions when compared with men or in the impossibility for them to achieve a contributory pension.

The amount of the existing social benefits designed to combat situations of economic deprivation among the older persons (minimum pensions and the solidarity supplement for the elderly) is not enough to eliminate the risk of poverty for this section of the population.

Right to Health and Access to Health Services

Most of the complaints on the right to health are related to the accessibility and availability of the National Health Service.

There are difficulties in accessing medical assistance at the different levels of care. Advanced age is not a priority factor in the allocation of a general practitioner, with the exception of elderly people with a chronic illness or multimorbidity. The access to mental health services and follow-up of this situations was particularly relevant in the requests received by the Senior Citizens Helpline.

Social Inclusion

The situation of isolation, which mainly affects economically disadvantaged older people, especially women, jeopardizes social inclusion.⁹ Older people with disabilities, chronic illnesses and mental illnesses also face more difficulties in terms of social inclusion¹⁰.

The number of people experiencing homelessness and social exclusion, in particular, has increased in the last four years¹¹.

The Ombudsperson has been dealing with complaints regarding isolation, in some cases due to the lack of proper physical accessibility, namely to rural areas or buildings.

⁹ <https://www.eapn.pt/centro-de-documentacao/documentos/pobreza-e-exclusao-social-em-portugal-relatorio-2022/>, p. 41

¹⁰ [Em-Foco-8-Pobreza-isolamento-e-saúde-mental-em-idosos.pdf \(eapn.pt\)](#) p. 8 e 9.

¹¹ <https://expresso.pt/sociedade/2023-10-19-Os-sem-abrigo-aumentaram-78-em-quatro-anos-sao-mais-de-10-mil-entre-homens-mulheres-jovens-idosos-estrangeiros-familias-inteiras-e109bfba>.

Accessibility, Infrastructures and Habitat (transport, housing and access)

The complaints received highlight the long waiting to access social housing.

Architectural barriers and accessibility to public buildings/services (quality of the pavements; lack of ramps and lifts in residential buildings) have been also a cause for complaints.

Please state how your government/organization has engaged with international and a regional human rights mechanism (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms) specifically with regard to older persons.

Yes, the Ombudsperson developed significant activity in respect of strengthening relationships and cooperation with the international human rights system as well as with regional institutions devoted to the promotion and protection of human rights with regard to older persons, for example:

Office of The High Commissioner for Human Rights

Questionnaire on «Human Rights Council Resolution A/HRC/RES/44/7 on Climate Change» (2020) (impact on older persons).

Working Group on Ageing

- Answer to questionnaires on:

- i) Contribution of older persons to sustainable development;
- ii) Economic Security;
- iii) Right to health and access to health services;
- iiii) «Guiding Questions for the focus areas of the IX Session of the Open-ended Working Group on Ageing: Autonomy and independence».

European Union Agency for Fundamental Rights

The Ombudsperson collaborated with the European Union Agency for Fundamental Rights providing information for the national contribution to the Fundamental Rights Reports and for thematic projects, such as «Ageing in digital societies: facilitators and obstacles to the exercise of social rights by older people» (2022).

What other options can be considered to strengthen the protection of older persons.

The adoption of the UN Convention on the Rights of Older Persons.