

International Disability Alliance (IDA)

Member Organisations:

Disabled Peoples' International, Down Syndrome International, Inclusion International, International Federation of Hard of Hearing People, World Blind Union, World Federation of the Deaf, World Federation of the DeafBlind, World Network of Users and Survivors of Psychiatry, Arab Organization of Disabled People, European Disability Forum, Red Latinoamericana de Organizaciones no Gubernamentales de Personas con Discapacidad y sus familias (RIADIS), Pacific Disability Forum

Suggestions for disability-relevant questions to be included in the List of Issues for Country report task force Human Rights Committee, 104th Session

The International Disability Alliance (IDA) has prepared the following suggestions for the list of issues, based on references to persons with disabilities to be found in the State reports submitted to the Human Rights Committee.

PORTUGAL

Portugal ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 23 September 2009.

State report

Selected disability references in the state report:

4. European Union (EU) Directives related to equality and non discrimination have been transposed into the Portuguese legal system, inter alia by the Labour Code adopted in 2003 and by Acts 35/2004, of 29-7, and 18/2004, of 11-5 (Race Directive). Both direct and indirect discrimination on such grounds as descent, age, sex, sexual orientation, civil status, family situation, genetic heritage, reduced capacity for work, disability, chronic disease, nationality, ethnic origin, religion, political or ideological convictions and trade union membership, as well as homeland, language, race, education, economic situation, origin or social status, is prohibited. Equality and non discrimination in public employment were also guaranteed by article 5 of Act 99/2003, of 27-8, and are now covered by Act 59/2008, of 11-9. The latter (Legal Framework of Public Employment Labour Contract) put on an equal footing the treatment of such matters in the public and private sectors. Discrimination based on disability and on the existence of an aggravated health risk is punished by Act 46/2006, of 28-8.

14. The National Rehabilitation Institute was created in 2007 with the mission to ensure the planning, implementation and co-ordination of national policies with the view to promote the rights of persons with disabilities. For more information on other mechanisms involved in the fight against discrimination, see Parts II and III of the ECCD submitted by Portugal.

16. The Ombudsman acts upon complaints received or by its own initiative. It can request the Constitutional Court to verify compliance with the Constitution of any norm adopted or failure to act on the part of public authorities. The Ombudsman has the power to undertake,

with or without notice, inspection visits to any sector of public administration (whether central, regional or local), namely public services and civil or military detention facilities, as well as to any entities subject to the control of public authorities, and to request any information or documents he deems appropriate. The Ombudsman can also undertake any other investigation or inquiry, as he considers necessary, and develops information and awareness-raising activities. In 2004, the Ombudsman has established a Project Unit on the rights of children, the elderly, persons with disability and women, within which two toll-free telephone hotlines operated: Child Messages (created in 1993 to receive complaints relating to children who might be at risk or in danger) and Elderly Citizens Hotline (created in 1999 to receive complaints against violations of the rights of the elderly and to provide information about those rights in such areas as health, social security, housing, facilities and services, and leisure). On 16 July 2009, both these hotlines were temporarily suspended, due to administrative reasons. In the last trimester of the year, the Ombudsman approved a reorganization plan pursuant to which a new Department on Children, Elderly Persons and Persons with Disabilities (N-CID) was put in place, under the direct supervision of one of the two Deputy Ombudspersons. The Project Unit was thus replaced. The two toll-free hotlines Child Messages and Elderly Citizens were included in the N-CID and their operation was resumed on 1 November of 2009. The main goal of the N-CID is to concentrate the various activities of the Ombudsman in relation to children, elderly persons and persons with disabilities, and to add to the more traditional complaints-based work a regular program of initiatives of promotion, awareness-raising, human rights education and cooperation with other public and private entities, both at national and international level.

17. As regards the activity of the Ombudsman's toll-free hotlines, we note that there was a decrease in the number of calls received by Child Messages between 2002 (about 3,000) and 2008 (883). The Elderly Citizens Hotline has been consistently receiving more than 3000 calls a year since 2002. With regard to the number of complaints received by the former Project Unit, it increased from 20 in 2004 to 106 in 2008 (after a peak of 168 in 2007), which represented 1.8% of all complaints received by the Ombudsman (in 2008). In 2008, 38% of these complaints pertained to persons with disability (mostly on the education system, in particular as it concerns special education needs, and physical barriers), 35% to children (especially on physical and mental abuse, and on adoption), 25% to elderly persons (mostly on social facilities and abuse) and 2% to women.

65. The new Act on General Bases of the Welfare System establishes the principles of equality and non discrimination on the grounds of, inter alia, sex, as one of the main guidelines for the whole social security system. It also requires the creation of special conditions for the promotion of births by favouring a balance between private, family and working life and particularly taking into account the necessary time to care for children. The Social Security system (comprising contributory and non contributory schemes) covers sickness, maternity, occupational illnesses, unemployment, family responsibilities, disability, old age and death, but the range of protection varies from scheme to scheme. Data from 2004 to 2007 show that women represent about 57% of all the beneficiaries by the social security schemes under the non-contributory system, and about 46% under the contributory system, highlighting their particular vulnerability to poverty (see Chart 9 in the annexes).

67. According to data for 2004–2007, women represent about 53.5% of all beneficiaries of this income (see Chart 10 in the annexes). In 2004, 36% of the families receiving “Guaranteed Minimum Income” were either women alone or women supporting children (see Chart 11 in the annexes). In 2006 and 2007, there was a significant increase in mixed families among the beneficiaries – see Chart 12 in the annexes. The “Social Insertion Income” provides for special benefits for the families of the physically or mentally disabled or people with chronic diseases or highly dependent elderly people. The amounts of these benefits are defined in Ministerial Order 105/2004, of 26-1.

128. A working group has been established to elaborate formal regulations concerning conditions of detention at the Judiciary Police and court premises, drawn upon regulations in force for PSP and GNR and encompassing recommendations formulated by the European Committee for the Prevention of Torture. A study carried out together with the National Laboratory for Civil Engineering (LNEC) issued Technical Recommendations for the police forces’ facilities (RTIF) that shall be taken into account in 2009, in line with the Law on the Program establishing the facilities and equipment of the police forces. This “XXI Century police station” model pursues objectives such as to improve, modernize and humanise police facilities, and guarantee the access thereto of persons with disabilities.

224. The sixth revision of the CRP (2004) expressly laid down that it is up to the State to promote a balance between work and family life through coordination of different sectoral policies. In 2006, two Programmes were launched in order to increase the availability of care infrastructures: the Expansion Programme of the Social Equipment Network (PARES), aiming at supporting the enlargement, development and consolidation of the equipments and social facilities network for children, elderly and people with disabilities; and the Support Programme to Investment in Social Equipments (PAIES) aiming at stimulating investment in social equipments by supporting private initiative.

239. With the aim of improving equality of opportunity in the education system, guidelines were developed for Portuguese as a Non-Mother Tongue in the third cycle of basic education and for Portuguese as a Foreign Language in secondary education, both aiming at the new pupils from migratory flows and other specific public schools. Along the same policy lines, a new legal framework for providing special care for children and young people with special educational needs was adopted, as well as measures aimed at pupils who are blind, partially sighted, deaf or suffering from multiple handicaps.

IDA proposed questions for the List of Issues :

- What steps are being taken to promote the positive image of children and adults with disabilities amongst government personnel, the public and families?
- What measures are in place to collect data and statistics on persons with disabilities for targeted policymaking?
- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services

(including shelters) and information for victims are made accessible to women and girls with disabilities?

- What measures are in place to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?
- What steps are being taken to repeal Article 2 of the Electoral Law of the Assembly of the Republic which excludes from the right to vote persons who do not enjoy electoral capacity and those known as mentally ill, even if not judicially, when admitted to a psychiatric institution, which is in violation of the right to political participation as set out in Article 25, ICCPR and Article 29, CRPD? What measures are being adopted to ensure the accessibility of polling stations, booths and voting material, including by permitting an individual an assistant of their own choice to help them to vote, without external surveillance? How is information on elections and political campaigns being made accessible in the lead up to elections?