

**Report by the Commissioner for Human Rights of the Council of Europe  
Visit to Portugal, 7-9 may 2012**

**MSSS  
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revised

The Ministry of Solidarity and Social Security takes note with interest of the Commissioner for Human Rights of the Council of Europe comments, conclusions and recommendations concerning the impact of the financial crisis and fiscal austerity measures on the enjoyment of the human rights, and more specifically social and economic rights.

In his letter, the Commissioner identifies outstanding issues concerning the situation of children, the elderly, the Roma, and the work of domestic organisations involved in the promotion and the protection of human rights, and makes a series of recommendations to the portuguese authorities in connection with these issues.

In this sense, the Ministry of Solidarity and Social Security would like to highlight a few general and specific remarks related to children`s and older people rights.

### **I-General Remarks**

Portugal takes note of the references made and stresses that according to the official national data:

#### **§1-2 Summary:**

*According to Portugal's Review of the National Reform Programme and the National Social Report: "In a context of a budgetary consolidation, action taken by the government to address the reduction of poverty and social exclusion has imposed on the one hand, the continuity of a set of measures and social programs to tackle long-lasting and more severe forms of poverty and, on the other hand, a strong intervention on the new social problems generated by the economic and financial crisis, making this intervention based on a new social program, that started in October 2011. Therefore, despite the pressure of the austerity programme, the government has resolutely acted to protect the most vulnerable groups, namely the lowest pensions and the lowest incomes and thereby ensured the continued efforts to fight poverty and inequalities. In fact, an important feature of the Portuguese Economic Adjustment Programme is the aim to mitigate negative social impacts taking into consideration the vulnerable situation of groups with the highest risk of poverty, while addressing fiscal, banking and structural imbalances. Tax increases and benefit reforms are designed*



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*such as to minimize the impact on the lowest income groups and pension cuts and public wage cuts were implemented in a progressive way (i.e. there are no cuts or proportionately lower cuts in the lower income categories)."* (page 1 of Portugal's Review)

### §6. Introduction:

Eurostat estimated 15,2% as unemployment rate. Though, and according to the Portuguese official statistic, the unemployment rate for the first quarter of 2012 was 14,9%

**§9. Impact of the fiscal austerity measures on child poverty:** ~~In early 2010 it was estimated that 23%~~ According to EU-SILC 2010, 22.4% of children in Portugal were at risk of poverty, ~~less 0.5pp than 2009~~ (against ~~18%~~ 17.9% for the population as a whole). (...) Moreover, the poverty risk for families with children (19.1%) is higher than for ~~the population as a whole~~ ~~families without dependent children~~ (20.6% 16.5%) (...)

**§12. Note 14:** To a ~~monthly~~ ~~yearly~~ income of ~~€628~~ € 8803,63 per ~~person~~ household.

**§24. Impact of fiscal austerity measures on poverty among older persons:** In 2010 (...) 21% were at risk of poverty in 2009, an increase of ~~one per cent~~ 0.9pp with regard to 2008, ~~when 20.1% of the elderly were at risk of poverty (and after a significant decrease since 2003, 28.9%).~~

**§25. Note 26.** The lowest pensions range from €189 to €245 (values of 2012: €195, 40 to €254. Besides, there is the Solidarity Supplement for the Elderly, a non-contributory means-tested benefit implemented in 2005. The amount corresponds to the difference between the person's income and the Supplement annual reference value (€ 5022 in 2012).

**§43. Note 33.** The RSI consists in ~~non contributory benefit to guarantee~~ a minimum income (a maximum of € 189,52 ~~per month~~ ~~is the reference amount per person~~)



## II. Specific remarks on the Conclusions and Recommendations

### a) Children`s rights

#### §84: Child Labour:

Overall, the evolution of child labor in Portugal has been positive. The number of children in situations of illegal labour, has very little expression and significant phenomenon, and Portugal considers this matter as residual: 233 cases were detected in 4736 visits carried out in 1999, compared with 2 cases detected in 107 visits undertaken in 2011. Until 2010, most cases were found in the building industry and, more recently, in restaurants and agriculture. An inspection campaign was recently undertaken to the entertainment industry, comprising 202 inspecting visits and finding 20 breaches, which lead to fines and reports to competent monitoring and social support services.

The next table shows the child labour evolution in Portugal:

Portugal Child labour 1999-2011

Last years	Visits	N.º Children
1999	4.736	233
2000	5.620	126
2001	7.100	91
2002	11.043	42
2003	6.957	18
2004	11.755	16
2005	12.142	8
2006	3.811	13
2007	3.722	5
2008	1.203	6
2009	1.089	6
2010	804	6
2011	107	2

Source: WCA



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Moreover, and as mentioned on the Commissioners' Report, Portugal adopted a child labour elimination programme, involving distinct national stakeholders and partnerships, from which the Programme of Education and Training (PIEF) was highlighted.

The PIEF is an exceptional measure that presents itself as a remedy when all else has failed and where young people and their families freely join (after having rejected other existing alternatives either in education or vocational training) or that can be decided by court as part of a risk removal plan.

This measure is intended to:

- Minors in situations of exploitation of child labor to encourage compulsory schooling fulfillment;
- Young people aged over 16 years enrolled in labour contracts in order to achieve an academic and professional certification.

The programme has enrolled over 17.000 children since its launch in September 2009 and it has been a powerful tool to encourage access to formal education, including by Roma children, reducing school drop outs across the country.

A final note to emphasize that the programme will not be discontinued, but restructured, taking into consideration the new challenges presented by the new Compulsory School Law (12 years since the incoming school year 2012/2013) and a specific financial programme. The same applies to the ESCOLHAS programme.

Finally, the actions promoted by the Portuguese government are based, among others, on measures to strengthen the intervention with children like, for example: *the National System of Early Childhood Intervention (SNIPI)*; the increasing of the number of Committees for the Protection of Children and Young People, promoting the intervention at the primary and secondary prevention level, reinforcing the identification of risk cases; *the Nascer Cidadão (Born Citizen)* project; and the reinforcement of parental responsibility measures.

### **§84: Violence against children:**

In accordance with the Convention of Children's rights and pursuant to the Portuguese Constitution, Portugal has implemented a widespread reform since 1998, largely concerning legislation, mechanisms and policies relating to children, which objective was to reaffirm the rights of the child and to ensure that they were respected. Civil society had been heavily involved in the process.



### Legislative Reform

Implemented in 1999, the Legislative Reform was geared towards a new child policy aiming to promote and ensure the effective exercise of children's rights, based on prevention and protection. This reform came into law as the Protection of Children and Young People in Danger Law (PCJPL), and as the Educational Guardianship Law (EGL), which consolidate the perspective of Community intervention with the recognition of the right to be heard and the right of opposition for children and young people.

### Children and Young People in Danger Protection System

The Protection of Children and Young People in Danger Law is based on the principle that children and young people are full social actors, whose protection should mean the promotion of their individual, economic, social and cultural rights. The State and the community institutions undertake to organise themselves in such a way as to provide the models for action which can satisfy the individual developmental needs of each child, with respect for the universality of their rights, seeking to ensure:

- the superior interest of the child;
- the right to privacy;
- a timely and minimum intervention, proportionate to the situation;
- parental responsibility and the prevalence of the family;
- the requirement to inform children and family on their rights and about the intervention;
- the obligatory hearing of the child and family on actions and decisions on their concern;
- the subsidiary intervention first by community entities and then by the courts.

The system includes:

- Public and private entities related to children and young people;
- Children's and Young Person's Protection Commissions;
- Courts.

The responsibility is shared by the State and local community entities, through a "pyramid" intervention. On the top of the pyramid there are the Courts, competent not only to implement coercive measures, but also to look for consensual solutions.

Technical monitoring of the protection of children and young people in danger is a responsibility of the social security sector, implemented through multi-disciplinary court counseling teams (EMAT)<sup>1</sup>.

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<sup>1</sup> The volume of Child and Family Court cases dealt by the EMAT from has seen an increase between 2006 and 2007. This means there was a significant rise in the number of cases worked, (+49.2%), but the situation stabilized in following years with percentages around 9.9% (2008 to 2009) and 2.5% in the remaining years (2010 to 2011).



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In accordance with the principles of the constitutional law such as equality and prohibition of negative discrimination, laws, institutions and actors of the system have the ethical and legal duties of respecting the rights of all citizens including those of children. This respect implies the duty of special support to children in situations of vulnerability or exclusion, including the obligation of working with and for them and to promote positive inclusion.

This system is based on an information network that is transmitted between organisations, different platforms and entities, keeping the system alive and efficient.

Complaints Mechanism

Any child or adult may initiate a promotion and protection process, through a complaint presented to any entity which is part of the system.

The Children and Young Protection Commissions are the most adequate bodies to receive complaints<sup>2</sup> presented by the child himself or by any another person. Anonymous complaints may also be received. All the complaints originate a preliminary investigation to confirm the situation. The complaints may also be presented to the Police Authorities, to any other entities related to children' rights (ex. schools, health services, NGO's), to the Court or to the Ombudsman.

There is also efficient coordination between health services and other entities of the system, based on technical guidelines of Health Minister and on the development of specialized structures dedicated to children and young people in danger in health services.

Entities that may receive complaints	Trough
<b>SCHOOLS</b>	<ul style="list-style-type: none"> <li>• Teachers</li> <li>• Psychologists from cabinets of psychological orientation</li> <li>• School mediation services</li> <li>• Training programmes</li> </ul>
<b>HEALTH SERVICES</b>	<ul style="list-style-type: none"> <li>• Departments in local public health centers and public hospitals specialized in sexual, psychological and physical abuse and negligence</li> <li>• Family doctors</li> <li>• Doctors and other members of health staff in pediatric urgency hospital services</li> <li>• Doctors and other members of health staff in maternities</li> </ul>
<b>SOCIAL SECURITY SERVICES</b>	<ul style="list-style-type: none"> <li>• Counseling cabinets to young people (especially at health level and familiar planning).</li> <li>• Services of the Institute for Social Solidarity at local level.</li> <li>• Education, health and social welfare NGOs, with cabinets in areas such as psychology, health and legal matters.</li> <li>• Public Prosecution Service (Ministério Público) working close to Courts.</li> </ul>

<sup>2</sup> For the first time, data from the 2010 National Commission annual report shows a decrease since 2007.



In Portugal there are three specific Children's Helplines and a generalist Helpline: These telephone lines are operated by NGO's, the Ministry of Solidarity and Social Security and the Ombudsman's Office.

## b) Human rights and older people

### §85: De-institutionalisation of the older people:

Intervention policies aimed to the elderly include support measures to that population group, particularly those with lower income, seeking to diversify the home support services, increasing and improving the social response, investing on the return to neighbourhood solidarity networks; address other problematic situations such as non-permanent situations due to illness or family rupture; to create new services of socialization or support to the everyday tasks, from which we highlight the *Teleassistência* (Telecare service)<sup>3</sup>. The Night Centres and the identification and registration of social isolation situations in PSP/GNR (the Public Security Police and the Republican National Guard) are measures to combat social isolation<sup>4</sup>, in particular the last measure, that will act through the registration and monitoring of elderly people living alone and isolated<sup>5</sup>.

Major efforts have been made to reinforce and consolidate the network of services and facilities so as to respond to existing needs, favoring, whenever possible, solutions that allow the elderly to remain in their habitual living environment, while addressing increasing situations of dependence. In this respect, it should be highlighted:

1. The National Network of Integrated Continuous Care (RNCCI)<sup>6</sup> established to solve an existing long-term gap in social support and healthcare in Portugal. The RNCCI is a new level of care, created in 2006, and it promotes a new organizational approach incorporating a new paradigm based on the principles of intersectional partnership, integrated planning, multidisciplinary practice and oriented to the fulfillment of older people's needs depending on the level of dependency. The network establishes different levels of public and private institutions: convalescence care, rehabilitative, middle and long-term care, home care and palliative care, covering hospitals, health centres, district and

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<sup>3</sup> To develop, with the cooperation of national companies, adequate communication technologies, products and responses aimed to older people who prefer to remain in their homes, guaranteeing them safety and comfort conditions in that option.

<sup>4</sup> Programa Segurança Solidária (Safety with Solidarity Programme), that frames Apoio 65 – Idosos em segurança (Support 65 – Safe Seniors)

<sup>5</sup> Protocol between the Ministry of Solidarity and Social Security (MSSS) and the Ministry of Internal Affairs (MAI)

<sup>6</sup> Under the joint responsibility of the Solidarity and Social Security and Health Ministries



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local Social Security services, the Rede Solidária (Solidarity Network – Third sector/Social Economy) and local administration bodies. Very recently a network of units and teams specifically for mental health patients was set up in close articulation with the existing Network.

2. The Caregiver Rest intervention is contemplated in the RNCCI, and is related to the care provided by family members to dependent old people represent today an expression of family solidarity. The social and political recognition of this act of caring is essential to the sustainability of a more cohesive and solidary society.

The temporary hospitalization of the dependent person for the rest of the caregiver includes a set of interventions that aim to provide an effective break of the caregiving, although temporary, to reduce the overburden or the amount of care provided by informal caregivers and to enable the creation of coping strategies. It may also delay the permanent institutionalization of the dependent person and, therefore, foster a positive financial impact.

The Caregiver Rest measure is seen as the possibility to admit the dependent person within RNCCI, on a temporary basis, up to 90 days per year, in Long Term and Maintenance Units (ULDM) when the family has difficulties in giving support or when the primary caregiver needs to rest. There are also some solutions of temporary care services from the initiative of social and private sector institutions.

3. The Integrated Alert System was created in 2011. It is a public response to action and prevention of extreme isolation of the elderly. Its main objective is to promote the development of a strategy of warning, detection and intervention, integrated in the living contexts of older people who are beneficiaries of the National Pensions Centre (CNP) and namely, those who do not have any family and/or social support. It is based on the implementation of a monthly alert mechanism aimed to investigate situations in which older people do not cash benefits/pensions issued by postal order during a period of three months, and operates with the cooperation of CNP, as the entity that receives the returned pension cheques, and local technicians responsible for the social customer information service and support. For the investigation of these situations there is also the cooperation of other partners such as Health Centres, Hospitals, Police Entities, Private Institutions of Social Solidarity or Similar, Local Authorities, Municipalities, among others.
4. The Comfortable Housing Programme for the Elderly (PCHI) is another important policy measure, which aims at housing qualification in order to improve the basic housing and mobility conditions of older people, whose monthly per capita income is equal to or less than the social support index value and who benefit from home support services or attend Day Care Centres, in order to prevent and avoid institutionalization.





**§86: Violence and abuse against older people:** In Portugal domestic and institutional abuse are public crimes. Anyone may report an abusive situation and complaints are not subject to special formalities. These may be addressed to authorities in written or orally.

Within the competences of the Social Security Institute, several social services addressed to victims of violence were promoted such as Information Centers and Home Shelters.

The National Social Emergency Line (LNES - 144) is another 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 *Programme for the Development of Quality and Safety in Social Equipments* is also a fundamental tool helping to prevent abuse that may occur in social institutions. This Programme integrates Technical Recommendations for Social Amenities (RTES) and Quality Management Manuals of the Social Equipments.

In what concerns combating poverty and income inequalities among families and older persons, major efforts are being taken focusing on the positive differentiation of benefits as a powerful factor of social cohesion and poverty reduction, through social transfers, giving more to those who effectively need it most. Examples of this are the temporary increase of 10 percent of the unemployment benefit amount<sup>7</sup> and the measures subject to means testing. In a logic of action in what concerns the older population groups, there is a particular relevance in the rural and social minimum pensions updating at the inflation level and the Solidarity Supplement for the Elderly<sup>8</sup>.

**§87: Measures to raise awareness about human rights and ageing:** Also in the field of preventing abuse against older people national campaigns to promote access and information were launched, especially raising awareness measures addressed to elderly persons and the to society in general.

During 2012-2013 efforts will be taken to produce pictorial leaflets seeking to enhance cultural sensitive skills of professionals who deal with older persons with an ethnic or multicultural background.

It should be highlighted the investment on elderly Volunteering fostered by the National Council on Volunteering, especially under the European Year of Volunteering 2011.

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<sup>7</sup> In situations where both members of the couple receive unemployment benefits and there are dependent children. This measure also covers singleparent families (Decree-Law no. 64/2012 of 15 March)

<sup>8</sup> Extraordinary benefit integrated in the solidarity subsystem, aimed to pensioners aged over 65 years. This is also accompanied by additional health benefits.



Also, in the context of the European Year of Active Ageing and Solidarity between Generations 2012, by April, about 75% of Social Networks across the mainland of Portugal had already sent information about their intervention on ageing and intergenerational issues, with initiatives, such as, the local Gerontological Plans, the elderly' advisory Councils within the municipalities, the elderly Academies or Universities, and sports and leisure activities.

### **c) Human Rights of Roma**

It is important to highlight that Portuguese authorities have put in place a National Action Plan for Inclusion (2008-2010), and more recently the Social Emergency Programme (PES), a four-year plan that began in October 2011, and seeks to cushioning the impact of the financially crisis on the most vulnerable social groups, namely the Roma community. In the same way, Roma communities also benefit from specific measures outlined in the National Roma Integration Strategy (NRIS).

Measures to integrate the Roma community have been implemented for some time and this community is increasingly covered by many of the measures accessible to the general population and measures that are aimed at individuals and groups living in situations of poverty and exclusion. These include the Integration Social Income, housing programmes, measures for social protection and school social action.

Under PIEF, special attention has been given to the Roma<sup>9</sup> children, and a technical team had been able to developed several meetings and publications over the years, with participation of academia investigators, Roma associations (with great attention to the association of gipsy women - AMUCIP) Roma mediators, parents, teachers, school boards and has taken all their inputs into consideration and have always tackled "special classes" as a "mean to achieve an end", being the prevention of school dropout the main concern, and always as a part of the National Strategy for the Integration of Roma Communities<sup>10</sup>. As a result, on one hand, the number of Roma students increased over the years, currently representing 16% of the PIEF students in 2010/2011 and 20% in 2011/2012, and one the other, the "special classes" are decreasing almost to inexistence.

Special attention would be given to the recommendation on supporting Roma mediators, eventually by reallocating funding sources and, by enabling participation — with decision-making and hands-on responsibilities — in the Social Networks (Programa Rede Social - Social Network Programme), placed within all 308 Municipalities. A Social

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<sup>9</sup> Terminology according to the Council of Europe "Descriptive Glossary of terms relating to Roma issues", version dated 16 November 2011.

<sup>10</sup> <http://www.ciga-nos.pt/Default.aspx?tabindex=1&tabid=21>



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Network is a formal forum based on free participation, articulating and assembling efforts of local authorities and public or not-for-profit private entities to promote social development.

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