

## Guiding questions for the thirteenth session

### Focus area 2: Social Inclusion

1. What are the legal provisions, policy frameworks and/or measures in your country that explicitly focus on older persons who are marginalized on the grounds of their sex, disability, race, ethnicity, origin, religion, economic or other status? (This may include addressing older populations on frameworks dedicated to other marginalized groups such as women, persons with disabilities, migrants, minorities, homeless people, etc; or addressing marginalized groups within frameworks devoted to older persons).

Article 72 of the Portuguese Constitution establishes that *«older people have a right to (...) living conditions and family and community which respect their personal autonomy and avoid and overcome isolation and social marginalization»* and that the *«the policy for elderly includes economic, social and cultural measures, aiming to provide the elderly opportunities for personal achievement through active participation in community life»*.

On the other hand, under Article 13 of the Portuguese Constitution, all citizens have equal social dignity and are equal before the law, preventing discrimination, also in relation to older people.

Also, the Basic Law on Social Security (Law No. 4/2007, of 16 January) provides, under universality principle (Article 6), the access of all persons to social protection ensured by the system in accordance to the law. It also establishes the equality principle (Article 7), non-discrimination of beneficiaries, in particular on grounds of sex/gender.

Measures aiming at reporting discrimination against older people have been encouraged in recent years, especially in the field of preventing abuse against older people.

In Portugal, domestic and institutional abuse are public crimes, not depending on complaint. Under Article 152 of the Penal Code, *«Anyone who, repeatedly or not, inflicts physical or psychological disorders, including corporal punishment, deprivation of liberty and sexual offenses (...) to a particularly defenseless person, particularly in age, disability, illness, pregnancy or economic dependence, which cohabits with it (...) is punished with imprisonment from one to five years, if longer penalty does not fit him by virtue of another legal provision»*.

Under Article 152-A of the Penal Code, *«Who, having in his care, in his custody, under the responsibility of your management or education or working at your service, a minor or a particularly defenseless person, due to age, disability, illness or pregnancy, and: a) Inflicts, repeatedly or not, physical abuse or psychic, including corporal punishment, deprivation of freedom and sexual offenses, or to treat cruelly; b) To be used in dangerous, inhumane or prohibited; or c) Overloading with excessive work; is punished with imprisonment from one to five years, if longer penalty does not fit him under another legal provision».*

In terms of equality and non-discrimination, the adoption of the National Strategy for Equality and Non-Discrimination 2018–2030 “*Portugal + Igual*”, emphasizes the multidimensional nature of disadvantage stemming from the intersection of various discrimination factors, such as sex, age, disability, race and national or ethnic origin.

Within the context of National Strategy for Equality and Non-Discrimination, the campaign “Never is too late” was launched, which is directed against domestic abuse against older people, especially older women, in order to raise awareness of this problem.

The national emergency line «144» is another important instrument that may respond to situations of violence. It aims at protecting and safeguarding citizen’s security in situations of social emergency. Among the priority groups are victims of domestic violence and abandoned/lonely elderly persons that may receive an immediate response by a specialized team.

The President of the Portuguese Republic has ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (Decree of the President of the Republic No. 102/2016), in which Article 1 proclaims a Prohibition of Discrimination: *«1—The enjoyment of any rights provided by law shall be safeguarded without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, membership of a national minority, fortune, birth or other status»* and that *“2—No one shall be discriminated by a public authority on any ground whatsoever, including the grounds referred to above in paragraph 1»* (Resolution of the Assembly of the Republic No. 232/2016).

In 2017, the new anti-discrimination law was approved (Law No. 93/2017, of 23 August). Law No. 93/2017 establishes the legal framework for preventing, prohibiting and combating discrimination on the grounds of racial and ethnic origin, skin color, nationality, descent and territory of origin (Article 1) —also known as the new law against racial discrimination. It is important to highlight that the scope of this law includes an implementation regarding: (a) Social protection, including social security and health care; (b) Social benefits; (c) Education;

(d) Access to and supply of goods and services made available to the public, including housing; (e) Culture.

This legislation also applies to elderly people discriminated on any of the grounds stated at the above-mentioned Article 1.

Education: Portugal has registered a reduction in the number of persons over 65 years of age with no education and an increase of those with higher education<sup>1</sup>. Although there is a growing search for education opportunities throughout the life cycle, in Portugal, access to Higher Education is concentrated in the 19-21 age bracket with no age diversity (Working Group nominated by the Ministry of Science, Technology and Higher Education, 2020, Order No. 1307/2020, of 13 January, 2020, published in «*Diário da República*» on January 29, 2020). According to the report of this Working Group, published in 2020, participation rate of the Portuguese population in Lifelong Learning actions assume a moderate value (10%).<sup>2</sup>

Housing: under Urban Lease Regime (Law No. 6/2006, of 27 February), if the tenant proves that he is 65 years of age or older, the proposed rent increase only applies if the tenant agrees. If the tenant does not accept the amount, he can suggest another amount and, if the landlord does not accept, the contract remains in force and the rent is fixed according to legal criteria, but cannot exceed 1/15 of the taxable amount. Tenants cannot be evicted, for that purpose. In this section, that there are some positive discrimination measures based on age that seek to guarantee greater equality, as is the case of the «*Casa Aberta*» program (program developed with a local impact, that aims to improve the conditions of security and accessibility in the housing of older persons or persons with disability).

Disability: It is forbidden to discriminate, directly or indirectly, against people on disability and aggravated health risk basis, in accordance with Law No. 46/2006, of August 28.

The application of this law implies preventing and remedying acts that result in the violation of any fundamental rights, or in the refusal or conditioning of the exercise of any economic, social, cultural or other rights, by any person, due to disability.

Within this context, the National Institute for Rehabilitation receives the complaints submitted, forwards them to the competent authorities and draws up an annual report on

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<sup>1</sup>[https://www.pordata.pt/portugal/populacao+residente+com+16+a+64+anos+e+65+a+89+anos+por+nivel+de+escolaridade+completo+mais+elevado+\(percentagem\)-2266-179430](https://www.pordata.pt/portugal/populacao+residente+com+16+a+64+anos+e+65+a+89+anos+por+nivel+de+escolaridade+completo+mais+elevado+(percentagem)-2266-179430)

<sup>2</sup>[https://wwwcdn.dges.gov.pt/sites/default/files/relatorio\\_grupo\\_de\\_trabalho\\_acesso\\_ao\\_nsino\\_superior.2020.pdf](https://wwwcdn.dges.gov.pt/sites/default/files/relatorio_grupo_de_trabalho_acesso_ao_nsino_superior.2020.pdf)

the application of the law. An example of good practices is the implementation of the project «Friendly cities for elderly» in municipalities. It is an initiative of the World Health Organization that aims to respond to the rapid aging of populations and create urban environments that increase participation in the older people. It involves a diagnosis, an Action Plan and monitoring of your progress.

Economics: The issue of income is a factor that influences the ability to maintain autonomy, security and independence, in a perspective of quality of life and well-being. The World Health Organization considers income as one of the economic determinants, along with social protection and work of active. Women are in particularly vulnerable situations, usually living alone (according to the 2021 Census, 13% of the population aged 65 and over lived alone, especially women.<sup>3</sup>

**2. What legal age limits exist in your country that prevent the full and equal participation of older persons in societies in areas such as employment, education, healthcare, financial goods and services, or others?**

In Portugal, Article 291 (c) of the General Law of Work in Public Functions (Law No 35/2014, of June 20), establishes that the public employment relationship expires, namely, «c) (...) *when the worker reaches 70 years of age*». Decree-Law No. 6/2019, of January 14, makes it possible for workers with a public employment relationship who intend to remain in office after the age of 70, to express this will expressly and in writing through application addressed to the respective public employer, at least six months before reaching that age. But the general principle on age limitation persists.

There are no age limits for running for political office.

**3. What measures are in place, if any, to ensure that older persons in institutions segregated from their communities - such as institutional care systems or prisons - can continue participating in their society?**

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<sup>3</sup> <https://tabulador.ine.pt/indicador/?id=0011609>).

Institutionalized and imprisoned elderly are recognized as holders of the right to vote (Article 49 (1) of the Constitution), without prejudice to the incapacities provided for in general law. Article 70-B of electoral law, approved by Decree Law No. 319-A/76, of May 3, also provides for the possibility of early voting.

Code of Execution of Penalties and Measures Depriving Liberty, approved by Decree-Law No. 115/2009, of October 12, establishes that specific needs of older individuals, younger people and pregnant women must be ensured. Thus, Article 4 states: *«The execution of sentences and measures depriving liberty of people over 65 years of age must respect their specific needs and their state of health and autonomy, namely by guaranteeing them the necessary assistance in activities of daily living and ensuring accommodation conditions, especially appropriate security, activities and programs»*. The social reintegration of a prisoner also foresees activities developed in a prison context, so that it acquires skills/ capabilities for when released. School education/training, professional training, work, sport and culture are activities that take place within the establishment and that provide tools to the prisoner so that, when he is released, he can integrate into the society and the labor market.

**4. States have an obligation to use maximum available resources to progressively achieve the full realization of economic, social and cultural rights. What is the share of national public expenditure budget targeted to older persons as a distinct group?**

There is no data available about the share of national public expenditure budget targeted to older persons as a distinct group.

In 2023, was announced national public expenditure of 1.363 million euros in pensions and social benefits, with three major categories: social support index update; raising of pensions; solidarity supplement for seniors' reinforcement, by increasing the minimum limit, to converge with the minimum wage<sup>4</sup>.

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<sup>4</sup> [https://oe2023.gov.pt/wp-content/uploads/2022/10/OE2023-Apresentacao\\_20221010\\_atualizacao121022\\_site.pdf](https://oe2023.gov.pt/wp-content/uploads/2022/10/OE2023-Apresentacao_20221010_atualizacao121022_site.pdf)