

# **Franet National contribution to the Fundamental Rights Report 2020**

**Portugal**

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Franet country study: policy and legal highlights 2019	
Issues in the fundamental rights institutional landscape	<b>Reforming the National Data Protection Authority.</b> <a href="#">Law 58/2019, of 8 August</a> , ensured implementation of the GDPR in the national legal framework and reformed the organisation of the National Data Protection Authority.
EU Charter of Fundamental Rights	<b>Constitutional Court pays particular attention to the EU Charter of Fundamental Rights.</b> On 18 September, the Constitutional Court, in the <a href="#">Judgment 464/2019</a> , ruled on the constitutionality of some articles of the Organic Law 4/2017 on the special access procedure to telecommunication and internet data by the Portuguese intelligence services. In its decision, it has interpreted the national legislation in the light of Articles 7 (protection of the right to privacy) and 8 of the Charter (right to protection of personal data).
Equality and non-discrimination	<b>Setting-up the Team of the Project on Intersectional Inequality.</b> In January 2019, the High Commissioner for Migration created the <a href="#">Team of the Project on Intersectional Inequality</a> . This project seeks the development and implementation of policies and measures that are gender sensitive for the integration of migrants and Roma people, with a particular focus on areas where different inequalities intersect.
Racism, xenophobia & Roma integration	<p><b>Fight against racism, xenophobia and intolerance in sports.</b> <a href="#">Law 113/2019, of 11 September</a>, establishes the legal framework with regard to security and the fight against racism, xenophobia and intolerance in sports events, increasing all the sanctions previously provided for by law.</p> <p><b>Roma integration and fight against discrimination.</b> The <a href="#">Programme for Supporting Roma Associations</a>, included in the National Strategy for the Integration of Roma Communities, aims to encourage the exercise of citizenship rights by persons belonging to the Roma communities; to promote the fight against discrimination and raise awareness and to invest in Roma empowerment strategies.</p>
Asylum & migration	<b>Protection of unaccompanied children reaching the age of majority.</b> No new developments in 2019. However, we highlight that according to the <a href="#">Law for the Protection of Children and Young People at Risk</a> protection measures may be maintained until the age of 21 and, in exceptional cases, until the age of 25.
Data protection and digital society	<b>Implementation and transposition of EU data protection law.</b> On 8 August 2019, the law that ensures implementation of the GDPR in the national legal framework ( <a href="#">Law 58/2019</a> ) was published and Directive 2016/680 was transposed.
Rights of the child	<b>Procedural safeguards for children who are suspects in criminal proceedings.</b> <a href="#">Law 33/2019 adopted on 22 May</a> , transposes Directive 2016/800 and introduces several amendments to the Code of Criminal Procedure, namely the right of children to be accompanied by the holder of parental responsibility, his/her legal representative or the <i>de facto</i> custodian (Article 61(1)(i)) in any stage of the proceedings.
Access to justice, including victims of crime	<p><b>Violence against women.</b> On 19 August 2019, the Council of Ministers published a <a href="#">resolution</a> that defines the priority and the concrete actions to be taken in order to prevent and fight against domestic violence.</p> <p><b>Victims' Rights.</b> <a href="#">Law 101/2019</a> allows for the application, in 48 hours, of specific procedural coercive measures where there is strong evidence of certain crimes. When the protection of the victim so requires, electronic surveillance may be applied and the suspect's prior hearing may be waived.</p>

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

As regards policy developments relevant to combating discrimination based on gender identity and sexual orientation, mention should be made to the establishment of a Health Strategy for Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI)<sup>1</sup>. The first volume of this strategy, dedicated to promoting the health of trans and intersex people, was launched in early July, in compliance with a measure in the Action Plan to fight discrimination based on sexual orientation, gender identity, gender expression and sexual characteristics 2018-2021, approved as part of the National Strategy for Equality and Non-Discrimination 2018-2030 (*Estratégia Nacional para a Igualdade e a Não Discriminação 2018-2030 – Portugal+Igual*, ENIND)<sup>2</sup>. The Health Strategy for Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) is in line with previous legislation (Law 38/2018<sup>3</sup>) enshrining the right to gender identity and gender expression self-determination and to the protection of sexual characteristics of each person, which stipulates the provision of reference services or specialised units in the National Health Service, as well as the definition of an intervention model. The Strategy contains the intervention model and other measures, including a Training Plan that will involve all Regional Health Administrations and enable professionals to act as focal points for gender identity and sexual characteristics issues at their respective Health Centres or Hospitals. The document was prepared by the Directorate-General for Health in a collaborative effort with the Central Administration of the Health System, the Genitourinary and Sexual Reconstruction Unit of the Coimbra Hospital and University Centre, and seven civil society organisations that represent and support LGBTI persons.

Moreover, following the 38/2018 Law, in July 2019 the Order<sup>4</sup> establishing administrative measures for non-discrimination of trans and intersex youth and children, aimed at schools (at all levels of education and cycles) was published. This legislative measure prescribes the adoption of measures in schools that guarantee the exercise of the right of children and young people to self-determination of gender identity and expression and the right to the protection of their sexual characteristics, which focus on: (a) prevention and promotion of non-discrimination; (b) detection and intervention mechanisms for risk situations; (c) conditions for adequate protection of the gender identity, gender expression and sexual characteristics of children and young people; d) training aimed at teachers and other professionals. Among other items, this order provides for the use of the self-assigned name in all school and out-of-school activities, and ensures the confidentiality of data of young people who carry out the gender transition process. The order also provides that the wearing of clothing is respected so that children and young people can choose according to their choice, namely where there is an obligation to wear a uniform or any other clothing by gender, and ensures that the child or young person access the toilets and changing rooms taking into consideration their express will and ensuring their intimacy and uniqueness. In August 2019, a Recommendation was issued to Higher Education Institutions by the State Secretariat of Science, Technology and Higher Education, also following Law 38/2018 (*Recomendação às Instituições do Ensino Superior, no âmbito da Lei 38/2018, de 7 de agosto*).

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<sup>1</sup> The full document is available on the [website of the Directorate-General for Health](#).

<sup>2</sup> Portugal, [Council of Ministers Resolution 61/2018 that approves the National Strategy for Equality and Non-Discrimination 2018-2030](#) (*Resolução do Conselho de Ministros n.º 61/2018 que aprova a Estratégia Nacional para a Igualdade e a Não-Discriminação 2018-2030*), 21 May 2018.

<sup>3</sup> Portugal, [Law 38/2018 that enshrines the right to gender identity and gender expression self-determination and to the protection of sexual characteristics of each person](#) (*Lei n.º 38/2018 que consagra o direito à autodeterminação da identidade de género e expressão de género e à proteção das características sexuais de cada pessoa*), 7 August 2018.

<sup>4</sup> Portugal, [Order 7247/2019 establishing the administrative measures for the implementation of the provisions of paragraph 1 of article 12 of Law 38/2018 of 7 August](#) (*Despacho n.º 7247/2019, que estabelece as medidas administrativas para implementação do previsto no n.º 1 do artigo 12.º da Lei n.º 38/2018, de 7 de agosto*), 30 July 2019.

In this document, higher education institutions are recommended to create the necessary conditions for the exercise of the right to gender identity and self-determination and the protection of each person's sexual characteristics. Among other guidelines, and similar to the above-mentioned legal act, this Recommendation provides for the use of the self-assigned name in all activities undertaken within the academic context and warrants the confidentiality of data for young people undergoing the gender transition process.

Another relevant governmental/official measure for combating discrimination on the ground of gender identity and sexual orientation is the edition of the Portuguese version of the manual on "Policing Hate Crime against LGBTI Persons (*Policimento de crimes de ódio contra pessoas LGBTI: formação para uma resposta policial profissional*)<sup>5</sup>, in collaboration with the SOGI unit (Sexual Orientation and Gender Identity) of the European Commission. This collaboration constitutes another step towards the protection of LGBTI persons from discrimination, harassment and violence. It ensures that, when cases are reported, the police are trained adequately to follow up and that the judicial system has the power to prosecute and pass judgement appropriately. The manual was publicly launched in May 2019 at a two-day event complemented by the first training of police officers, prosecutors and judges based on this new manual.

The Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e a Igualdade de Género*, CIG) was a partner body in the implementation of the project ADIM – Advancing in LGBT Diversity Management in the Public and Private Sector (*Avançar na Gestão da Diversidade LGBT nos Setores Público e Privado*) (Grant Agreement Number: 777254 – ADIM – REC-DISC-AG-2016/REC-DISC-AG-2016-02), coordinated by the Institute for Women and Equal Opportunities (Instituto de La Muyer Y Igualdad de Oportunidades) in Spain. Throughout the project, which held its final conference in June 2019<sup>6</sup>, there were training initiatives on discrimination based on gender identity, sexual orientation and sexual characteristics in the companies and universities participating in the project. The project had, as final outputs, a Support Guide for the Implementation of LGBTI diversity management policies in public and private companies and a MOOC – Massive Open Online Course.

The National Strategy for Equality and Non-Discrimination 2018-2030 incorporates, for the first time, an intersectional vision of discrimination in the public policies for equality and non-discrimination in the following areas: a) equality between men and women; b) prevention and fight against violence towards women and domestic violence; c) prevention and fight against discrimination based on gender identity, sexual orientation and sexual characteristics. In 2019, new funding lines were established (10 million euros), which specifically include an intersectional perspective, such as training strategic audiences in the area of discrimination, including multiple and intersectional discrimination, based on sex, sexual orientation, gender identity, sexual characteristics, racial and ethnical origin, nationality, origin, age and disability; supporting training and projects carried out by civil society organizations; projects to eliminate violence against women and domestic violence in minority groups; and creating a white paper on intersectional discrimination. In January 2019, the High Commissioner for Migration created the Team of the Project on Intersectional Inequality. This area seeks the development and implementation of policies and measures that are gender sensitive for the integration of migrants and Roma people, with a particular focus on areas where different inequalities intersect. In 2019, there were several informative and awareness-raising initiatives with an intersectional perspective on discrimination, such as the "International Seminar on intersectionality: the situation of afro descendent women" (May 2019) and the workshop "Intersectional discriminations" for legal experts and professionals who deal with complaints (28 May 2019).

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<sup>5</sup> Pereira, J. (Portuguese version coordinator) (2019), [Policimento de crimes de ódio contra pessoas LGBTI: formação para uma resposta policial profissional](#), Lisbon.

<sup>6</sup> For more information, see the Commission for Citizenship and Gender Equality [website on the final conference of the project](#).

Due to the alterations made on the Election Laws and the Voter Registration Law by the Organic Law 3/2018, of 17 August, blind people were able, for the first time, to vote independently through a Braille grid in the European Elections held on 26 May 2019.

In addition, in the context of the Support Model for an Independent Life (*Modelo de Apoio à Vida Independente, MAVI*), which applies to people older than 16 years and with an incapacity degree equal to or higher than 60% (except in the cases of intellectual disability, autism and mental disease, in which there is no limit to the incapacity degree), we highlight the implementation of the Support Centre for an Independent Life (*Centro de Apoio à Vida Independente, CAVI*), a Non-Governmental agency with the status of welfare institution, which provides personal assistance to carry out tasks that disabled people can't do by themselves. As such, 35 pilot-projects were set up at a national level with the duration of 36 months. Each of these projects supports between 10 to 50 disabled or incapacitated people. These projects can assist over 800 disabled people. Decree-Law 27/2019<sup>7</sup> altered the Support Model for an Independent Life, giving disabled persons the right to opt for personal assistance instead of residential support and establishing a six-month transition period during which it is possible to benefit from both responses.

The Ombudsman has, since 2009, the Centre for Children, Senior and Disabled Persons, a department that gathers specialised and free telephone services: the children line, the senior line and the disabled person line. In 2019, the disabled person line received 820 calls and made 36 calls, which makes a total of 856 calls. Some of these calls were related to rehabilitation and mental and physical healthcare, discrimination and violation of rights, housing and education and professional training. In addition, the Ombudsman received, in 2018, 325 formal complaints related to discriminatory practices on the grounds of disability and/or of aggravated health risk, as stated in articles 4 and 5 of Law 46/2006, of 28 August.

In 21 June 2019, the Parliament approved the National Day of Freedom of Religion and Inter-Religious Dialogue (Parliamentary Resolution 86-A/2019, of 21 June<sup>8</sup>), which will be celebrated on 22 July, the date of the publication of the Law of Freedom of Religion (Law 16/2001, of 22 June).

In 2015 the High Commissioner for Migration created the Working Group for Inter-Religious Dialogue. This working group, which comprises 14 different religious groups, organised, in July 2019, the MEET IR, an inter-religious youth meeting, which took place, in Castelo Novo, Fundão, and included the participation of 8 religious groups. Nineteen young people, 14 girls and 8 boys, participated in the 2019 MEET IR.

## **2. Research findings, studies or surveys on either experiences of discrimination or rights awareness**

Comprehensive data on experiences of discrimination on grounds of gender identity and sexual orientation can be found in the annual ILGA Portugal report on discrimination against LGBT people. The report published in 2019 referring to the 2018 period - *Discriminação contra Pessoas LGBTI +. Relatório Anual 2018*<sup>9</sup> - is based on the analysis of 186 validated questionnaires addressed to victims or witnesses of discriminatory incidents based on sexual orientation, gender identity or expression or sexual characteristics, and collected online<sup>10</sup> via the Observatory on

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<sup>7</sup> Portugal, [Decree-Law 27/2019 that alters the programme Support Model for an Independent Life](#) (*Decreto-Lei n.º 27/2019 que altera o programa Modelo de Apoio à Vida Independente*), 14 February 2019.

<sup>8</sup> Portugal, [Parliamentary Resolution 86-A/2019, which establishes 22 of June as the National Day of Freedom of Religion and Inter-Religious Dialogue](#) (*Resolução da Assembleia da República n.º 86-A/2019 que institui o dia 22 de junho como Dia Nacional da Liberdade Religiosa e do Diálogo Inter-Religioso*), 21 June 2019.

<sup>9</sup> ILGA Portugal (2019), [Discriminação contra Pessoas LGBTI+: Relatório Anual 2018](#), Observatório da Discriminação em função da orientação sexual e identidade de género, Lisbon, ILGA Portugal.

<sup>10</sup> Online platform hosted at: <http://observatorio.ilga-portugal.pt/>.

Discrimination on Grounds of Sexual Orientation and Gender Identity (*Observatório da Discriminação em Função da Orientação Sexual e Identidade de Género*). The average age of victims, self-reported or estimated by others, is 31 years old. Men still represent the largest proportion of victims (43.09%), followed by women (23.20%), trans women (7.73%) and trans men (6.08%). In terms of sexual orientation, gay men prevail (37%), followed by lesbian women (23.2%), heterosexual persons (12.1%), bisexual persons (3.8%), and two persons identified as pansexual. The 26 incidents in which sex, gender identity or sexual orientation were not specified refer to episodes where the LGBTI community was identified as a collective victim of discrimination.

According to the ILGA Portugal report for the year 2018, most of the complaints (39.8%) were made by the victims themselves, reversing the proportion for the previous year, which may mean an increased awareness of discrimination by the victims. Most of the remaining episodes were reported either by services and projects of the ILGA Portugal Association (28%) or by witnesses (20.4%). Most of the reported incidents occurred online (22.5%), at home (16.76%), in the street (13.87%), or at the workplace (12.72%). While less common, incidents taking place in leisure spaces, public services, schools, and hook-up places were also reported fairly frequently. Discriminatory practices refer mostly to insults or threats, written or oral (39.3%), bullying (14.5%), discrimination at work (9.8%) or domestic violence (8.1%). Homophobia was identified as the main motivation to these discriminatory practices (in 69.6% of the cases), followed by transphobia (11.8%) or both (8.7%). More than half of the victims (54.3%) reported to be severely affected by the situation of discrimination in psychological terms; over one third (35.8%) at the social level; and one fifth (19.9%) in physical terms.

According to the same ILGA Portugal report, 59 out of the 186 registered incidents correspond to the classification of *crimes*, including extreme physical violence, threats, aggression and psychological violence, and 74 correspond to *incidents* motivated by hate against LGBTI persons, including hate speech. From among the 59 *crime* situations, one corresponds to homicide, eight to extreme physical violence, four to sexual violence, four to other aggressions, three to property damage and 44 to threat or psychological violence. A total of 27 out of 74 situations constituting discriminatory *incidents* motivated by hate against LGBTI people, correspond to hate speech cases, 17 more than in 2017.

The figures from the Observatory on Discrimination on Grounds of Sexual Orientation and Gender Identity reveal that in 2018 only 13.8% of the registered discriminatory incidents were reported to the authorities, corresponding to a significant decrease compared to the figures of the previous years (29.1% in 2017, and 33.3% in 2016). From among the 18 people claiming to have reported the discriminatory incident to authorities, eight felt supported and understood, four felt that authorities merely collected information and recorded the facts in a neutral manner, and one felt that the situation was really devalued. Concerning incidents not reported to authorities, in nearly a quarter of the cases (22.6%) there is a perception that the severity of the occurrence will be undervalued; almost one-fifth (18.6%) lack evidence to support the claim; the lack of knowledge on how to proceed was identified in 15.3% of cases; the ‘fear’ of reprisals of various kinds in 13%, and the ‘disbelief by the authorities’ was mentioned in 12% of incidents.

Relevant data on experiences of discrimination of young LGBTI+ at school was collected within the scope of the LGBTI Education Project carried out by a youth LGBTI association: *Rede ex aequo – associação de jovens lésbicas, gays, bissexuais, trans, intersexo e apoiantes*. The project report was published in 2019 referring to the 2016-2018 implementation period: *Relatório do Projeto Educação LGBTI (2016-2018)*<sup>11</sup>. Data was collected through a questionnaire addressing students and teachers participating in project sessions. The questionnaire (available on paper or in electronic form) was filled out by 2235 students (aged between 10 and 22) and 169 teachers

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<sup>11</sup> Azevedo, A.; Mariano, G.; Matos, J.; Martins, L.; Carmona, R. (2019), [Relatório do Projeto Educação LGBTI \(2016-2018\)](#), Lisbon, Rede ex aequo.

during the project implementation. The report findings suggest the notable prevalence of discrimination against LGBTI+ within the school environment, revealing a greater perception of this discrimination by teachers. According to the survey results, 31% of students and 58% of teachers respondents report having experienced situations in which people were discriminated against, assaulted or mocked on the basis of sexual orientation or gender identity within the school environment.

The 2018 statistical report by the Portuguese Association for Victim Support (*Associação Portuguesa de Apoio à Vítima*, APAV)<sup>12</sup> includes data on the victims of crime supported by the different APAV services in 2018. Twenty of these cases were related to the crime of racial, religious or sexual discrimination. Twenty-three administrative offences were related to racial, religious or sexual discrimination, or discrimination based on age, nationality or gender, representing an increase on 2017 (accounting for 6 administrative offences on the same grounds).

Job market sexual orientation-based discrimination is the focus of an innovative study conducted by Filipe Gouveia<sup>13</sup>. In the study, discriminatory behaviour against same sex couples is measured and analysed through a field experiment in the Portuguese housing rental market. In the experiment, four types of applicants varying in gender (male and female) and combination (same and opposite sex) contact both individuals and real estate companies to rent an apartment in the metropolitan areas of Porto and Lisbon. In total, 506 ads were answered, resulting in approximately 250 observations for each type of couple. Applicants were designed in a way that they would be perceived as ideal tenants, with stable social and economic circumstances. In this way, a baseline scenario for discriminatory behaviour can be provided, with a combination of socioeconomic variables likely to result in greater discrimination. The study provides evidence of discriminatory behaviour against male same sex couples in the Portuguese housing market. The field experiment shows that male same sex couples are over 20 percent points less likely to receive a positive reply to an online housing ad. Additionally, discrimination against this couple type is found more strongly in places where the population is on average older. No statistical significance is found for female same sex couples, despite the estimated parameter pointing downwards, towards the presence of discriminatory behaviour. No statistically significant differences in discriminatory behaviour were found for other geographic, apartment or host characteristics.

Research insights linking stigma and LGB parenting can be found in two recent studies. A study led by Jorge Gato<sup>14</sup> explores parenting desires, parenting intentions, and anticipation of stigma on parenthood in a sample of 257 self-identified lesbian, bisexual and heterosexual childfree women in Portugal. Although no differences between the groups were observed concerning parenting desires, lesbian and bisexual women reported lower intentions to have children than their heterosexual counterparts. Although lesbian women considered themselves to have a higher chance of being victims of social stigma as mothers, this was not associated with their parenting desires. Furthermore, younger lesbian women intended to have children to a greater extent than did older lesbian women; relational status did not relate to lesbian women's parenting intentions, desires or anticipation of stigma.

Another study exploring sexual stigma and parenting was led by Pedro Costa, which some of the results are published in the article "Through the Lens of Sexual Stigma: Attitudes Toward Lesbian and Gay Parenting"<sup>15</sup>. Aimed at investigating predictors of heterosexuals' internalization of

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<sup>12</sup> Associação Portuguesa de Apoio à Vítima (APAV) (2019), [Estatísticas APAV. Relatório Anual 2018](#), Lisbon, Associação Portuguesa de Apoio à Vítima (APAV).

<sup>13</sup> Gouveia, F. (2019), "[Same sex couple discrimination: A field experiment in the Portuguese housing market](#)", *Lund University Publications Student Papers*.

<sup>14</sup> Gato, J.; Leal, D.; Tasker, F. (2019), "[Parenting desires, parenting intentions, and anticipation of stigma upon parenthood among lesbian, bisexual, and heterosexual women in Portugal](#)", *Journal of Lesbian Studies*, Vol. 23, No. 4, pp. 451-463.

<sup>15</sup> Costa, P.; Pereira, H.; Leal, I. (2019), "[Through the Lens of Sexual Stigma: Attitudes Toward Lesbian and Gay Parenting](#)", *Journal of GLBT Family Studies*, Vol. 15, No. 1, pp. 58-75.



negative attitudes regarding lesbian and gay parenting, the article examines individual differences and sociodemographic predictors of sexual prejudice toward lesbian and gay-parented families. Furthermore, considering the role of the perceived controllability of homosexuality in shaping sexual prejudice, the authors examine whether the belief that homosexuality is controllable mediate the effects of sociodemographic characteristics on levels of sexual prejudice toward lesbian and gay parented families. The analysis was based on a sample of 1,430 heterosexual women and 502 heterosexual men who responded to an online questionnaire about attitudes toward lesbian and gay parenting. The authors found that age, gender, years of study, and religiosity, significantly predicted, directly and/or indirectly, negative beliefs toward lesbian and gay parenting, which didn't happen with marital status, having children or political leaning. Among heterosexuals, those who were older, male, more religious, and had less education, showed higher levels of sexual prejudice toward lesbian and gay parented families. Higher education, younger age, lower level of religiosity and being a women were associated with greater acceptance of gay and lesbian parenting. However, the authors noted that attitudes toward lesbian and gay parenting were generally positive, in that the mean value for negative beliefs about lesbian and gay parenting was below the scale's mid-point. A novelty of this study was that although, unsurprisingly, individual variables were linked to attitudes toward lesbian and gay parenting, the effects of religiosity, age, and gender were indirect. This reveals some of the underlying basis of sexual prejudice against lesbians and gay men as parents. The perception of controllability of homosexuality is a powerful predictor of negative reactions toward sexual minorities and related policies, and it was shown in this study that this perception is also a strong predictor of attitudes toward lesbian and gay parenting. Heterosexual men were more likely to endorse environmental (thus controllable) explanations of same-gender behaviour than heterosexual women.

Research findings intersecting sexual orientation and age-based discrimination can be found in a recent article, by Henrique Pereira *et al*<sup>16</sup>. The article was part of a larger study conducted by Opus Gay Association (a nongovernmental organisation committed to expanding LGB inclusion in Portugal). The goals were fourfold: (a) to broadly describe the sociodemographic characteristics of LGB older than 60 years living in Lisbon (Portugal); (b) to describe the type and level of social support and the nature of interpersonal relationships of these older LGB persons; (c) to characterise their physical and sexual health; and (d) to examine their experiences and concerns when accessing social and health-care services, including disclosing their identity to social and health professionals. Across these areas, differences attributable to gender were further evaluated, and results were compared to those in the literature, largely derived from North American studies. A total of 101 older LGB people participated in this research. Participants were generally older than 65 years, ranging from 60 to 89 years of age. Just fewer than 60% identified as men and 40.6% of the participants identified as women. Over half, 50.5% of participants identified as gay; 25.7% as lesbian; 12.9% as bisexual. The authors concluded that across North American and Portuguese cultures, LGB older adults may be described by similar socioeconomic characteristics (e.g., higher education, average income), reports of loneliness, distance from families, and the absence of someone on whom to rely for care when needed. On the other hand, cultural differences were noted in several contexts: while higher percentages of the Portuguese sample reported having experienced sexual orientation discrimination in health or social services, the same sample reported higher rates of better health than has been seen in North American studies—and higher rates of reported sexual activity—with no gender differences. Gender differences were noted that do not often appear in North American research. For example, the proportions of women living alone and living with family are higher than might be anticipated by existing research. The key findings point to opportunities for interventions (e.g. social outreach) and organisational changes (e.g. ensuring LGBT-inclusiveness) that can ensure LGB and T individuals have quality support services and care as they age.

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<sup>16</sup> Pereira, H.; de Vries, B.; Serzedelo, A.; Serrano, J. P.; Afonso, R. M.; Esgalhado, G.; and Monteiro, S. (2019), [“Growing Older Out of the Closet: A Descriptive Study of Older LGB Persons Living in Lisbon, Portugal”](#), *The International Journal of Aging and Human Development*, Vol. 88, No. 4, pp. 422–439.

Another study crossing sexual orientation and age-based stigma focuses on mental health. The aim of the analysis led by José Ribeiro-Gonçalves<sup>17</sup> was to examine psychological distress (PD) among older Portuguese gay and bisexual men (GBM), and the mediator role of LGBT community connectedness (LGBTCC) of minority stress variables (internalized stigma, concealment of sexual orientation, and expectations of rejection) on PD. For this purpose, the authors performed a mediation analysis with LGBTCC as a mediator between minority stress variables and PD with a sample of 110 elderly GBM, based on an online survey. The results of this study reflect the need for greater attention to the mental health needs of older Portuguese gay and bisexual men, especially regarding the possibility of marginalization and invisibility of this population. LGBT community connectedness constitutes an important ameliorating factor for the relationship between minority stressors and psychological distress, especially between concealment of sexual orientation and psychological distress. The study highlights the importance of taking LGBT community connectedness into consideration for health and socially inclusive aging of Portuguese sexual minorities.

As regards studies on either experience of discrimination or rights awareness relevant to discrimination based on age, mention should be made to “QUID AMAR Project: Democratic Association for the Defence of Women’s Interests and Equality” (*Associação Democrática de Defesa dos Interesses e Igualdade das Mulher*). This ongoing project aims to raise awareness and train care workers on the best practices for working with older people, on detecting abuse and risk abuse and on referral for available support and risk testing. One of the results of this project was the provision and dissemination of the “Manual on domestic violence against seniors”.

AGE.COMM is an interdisciplinary Research Unit - Building Functional Ageing Communities that develops various projects on the senior population<sup>18</sup>. One of the projects ongoing at this research unit is the EuroAGE Project - Innovative Initiatives for the Promotion of Active Aging in the EUROACE Region<sup>19</sup> which held several sessions last March to validate a game for training the cognitive abilities of seniors and also using a robot.

The Portuguese Association for Victim Support (APAV) has been warning Portuguese society to the still obscure reality of violence against seniors. The “Older Portugal” project<sup>20</sup>, implemented by APAV and funded by the Calouste Gulbenkian Foundation, aims to promote policy change (with impact on the activity of public, social and private institutions) in the area of aging through research and analysis and to promote awareness raising on violence against the seniors. To achieve these objectives, a Working Group was created with about sixty professionals with knowledge and experience in the area of aging or who work directly with the senior population, to identify the existing policies and measures and to discuss solutions and recommendations to improve the responses to violence against older people. This group is divided into four subgroups which focus on specific subjects, namely: i) the types of violence against seniors; ii) profile of the aggressor and risk factors; iii) caregivers; and iv) tolerance of society to violence against older people.

“To look to the side is to be an accomplice”<sup>21</sup> (*Olhar para o lado é ser cúmplice*) is a campaign launched by APAV on 21 January 2019, to raise awareness of the reality of older people and to advise of violence against older people, which has increased in recent years, according to the APAV Statistics<sup>22</sup>.

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<sup>17</sup> Ribeiro-Gonçalves, J.; Costa, P.; Leal, I. (2019), “[Psychological Distress in Older Portuguese Gay and Bisexual Men: The Mediating Role of LGBT Community Connectedness](#)”, *International Journal of Sexual Health*.

<sup>18</sup> For more information, see the [research unit webpage](#).

<sup>19</sup> For more information, see the [EuroAGE project webpage](#).

<sup>20</sup> For more information, see the [Older Portugal project webpage](#).

<sup>21</sup> For more information, see the [video of the campaign](#).

<sup>22</sup> Associação Portuguesa de Apoio à Vítima (APAV) (2019), [Pessoas Idosas Vítimas de Crime e de Violência \(2013-2018\)](#), Lisbon, Associação Portuguesa de Apoio à Vítima (APAV).

In June 2019, the National Institute for Rehabilitation (*Instituto Nacional para a Reabilitação*, INR) published its annual report, which gathered the data regarding the complaints about discrimination on the grounds of disability or aggravated health risk in 2018<sup>23</sup>. According to this report, in 2018, there was a total of 911 complaints about discrimination on the grounds of disability or aggravated health risk. Most of these complaints concerned accessibility (512), followed by the constraint or the limitation of rights (244). In comparison with 2017, there was a decrease in the number of complaints. However, this can be explained by the fact that in 2018 only 14 bodies received complaints, in contrast with 18 bodies in 2017.

In July 2019, the “Practical Guide: The Rights of People with Disability in Portugal” was published (“*Guia Prático: Os Direitos das Pessoas com Deficiência em Portugal*”)<sup>24</sup>. This e-book gathers information on social support, support measures for employment and professional training, social and tax benefits, the service Counters of Inclusion and on how to obtain a medical certificate of incapacity.

In addition, the National Institute for Rehabilitation developed several training initiatives in 2019. We highlight the following: “Initial Training for Municipal Inclusion Counter Staff” (February to March 2019 and, again, September 2019); “More Inclusive Management of the person with disability in the organizational space” (May to June 2019); and “Domestic Violence and Deaf People” (June and July 2019).

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<sup>23</sup> Instituto Nacional para a Reabilitação (2019), [\*Relatório anual 2018 sobre a prática de atos discriminatórios em razão da deficiência e do risco agravado de saúde\*](#), Lisbon, Instituto Nacional para a Reabilitação.

<sup>24</sup> Instituto Nacional para a Reabilitação (INR); Simplex + (2019), [\*Guia prático: Os direitos das pessoas com deficiência em Portugal\*](#), Lisbon, Instituto Nacional para a Reabilitação and Simplex +.

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

Among other Community Directives, the Labour Code (Law 7/2009 of 12 February<sup>25</sup>) transposed into national law Council Directive 2000/43/EC of 29 June, known as the Racial Equality Directive. In particular, the Labour Code has a subsection entitled “equality and non-discrimination”, with general provisions on this matter. According to Article 23 (2) of the Labour Code, an order or instruction performed with the purpose of harming someone on the grounds of a discriminatory factor (for example, sex, race, age) is considered discrimination. In addition, Article 24 (1) of the Labour Code, on the right to equality in the access to employment and work, states that there can be no discrimination on the grounds of nationality, ethnic origin or race, territory of origin, among others. Finally, Article 26 (1) establishes the prohibition of discrimination, namely on the grounds referred in paragraph 1 of Article 24.

On September 4, **Law 93/2019**<sup>26</sup> was approved amending the Labour and Social Security Regulation. Among the amendments introduced by the new Law 93/2019, Article 127(1)(a) stipulates that the employer must “Respect and treat the worker with courtesy and integrity, avoiding any acts that may adversely affect the dignity of the worker or that are discriminatory, harmful, intimidating, hostile or humiliating to the worker, including harassment”.

Law 93/2019 is an amendment to the 2009 Labour Code, which emphasised the importance of the prevention of harassment, namely on Article 127(1)(a).

### 2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

**Law 59/2019**<sup>27</sup> of 8 August approves the rules on the processing of personal data for the purpose of prevention, detection, investigation or prosecution of criminal offences or enforcement of criminal sanctions. In Article 6, concerning the processing of special categories of personal data, it is stated that the “processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union affiliation, as well as genetic data, biometric data intended to unambiguously identify a natural person, health data or data relating to sex life or sexual orientation may only be carried out if strictly necessary, if subject to adequate safeguards to protect the rights and freedoms of individuals and if it is authorized by law; if intended to protect the vital interests of the data subject or another natural person; or if is related to data manifestly made public by the data subject”. Paragraph 2 of that article prohibits the definition of profiles that lead to discrimination against natural persons on the basis of the special categories of personal data specified in the preceding paragraph.

**Law 113/2019**<sup>28</sup> of 11 September establishes the legal framework with regard to security and the combating of racism, xenophobia and intolerance in sports events, amending for the third time

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<sup>25</sup> Portugal, [Law 7/2009 that approves the Labour Code](#) (*Lei n.º 7/2009 que aprova o Código de Trabalho*), 12 February 2009.

<sup>26</sup> Portugal, [Law 93/2019 that amends the Labour and Social Security Regulation](#) (*Lei n.º 93/2019, que altera o Código do Trabalho e respetiva regulamentação, e o Código dos Regimes Contributivos do Sistema Previdencial de Segurança Social*), 4 September 2019.

<sup>27</sup> Portugal, [Law 59/2019 that establishes the rules on the processing of personal data for the purpose of prevention, detection, investigation or prosecution of criminal offenses or enforcement of criminal sanctions](#) (*Lei n.º 59/2019, que aprova as regras relativas ao tratamento de dados pessoais para efeitos de prevenção, deteção, investigação ou repressão de infrações penais ou de execução de sanções penais*), 8 August 2019.

<sup>28</sup> Portugal, [Law 113/2019 that establishes the legal framework of security and combat to racism, xenophobia and intolerance in sports shows](#) (*Lei n.º 113/2019, que estabelece o regime jurídico da segurança e combate ao racismo, à xenofobia e à intolerância nos espetáculos desportivos*), 11 September 2019.

Law 39/2009 of 30 July. It aims to improve the combating of racial intolerance and xenophobia, in order to make sporting events safe and ensure that they comply with the ethical principles inherent in their practice. This new legislation increases all the sanctions previously provided for in the law: a shortening of procedural time limits; conditions for banning sports venues; concrete identification of fans; reinforcement of the obligations of sports agents to take preventive action; and the creation of a fan card to access certain areas of some sports events, due to racist, xenophobic and intolerant behaviour. This new legislation also aims to provide a framework for the Authority for the Prevention and Combat of Violence in Sport, created in August 2018.

Within the framework of equality and non-discrimination, anti-racism, xenophobia and intolerance policies, the High Commissioner for Migration (*Alto Comissariado para as Migrações* - ACM) developed a set of **information/awareness actions on interculturality and migration**, in a total of 46 actions involving 1,076 participants, between January and August 2019. The actions highlight the training developed with the Security Forces, through protocols between the competent public services and the ACM:

- **Together for All Protocol**<sup>29</sup>, signed by the National Command of the Public Security Police (*Polícia de Segurança Pública* - PSP) and the ACM in July 2016, aimed to contribute to the prevention of conflict in multicultural communities that may be vulnerable, as well as to the security of everyone, regardless of nationality or cultural background. By April 2019, 74 sessions had been held dealing with integration, cultural diversity and the fight against racial discrimination, with the participation of 1,355 PSP agents. In 2019, 255 agents were trained.
- **Protocol of collaboration with the Republican National Guard** (*Guarda Nacional Republicana* - GNR), signed in November 2017. Among the objectives, there are plans for awareness and information actions that promote better knowledge of the situation of migrant and refugee people in Portugal with the effective GNR and local partner entities. Between January and September 2019 140 GNR military personnel participated in this training.
- **Protocol of collaboration with the Directorate-General for Reintegration and Prison Services**<sup>30</sup> (*Direção-geral de Reinserção e Serviços Prisionais* - DGRSP), July 2018, with the objective of organizing training courses for DGRSP workers (Senior Rehabilitation and Reintegration Officers, Social Reintegration Professionals, Prison Guard Corps) in the areas of cultural diversity and intercultural dialogue. Between January and September 2019, more than 183 professionals received training on Stereotypes, Racial Discrimination (on this specific subject action were related to the Law against racial discrimination), Migratory Phenomena and Ethnic Groups.
- Training provided by ACM as part of the **Training Courses for Criminal Police Inspectors** (*Polícia Judiciária* – PJ). Between March and September 2019 140 trainees attended the course.

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<sup>29</sup> For more information, see the High Commissioner for Migration [webpage on the “Together for All” protocol](#).

<sup>30</sup> For more information, see the High Commissioner for Migration [webpage on the protocol of collaboration with the Directorate-General for Reintegration and Prison Services](#).

The Directorate-General for Education under the National Citizenship Education Strategy (ENEC), and the Student Profile on Leaving Compulsory Education<sup>31</sup>, carried out the following activities:

- The SeguraNet Awareness Centre (*Centro de Sensibilização SeguraNet*)<sup>32</sup> carried out a series of initiatives that promote the prevention and combat of hate speech, namely Digital Leaders, the annual SeguraNet Challenges Contest, the Digital Security Seal, various campaigns aimed at schools, development of educational resources and teacher training.
- International Conference “Education, Citizenship, World. What school for what society?” (Lisbon, May 28 and 29, 2019)<sup>33</sup>. This Conference was organized by the Ministry of Education, through the Directorate-General for Education, in collaboration with the Organization of Ibero-American States for Education, Science and Culture, the Community of Portuguese-Speaking Countries and the Council of Europe. This conference underlined the importance of continuing to work on actions and projects that contribute to the improvement of the quality of education systems, increase regular listening practices and teacher training as strategies to reinforce the fundamental role of school in raising awareness of rights. During the Conference, a plenary dialogue session was held by the Secretary of State of Education with students from various participating countries, which was expressly included in the set of activities carried out by the Ministry of Education in order to promote active civic intervention of children and young people. It was called “The Voice of Students”.
- Massive Open Online Course in Curriculum Autonomy and Flexibility, including a module on Citizenship and Development (component of the curriculum in which the fields of Human Rights and Interculturality are required at all education levels).

ACM has also developed a set of intercultural education, capacity building and human rights awareness activities. The activities developed are as follows:

- **Choices Programme (Programa Escolhas)**<sup>34</sup>. In connection with the social inclusion of children and youth, and as part of the strategic measure linked to civic and community participation, rights and duties, the projects supported by the Choices Programme have been developing a set of actions to contribute to participation and citizenship, promoting greater awareness of civic and community rights and duties. In line with this, the Programme has been encouraging local projects to promote youth assemblies as participation mechanisms that enable young people to develop citizenship skills, making them more autonomous and socially engaged. Globally, the 7th Generation Choices Programme will cover the 2019-2020 period. In the first half of 2019, 12,594 people were already involved, including 10,407 children and young people (46% female and 54% male).
- **Network of Schools for Intercultural Education (Rede de Escolas para a Educação Intercultural - REEI)**<sup>35</sup>. Created in 2016, this is a joint initiative of ACM, the Ministry of Education (through the Directorate-General for Education), and the Aga Khan Portugal Foundation. It aims to support schools in the transformation of their practices,

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<sup>31</sup> The Student Profile on Leaving Compulsory Education approved by Order 6478/2017 of 26 July is a reference for the decisions to be taken by decision makers and educational actors of education establishments and bodies responsible for educational policies. For more information, see the Directorate-General for Education [webpage on the Student Profile on Leaving Compulsory Education](#).

<sup>32</sup> For more information, see the [SeguraNet Awareness Centre webpage](#).

<sup>33</sup> For more information, see the Directorate-General for Education [webpage on the International Conference “Education, Citizenship, World. What school for what society?”](#).

<sup>34</sup> For more information, see the [Choices Programme webpage](#).

<sup>35</sup> For more information, see the Directorate-General for Education [webpage on the Network of Schools for Intercultural Education](#).

recognizing and valuing diversity as a source of learning and development, supporting Intercultural Education as an integral part of citizenship education. Membership of the Network is on a voluntary basis, and 120 public, private and music schools were involved in this pilot project, which is still ongoing in 2019.

On 15 and 16 July 2019 ACM, in partnership with Facebook Iberia, held two training sessions on **“Prevention and the Fight against Hate Speech on the Internet and Facebook”**<sup>36</sup> in Lisbon and Porto. As part of the prevention and combating of racial discrimination, the initiative was attended by the Secretary of State for Citizenship and Equality, the High Commissioner for Migration and representatives of Facebook. Councillors of the Commission for Equality and Against Racial Discrimination (*Comissão para a Igualdade e Contra a Discriminação Racial - CICDR*), leaders and representatives of associations of migrants, refugees and Roma communities and of public and private partners of the Institute participated in both sessions. This initiative is justified by the fact that in the last “Annual Report on the Status of Racial and Ethnic Equality and Non-Discrimination”<sup>37</sup>, out of 346 complaints received, 49 concerned the Internet and the field of “Social Media/Internet” was in second place. Discrimination had the second-largest number of complaints after “Commerce”. This training was attended by 159 participants.

In 2019 (1 January to 15 September) CICDR recorded **302 complaints** (an average of 35 per month). This is an increase of 20.3% over the same period in 2018 (251), when 30 were received per month. According to CICDR, the increase in complaints is due to increased knowledge of the law and complaint mechanisms.

On 25 January 2019 CICDR met with RTP, SIC and TVI television stations, the Media Regulatory Authority (ERC) and the Union of Journalists (SJ), with the purpose of enforcing the **“recommendation to adhere to the principle of non-reference to racial and ethnic origin, nationality, ancestry, territory of origin and documentary situation”**<sup>38</sup>, settled by the CICDR, of 28 September 2018, when criminal or administrative offences are at stake, except in situations where such realization is essential to denounce situations of racism. The meeting was scheduled due to the way the media covered police intervention with the residents of the Jamaica neighbourhood on 20 January. In light of the facts, and the extreme growth of xenophobic discourse on digital platforms, social networks and online comment boxes, CICDR hosted the meeting to “establish synergies” and promote joint reflection on “the important role” of social communication in preventing and combating discrimination.

The CICDR and the Migration Observatory (OM) hosted a meeting on 21 March 2019 on the **1st National Day for the Elimination of Racial Discrimination**<sup>39</sup>. The session was attended by the Minister of the Presidency and Administrative Modernization and the Secretary of State for Citizenship and Equality. The event marked the launch of the **7th Generation Choices Programme**<sup>40</sup>, as well as the launch of the latest **Statistical Bulletin OM # 5**, “Discrimination on the grounds of Racial, Ethnic or Migratory Origin in European Union Countries: Perceptions

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<sup>36</sup> For more information, see the High Commissioner for Migration [webpage on the training sessions “Prevention and Fight against Hate Speech on the Internet and Facebook”](#).

<sup>37</sup> Comissão para Igualdade e Contra a Discriminação Racial (2019), [Relatório Anual 2018 – Igualdade e não discriminação em razão da origem racial e étnica, cor, nacionalidade, ascendência e território de origem](#), Lisbon, Comissão para Igualdade e Contra a Discriminação Racial.

<sup>38</sup> Commission for Equality and Against Racial Discrimination (*Comissão para Igualdade e Contra a Discriminação Racial*) (2018), [Recommendation to adhere to the principle of non-reference to racial and ethnic origin, nationality, ancestry, territory of origin and documentary situation](#) (*Recomendação à adesão ao Princípio de não-referência da origem racial e étnica, cor, nacionalidade, ascendência, território de origem e situação documental*), 28 September 2018.

<sup>39</sup> For more information, see the High Commissioner for Migration [webpage on the 1st National Day for the Elimination of Racial Discrimination](#).

<sup>40</sup> For more information, see Government’s [webpage on the 7th Generation Choices Programme](#).

and Experiences Reported in Surveys”<sup>41</sup>, in the “Immigration in Numbers” Collection of the Migration Observatory. The initiative had 65 participants.

The **Conference “Racism, Xenophobia and Ethnic-Racial Discrimination in Portugal”**<sup>42</sup>, organized by the Subcommittee on Equality and Non-Discrimination of the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees (*Subcomissão para a Igualdade e Não Discriminação, da Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias*) was held on 9 July 2019. The Conference is the latest in a series of subcommittee initiatives on racism, xenophobia and racial discrimination, culminating in a Parliamentary Report. This initiative was attended by a wide range of national and international speakers invited to make a critical reflection on the content and themes addressed in the **Report on Racism, Xenophobia and Ethnic-Racial Discrimination in Portugal**<sup>43</sup>, thus contributing to the final proposals and recommendations to be presented in the field of public policy for a more effective fight against racism, xenophobia and ethnic-racial discrimination in our country.

The **Report on Racism, Xenophobia and Ethnic-Racial Discrimination in Portugal** was the result of a parliamentary proposal. It was based on the testimonies of 31 entities and personalities, contact with more than 28 organizations and the opinion of 18 deputies from all political parties with parliamentary seats. The document states that Portugal is a country where there is racist behaviour and makes recommendations for intervention in the areas of education, health, justice, security, housing and work, in order to combat inequalities and racism. The areas of justice and security are among the most sensitive, with the indifference and distrust of the populations of the most precarious neighbourhoods towards the police entities, and the report therefore affirms the need to generate trust, particularly among the younger population, and recommends using camcorders on officers’ uniforms when police interventions occur. It also recommends the recruitment of security agents from African and Roma communities, as well as a survey of the ethno-racial origin of the Portuguese prison population. In connection with education, the report defends the fight against the segregation of children of African and Roma origin within the education system by calling for the abolition of schools or classes attended exclusively by these children, and the study of the integration of these young people into university education in order to implement positive discrimination measures. As for housing, the report recommends that legal and social rental support mechanisms be set up to prevent refusal to rent houses to Roma or people of African descent. With regard to the labour dimension, the report recommends regulating the status of the socio-cultural mediator, providing specific training for inspectors of the Working Conditions Authority (ACT), creating supportive employment projects for Roma communities, and also creating mechanisms to combat exclusion on ethnic and racial grounds in job selection processes. In the area of health, it recommends strengthening technical guidelines and information and training mechanisms on the rights of users, immigrants in general or undocumented persons in all services. At the political level, it advocates that political parties include more people from ethnic minorities on their lists for the various electoral processes. Being preliminary, the report will incorporate more suggestions in future versions.

On 24 November, the meeting “Family of the side” (“*Família do lado*”) was held simultaneously in several Portuguese cities<sup>44</sup>. “Family of the side” is a transnational project, created in the Czech Republic in 2004, which aims to contribute to a more effective integration of Roma people, migrants and refugees by strengthening social relations and promoting cultural diversity through intercultural and interreligious dialogues. The 2019 “Family of the side” meeting gathered 203

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<sup>41</sup> Santos, T. (2019), “[Discriminação em razão da origem racial, étnica ou migratória nos países da União Europeia: percepções e experiências reportadas em inquéritos](#)”, *Boletim Estatístico OM*, No. 5, Observatório das Migrações.

<sup>42</sup> For more information, see the Parliament [webpage on the conference “Racism, Xenophobia and Ethnic-Racial Discrimination in Portugal”](#).

<sup>43</sup> Parliament (*Assembleia da República*) (2019), [Preliminary Summary Document – Report on Racism, Xenophobia and Ethnic-Racial Discrimination in Portugal](#) (*Documento síntese preliminar – Relatório sobre o Racismo, Xenofobia e Discriminação Étnico-racial em Portugal*), 5 July 2019.

<sup>44</sup> For more information, see the High Commissioner for Migration [webpage on the “Family of the side” meeting](#).



migrant families and 184 national families, with a total of 1,075 participants from 38 countries, at 117 lunches held across the country. This initiative was organised by 84 entities (municipalities, civil society entities and projects from the Choices Programme), supported by 197 volunteers and took place in 53 cities.

On 9 December, the Second Edition of “Refutur – Tourism Training Course” (*Refutur – Curso de Formação para Capacitação em Turismo*)<sup>45</sup> started at the Porto School of Hospitality and Tourism, with students from Ghana, Brazil, Sudan, Iraq, South Sudan, Democratic Republic of the Congo and Venezuela. This initiative results from a partnership between the High Commissioner for Migration and Tourism of Portugal (*Turismo de Portugal*). The course will be extended until March 2020 and has 15 participants: 11 refugees and 4 migrants.

On 18 December, on the International Day of Migrant People, the “XI OM Days”<sup>46</sup> event, organised by the Migration Observatory, was held to promote the debate and reflection on the integration of migrants. Participants included researchers, policy makers and representatives of civil society organisations, among others. In the closing session of the “XI OM Days”, the Secretary of State for Integration and Migration underlined that “migration is beneficial to societies”. This initiative also included a special pop-up store with products from immigrant entrepreneurs supported by the High Commissioner for Migration.

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<sup>45</sup> For more information, see the High Commissioner for Migration [webpage on the Refutur - Tourism Training Course](#).

<sup>46</sup> For more information, see the High Commissioner for Migration [webpage on the “XI OM Days”](#).

## Chapter 3. Roma integration

### 1. Measures and developments addressing Roma/Travellers segregation

In Portugal, citizens' personal data have not been collected, particularly as regards their ethnic or racial origin, considering the provisions of the Portuguese Constitution (article 35), as well as the Personal Data Protection Law. In this regard, some international institutions – the European Commission against Racism and Intolerance<sup>47</sup>, the Fundamental Rights Agency<sup>48</sup>, and the Committee on the Elimination of Racial Discrimination<sup>49</sup> – made recommendations to Portugal regarding systematic and comprehensive data collection to objectively assess the extent of inequalities based on the idea of race or ethnicity and to support the development of public policies focusing on equality promotion<sup>50</sup>. Following those recommendations, the XXI Constitutional Government (2015-2019) considered that such information could be collected through census, provided that it was voluntary and in compliance with the legal framework, and created a working group with the below-mentioned purposes.

Between 5 February 2018 and 3 April 2019, the Census Working Group 2021 - “Ethnic-Racial Issues”, created by Order 7363/2018, started its activity. This group aimed to produce recommendations that could contribute to the 2021 Census, with a view to incorporating, in the questionnaire that will serve as its basis, a question about the ethnic-racial composition of the population in Portugal. The working group included representatives of the National Institute of Statistics (the entity with competence for census implementation), the Committee on Equality and Against Racial Discrimination of the High Commissioner for Migration, the Observatory for Migration, the Observatory of the Roma Communities, NGOs working on these issues and academics.

On 28 March 2019, a summary of the work produced by the Working Group was presented, in which, after weighing the advantages and disadvantages and according to the opinion of the majority, it is recommended to include the question of “ethnic and racial origin and/or belonging” in the 2021 Census<sup>51</sup>. This conclusion considers that the use of ethno-racial categories is a reality of everyday life and institutions in contemporary societies, beyond the scope of census. What effectively defines the legitimacy of collecting and using such data are the underlying political and social objectives. The working group identifies some examples of countries using this data collection, considering its relevance to the public policies focusing on the fight against racism and inequalities, in close relationship with racialised communities. The collection and systematisation of this kind of data, although done in some studies in Portugal, are diffuse and do not allow for systematic monitoring of the phenomenon of racism, either individually or structurally. Thus, one of the great advantages of collecting this information through census is the national coverage and the population universe, which makes it a fundamental and appropriate instrument for assessing ethnic-racial inequalities. Nonetheless, the working group recognises that the introduction of ethnic-racial categories in the census poses the risk of legitimising and naturalising the cognitive foundations of racism, as well as of increasing the risks of discriminatory appropriation of the information thus produced.

Despite the recommendation of the Working Group to include the question about the ethnic-racial origin of the population in the 2021 Census, the National Institute of Statistics decided to decline this recommendation and thus will not to include this question. The reasons presented concern the complexity of the formulation of the question and the risk of institutionalising ethnic-racial

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<sup>47</sup> European Commission against Racism and Intolerance (2018), *Portuguese Report*, Strasbourg, Council of Europe.

<sup>48</sup> Fundamental Rights Agency (2018), *Fundamental Rights Report 2018*, Vienna, Fundamental Rights Agency.

<sup>49</sup> Committee on the Elimination of Racial Discrimination (2016), *Concluding observations on the fifteenth to seventeenth periodic reports of Portugal*, Geneva, Committee on the Elimination of Racial Discrimination.

<sup>50</sup> See the High Commissioner for Migration [webpage to read the summary of the work produced by the Census Work Group 2021](#).

<sup>51</sup> See the High Commissioner for Migration [webpage to read the summary of the work produced by the Census Work Group 2021](#).

categories and legitimising people's classification. The decision of the National Institute of Statistics was strongly disapproved by some members of the working group, who consider that it was a missed opportunity to pursue the challenges identified by NGOs and international organisations regarding the need to collect ethnic and racial data for the purpose of public policies to fight against ethnic and racial inequalities.

## 2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

A new edition of the **ROMED Programme** - Democratic governance and community participation through mediation - was launched on 31 January 2019 with the signing of the letter of commitment by the Secretary of State for Citizenship and Equality (*Secretária de Estado para a Cidadania e a Igualdade*) and Nomadic Letters - Association for Researching and Promoting the Roma Communities (*Letras Nómadas – Associação de investigação e dinamização das comunidades ciganas*). This new edition of the programme aims to continue the implementation of local Roma integration strategies through mediation and active participation of the communities, in coordination with other public policy measures.

The High Commissioner for Migration (*Alto Comissariado para as Migrações* - ACM), within the **National Strategy for the Integration of Roma Communities 2013-2022**, following a review of the programme in late 2018, now includes an autonomous section on Roma women and girls, with 5 concrete measures and 16 indicators (ranging from training and capacity building, awareness raising, financing, labour market integration, elimination of violence against women and domestic violence, combating school dropout).

The ACM launched on February 12 the Third Edition of PAAC - **Programme for Supporting Roma Associations in 2019**<sup>52</sup>. PAAC aims to contribute directly to the implementation of the priorities set out in the National Strategy for the Integration of Roma Communities (ENICC), defined in the Resolution of the Council of Ministers 154/2018 of 29 November. The projects should structure their action by carrying out activities that have as objectives: encourage the participation of the Roma communities as an exercise of citizenship; promote the fight against discrimination and raise public awareness; invest in Roma empowerment strategies; value the history and culture of Roma communities, including language; recognize the values of the Roma culture in Portugal; show public institutions the importance of intercultural mediation; promote other actions that directly contribute to achieving the goals defined in the priorities established in ENICC.

On April 8, the winning projects of the III PAAC Edition were disclosed. Eight projects were chosen, two more than in 2018, and the available budget increased from 30 thousand euros (in 2018) to 32 thousand euros (in 2019).

On 11 March 2019, the **Lusco-Fusco Project** was launched, and it aimed at including Roma children from the communities of the Faro region. The project is implemented by the ECOS Cooperative, the Pinheiro and Rosa School Grouping, the IPDJ regional delegation, the Faro City Council, the Faro Child and Youth Protection Commission and the Association of Drug Assistance Group. The project, lasting 22 months, is part of the Choices Programme, funded by the government and the European Social Fund. The project follows the projects “CRIA”, “RECRIA” and “FLICC”, funded until last year by the AAPACDM. The main goals are: promoting the right to education through activities aimed at reducing absenteeism, promoting school success for Roma children and young people, and promoting civic participation, active

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<sup>52</sup> For more information, see the High Commissioner for Migration [webpage on the Programme for Supporting Roma Associations 2019](#).

citizenship, intercultural dialogue and mutual acceptance between Roma and non-Roma children and young people.

In April 2019 a script for schools was published. It was entitled **Promoting the Inclusion and Educational Success of Roma Communities** and it was authored by the Directorate-General for Education and edited by the Ministry of Education/Directorate-General for Education<sup>53</sup>. Noting that the success of a growing number of young Roma in school contrasts with the failure and early withdrawal of many, this guide aims to guide and support the work of schools in the inclusion and educational success of Roma people. Based on the principle of school autonomy, it is not intended to present recipes, but rather resources, proposals and working examples, integrated in a useful tool to fulfil the central mission of the Portuguese education system: education for all, valuing the presence, the participation and development of all children and young people, regardless of their cultural and socio-economic background, while providing equal opportunities and respecting difference.

On 8 April 2019, as part of the commemoration of the International Roma Day, the Observatory of the Roma Communities (*Observatório das Comunidades Ciganas – ObCig*) awarded the “**ObCig Integrating Companies Award**” to the Dst Group because it plays an important role in integrating Roma people. By institutionalizing this award, the ObCig aims to inspire other employers to develop and implement Roma business integration policies and practices, and this year the company has been an example of integration, currently employing 12 Roma people.

Promoted by the ACM, in partnership with the Municipality of Tomar, the **Seminar “Access to Education and Employment and the Local Dimension in the Integration of Roma Communities”**<sup>54</sup> (June 2019) for the National Day of the Roma people was held. It was attended by representatives of municipalities promoting Local Plans for the Integration of Roma Communities (PLICC)<sup>55</sup>, bodies promoting socio-professional integration projects, Roma associations, as well as mediators.

The High Commissioner for Migration, through the **Choices Programme**<sup>56</sup>, launched on 26 July 2019 the **ROMA Educa** programme, which aims to award 100 scholarships to support secondary education for Roma students in the school year 2019/2020. Students from Roma communities who are enrolled and attending the 10th, 11th and 12th grades, can access this programme, preferably in territories covered by the local projects funded by the Choices Programme. On 20 November, the High Commissioner for Migration published the list of students granted scholarships under the ROMA Educa Programme<sup>57</sup>. On 17 December, the first meeting of the Roma scholarship holders was held in Lisbon<sup>58</sup>.

On 5 September 2019, the European Commission published the **Report on the Implementation of National Roma Integration Strategies - 2019**<sup>59</sup>. The report summarizes the most important trends, focusing on the four policy areas of the European Framework for National Roma Strategies

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<sup>53</sup> Direção-Geral da Educação (2019), *Promover a Inclusão e o Sucesso Educativo das Comunidades Ciganas – Guia para as Escolas*, Lisbon, Ministério da Educação/Direção-Geral da Educação.

<sup>54</sup> See the High Commissioner for Migration [website to consult the programme of the seminar](#).

<sup>55</sup> For more information, see the High Commissioner for Migration [website on the Local Plans for the Integration of Roma Communities](#).

<sup>56</sup> The Choices Programme is a national government programme created in 2001, developed by the Presidency of the Council of Ministers and integrated into the High Commissioner for Migration - ACM, whose mission is to promote the social inclusion of children and youth from vulnerable socioeconomic backgrounds, while aiming at equal opportunities and social cohesion.

<sup>57</sup> For more information, see the High Commissioner for Migration webpage [concerning the list of students granted scholarships under the ROMA Educa Programme](#).

<sup>58</sup> For more information, see the High Commissioner for Migration webpage [on the first meeting of the ROMA Educa scholarship holders](#).

<sup>59</sup> European Commission (2019), *Communication from the Commission to the European Parliament and the Council: Report on the implementation of national Roma integration strategies – 2019*, COM(2019) 406 final, Brussels, 5 September 2019.

(education, employment, health and housing), as well as in the fight against discrimination and hostility towards Roma. In each of these areas, the report highlights the situation of Roma, summarizes the main types of inclusion measures, the results and the challenges related to their implementation, and sets out the lessons to be learned from policies, highlighting promising approaches and the priorities to be addressed, based on the existing assessments and the opinions of civil society and national contact points for Roma communities.

The ACM and the Association for the Development of Portuguese Roma Women held on 18 September 2019 the **II Meeting “Speech Circles of Roma Women”**<sup>60</sup>. This meeting aims to bring together Roma women of various age groups and promote their empowerment by sharing expectations, challenges and experiences. It is about giving a space and voice to the women who are the great agents of change in their lives and in their families and communities. ACM’s mission is to collaborate in the creation, implementation and evaluation of public, cross-sectorial and sectorial policies on the integration of migrants and ethnic groups, in particular Roma communities, and this initiative goes hand in hand with the objective of promoting equality between women and men, and the Roma integration measures included in the **National Strategy for the Integration of Roma Communities 2013-2022**.

**Local Plans for Roma Integration (PLICC)** - Initiative promoted by the ACM, aims to promote local intervention and democratic participation of Roma communities, and promote partnerships to design and implement strategies for bringing Roma communities closer to society in general. The implementation of the PLICC took place between July 2018 and July 2019. Ten Municipal Plans and 2 Intermunicipal Plans were developed, which stimulate the implementation of ENICC, as well as the Guide for the Development of PLICC, a document for the national dissemination of PLICC that will be released soon.

The **Choices Programme** aims to promote the social inclusion of children and young people from more vulnerable socioeconomic backgrounds, including those of immigrant and ethnic minority descent. In the first half of the 7th Generation of the Choices Programme (January to June 2019), 10,407 children and young people were involved, of which 2,213 were Roma children and young people. From a total of 103 projects, 95 invested in education, training and qualification.

The main objective of the **OPRE Programme**, an initiative aimed at young higher education students from Roma communities, is to prevent early dropout in this level of studies, as well as to tear down the barriers between these communities and the formal education system. In the 2018/2019 school year the programme included 33 applicants: 17 women and 15 men. Success rates are still being analysed.

The section “**Roma Voices**” stands out in the Observatory of the Roma Communities Newsletter. This section presents reflections and testimonies from Roma children, youth and adults from different areas, from school education (all levels), to mediation, intercultural education, associative and civic actions, integration into the labour market, etc.

Throughout 2019, seminars and training sessions were held in Human Rights, Citizenship, Racism, Discrimination, School Education and Roma Culture for different social and educational players, such as judges, lawyers, social workers, psychologists, teachers, city council officers, children from the Commission for the Protection of Children and Youth and graduate students, including a total of approximately 200 people.

The North Directorate-Regional for Culture, in partnership with the Monastery of S. Martinho de Tibães and the school E.B. 2,3 of Nogueira, and with support from the Municipal Council of Braga, developed the activity “Who is afraid?” (*Quem tem medo?*). This activity aims to bring

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<sup>60</sup> For more information, see the High Commissioner for Migration [website on the “Speech Circles of Roma Women”](#).

Roma culture closer to the rest of the community, specifically by fighting school dropout of Roma students and promoting the acceptance of differences. It targets 22 Roma students with potentially unsuccessful school trajectories and foresees three workshops which will be implemented over three years (2017-2020), including dance, theatre and music, which are structural and identity elements of the Roma culture. In 2019 they developed three activities: in March 2019, the launch of the book “To construct a neighbourhood” (*Para construir um bairro*); in July 2019, the exhibition “My city” (*A minha cidade*); and in October 2019, a photographic exhibition of the “Who is afraid?” project.

On 22 October, the High Commissioner for Migration held an event in Lisbon to promote Roma music as a means of integrating Roma people<sup>61</sup>.

On 7 November, the project “**Municipal and Intercultural Mediators**” was presented by the Coimbra City Council<sup>62</sup>. This project is financed by POISE – Operational Programme Social Inclusion and Employment (“*Programa Operacional Inclusão Social e Emprego*”), with a contribution of 85% from the European Social Fund. The project led by the municipality will last 36 months and aims to facilitate the integration of migrant and Roma people in the municipality.

On 10 December, the Conference Cycle “**Roma Communities: Inclusion and Educational Success**” (“*Comunidades Ciganas: Inclusão e Sucesso Educativo*”)<sup>63</sup> took place at the Ordem de Sant’iago School Group in Setúbal. This event allowed the discussion of topics concerning the education and integration of Roma people, good practices in schools, community intervention projects and Roma history and culture.

On 19 December, the High Commissioner for Migration, through the Observatory of the Roma Communities (ObCig), held the International Seminar “**Plural Views on Integration**” (*Olhares Plurais sobre Integração*)<sup>64</sup>. The initiative included the presentation of three new publications from the Observatory of the Roma Communities as part of the “Olhares Collection”. The Secretary of State for Integration and Migration emphasised the central role of the studies carried out by ObCig in “fighting existing stereotypes regarding Roma people”, highlighting the relevant role of those three publications to “show the various situations of vulnerability of Roma populations”.

#### **List of abbreviations and acronyms**

- AAPACDM – Association of Parents and Friends of Children with Diminished Mental Capacities in the region of Algarve
- ACM - High Commissioner for Migration
- ENICC - National Strategy for the Integration of Roma Communities
- IPDJ - Portuguese Institute of Youth and Sport
- ObCig – Observatory of the Roma Communities
- PAAC - Programme for Supporting Roma Associations
- PLICC - Local Plans for Roma Integration

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<sup>61</sup> For more information, see the High Commissioner for Migration [on this event](#).

<sup>62</sup> For more information, see the Coimbra’s City Council website [on the “Municipal and Intercultural Mediators” project](#).

<sup>63</sup> For more information, see the High Commissioner for Migration webpage [on the “Roma Communities: Inclusion and Educational Success”](#).

<sup>64</sup> For more information see the High Commissioner for Migration webpage [on the “Plural Views on Integration” international seminar](#).

## Chapter 4. Asylum, visas, migration, borders and integration

### Unaccompanied children reaching the age of majority

Area of support	<i>Description</i>
<p><b>Residence permit</b></p> <p><i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>Unaccompanied children get different residence permits as asylum seekers, as beneficiaries of international protection (refugee status or subsidiary protection) or as children who have not applied for international protection or have seen their application refused.</p> <p>Within the framework of the Asylum Law (Law 27/2008 of 30 June that establishes the conditions for granting asylum or subsidiary protection, amended by Law 26/2014 of 5 May 2014<sup>65</sup>) asylum applicants are issued with a certificate within 3 days of registration (Asylum Law, Article 14). Thereafter, the National Director of the Foreigners and Borders Services (<i>Serviço de Estrangeiros e Fronteiras</i> – SEF) has 30 days to decide on the admissibility of applications. As soon as an application is deemed admissible, the asylum seeker receives a provisional renewable residence permit valid for 6 months, which grants access to education and employment (Asylum Law, Article 27).</p> <p>Refugees enjoy renewable residence permits valid for 5 years (Asylum Law, Article 67 (1)). Beneficiaries of subsidiary protection enjoy renewable residence permits valid for 3 years (Asylum Law, Article 67 (2)). Family members of beneficiaries of international protection enjoy exceptional residence permits for the same length of time (Asylum Law, Article 67 (3)).</p>

<sup>65</sup> Portugal, [Law 27/2008 that establishes the conditions for granting asylum or subsidiary protection](#) (*Lei n.º 27/2008 sobre a concessão de asilo ou proteção subsidiária*), 30 June 2008.

Within the framework of the Immigration Law (Law 23/2007 of 4 July on the legal status of entry, residence, departure and removal of foreigners from national territory, amended several times<sup>66</sup>), unaccompanied children were the subject of an amendment of the law approved in 2018 (Law 26/2018 of 5 July<sup>67</sup>).

Children and young people of foreign nationality who are fostered in a public, cooperative, social or private institution under a cooperation agreement with the State (including children that never applied for asylum or whose application was rejected), following a process of promotion and protection, in accordance with Law on the Protection of Children and Young People at Risk (Law 147/99 of 1 September, amended several times<sup>68</sup>), benefit from a temporary residence permit, valid for a period of one year from the date of issuance which is renewable for consecutive two-year periods (Articles 75 and 123 of the Immigration Law<sup>69</sup>).

There are no specific rules on the impact of reaching majority on migratory status. The permits do not expire when children turn 18 years old.

According to the Law on the Protection of Children and Young People at Risk, protection measures do not cease automatically once children reach the age of 18. The measure may be maintained beyond the age of majority until 21 years of age (Law for the Protection of Children and Young People at Risk, Article 63 (1) (d)<sup>70</sup>). In exceptional cases, if requested by the young person, the measures of promotion and protection of support for autonomy of life, whenever applicable - and only while educational or professional training processes last - may be extended until the age of 25 (Law for the Protection of Children and Young People at Risk, article 63 (2)<sup>71</sup>).

In Portugal, the minimum age to take up employment is 16 (as well for Portuguese or non-nationals). Children are allowed to work when they turn 16 years old, provided that they meet certain requirements (Article 68 (1) of the Labour Code<sup>72</sup>): they must have completed compulsory education or be enrolled in high school; and they must be

<sup>66</sup> Portugal, [Law 23/2007 on the legal status of entry, residence, departure and removal of foreigners from national territory](#) (*Lei n.º 23/2007 relativa à entrada, permanência, saída e afastamento de estrangeiros do território nacional*), 4 July 2007.

<sup>67</sup> Portugal, [Law 26/2018 on the regulation of the legal status on children and young people of foreigner nationality admitted in State institutions or equivalent](#) (*Lei n.º 26/2018 sobre a regularização do estatuto jurídico das crianças e jovens de nacionalidade estrangeira acolhidos em instituições do Estado ou equiparadas*), 5 July 2018.

<sup>68</sup> Portugal, [Law 147/99 on the protection of children and young people at risk](#) (*Lei n.º 147/99 de proteção de crianças e jovens em perigo*), 1 September 1999.

<sup>69</sup> Portugal, [Law 23/2007 on the legal status of entry, residence, departure and removal of foreigners from national territory](#) (*Lei n.º 23/2007 relativa à entrada, permanência, saída e afastamento de estrangeiros do território nacional*), 4 July 2007.

<sup>70</sup> Portugal, [Law 147/99 on the protection of children and young people at risk](#) (*Lei n.º 147/99 de proteção de crianças e jovens em perigo*), 1 September 1999.

<sup>71</sup> Portugal, [Law 147/99 on the protection of children and young people at risk](#) (*Lei n.º 147/99 de proteção de crianças e jovens em perigo*), 1 September 1999.

<sup>72</sup> Portugal, [Law 7/2009 that approves the Labour Code](#) (*Lei n.º 7/2009 que aprova o Código do Trabalho*), 12 February 2009.



	<p>physically and psychologically capable of performing their work duties and tasks. Children under 16 years old can do some light work provided they meet certain requirements (Article 68 (3) of the Labour Code): they must have completed compulsory education or be enrolled in high school; and the work must not affect adversely their health and safety, school attendance, participation in guidance programmes or other training programmes or somehow preclude their ability to benefit from instruction or their psychic, moral, intellectual and cultural development. Besides age, as stated above, according to the Asylum Law, asylum seekers and beneficiaries of international protection can only work if they hold a provisional residence permit (Article 54 (1)).</p> <p>The Asylum Law limits vocational training to asylum seekers who are entitled to access the labour market i.e. those who are admitted to the regular procedure and have a provisional residence permit (Article 55 (1)). With possible positive impact on the labour market, we highlight the Education and Vocational Training Integrated Programmes (<i>Programas Integrados de Educação e Formação</i>). According to the Portuguese Refugee Council, in 2018 some unaccompanied asylum-seeking children were referred to these programmes regardless of their residence status. Such programmes have proved useful in dealing with particularly complex cases of unaccompanied asylum-seeking children with very poor education levels at arrival<sup>73</sup>.</p>
<p><b>Guardianship (representative under Reception Conditions Directive Article 24.1)</b></p>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian’s support, for example transforming the guardian into a ‘mentor’ supporting the child until a certain age.</i></p> <p>Under the Asylum Law (Article 79 (1) and (2)) all unaccompanied child asylum seekers or beneficiaries of international protection are entitled to legal representation<sup>74</sup>. According to the General Legal Regime of Civil Guardianship (Law 141/2015 of 8 September<sup>75</sup>) and the Law on the Protection of Children and Young People at Risk, national authorities (SEF, in particular) are required to immediately report the need of the unaccompanied child for legal representation to the Family and Juvenile Court.</p>

<sup>73</sup> Portuguese Refugee Council (2019), *Country Report: Portugal - 2018 update*, Asylum Information Database (AIDA). For more information, see the Directorate-General for Education’s [webpage on the Vocational Training Integrated Programmes](#).

<sup>74</sup> Portuguese Refugee Council (2019), *Country Report: Portugal - 2018 update*, Asylum Information Database (AIDA).

<sup>75</sup> Portugal, [Law 141/2015 that approves the legal regime of civil guardianship](#) (*Lei n.º 141/2015 que aprova o regime geral do processo tutelar cível*), 8 September 2015.

	<p>Regarding asylum seekers and beneficiaries of international protection, the Family and Juvenile Court usually appoints the Director of the Portuguese Refugee Council (<i>Conselho Português para os Refugiados – CPR</i>) to act as legal representative<sup>76</sup>.</p> <p>According to the Law on the Protection of Children and Young People at Risk, “legal guardianship” is the relationship established between the child or young person and the person that takes up the functions inherent to parental responsibility (Article 5 (b)). As explained above, guardianship as a protection measure does not cease automatically once majority is reached. It may be maintained beyond the age of majority until 21 years of age, and exceptionally until 25<sup>77</sup>, which happens in practice as well for Portuguese or non-nationals.</p> <p>The appointment of a guardian is provided for in the Law on the Protection of Children and Young People at Risk and is applied to Portuguese children and to migrants, asylum seekers, refugees or beneficiaries of international protection, when separated. There are no specific rules concerning what happens if the UAC request for asylum has been denied. Nonetheless, in this case it is possible to appeal to the court, which can mobilise the legal framework to answer to a specific case, including the option of maintaining the protection.</p>
<p><b>Accommodation</b> <i>Reception Conditions Directive</i> <b>Article 24.2</b></p>	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>A person who is under the age of 18 and who has arrived alone in Portugal will be housed in a support group home or a housing unit.</p> <p>Asylum seekers and beneficiaries of international protection who are unaccompanied children benefit from the Refugee Children Reception Centre (CACR), managed by the Portuguese Refugee Council, which offers age-appropriate housing and reception. The CACR, which has been operating since 2012, is an open reception house for unaccompanied asylum-seeking children located in Lisbon with a capacity of 13 places. In 2019, the CPR provided housing at CACR for a total of 61 unaccompanied children (including young people from the previous year).</p>

<sup>76</sup> Portuguese Refugee Council (2019), [Country Report: Portugal - 2018 update](#), Asylum Information Database (AIDA).

<sup>77</sup> Portugal, [Law 147/99 on the protection of children and young people at risk](#) (*Lei n.º 147/99 de proteção de crianças e jovens em perigo*), 1 September 1999.

	<p>According to the information provided by CPR, unaccompanied children may, throughout their independence process or in acute situations of overcrowding, stay in the Reception Centre for Refugees of São João da Talha (CAR II) and, exceptionally, in the Reception Centre for Refugees (CAR). Due to the increase in the number of asylum applications, the Portuguese Refugee Council opened a new reception centre (CAR II), which serves as a social transit response to reinstated refugees. The CAR II was inaugurated in December 2018 and is located in São João da Talha (Loures). This centre has a maximum capacity of 90 places, 30 of which are for unaccompanied children<sup>78</sup>. The accommodation of unaccompanied children who are 16 or older in separate accommodations at the CAR is a measure of last resort in the absence of appropriate alternatives<sup>79</sup>.</p> <p>Accommodation in special units does not cease automatically once majority is reached. It may be extended beyond the age of majority, which happens in practice. The concrete solution to a case depends on the general decision on whether or not to maintain protection measures beyond the age of majority until 21 years and, in exceptional cases, until the age of 25, if requested by the adult concerned and justified by the need to complete educational and training processes (Law for the Protection of Children and Young People at Risk, article 63).</p>
<p><b>Return</b> <i>Return Directive, Article 10</i></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>There are no special measures concerning return procedures of children and there are no specific provisions regarding deportation of non-nationals who entered Portugal before reaching majority.</p>
<p><b>Others</b></p>	<p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>Special residence permits – which are discretionary measures - can be issued according to national interest, humanitarian reasons or public interest related to relevant activities on scientific, cultural, sport, economic or social domains (Immigration Law, article 123/1).</p> <p>Refujobs (project and online recruitment support platform) is being implemented by the High Commissioner for Migration. Its main goal is to promote the recruitment and vocational training of refugees.</p>

<sup>78</sup> Portuguese Refugee Council (2019), [Country Report: Portugal - 2018 update](#), Asylum Information Database (AIDA).

<sup>79</sup> Portuguese Refugee Council (2019), [Country Report: Portugal - 2018 update](#), Asylum Information Database (AIDA).

## Chapter 5. Information society, data protection

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

Although the legislative procedures to regulate implementation of the General Data Protection Regulation (GDPR) and transpose Directive 2016/680 (on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA) began in 2018, the legal acts were only approved and published in 2019.

**Law 58/2019, 8<sup>th</sup> August**<sup>80</sup> – On 8<sup>th</sup> August 2019, the law that ensures implementation of the GDPR in the national legal framework was published. This law specifies the National Data Protection Authority (*Comissão Nacional de Proteção de Dados*, CNPD) as the supervisory authority responsible for monitoring application of the GDPR and amends Law 43/2004, 18<sup>th</sup> August (Law on the Organisation and Functioning of the National Data Protection Authority). The law makes the CNPD an independent public legal entity, with administrative and financial autonomy. To ensure its independence vis-à-vis the Government, the law in question stipulates that control of the financial legality of the CNPD's expenditure should rest with the President of the Parliament (and not be subject to governmental approval). The CNPD's opinion on the draft law<sup>81</sup> emphasised the need to review the remuneration status of CNPD members, arguing on the one hand that, of the different independent administrative entities attached to the Parliament, the CNPD members were the ones who received the lowest remuneration, and, on the other, that the new sanction limits set out in the GDPR require reinforcement of their independent status. The law has, nonetheless, retained the remuneration status of CNPD members. Law 58/2019 also reorganises CNPD's internal services in line with the new functions required by the GDPR. The CNPD's opinion on the draft law suggested incorporating the option to nominate a coordinator for each service unit. Nonetheless, the law has retained one coordinator for all five service units.

**Law 59/2019, 8<sup>th</sup> August**<sup>82</sup> – On 8<sup>th</sup> August 2019, the law that approves the rules on the processing of personal data for the purpose of prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties was published, transposing Directive 2016/680 of the European Parliament and of the Council. This law specifies the National Data Protection Authority (CNPD) as the supervisory authority responsible for monitoring and

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<sup>80</sup> Portugal, [Law 58/2019 that ensures the implementation on the national legal system of the Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data](#) (*Lei n.º 58/2019 que assegura a execução, na ordem jurídica nacional, do Regulamento (UE) 2016/679 do Parlamento e do Conselho, de 27 de abril de 2016, relativo à proteção das pessoas singulares no que diz respeito ao tratamento de dados pessoais e à livre circulação desses dados*), 8 August 2019.

<sup>81</sup> National Data Protection Authority (*Comissão Nacional de Proteção de Dados*), [Opinion 2019/24](#) (*Parecer 2019/24*), 6 May 2019.

<sup>82</sup> Portugal, [Law 59/2019 that approves the rules on the processing of personal data for the purpose of prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties was published, transposing Directive 2016/680 of the European Parliament and of the Council of 27 April 2016](#) (*Lei n.º 59/2019 que aprova as regras relativas ao tratamento de dados pessoais para efeitos de prevenção, deteção, investigação ou repressão de infrações penais ou de execução de sanções penais, transpondo a Diretiva (UE) 2016/680 do Parlamento Europeu e do Conselho, de 27 de abril de 2016*), 8 August 2019.

supervising its application, excluding the monitoring of the treatment of personal data carried out by courts and Public Prosecutors as part of their procedural powers.

The legislative initiative package on data protection included a third draft law to amend Law 34/2009, 14<sup>th</sup> July, on the legal regime applicable to the processing of data within the judicial system – **Draft Law 126/XIII**<sup>83</sup>. This law, approved by the Parliament, was returned to the Parliament without being promulgated by the President of the Republic<sup>84</sup>, who urged the Parliament to reconsider the organisation model of the supervisory authorities in order to prevent any possibility of interference with the jurisdictional activities of courts and Public Prosecutors. This legislative initiative has expired on 24 October 2019, with the end of the former parliamentary term. The present parliamentary term, following the general elections of 6 October 2019, started on 25 October 2019. By the end of 2019 a draft law on this matter had not been submitted to the parliament.

During 2019, the National Data Protection Authority (CNPd):

- a) has updated on its website the frequently asked questions<sup>85</sup> (FAQs) section, taking into account the new regulation and legislation;
- b) has provided a new form for the submission of doubts and complaints<sup>86</sup>;
- c) has, by the end of 2019, published 69 opinions<sup>87</sup> to the national parliament, the government, and other institutions and bodies on legislative and administrative measures relating to the protection of natural persons' rights and freedoms with regard to processing;
- d) has published one authorisation<sup>88</sup> under Article 46(3)(b) of the GDPR;
- e) has published on its website four decisions<sup>89</sup> on violations of provisions of the GDPR that incur administrative fines;
- f) has adopted two guidelines:
  - Guideline 2019/1<sup>90</sup>, for processing personal data in the context of election campaigns and political marketing;
  - Guideline 2019/2<sup>91</sup>, for processing personal data in the context of intelligent electricity distribution services.
- g) has published two deliberations on the interpretation of Law 58/2019, 8<sup>th</sup> August:

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<sup>83</sup> Portugal, [Draft Law 126/XIII that amends the legal framework applicable to the processing of data of the judicial system](#) (*Proposta de Lei 126/XIII que altera o regime jurídico aplicável ao tratamento de dados referentes ao sistema judicial*), 24 April 2018.

<sup>84</sup> For more information, see the Parliament's [webpage on the non-promulgation of the Draft Law by the President of the Republic](#).

<sup>85</sup> For more information, see the National Data Protection Authority's [frequently asked questions](#).

<sup>86</sup> The form is available on the National Data Protection Authority [webpage](#).

<sup>87</sup> For more information, see the National Data Protection Authority's [webpage on the opinions issued by the CNPD](#).

<sup>88</sup> National Data Protection Authority (*Comissão Nacional de Proteção de Dados*), [Authorisation 2019/1](#) (*Autorização/2019/1*), 6 May 2019.

<sup>89</sup> For more information, see the National Data Protection Authority [webpage on decisions on violations of provisions of the GDPR that incur administrative fines](#).

<sup>90</sup> National Data Protection Authority (*Comissão Nacional de Proteção de Dados*), [Guideline 2019/1 related to processing of personal data in the context of election campaigns and political marketing](#) (*Diretriz/2019/1 relativa ao tratamento de dados pessoais no contexto de campanhas eleitorais e marketing político*), 25 March 2019.

<sup>91</sup> Portugal, National Data Protection Authority (*Comissão Nacional de Proteção de Dados*), [Guideline 2019/2 related to processing of personal data in the context of intelligent electricity distribution services](#) (*Diretriz/2019/2 sobre o tratamento de dados pessoais no contexto das redes inteligentes de distribuição de energia elétrica*), 3 September 2019.

- Deliberation 2019/494<sup>92</sup> – the CNPD has decided not to apply in future cases some articles of Law 58/2019 [Articles 2(1) and (2); 20(1); 23; 28(3)(a); 37(1)(a), (h) and (k), and (2); 38(1)(b) and (2); 39(1) and (3); 61(2): and 62(2)], since, in its opinion, these articles clearly contradict what is stipulated in the GDPR, in violation of the principle of the primacy of the European law, and seriously undermine the functioning of the coherence mechanism that aims to achieve uniform application of data protection rules throughout the European Union. The legal provisions listed in this deliberation concern the scope of national law, the rights of data subjects, the use of data by public authorities for different purposes and the system of penalties. The CNPD has made its deliberation public, warning the general public that the consequence of this deliberation will be the direct application of the GDPR.
  - Deliberation 2019/495<sup>93</sup> – Article 44(2) of Law 58/2019 provides for the possibility of a public entity requesting exemption from an administrative fine during the first three years of the law’s application. The CNPD, through this deliberation, has clarified that such a request should only be made and would only be considered by the CNPD if and when a formal charge of a violation of the GDPR is in place;
- h) Under the e-privacy legislation, a specific channel<sup>94</sup> for individuals to report on unsolicited electronic communications has been provided;

The CNPD is subject to public procurement restrictions, since it is limited to hiring inside the public administration, which is particularly difficult due to the specific expertise required for the job. Another limitation is the budget, since the revenues related to penalties are not expected to increase significantly due to the high number of appeals that delay the payment of fines. These two limitations are challenged both by the significant increase in the number of contacts made by organisations and data holders, asking questions and submitting complaints, and by the new competences of the CNPD under the one-stop-shop mechanism and the cooperation between data protection authorities through consistency procedures.

Also, the Ministry of Administrative Modernisation has posted on its website information about GDPR and the national legal framework and has produced and published guidelines on the best practices for the implementation of GDPR within the Public Administration<sup>95</sup>. An informal network of mutual cooperation was shaped in order to foster debate and exchange of experiences between several sectors of the Public Administration.

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<sup>92</sup> National Data Protection Authority (*Comissão Nacional de Proteção de Dados*), [Deliberation 2019/494 \(Deliberação/2019/494\)](#), 3 September 2019.

<sup>93</sup> National Data Protection Authority (*Comissão Nacional de Proteção de Dados*), [Deliberation 2019/495 \(Deliberação/2019/495\)](#), 3 September 2019.

<sup>94</sup> This channel is available on the National Data Protection Authority’s [webpage](#).

<sup>95</sup> For more information, see the Ministry of Administrative Modernisation [webpage on the guidelines on the best practices for the implementation of GDPR within the Public Administration](#).

## 2. Artificial intelligence and big data

MS	Actor*	Type*	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
PT	Independent state institution (Energy Services Regulatory Authority)	Adopted act	Intelligent Electricity Distribution Services Regulation, adopted in July 2019 It regulates the services provided by electrical installations integrated into intelligent electricity distribution networks	no	yes (data protection)	Energy Services Regulatory Authority (2019), <a href="#">Intelligent Electricity Distribution Services Regulation</a> , Lisbon, Energy Services Regulatory Authority.
PT	Government	Other projects	On 23 <sup>rd</sup> May 2019, the Council of Ministers adopted the National Strategy for Cyberspace Safety 2019-2023. The strategy aims to enhance the security of information networks and systems as a way of ensuring the protection of cyberspace of national interest and enhancing its free, safe and efficient use by all citizens,	yes	yes (data protection; privacy; child rights; rights of the elderly)	Portugal, <a href="#">Council of Ministers Resolution 92/2019 that approves the National Strategy for Cyberspace Safety 2019-2023</a> ( <i>Resolução do Conselho de Ministros n.º 92/2019 que aprova a Estratégia Nacional de Segurança do Ciberespaço 2019-2023</i> ), 23 May 2019.

			companies and other public and private entities.			
PT	Government	Other projects	On June 2019, the National Cybersecurity Centre approved the National Reference Framework for Cybersecurity. This document makes a set of recommendations for organisations. Organisations can voluntarily join and benefit from this homogeneous approach that promotes a national cyber threat response.	no	no	Centro Nacional de Cibersegurança (2019), <a href="#">Quadro Nacional de Referência para a Cibersegurança</a> , Lisbon, Centro Nacional de Cibersegurança.
PT	Government	Other projects	Under Simplex 2019 (an administrative modernisation program that gathers 119 measures in several sectors), 12% of the measures resort to artificial intelligence. Among them, one can find: a) a pilot project to predict domestic violence patterns (deadline for completion: 2 <sup>nd</sup> quarter 2020); b) a pilot project to predict dropout in higher education (deadline for completion: 3 <sup>rd</sup> quarter 2020); c) a program to predict florets fires (deadline for completion: 2 <sup>nd</sup> quarter 2020); d) a system to prevent waste in national health system (deadline for completion: 4 <sup>th</sup> quarter 2020); e) a system to support consumers and the interpretation of their complaints (deadline for	yes	Yes (data protection; privacy; human dignity)	Simplex 2019 (2019), <a href="#">Programa iSIMPLEX 2019</a> , Lisbon, Simplex 2019.



			<p>completion: 4<sup>th</sup> quarter 2020); f) a program to improve face-to-face attendance in public services (deadline for completion: 2<sup>nd</sup> quarter 2020); g) a program to improve land registration information (deadline for completion: 2<sup>nd</sup> quarter 2020); h) the creation of an automatized system to analyse opinions of health care clients (deadline for completion: 4<sup>th</sup> quarter 2020); i) creation of a tool to early risk detection on cultural heritage (deadline for completion: 4<sup>th</sup> quarter 2020); j) a project that aims to develop a traffic accident surveillance system; k) the implementation of automatic machine learning algorithms in order to simplify the identification of profiles to be audited, mainly in the taxpayer area (deadline for completion: 4<sup>th</sup> quarter 2020); l) development of automatic encoding of alphabetic expressions collected in electronic forms, in order to improve the data provided by surveys and census (deadline for completion: 4<sup>th</sup> quarter 2020).</p> <p>The program includes a “Responsible Guide” – a measure that aims at developing guidelines in the responsible use of artificial intelligence and a risk assessment tool for the use of AI. This guide is</p>			
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			expected to be completed in the 2 <sup>nd</sup> quarter 2020. All these measures are under development and are expected to be completed in 2020.			
PT	Government	Other projects	On 2019, the AI National Strategy, drawn up under the “National Digital Competences Initiative e.2030, Portugal INCoDe.2030” (an integrated public policy to enhance and foster digital competences), was launched. The Strategy aims to prepare the ground for implementation of the AI revolution.	yes	yes (privacy; data protection; equality; non-discrimination)	INCoDe.2030 (2019), <a href="#">AI Portugal 2030. Portuguese National Initiative on Digital Skills</a> , Lisbon, INCoDe.2030.
PT	Government	Other projects	On 2019, Advanced Computing Portugal 2030 was launched. This is a dynamic and evolving process that aims to promote and expand Advanced Cyberinfrastructure (ACI) in Portugal by a factor of 100 in the coming decade and until 2030. It was established under the “National Digital Competences Initiative e.2030, Portugal INCoDe.2030”.	no	no	INCoDe.2030 (2019), <a href="#">Advanced Computing Portugal 2030</a> , Lisbon, INCoDe.2030.

\*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit
- Academia
- Domestic Courts

- Business
- Independent State Institution
- Other

\*\* for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

### 3. Data retention

There have been no legal developments regarding data retention, interpreted in the context of electronic communications for the purposes of criminal investigation. This matter is covered in Law 32/2008, 17 July<sup>96</sup> – the law that transposed Directive 2004/26/CE.

In January 2019, following a complaint by Associação D3 – Defesa dos Direitos Digitais, the Justice Ombudsman issued a recommendation<sup>97</sup> to the Government, urging it to amend Law 32/2008 in order to meet the requirements of the Charter of Fundamental Rights of the European Union as interpreted by the jurisprudence of the CJEU. In March 2019, the Minister of Justice replied<sup>98</sup> stating that the complexity of the matters at stake and the tight schedule of the Parliament would most probably make it impossible for the Government to present a draft law to Parliament. In August 2019, the Justice Ombudsman requested the Constitutional Court to provide a ruling on the constitutionality of Articles 4, 6 and 9 of Law 32/2008. This procedure is still pending.

Meanwhile, in January 2018, 35 Members of Parliament from three parties (PCP, PEV and BE) officially requested the Constitutional Court to provide a ruling on the constitutionality of Articles 3 and 4 of the Organic Law 4/2017, 25 August, which grants intelligence services access to retained data. The Constitutional Court issued a ruling<sup>99</sup> on 18 September 2019, declaring these articles unconstitutional and allowing access to identification data and equipment location data (not traffic data) only if there is no effective communication and in the context of the fight against sabotage, espionage, terrorism, proliferation of weapons of mass destruction and highly organised crime.

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<sup>96</sup> Portugal, [Law 32/2008 that transposed Directive 2004/26/CE of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks](#) (*Lei n.º 32/2008 que transpõe para a ordem jurídica interna a Diretiva n.º 2006/24/CE, do Parlamento Europeu e do Conselho, de 15 de Março, relativa à conservação de dados gerados ou tratados no contexto da oferta de serviços de comunicações eletrónicas publicamente disponíveis ou de redes públicas de comunicações*), 17 July 2008.

<sup>97</sup> Ombudsman (*Provedora de Justiça*), [Recommendation 1/B/2019](#) (*Recomendação n.º 1/B/2019*), 22 January 2019.

<sup>98</sup> For more information on the Minister of Justice answer see the Ombudsman [webpage](#).

<sup>99</sup> Portugal, Constitutional Court (*Tribunal Constitucional*), [Judgment 464/2019](#) (*Acórdão n.º 464/2019*), 18 September 2019.

## Chapter 6. Rights of the child

### 1. Procedural safeguards for children who are suspects in criminal proceedings

<b>Legislative changes</b>	<p><i>e.g. reform of the criminal code</i></p> <p>Directive 2016/800 on procedural safeguards for children who are suspects or the accused in criminal proceedings was transposed to the Portuguese legal system through Law 33/2019<sup>100</sup>, 22 May. This law amended the Code of Criminal Procedure and entered into force on 23 May 2019.</p> <p>In Portugal, the age of criminal responsibility is 16. So, the amendments to the Code of Criminal Procedure mentioned below are to be applied to suspects aged 16 to 18 (the age of civil majority).</p> <p>Law 33/2019 has introduced the following amendments:</p> <p>Article 58(7) – every time a child is formally informed to be a suspect of a crime, this information is also given to the holder of parental responsibility, his/her legal representative or his/her <i>de facto</i> custodian.</p> <p>Article 61(1)(i) – any child has the right, in any stage of the proceedings, to be accompanied by the holder of parental responsibility, his/her legal representative or the <i>de facto</i> custodian. When the presence of any of these persons is not possible because he/she can't be reached; or would be contrary to the child's best interests; or they would be unfit according to the special needs of the respective criminal proceedings (and only during the time of such circumstances), the child has the right to be accompanied by a fit person, nominated by the child and accepted as such by the competent authority.</p> <p>Article 61(3) – The information about the rights and duties of the child who is suspect of a crime is given to the child and to the persons mentioned in article 61(1)(i).</p> <p>Article 61(4) – When the child does not nominate another fit adult, or when the adult that has been nominated by the child according to article 61(1)(i), is not accepted by the competent authority, it shall designate a trained expert to provide assistance.</p> <p>Article 61(5) – after conducting all enquiries necessary to establish the suspect's identification, if it is still uncertain whether or not a person has reached the age of 18, that person shall be presumed to be a child.</p>
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<sup>100</sup> Portugal, [Law 33/2019 that alters the Code of Criminal Procedure transposing Directive \(EU\) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings](#) (Lei n.º 33/2019 que procede à trigésima terceira alteração ao Código de Processo Penal transpondo a Diretiva (UE) 2016/800, do Parlamento Europeu e do Conselho, de 11 de maio de 2016, relativa a garantias processuais para os menores suspeitos ou arguidos em processo penal), 22 May 2019.

	<p>Article 87(3) – article 87 of the Code of Criminal Procedure establishes that any person can attend any proceeding that is declared to be public, namely court hearings. From 2007 onwards, as a rule, court hearings involving trafficking in human beings or crimes against sexual freedom or self-determination have been conducted away from the public. Law 33/2019, complying with Directive 2016/800, added to this list the court hearings involving children who are the accused in criminal proceedings. Nonetheless, a subsequent law – Law 102/2019, 6 September, that has amendments from the Council of Europe Convention against Trafficking in Human Organs – amended, once again, article 87(3). This law included in the list of court hearings to be conducted away from the public the ones involving trafficking in human organs, but, certainly by mistake, it has left out court hearings involving children who are the accused in criminal proceedings. Nevertheless, the Code of Criminal Procedure allows for the judge to conduct the hearing away from the public because they need to protect the dignity of a person, the public morality or the normal course of the proceeding.</p> <p>Article 90(2) – it is forbidden to authorise access to a third party to the records of a case involving a child who is a suspect or an accused in criminal proceedings.</p> <p>Article 103(2)(b) – any procedural step in a case involving a child who is a suspect or an accused in criminal proceedings can be done during weekends and court holidays and is considered to be an urgent proceeding.</p> <p>Article 194(11) – the holder of parental responsibility, the legal representative or the <i>de facto</i> custodian of a child who is a suspect or an accused in criminal proceedings is notified of judicial decisions that impose procedural coercive measures to the aforementioned child.</p> <p>Article 283(3)(g) – the charge pressed by the public prosecution against a child must, as a rule, mention and incorporate the information provided by the social reintegration services on the family, social and professional background of the child, unless it is considered to be dispensable in the child's best interests.</p> <p>Article 370(2) – in the absence of the information provided by the social reintegration services on the family, social and professional background of the child during the trial phase, this information must be presented to the court within 30 days, unless there is a valid reason for its exemption taking into account the circumstances of the case, provided that it is compatible with the child's best interests.</p>
<p><b>Policy developments</b></p>	<p><i>e.g. guidance or training for law enforcement officers on the treatment of child suspects; amendment of police academy curriculum; training of judges; developing indicators to monitor the situation of child suspects and improve data collection</i></p> <p>No relevant policy developments were found. Nonetheless, we identify a relevant practice. The Social Reintegration Services informed that they adapt the methodologies, information sources and</p>

	<p>technical contents of the information to be provided to courts regarding a child who is a suspect or the accused in a criminal proceeding, namely by ensuring that the holder of parental responsibility, his/her legal representative or the <i>de facto</i> custody holder is included in the interview carried out by the services and is informed of the purpose of this intervention and of the proceedings.</p> <p>In addition, the Centre for Judicial Studies informed us that the initial training of judges and public prosecutors that started on 15 September specifically addressed the transposition and implementation of Directive 2016/800 on the procedural safeguards for children who are suspects in criminal proceedings in the area of criminal jurisdiction. In 2019, the Public Security Police held three courses on police intervention with minors attended by 94 Public Security Police officers, with a duration of 70 hours each.</p>
<p><b>Other measures or initiatives</b></p>	<p><i>E.g. relevant activities to promote alternatives to detention; community involvement or general initiatives related to the dissemination and information in relation to the entering into force of the Directive.</i></p> <p>No relevant information was found.</p>

## 2. Legal and policy measures or initiatives developed about child internet safety

Directive 2018/1808, which amends Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, has not yet been transposed to the national legal system.

In 2019, several bodies have carried out awareness campaigns and training regarding the protection and promotion of children internet safety.

The Portuguese Regulatory Authority for the Media (*Entidade Reguladora para a Comunicação Social* - ERC) carried out in schools 4 actions to promote media literacy, focusing on internet safety. It targeted children between the ages of 14 and 16. These actions are of two different types. One, called “*Eu youtubo, Ele youtuba, Nós youtubamos*”, focuses on the potentialities and dangers of Youtube, appealing to an aware use of video sharing and to a critical view of the most influent youtubers. The other, called “*Literacy and Digital Media: do you know how to safely, consciously and effectively surf the Internet?*” (“*Literacia e Media Digitais: sabe navegar na internet de modo seguro, consciente e eficaz?*”), shows how to filter information and draws attention to the need for scrutinising the information sources. It also promotes a safe use of social networks. In September, ERC, the body responsible for the regulation and supervision of all the bodies that carry out activities related to the social media in Portugal, launched a public survey on misinformation (“*A Desinformação – Contexto Europeu e Nacional*”<sup>101</sup>) in order to take action against online misinformation, namely through tools that protect children and young people from false narratives.

In 2019 the Public Security Police (Polícia de Segurança Pública – PSP) carried out in several schools 1,305 awareness campaigns on internet safety that reached 32,610 children and young

<sup>101</sup> For more information, see the Portuguese Regulatory Authority for the Media [webpage on the public survey on misinformation](#).

people. Additionally, another police force, the Republican National Guard (*Guarda Nacional Republicana* – GNR), held 1,361 awareness campaigns on internet safety that reached 44,112 children and young people.

Since February 2019, the Attorney General Office (*Procuradoria Geral da República* – PGR), by means of its Family, Children and Young People Cabinet and Cybercrime Cabinet, has been carrying out the activities as described in the Action Plan “Children and Crimes in the Internet”<sup>102</sup> (launched on 5 February 2019 during the kick-off conference<sup>103</sup>). This Action Plan aims at raising the awareness of the general public and professionals that work with children and young people; providing special training to public prosecutors; promoting the coordination between public prosecutors that work with crime and the ones that work with families and children; encouraging sharing information and experiences among public prosecutors and other players from the children promotion and protection system and the juvenile justice system.

In 2019, Portuguese Association for Victim Support (*Associação Portuguesa de Apoio às Vítimas* – APAV) implemented a project on the empowerment of cybercrime victims “ROAR: cybercrime victims’ empowerment” (*ROAR: empoderamento das vítimas de cibercrime*), aiming to promote the prevention and complain of cybercrime, as well as the victims’ protection and access to specialized support services. APAV also implemented the project “Counter@ct: prevent and fight online radicalisation” (*Counter@ct: prevenir e combater a radicalização online*) that aims to prevent and promote the behaviour change in young people who are or may be the target of extremist propaganda through the internet, preventing them from adhering to radical, terrorist and violent ideologies and messages. These projects are still on their early stages.

Since 2 January 2019, APAV has been operating the Safe Internet Line (*Linha Internet Segura*) that works as a platform for reporting online content involving child pornography, incitement to racism and incitement to violence, and as a support line for victims of cybercrime (on workdays, from 9 am to 9 pm)<sup>104</sup>. This line is part of APAV’s system of long-distance support. APAV works closely with the Criminal Police’s National Unit to Fight Cybercrime and Technological Crime (*Unidade Nacional de Combate ao Cibercrime e a Criminalidade Tecnológica* – UNC3T) by sending it all content relating to the sexual abuse of children. In addition, APAV became a partner channel of Facebook, which allows it to reach Facebook’s analysts faster when reporting content that endangers children and young people or that relates to hate speech. In 2019 APAV also became part of the Centre Safe Internet (*Centro Internet Segura*) and an associate member of the INHOPE network.

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<sup>102</sup> Procuradoria-Geral da República (2019), [Plano de Ação: crianças e crimes na internet \(2019-2020\)](#), Lisbon, Procuradoria-Geral da República.

<sup>103</sup> For more information, see the Attorney General Office’s [webpage on the programme of the conference](#).

<sup>104</sup> For more information, see [Safe Internet Line’s webpage](#).



## Chapter 7. Access to justice including crime victims

### 1. Victims' Rights Directive

The following legislative measures within the scope of the Victims' Rights Directive were adopted in 2019:

**Law 80/2019, 2 September**<sup>105</sup> - amends Law 2/2008, 14 January, that regulates the rules on access to the judiciary, the training of judges and prosecutors and the nature, structure and functioning of the Centre for Judicial Studies. The amendment ensures mandatory training for judges and public prosecutors on human rights and domestic violence. Such training is mandatory for all candidate judges and public prosecutors during their initial training and for fully qualified judges and public prosecutors acting in criminal or family and children courts during their training. For these judges and public prosecutors, the training should address the statute of domestic violence victim; specific protection measures for the elderly and especially vulnerable victims; procedural coercive measures; ancillary penalties; promotion and protection of children.

**Law 101/2019, 6 September**<sup>106</sup> - amends the Criminal Code and the Code of Criminal Procedure. It allows for the application, in 48 hours, of specific procedural coercive measures (prohibition of remaining in a certain place; prohibition of contacting certain persons; prohibition to acquire weapons; obligation to be subjected to an addiction treatment) where there is strong evidence that a crime of threat, coercion or persecution has been committed. When the protection of the victim so requires, technical means of remote control may be applied and the suspect's prior hearing may be waived.

**Law 102/2019, 6 September**<sup>107</sup> - amends the Criminal Code and the Code of Criminal Procedure taking into account the Council of Europe Convention against trafficking in Human Organs. With this amendment, one cannot authorise disclosing the identity of victims of trafficking of human organs (alongside victims of other crimes) without the victims' consent. It also included crimes involving trafficking of human organs in the list of court hearings to be conducted in the absence of public. This law includes in the list of cases that allow for a pre-trial deposition the ones that involve trafficking of human organs (alongside other crimes previously defined) to be considered during the hearing.

In 2019 the Portuguese Association for Victim Support (*Associação Portuguesa de Apoio à Vítima*, APAV), in partnership with the Attorney General Office and the Research Centre for Criminal Law and Criminal Sciences of the Faculty of Law of the University of Lisbon, has

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<sup>105</sup> Portugal, [Law 80/2019 that ensures mandatory training for judges and public prosecutors on human rights and domestic violence](#) (*Lei n.º 80/2019, que assegura formação obrigatória aos magistrados em matéria de direitos humanos e violência doméstica*), 2 September 2019.

<sup>106</sup> Portugal, [Law 101/2019 that amends the Criminal Code adjusting the crimes of sexual coercion, rape and sexual abuse of people in confinement to the provisions of the Istanbul Convention, and the Code of Criminal Procedure, on prohibition and enforcement of conducts](#) (*Lei n.º 101/2019 que altera o Código Penal, adequando os crimes de coação sexual, violação e abuso sexual de pessoa internada ao disposto na Convenção de Istambul, e o Código de Processo Penal, em matéria de proibição e imposição de condutas*), 6 September 2019.

<sup>107</sup> Portugal, [Law 102/2019 that amends the Criminal Code and the Code of Criminal Procedure taking into account the Council of Europe Convention against Trafficking in Human Organs' dispositions](#) (*Lei n.º 102/2019 que acolhe as disposições da Convenção do Conselho da Europa contra o Tráfico de Órgãos Humanos, alterando o Código Penal e o Código de Processo Penal*), 6 September 2019.

carried out activities within the scope of the project “PROVICTIMS: the role of the Public Prosecutor's Office in Promoting Victims' Rights” (co-financed by the Justice Programme of the European Union). The project aims to promote the cooperation between the Public Prosecutor's Office and victim support services and to contribute to better understand to which extent the Public Prosecutor's Office's role, in practice, is capable to give a good answer to the rights described in Directive 2012/29/EU. One of the activities of the project is to create a survey on the role of the Public Prosecutor's Office in promoting victims' rights and analysing its results<sup>108</sup>.

APAV has also carried out its activities under the Support Unit for Migrant and Discrimination Victims (*Unidade de Apoio à Vítima Migrante e de Discriminação, UAVMD*)<sup>109</sup> in four different locations (Porto, Lisbon, Portimão and Ponta Delgada). During the first semester of 2019, it supported 263 people and has performed 1,148 attendances. The Support Network for Migrant and Discrimination Victims, formed by APAV in partnership with Lisbon City Council and Arroios Parish Council, has run two training sessions – a training course on female genital mutilation and a training course on support to migrant and discrimination victims – and performed several awareness-raising activities.

The Attorney General Office is developing and expects to conclude in 2019 the project Citizen Digital Assistance (*Atendimento Eletrónico ao Cidadão, AEC*) – a project funded by COMPETE 2020 under the scope of Portugal 2020, with the financial support of the European Regional Development Fund. It aims at creating a private area in the Public Prosecutor's Office's website dedicated to citizens, where they can obtain information on activities carried out by the Public Prosecutor's Office and on victims' rights, and submit requests.

The Directorate-General for Justice Policy (*Direção-Geral da Política de Justiça, DGPIJ*) is conducting an evaluation on the compliance of the national legislation with the Victim's Rights Directive. This ongoing evaluation is analysing not only the national legislation but also its implementation. The first results are expected to be analysed by the end of 2019.

## 2. Violence against women

### a)

**Council of Ministers Resolution 52/2019**<sup>110</sup> – taking into account the high number of women killed due to domestic violence, the Government has determined the creation of a Multidisciplinary Technical Commission for the Improvement of the Prevention and Combat against Domestic Violence. The Commission has the mission of providing proposals for streamlining the collection, processing and cross-referencing of quantitative data on homicides and other forms of violence against women and domestic violence; to improve the mechanism in place to protect victims within 72 hours after filling a criminal complaint, and to boosting and diversifying the training models for judges, public prosecutors and criminal police forces.

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<sup>108</sup> For more information, see the [project's newsletter from September 2019](#).

<sup>109</sup> For more information, see APAV's [website on the Support Unit for Migrant and Discrimination Victims](#).

<sup>110</sup> Portugal, [Council of Ministers Resolution 52/2019 that creates a multidisciplinary technical commission for the improvement of the prevention and fight against domestic violence](#) (*Resolução do Conselho de Ministros n.º 52/2019 que cria uma comissão técnica multidisciplinar para a melhoria da prevenção e combate à violência doméstica*), 28 February 2019.

The Multidisciplinary Technical Commission (CTM) has delivered its final report on 28 June 2019, providing proposals for each one of these issues<sup>111</sup>.

CTM has identified the following constraints on the collection of quantitative data on homicides and other forms of violence against women and domestic violence: a) insufficient collection of information; b) dispersal of existing information and different criteria for collection and treatment; c) large delay between data collection, data processing and public data availability; d) difficulty in accessing data and making data public. CTM considered this to be an opportunity to address the recommendations provided by the European Institute for Gender Equality (EIGE) and by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) for data collection on violence against women and domestic violence. In order to streamline the collection, processing and cross-referencing of quantitative data on homicides and other forms of violence against women and domestic violence, CTM has proposed the expansion of data collection to cover all forms of violence against women and domestic violence, including stalking, sexual violence and rape, homicide and female genital mutilation. CTM has also suggested an extensive list of data and indicators to be collected and its concentration within the General Secretariat of the Ministry of Internal Affairs (SGMAI). CTM has proposed the creation of a user-friendly public web portal on violence against women and domestic violence, lodged in the Commission for Citizenship and Gender Equality (CIG), with a dual purpose: a) to publicly disclose data on all forms of violence against women and domestic violence in a timely manner; b) to disclose relevant information on violence against women and domestic violence, such as studies, reference documents, available resources, etc.

In order to improve the mechanism in place to protect victims within 72 hours after filling a criminal complaint, CTM has drawn up a protocol for joint action to be used by law enforcement forces in any situation of violence against women and domestic violence. It defines the concrete steps to be taken and emphasises the importance of specific training. CTM has encouraged the creation of an Emergency Intervention Network (*Rede de Urgência de Intervenção*), involving judges, public prosecutors, law enforcement agents, and victim support organisations, that could be activated 24 hours a day. CTM recommended the rewording of the following forms: a) initial official report; b) document granting victim status; c) risk assessment of victimization and victim protection.

Lastly, CTM has encouraged the implementation of an Annual Training Plan, with a holistic and interdisciplinary view, focusing on theoretical aspects (harmonising theoretical concepts, and improving knowledge on the legal framework), the analysis of practical cases, the implementation of joint action protocols, and on behavioural and attitudinal aspects. CTM has suggested a non-exhaustive number of priority themes to be incorporated into the Annual Training Plan.

Following these proposals, the Council of Ministers' Resolution 139/2019 was adopted.

**Council of Ministers Resolution 139/2019**<sup>112</sup> – Following the proposals of the Multidisciplinary Technical Commission, it has defined the priority regarding the concrete actions to be taken in several areas (training, health, data collection, technical advice to courts,

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<sup>111</sup> Comissão Técnica Multidisciplinar para a Melhoria da Prevenção e Combate à Violência Doméstica (2019), [Relatório Final nos termos do n.º 3 da RCM n.º 52/2019, de 6 de março](#), Lisbon, Comissão Técnica Multidisciplinar para a Melhoria da Prevenção e Combate à Violência Doméstica.

<sup>112</sup> Portugal, [Council of Ministers Resolution 139/2019 that approves measures for the prevention and fight against domestic violence](#) (*Resolução do Conselho de Ministros n.º 139/2019 que aprova medidas de prevenção e combate à violência doméstica*), 19 August 2019.

etc.). On 22 November 2019, the Council of Ministers issued an assessment of the implementation status of these measures, publishing its scheduling<sup>113</sup>. The Council of Ministers has also submitted to public consultation a draft law on the articulation between criminal proceedings on domestic violence and proceedings involving parental responsibilities that suggests the application of provisional decisions on these matters by the investigating judge<sup>114</sup>. This draft law will be under public consultation until 15 January 2020 and will then be once again appreciated by the Council of Ministers.

In this context, the creation of the Violence against Women and Domestic Violence Database was determined. This database will be an extension of the current domestic violence database (managed by the General Secretariat of the Ministry of Internal Affairs) to include other crimes (e.g. murder, rape, serious physical offences, female genital mutilation and stalking) and a greater number of data and indicators, from a wider range of entities). It will enable a more comprehensive and integrated view of violence, particularly against women and children. As foreseen, this larger database should remain in the Ministry of Internal Affairs. This database is expected to collect data mainly from law enforcement agencies, the public prosecution service, courts and other entities involved in this field of Violence against Women and Domestic Violence.

**Law 101/2019, 6 September**<sup>115</sup> - article 2 of Law 101/2019 amends articles 163, 164, 166, and 177 of the Criminal Code and article 4 of Law 101/2019 amends article 200 of the Code of Criminal Procedure. It adjusts the crimes of sexual coercion (article 163), rape (article 164) and sexual abuse of people in confinement (article 166) to the provisions of the Istanbul Convention.

During 2019, the Attorney General Office has celebrated a protocol with the Ministry of Justice and three NGOs (*Associação de Mulheres contra a Violência*, AMCV; *União de Mulheres Alternativa e Resposta*, UMAR; and *Associação Portuguesa de Apoio à Vítima*, APAV) that aims at the creation of six Gender Violence Victim Assistance Offices (*Gabinetes de Atendimento a Vítimas de Violência de Género* - GAV) in Braga, Coimbra, Lisbon-West, Lisbon-North, Lisbon-South Bank of the Tejo and Faro<sup>116</sup>. Until 18 November 2019, 5 of these Offices have been installed in May and June 2019 and another one (Coimbra) is expected to be installed until the end of the year. These Victim Assistance Offices do not cover the whole country, since they are limited to the geographical competence of the Department for Investigation and Penal Action where they are located. Each GAV is coordinated by a Public Prosecutor and is composed of a victim support technician (supported by the correspondent NGO) and a court clerk. The victim support technician shall provide attendance to the public and support to the public prosecutor. Training on risk assessment for 60 persons (including public prosecutors, court clerks and victim support technicians) was provided.

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<sup>113</sup> For more information, see the Government's [webpage on the assessment of the implementation status of the measures adopted regarding the Council of Ministers Resolution](#).

<sup>114</sup> For more information, see the [website on public consultation of draft laws](#).

<sup>115</sup> Portugal, [Law 101/2019 that amends the Criminal Code adjusting the crimes of sexual coercion, rape and sexual abuse of people in confinement to the provisions of the Istanbul Convention, and the Code of Criminal Procedure, on prohibition and enforcement of conducts](#) (*Lei n.º 101/2019 que altera o Código Penal, adequando os crimes de coação sexual, violação e abuso sexual de pessoa internada ao disposto na Convenção de Istambul, e o Código de Processo Penal, em matéria de proibição e imposição de condutas*), 6 September 2019.

<sup>116</sup> For more information, see the [protocols celebrated by the aforementioned entities](#).

In October 2019, the High Council of the Public Prosecution has decided to create integrated specialised domestic violence sections (*Secções Especializadas Integradas de Violência Doméstica*, SEIVD) on an experimental basis, inside the regional sections of the Department for Investigation and Penal Action of Lisbon (Lisboa, Seixal and Sintra) and Porto (Porto and Matosinhos). These are internal organisational structures of the Public Prosecution composed of two groups – criminal prosecution groups (*Núcleos de Ação Penal*, NAP) that focus on the investigation and penal action, and family and children groups (*Núcleos de Família e Crianças*, NFC) that shall liaise whenever there are children involved in situations of domestic violence.

The Attorney General issued Directive 5/2019<sup>117</sup> that provides public prosecutors with uniform guidelines for action in the area of domestic violence, on 15 November 2019. In short, the directive describes the procedure to be followed by any public prosecutor when a situation of domestic violence comes to his or her knowledge (e.g., searching for previous related complaints; obtaining a risk evaluation; providing law enforcement agents with a detailed description of the procedures to be followed in order to protect the victim). The directive provides criteria to record the witness's testimony during the investigation phase, in order to be used as evidence during the trial (statement for future memory) and enhances the need to guarantee the confidentiality of the victim's domicile. The directive dedicates a chapter to the liaison between the criminal prosecution groups and the family and children groups of the SEIVD and between public prosecutors responsible for the investigation of domestic violence and public prosecutors acting in the family and children area where there are no SEIVD.

During 2019, the Domestic Homicide Review Team (*Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica*, EARHVD) produced 3 reports reviewing domestic violence homicide situations. The first report of 2019 was published on 27 May 2019<sup>118</sup>. In the light of this analysis, it laid out recommendations for future actions for the Directorate-General of Social Reintegration and Prison Services (*Direção-Geral de Reinserção e Serviços Prisionais*, DGRSP) and for the bodies involved in the National Network for Domestic Violence Victim Support (*Rede Nacional de Apoio às Vítimas de Violência Doméstica*, RNAVVD), urging them to engage in a coordinated action; for the Ministry of Internal Affairs, the Ministry of Justice and the Secretariat of State for Citizenship and Equality, encouraging the review of the model of the document that proves the victim's status; and for judges, public prosecutors and police forces, urging them to guarantee the secrecy of the location of the victim. The second report of 2019<sup>119</sup> issued recommendations to all entities that, in a specific case, are requested or have the duty to provide support for the displacement of persons in a situation of vulnerability and/or social exclusion to another geographical area. It urges them to, as a rule, work together with social welfare services at the place of destination, so that, where necessary, measures are taken to ensure proper reception and inclusion. The third report<sup>120</sup>, published in December 2019, set out recommendations to the attendance services of the Social Security Services (*Instituto de Segurança Social*, ISS) and of the National Network for Domestic Violence Victim Support (*Rede Nacional de Apoio às Vítimas de Violência Doméstica*, RNAVVD), encouraging them to continue with the monitoring of victims flagged in the context of domestic violence in order to

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<sup>117</sup> Portugal, Attorney General, [Directive 5/2019 on domestic violence](#) (*Diretiva n.º 5/2019, violência doméstica*), 15 November 2019.

<sup>118</sup> Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica (2019), [Relatório Final – Dossiê n.º 3/2018-AM](#), Lisbon, Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica.

<sup>119</sup> Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica (2019), [Relatório Final – Dossiê n.º 4/2018-MM](#), Lisbon, Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica.

<sup>120</sup> Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica (2019), [Relatório Final – Dossiê n.º 2/2018-JP](#), Lisbon, Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica.

assess their protection and support needs. It also urged the Government to prioritise the creation of the protocol for joint action during the first 72 hours after the filing of a criminal complaint, to be used by law enforcement forces in any situation of violence against women and domestic violence.

In 2019, several awareness campaigns, involving both public bodies and NGOs, were carried out. We highlight the following campaigns: #NamorarMemeASerio – an awareness campaign launched on 14 February 2019 on violence during dating that is estimated to have reached around 318,448 persons. The “Violência no Namoro” platform, created in 2018, supported the joint participation of several civil society associations in the development of this campaign; “Não Corte o Futuro!” – an awareness campaign launched on 5 February 2019 (pointing out the International Zero Tolerance Day for FGM), warning about the consequences of female genital mutilation on the well-being of girls and women. It is estimated to have reached 200,000 people; #DitadosImpopulares – an awareness raising campaign to prevent and combat domestic violence and violence against women aims to deconstruct popular sayings by emphasizing the idea that violence is not a private matter.

The National Study on Dating Violence 2019<sup>121</sup>, carried out by UMAR, is one of the main products of the “Art’Themis +”. This study is based on the representative results of a survey applied to 4,938 children and young adults (between the ages of 11 and 20) nationwide. It is the third year that UMAR has carried out this survey and it expects to continue with the study annually. According to its results, 58% of the young people who date or have dated reported to have suffered from at least one type of violence by their current or former partner; and 67% of young people consider acceptable some of the violent behaviour. The study points out the high prevalence and legitimization of specific violence types, such as psychological violence, violence pursued through social media and control attitudes (on clothing, interaction habits or other behaviours). In addition, the project Uni+2.0, aiming to prevent dating violence among university students implemented by Associação Plano i, in 2019, concluded a national study on this matter<sup>122</sup> and launched a guide to prevent dating violence<sup>123</sup> among those students.

Between 1 January and 30 June 2019, the two shelters (*Casa de Abrigo ALCIPE* and *Casa de Abrigo SOPHIA*) run by the Portuguese Association for Victim Support (*Associação Portuguesa de Apoio às Vítimas, APAV*) have hosted and supported 89 women and children victims of domestic violence. During the same period, the shelter run by *APAV Centro de Acolhimento e Proteção (CAP SUL)* has hosted and supported 8 victims of human trafficking (6 women and 2 children).

2019 was the final year of implementation of the project SER – Raising Awareness and Educating for Relationships, carried out by APAV. It aimed to create innovative training on the prevention of domestic violence and gender-based violence, for children aged between 6 and 10 years old, with the potential to implement it in the educational and the community context. During 2019, it has run 20 “SER Hour: emotional expression workshops” with children between 6 and 10 years old, reaching 443 children, 2 workshops for educational professionals, and has

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<sup>121</sup> Magalhães, M. (coord.) (2019), [Estudo Nacional sobre a Violência no Namoro 2019](#), Lisbon, UMAR - Art’Themis +.

<sup>122</sup> Neves, S.; Ferreira, M.; Abreu, A. L.; and Borges, J. (2019), [Estudo Nacional sobre a Violência no Namoro em Contexto Universitário: Crenças e Práticas – 2017/2019](#), Lisbon, Associação Plano i.

<sup>123</sup> Ferreira, M.; Abreu, A. L.; and Neves, S. (2019), [Guião para a Prevenção da Violência no Namoro em Contexto Universitário](#), Lisbon, Associação Plano i.

developed and published a handbook. With the conclusion of this project, APAV started a follow-up project - Project SER plus – Raising Awareness and Educating for Relationships, aiming at preventing interpersonal violence through the implementation of the Programme Hora de SER (a structured and evidence-based prevention programme developed by APAV) targeting children aged between 6 and 10 years.

**b)**

Both Council of Ministers' Resolution 52/2019 and Council of Ministers' Resolution 139/2019 were issued as a result of the high number of women who were victims of homicide. According to the Observatory of Murdered Women of UMAR, in 2018 28 women were murdered. According to data presented by the Council of Ministers in 22 November 2019, from 1 January until 21 November 2019, there were 33 victims of homicide in the context of domestic violence: 25 women, 1 child and 7 men<sup>124</sup>.

The head of Lisbon's Unit against Domestic Violence of the Public Prosecution's Office has publicly acknowledged that few public prosecutors are willing to work in this area due to the lack of technical means.

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<sup>124</sup> For more information, see the Government's [webpage on the assessment of the implementation status of the measures adopted regarding the Council of Ministers Resolution](#).

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

Portugal developed several measures to implement the CRPD, as mentioned below. However, the lack of a national strategy for disability that would define the strategy and the goals to be achieved has compromised most of these measures and has maintained the development of disability policies and legal framework that contradict and compromise each other. This means that national disability policies lack a ‘backbone’ to guide the legislator and the implementation of these policies. Several examples can be provided, as can be seen in some of the legal developments (in a positive and negative direction) that were published in 2019 identified below. One example of this is the publication of the State Budget Law for 2019 (Law 71/2018 of 31 December) where the government brings the maximum amount for disabled student scholarships in higher education up to the equivalent of the academic fees for graduate students. This is a return to previous years when the scholarship was equal to the academic fee payable for the academic level of the student (first degree, MA, PhD). Another example is the new cooperation model signed between the government and private social welfare or legally equivalent institutions (Ordinance 218-D/2019 of 15 July). This states that the Social Benefit for Inclusion, used to compensate disabled people for the disadvantaged position in Portuguese society and to lift disabled people above the poverty line, is to be considered as household income when calculating the amount to be paid for the use of the services provided by these institutions. One more example is the Support Product Allocation System for Disabled People (*Sistema de Atribuição de Produtos de Apoio a Pessoas com Deficiência*) approved in 2009 (Decree Law 93/2009 of 16 April) as a user-free and universal system, which in fact is neither free nor universal to the user. Those applying for support services are asked to provide proof of their household incomes, despite this being illegal. One final example is the law that creates Independent Living pilot projects for disabled people. These are compromised by the lack of financial resources capable of delivering a service appropriate to the needs of the disabled. At the same time, the government continues to support the institutionalisation of disabled people, clearly disrespecting the Portuguese state commitment to deinstitutionalise disabled people and with article 19 of the CRPD.

- **State Budget Law for 2019 (Law 71/2018 of 31 December)**<sup>125</sup> - establishes in Article 204(2) that in the academic year 2019/2020 the maximum amount for scholarships for disabled students at higher education is €872, independent of the academic degree (graduate or postgraduate). In the previous two academic years (2017/2018 and 2018/2019), the minimum amount of the scholarship for disabled students in higher education was the equivalent to the academic fees they had to pay to the higher education institution; therefore, the amount would differ according to the student’s academic degree (first degree, Masters, PhD). The maximum now introduced is the equivalent to the academic fee for graduate students.
- **Law 4/2019 of 10 January**<sup>126</sup> - establishes the employment quota system for disabled people with an incapacity level equal or higher than 60%. For medium-size enterprises/companies, i.e., with a minimum of 75 workers, it establishes a minimum quota of 1% disabled people. For large enterprises/companies (the document does not define the minimum number of workers) it establishes a minimum quota of 2% disabled people.

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<sup>125</sup> Portugal, [Law 71/2018 that approves the State Budget for 2019](#) (*Lei n.º 71/2018 que aprova o Orçamento do Estado para 2019*), 31 December 2018.

<sup>126</sup> Portugal, [Law 4/2019 that establishes the employment quota system for disabled people with an incapacity level equal or higher than 60%](#) (*Lei n.º 4/2019 que estabelece o sistema de quotas de emprego para pessoas com deficiência, com um grau de incapacidade igual ou superior a 60 %*), 10 January 2019.



- **National Investment Programme 2030 (PNI 2030) of 10 January 2019**<sup>127</sup> – this is a planning tool for strategic and structuring national investments for the next decade. This Programme establishes priorities and defines the investments and identifies ‘equitable accessibility’ as one of the five strategic axes, in order to promote equitable access to mobility within Portugal. Amongst the various measures identified, the programme identifies the development of physical and technological accessibility for all. This includes not only accessible public transport but also accessible transport and accessible railway, bus and tube stations and public interfaces.
- **10 February 2019 - entry into force of Law 49/2018 of 14 August** – this Law creates regulations on accompanied adults, revoking the regulations on *interdição* and *inabilitação* of disabled people previously approved by the Civil Code. In the case of *interdição*, the court declared that a certain adult, who suffers from a psychic anomaly, deafness-muteness or blindness, was to be prevented from exercising his/her rights alone due to the fact that he/she was unable to manage his/her life and assets (e.g. enter into a purchase agreement). In the case of *inabilitação*, the adult was only considered to be unable to manage his/her assets, which means that his/her legal capacity was only partially restricted. The declaration of *inabilitação* could be applied to adults whose psychic anomaly, deafness-muteness and blindness didn’t justify their *interdição* (they could still manage their life) or under other circumstances (usually prodigality, alcoholic abuse or drug abuse). Despite the recommendations made the National Mechanism for Monitoring the Implementation of the CRPD (*Mecanismo Nacional de Monitorização da Implementação da Convenção sobre os Direitos das Pessoas com Deficiência*) in 2018, the implementation of this Law is still compromised. This is due, as highlighted by the Mechanism, to: lack of a decision-making support system for disabled people, including informal peer support; lack of records on those people providing support in legally significant decisions and a monitoring system of their performance; training for those providing support; lack of training for magistrates and other professionals within the justice system on the rights of disabled people and on the CRPD and; the lack of a good practice guide to support the decision-making support system.
- **Ordinance 218-D/2019 of 15 July**<sup>128</sup> - establishes the cooperation model between the Institute for Social Security, the Ministry of Labour, Solidarity and Social Security, and private social welfare or legally equivalent institutions. This Ordinance establishes new rules on family payment responsibilities for the use of social services and facilities delivered or made available by these private social welfare institutions. Under the newly established rules, the Social Benefit for Inclusion (PSI) received by the user is now considered as household income when calculating the cost of the service or the monthly payment. In the case of residential/hospitalisation, 80% of the Social Benefit for Inclusion (PSI) received by the user is considered when calculating household income and, therefore, for calculating the amount to be paid by the family. In the case of autonomous residence, 50% Social Benefit for Inclusion (PSI) received by the user is considered when calculating household income.
- **31 July** – presentation of a practical guide on Disabled People’s rights and accessibility of public websites – “Guaranteed Accessibility and Usability for all” (“*Acessibilidade e Usabilidade Garantida para todos*”). This guide presents information on social support, measures to support employment and vocational training, social and tax benefits and practical information about the Inclusion Helpdesk network and on how to apply for a Multipurpose Disability Medical Certificate. Furthermore, by translating EU Directive 2016/2102 on accessibility of the websites and mobile applications of public sector bodies, this guide presents the changes the Government is developing on public administration websites in

<sup>127</sup> For more information, see the Governments [website on the National Investment Programme 2030](#).

<sup>128</sup> Portugal, [Ordinance 218-D/2019 that alters Ordinance 196-A/2015 of 1 July that defines the criteria, the rules and the forms of the cooperation model established between the Institute of Social Security and private social welfare or legally equivalent institutions](#) (*Portaria n.º 218-D/2019 que procede à segunda alteração à Portaria n.º 196-A/2015, de 1 de julho, que define os critérios, regras e formas em que assenta o modelo específico da cooperação estabelecida entre o Instituto da Segurança Social e as instituições particulares de solidariedade social ou legalmente equiparadas*), 15 July 2019.

order to make them accessible, and to allow disabled people to interact directly with public services, thereby encouraging the full exercise of their fundamental rights. This is a Simplex + measure, developed by the Agency for Administrative Modernisation.

- **Council of Ministers Resolution 131/2019 of 2 August**<sup>129</sup> – approves the National Strategy for Cyclable Active Mobility 2020-2030. Despite the general focus on encouraging bicycle use, the adoption of healthier lifestyles and the investment in cycle paths, the focus on disabled people emerge in this resolution as one of the critical factors for the successful implementation of this strategy, as well as “Ensuring good accessibility to public space for people with disabilities or reduced mobility”. One of the expected results of the National Strategy is the increased independence of mobility among people with impairments, encouraging the active mobility, since physical activity and the adoption of active lifestyles are factors of rehabilitation and integration, favouring the autonomy of people with physical or intellectual impairments. Appropriate conditions are expected to be provided to promote autonomy, as well as for learning to ride, for example through bicycle and wheelchair lending systems and other adapted equipment, particularly in the school context. Also, the Strategy aims at full accessibility to public transport for persons with impairments or reduced mobility, providing for practical and accessible transport of bicycles as well as wheelchairs (manual or electric) by train, boat, and, in justified situations, by road, on long distance and urban journeys. Boarding and unloading zones at transport interfaces will include safe, practical, autonomous and affordable options.
- **Law 92/2019 of 4 September**<sup>130</sup> - transposes into national legislation the EU Directive 2017/1564 of the European Parliament and of the Council of 13 September 2017. This legal document defines access for blind, visually impaired or otherwise disabled persons to consult/read published works, with exceptions or limitations to copyright and related rights, as well as measures facilitating the worldwide cross-border exchange of books and other printed materials in special formats.
- **Law 100/2019 of the 6 September**<sup>131</sup> – approves the Statute of the Informal Caregiver and clarifies the rights and duties of the caregiver and of the person receiving care. This can be seen as another example of contradictory legislation, as it goes against previously published legislation on Independent Living for disabled people and the implementation of the Independent Living pilot projects in three ways: in terms of the language used, of the goals of both initiatives, and on the promotion of autonomy and independence implicit or otherwise in both initiatives.
- **Decree Law 136/2019 of 6 September**<sup>132</sup> - defines the rules for implementing the third phase of the Social Benefit for Inclusion (PSI). The first phase of the Social Benefit for Inclusion for disabled people in Portugal was introduced in October 2017, the Basic Component – ‘Componente base’. This is a universal financial benefit for adult disabled people with an incapacity level equal or higher than 80% (maximum amount €273.39 per month), and this benefit is means-tested for those with an incapacity level between 60% and 79%. This first component was intended to compensate for the added expense of living with an impairment. The second phase, the Complement – ‘Complemento’, was introduced in October 2018 and is a financial benefit (maximum amount €438.22 per month) intended to lift disabled people

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<sup>129</sup> Portugal, [Council of Ministers Resolution 131/2019 that approves the National Strategy for Cyclable Active Mobility 2020-2030](#) (*Resolução do Conselho de Ministros n.º 131/2019 que aprova a Estratégia Nacional para a Mobilidade Ativa Ciclável 2020-2030*), 2 August 2019.

<sup>130</sup> Portugal, [Law 92/2019 which establishes the permitted uses of works for the benefit of blind people, transposing into national legislation the EU Directive 2017/1564 of the European Parliament and of the Council of 13 September 2017, and decriminalises non-authorised public performance of phonograms and videograms commercially edited](#) (*Lei n.º 92/2019 que estabelece as utilizações permitidas de obras em benefício de pessoas cegas, transpondo a Diretiva (UE) 2017/1564, do Parlamento Europeu e do Conselho, de 13 de setembro, e descriminaliza a execução pública não autorizada de fonogramas e videogramas editados comercialmente*), 4 September 2019.

<sup>131</sup> Portugal, [Law 100/2019 that approves the Statute of the Informal Caregiver](#) (*Lei n.º 100/2019, que aprova o Estatuto do Cuidador Informal*), 6 September 2019.

<sup>132</sup> Portugal, [Decree Law 136/2019 that establishes the third phase of implementation of the Social Benefit for Inclusion](#) (*Decreto-Lei n.º 136/2019 que procede à terceira fase de implementação da prestação social para a inclusão*), 6 September 2019. A [summary in english](#) is also available.

above the poverty line. The target group, therefore, was disabled people living in economically disadvantaged families. The third phase, approved by this legal document, introduces access to the Social Benefit for Inclusion (PSI) for disabled children (over nine years old) and adolescents with an incapacity level equal or higher than 60%, therefore expanding the previously created financial benefits in terms of age.

- **Ordinance 301/2019 of 12 September**<sup>133</sup> - defines the design method for improving accessibility for disabled people in existing residential buildings complementing and enforcing the application of Decree Law 95/2019 of 18 July that defines the regime applicable in the rehabilitation of buildings and autonomous parts of buildings intended to be wholly or predominantly for housing use. This ordinance defines the different levels and criteria for intervention in existing residential buildings (simple, medium and profound) and the measures to be adopted in the accessibility plan by level of intervention. It is expected that the clarification of the type of accessibility measures by level of intervention will improve the accessibility of existing residential buildings and increase the number of accessible housing for people with reduced mobility.
- **Law 116/2019 of 13 September**<sup>134</sup> (first change, through parliamentary assessment, to Decree Law 54/2018 of 6 July) - establishes the legal framework for inclusive education, introducing the proposals of the Special Education Working Group of the Committee on Education and Science (Portuguese Parliament). In addition, it defines more clearly the functioning and responsibilities of the learning support centres (*centros de apoio à aprendizagem*), defines the members of the Multidisciplinary Team and adds to it the responsibility to evaluate the application of support measures for learning and inclusion processes. It also gives more independence to schools in the implementation of inclusive education. This legal document defines the legal regime of inclusive education<sup>135</sup> – the new document gives priority to students supported by learning support centres in renewing their enrolment, regardless of their area of residence. It also states that the monitoring and evaluation of the effective application of selective measures shall be carried out by a multidisciplinary team that supports inclusive education. Moreover, it increases the participation of parents and other legal guardians ('*encarregados de educação*') in the multidisciplinary team; they can now participate in drafting and evaluating the technical-pedagogical report, in the individual education programme and the Individual Transition Plan. It also reinforces their power to request revisions, if necessary, of previous reports and programmes.
- **13 September 2019 – Publication of easy read leaflets to promote disabled people's right to vote** – these leaflets have been prepared by the National Institute for Rehabilitation (INR), by the National Election Commission (CNE) and several organisations for disabled people for the Election of the Legislative Assembly of Madeira (22 September) and the Election of the Assembly of the Republic (6 October)<sup>136</sup>. These easy read leaflets provide information about the elections, who can vote, how to confirm their electoral situation, how to vote and other information related to the participation of disabled people in political life.
- **22 October until 27 November – awareness-raising initiative on accessibility – “Accessibility: A right. A duty. Belonging to everyone for the benefit of all”**

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<sup>133</sup> Portugal, [Ordinance 301/2019 that defines the design method for improving accessibility for people with reduced mobility in existing residential buildings](#) (*Portaria n.º 301/2019, que define o método de projeto para a melhoria da acessibilidade das pessoas com mobilidade condicionada em edifícios habitacionais existentes*), 12 September 2019.

<sup>134</sup> Portugal, [Law 116/2019 that alters, through parliamentary assessment, Decree Law 54/2018 of 6 July, that establishes the legal framework for inclusive education](#) (*Lei n.º 116/2019, primeira alteração, por apreciação parlamentar, ao Decreto-Lei n.º 54/2018, de 6 de julho, que estabelece o regime jurídico da educação inclusiva*), 13 September 2019.

<sup>135</sup> Special Education Working Group of the Committee on Education and Science of the Portuguese Parliament (*Grupo de Trabalho da Educação Especial da Comissão de Educação e Ciência da Assembleia da República*), [Final text of the Parliamentary Assessments 67/XIII\(BE\) and 68/XIII\(PCP\)](#) (*Texto final relativo às Apreciações Parlamentares n.º 67/XIII(BE) e 68/XIII(PCP)*), 14 May 2019.

<sup>136</sup> For more information, see the National Election Commission's [website on accessible elections](#).

*“Acessibilidade: Um direito. Um dever. De todos para todos”*<sup>137</sup> – this initiative promoted by the National Institute for Rehabilitation (INR) in Lisbon, Porto, Coimbra and Albufeira is intended to raise awareness about disabled people’s accessibility rights, by presenting the legal framework and identifying the conditions for promoting accessibility in the project design and construction of public spaces, public facilities, public buildings and housing.

- The Office for Strategy and Planning of the Ministry of Solidarity, Employment and Social Security informed that the Ministry of Solidarity, Employment and Social Security issued an Order for the creation of a working group for the preparation of the Agenda for the Inclusion 2020-2024, which involves public administration services and Non-Governmental agencies representative of people with disabilities.

*Legal and Policy initiatives introduced to implement the CRPD aimed at children and women:*

- **10 July** – awareness-raising session on Domestic Violence and People with Visual Impairment in partnership with UMAR – ‘União de Mulheres Alternativa e Resposta’ (a Portuguese feminist organisation).
- **12 July** – awareness-raising session on Domestic Violence and People with Hearing Impairments in partnership with UMAR – ‘União de Mulheres Alternativa e Resposta’ (a Portuguese feminist organisation) and APAV – ‘Associação Portuguesa de Apoio à Vítima’ (a Portuguese victim support organisation).
- **Decree Law 136/2019 of 6 September**<sup>138</sup> - As mentioned above, the last phase is aimed at disabled children (over nine years old) and adolescents with an incapacity level equal or higher than 60%, therefore expanding the qualifying age for these financial benefits.

#### **CRPD monitoring at national level**

- **26 March 2019: Public presentation of the 2018 Annual report of the National Mechanism for Monitoring the Implementation of the CRPD**<sup>139</sup> – this report presents a summary of the measures introduced by the government in 2018, the way they affect or contradict the implementation of the CRPD. It also outlines the recommendations made by this Mechanism and evaluates the acceptance or rejection of the recommendations by the government. According to the 2018 report, the mechanism identified several problem areas, and presented recommendations. Independent Living is one example of a problem area - due to limited available financial resources for the development of pilot projects, the time limit of these projects and the uncertainty about its future. The Mechanism addressed 16 recommendations in the document, of which only three were accepted. Inclusive education was another area identified by the Mechanism which presented 11 recommendations, of which eight were rejected, two partially accepted and one fully accepted (creating a statute for Portuguese Sign Language professors) by the government. The Mechanism also made 10 recommendations to the government about the Social Benefit for Inclusion (PSI), eight of which were rejected, one partially accepted and one totally accepted (for the life lasting of this benefit). This report also signals that the government does not consult the Mechanism when producing legislation on disability and disabled people and that its analysis of the various legal documents produced by the government in the area of disability seem to abide by the CRPD at first sight, but that detailed analysis reveals a failure to do so.
- **Survey on the participation of disabled people in the European Elections applied from 26 May to 12 June** - the Disability and Human Rights Observatory (*Observatório da Deficiência e Direitos Humanos* - ODDH) and the National Mechanism for Monitoring the Implementation of the CRPD (*Mecanismo Nacional de Monitorização da Implementação da*

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<sup>137</sup> For more information, see the National Institute for Rehabilitation’s [webpage on the “Accessibility: A right. A duty. Belonging to everyone for the benefit of all” initiative](#).

<sup>138</sup> Portugal, [Decree Law 136/2019 that establishes the third phase of implementation of the Social Benefit for Inclusion](#) (*Decreto-Lei n.º 136/2019 que procede à terceira fase de implementação da prestação social para a inclusão*), 6 September 2019. A [summary in english](#) is also available.

<sup>139</sup> Mecanismo Nacional de Monitorização da Implementação da Convenção sobre os Direitos das Pessoas com Deficiência (2019), [Relatório Atividades 2018](#), Lisbon, Mecanismo Nacional de Monitorização da Implementação da Convenção sobre os Direitos das Pessoas com Deficiência.

*Convenção sobre os Direitos das Pessoas com Deficiência*) have conducted an online survey of adult disabled voters to assess their voting experience. According to the survey results, 68.1% of the respondents voted in the European Elections, 25.7% didn't try to vote and 6.2% tried to vote but were not able to. Furthermore, the Mechanism issued a recommendation to the Nacional Elections Commission regarding the Elections for the European Parliament based on the survey results analysis. Recommendations included electoral programmes and electoral information available in different accessible formats, training for desk staff at polling stations, making electronic voting available, guaranteeing accessible transport to polling stations, support at polling stations, and guaranteeing the availability of Portuguese sign language translation in public channels when electoral results are released and discussed<sup>140</sup>.

- **June 2019** – publication of the annual report on the application of Law 46/2006, that prohibits and punishes discrimination on grounds of disability and/or on the existence of aggravated health risk. This report compiles quantitative data collected from entities with inspection and sanctioning powers under the law regarding the practice of discriminatory acts and any sanctions that may be applied<sup>141</sup>.
  - **Law 71/2019 of 2 September**<sup>142</sup> – defines the legal framework of the National Mechanism for Monitoring the Implementation of the Convention on the Rights of Persons with Disabilities. The Mechanism issued an opinion (16 October 2018) by request of the Work and Social Security Commission of the Parliament during the drafting of this law (Draft Law 830/XIII/3<sup>rd</sup>).
  - The Mechanism for Monitoring the Implementation of the CRPD issued in 2019 an opinion, answering the request made by the Secretary of State for the Inclusion of People with Disabilities regarding the regulation of Decree-Law 95/2019 of 18 July – legal framework for the rehabilitation of buildings. The Mechanism also held monthly meetings to assess matters related to the implementation of the CRPD.
- **13 December 2019: Public presentation of the ODDH (Disability and Human Rights Observatory) 2019 report “Disabled people in Portugal – Human Rights indicators 2019”** (“*Pessoas com Deficiência em Portugal – Indicadores de Direitos Humanos 2019*”)<sup>143</sup> – The full report has not been released but will be published in due time. It includes data on employment, unemployment, access to the education system, accessibility to the built environment and a retrospective analysis of the last 10 years of disability statistics.

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<sup>140</sup> Observatório da Deficiência e Direitos Humanos (ODDH); Mecanismo Nacional de Monitorização da Implementação da Convenção sobre os Direitos das Pessoas com Deficiência (2019), [Resultados do inquérito sobre participação política das pessoas com deficiência em Portugal nas eleições europeias de 26 de maio](#), Lisbon, Observatório da Deficiência e Direitos Humanos (ODDH); Mecanismo Nacional de Monitorização da Implementação da Convenção sobre os Direitos das Pessoas com Deficiência.

<sup>141</sup> The main conclusions of the report are mentioned in Chapter 1.

<sup>142</sup> Portugal, [Law 71/2019 that defines the legal framework of the National Mechanism for Monitoring the Implementation of the Convention on the Rights of Persons with Disabilities](#) (*Lei n.º 71/2019, que define o regime jurídico do mecanismo nacional de monitorização da implementação da Convenção sobre os Direitos das Pessoas com Deficiência*), 2 September 2019.

<sup>143</sup> For more information, see the [programme of the conference at which the report was presented](#).

## 2. CRPD monitoring at national level

Table: Structures set up for the implementation and monitoring of the CRPD

<b>EUMS</b>	<b>Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)</b>	<b>Coordination mechanism – Article 33 (1)</b>	<b>Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)</b>
<b>PT</b>	Ministry of Foreign Affairs, Directorate General of External Policy ( <i>Ministério dos Negócios Estrangeiros, Direção-Geral de Política Externa</i> ); Ministry of Solidarity, Employment and Social Security, Strategy and Planning Office ( <i>Ministério da Solidariedade, Emprego e Segurança Social, Gabinete de Estratégia e Planeamento</i> )	Ministry of Solidarity, Employment and Social Security, National Institute for Rehabilitation ( <i>Ministério da Solidariedade, Emprego e Segurança Social, Instituto Nacional para a Reabilitação</i> )	National mechanism for monitoring and implementation of the CRPD ( <i>Mecanismo nacional de monitorização da implementação da Convenção</i> )

## Annex 1 – Promising Practices

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics Where relevant, always highlight any relevance or reference to multiple discrimination.</p>
Title (original language)	Campanha Trans e Intersexo #DireitoASer
Title (EN)	Trans and Intersex Campaign #RightToBe
Organisation (original language)	Comissão para a Cidadania e Igualdade de Género, CIG
Organisation (EN)	Commission for Citizenship and Gender Equality
Government / Civil society	Government
Funding body	Portugal 2020 – POISE (Programa Operacional Inclusão Social e Emprego) funded by the European Union and the Portuguese State.
Reference (incl. url, where available)	<a href="https://www.cig.gov.pt/aco-es-no-terreno/campanhas/campanha-trans-intersexo-direitoaser/">https://www.cig.gov.pt/aco-es-no-terreno/campanhas/campanha-trans-intersexo-direitoaser/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Relaunching the campaign on 17 May 2019, Day of the International Fight against Homophobia, Biphobia and Transphobia
Type of initiative	Awareness raising campaign to fight discrimination based on gender identity, sexual orientation and sexual characteristics
Main target group	Society as a whole
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The campaign #DireitoASer was carried out by CIG, a national equality body, and aims to give voice to trans and intersex persons, inviting society to see them, listen to them and understand their story, and to encourage society to get to know, question and understand their struggles.</p> <p>The campaign was based on the real testimonies of three trans persons and one intersex person who, although with different lives and experiences, share one important thing: the fight to see their rights recognised. These testimonies are recorded in video, which are available online. These videos show these people in their daily</p>

	lives and usual places, pointing out that activities and personal interests may be shared by everyone, regardless of their gender identity or expression and sexual characteristics.
Highlight any element of the actions that is transferable (max. 500 chars)	All elements of the campaign are transferrable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The campaign can be relaunched and was disseminated in the general TV channels and in the social media of CIG and the partner bodies. Also, it is based on the real testimonies of trans and intersex persons.
Give reasons why you consider the practice as having concrete measurable impact	The impact of this campaign is measurable through the number of visualisations in the CIG's website, in the social media and television advertisement.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The same campaign can be used or replicated in different Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	This practice involves the beneficiaries of the campaign, since it was based on real testimonies of trans and intersex persons. Three trans persons and one intersex person, as well as several LGBTI rights' associations, actively participated in the development of the campaign since the beginning.
Explain, if applicable, how the practice provides for review and assessment.	The campaign was launched on 17 May 2019 on the general TV channels and social media. The results of the campaign can be measured through the number of views on the CIG's website, in the social media and television advertisement. According to CIG, the videos were broadcast 400 times on SIC and RTP (two general TV channels) and reached 30,362 persons on CIG's website and social media.

	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>
Thematic area	Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Programa REEI - Rede de Escolas para a Educação Intercultural
Title (EN)	Programme REEI - Network of Schools for Intercultural Education
Organisation (original language)	Alto Comissariado para as Migrações / Direção-Geral da Educação / Fundação Aga Khan Portugal
Organisation (EN)	High Commissioner for Migration / Directorate-General for Education / Aga Khan Foundation Portugal
Government / Civil society	Government and civil society



Funding body	High Commissioner for Migration / Directorate-General for Education / Aga Khan Foundation Portugal (with financial and human resources). During the pilot period of the project (2017-2019), most of the schools that were part of the network were financially supported by FAMI, namely for initiatives concerning the intercultural education plans of each school.
Reference (incl. url, where available)	<a href="http://www.dge.mec.pt/rede-de-escolas-para-educacao-intercultural">http://www.dge.mec.pt/rede-de-escolas-para-educacao-intercultural</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	September 2016 to June 2019
Type of initiative	Educational
Main target group	Schools, the educational community and in particular all children and young people from pre-school to upper secondary education
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Over the last decades the Portuguese education system has recognized and valued the growing cultural and linguistic diversity of educational communities. This growing diversity results from the increase and diversification of internal and external migratory flows, adding to the significant cultural richness of Portuguese society. The Programme aims to promote the welcoming, integration and educational success of all children and young people, from preschool to secondary education, as well as to develop respect for differences and positive relations of interaction and rapprochement between students and other members of the educational community who come from different cultures. In this programme, the school is a context where interculturality is a benefit for all (community, families, children and young people, non-teaching and teaching staff, management). The Network of Schools for Intercultural Education promotes the sharing, reflection on and transformation of educational practices in these communities.
Highlight any element of the actions that is transferable (max. 500 chars)	The whole project is transferable. We consider that the object, principles and goals of the project are applicable in other countries. The project's inherent objectives and competencies may change depending on the national education systems of each country.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The project is sustainable because it has the articulation of three entities and takes place within the Portuguese education system. The project addresses social, cultural and civic needs of educational communities.
Give reasons why you consider the practice as having concrete measurable impact	It has an impact because the school bodies to which the programme applies are some of the most important citizenship-forming bodies, because students acquire educational skills aimed at diversity and interculturality in their structural training.

Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Since Europe is a diverse social and cultural space due to migration inside and outside the EU, intercultural issues are common to all member countries.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The promoting bodies of the project are the High Commissioner for Migration, Directorate-General for Education and Aga Khan Foundation Portugal. During the initial design period of the network (2016-2017), schools were consulted and they contributed to defining the diagnostic tools and the action plan of the network for the three pilot years. The design, planning and evaluation of the programme was always a result of a collaborative effort of the promoting bodies.
Explain, if applicable, how the practice provides for review and assessment.	The pilot project ended in July 2019. It was decided that the project will continue for a period of four years. Now, the promoting entities are defining the conditions for the continuation of the project, such as the adherence criteria, the partnership model and the human resources to monitor the network, according to the evaluation performed and the contribution of the members of the network. They expect to relaunch the project in 2019 or 2020.

Thematic area	<b>ROMA INTEGRATION</b> Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.
Title (original language)	Programa de bolsas ROMA Educa
Title (EN)	ROMA Educa scholarship programme
Organisation (original language)	Alto Comissariado para as Migrações
Organisation (EN)	High Commissioner for Migration
Government / Civil society	Government
Funding body	High Commissioner for Migration
Reference (incl. url, where available)	<a href="https://www.acm.gov.pt/-/programa-de-bolsas-roma-educa-candidaturas-abertas-ate-30-de-setembro">https://www.acm.gov.pt/-/programa-de-bolsas-roma-educa-candidaturas-abertas-ate-30-de-setembro</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	27 June to 11 October 2019 (according to the information provided by the State Secretariat for Integration and Migrations the deadline for applications was extended from 30 September to 11 October, which allowed more students to apply for scholarships).
Type of initiative	Educational
Main target group	Roma community
Indicate level of implementation: Local/Regional/National	National

Brief description (max. 1000 chars)	<p>This activity takes place within the framework of the National Strategy for the Integration of Roma Communities. The High Commissioner for Migration, through the Choices Programme, is endorsing this programme.</p> <p>The ROMA Educa scholarship programme aims to ensure effective access conditions regarding education, educational success and lifelong learning of Roma people. Thus, this programme aims to implement instruments that allow the existing barriers between these communities and the formal education system to be mitigated by investing in the education of people from Roma communities who preferentially reside in the territories where their local projects funded by Choices Programme operate. It tries to prevent early school dropout. ROMA Educa gives scholarships to students of Roma communities to support their attendance and permanence in high school in the school year 2019-2020. This programme also includes the assignment of a voluntary mentor to each scholarship holder (preferably from the Roma community). S/he supports the student at several levels (education, family, private life).</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>The whole project can be transferred to another country where there are Roma communities with integration problems. Only the regulation should be amended according to the specificities of the countries and their educational systems.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>Firstly, because the project is inserted in another broader plan, Choices Programme. Secondly, because it is intended to provide training and education for young people who have dropped school and are subjected to discrimination. Through education they can gain autonomy and become more empowered.</p>
Give reasons why you consider the practice as having concrete measurable impact	<p>This practice has a concrete measurable impact for several reasons:</p> <ul style="list-style-type: none"> <li>It has an impact on students who will remain in school and continue to acquire skills and competencies;</li> <li>Staying in school may mean carrying on with a process of integration;</li> <li>It has an impact on Roma families and their process of intercultural socialisation;</li> <li>It has an impact on broader school communities by preventing some of their students from dropping out;</li> <li>It has a civic impact because it allows them be accepted and socialise in the wide social space of the places where they live.</li> </ul> <p>According to the information provided by the State Secretariat for Integration and Migrations, there were 100 scholarships available. The programme received 58 applications (39 boys and 19 girls). The first meeting of the ROMA Educa scholarship holders was held in Lisbon on 17 December 2019.</p>
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	<p>Some other European countries have large Roma communities, where the dynamics of socialisation are identical, and citizenship education in school is one of the most important forms of developing European values.</p>
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning,	<p>The High Commissioner for Migration was responsible for the design and planning of the programme. The Directorate-General for Education, as well as school groups, Roma associations and the Choices projects helped disseminate the programme.</p>

evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	In the project regulations, it is stated that at the end of the project, participants must participate in an evaluation process.

Thematic area	<b>Asylum, visas, migration borders and integration</b> Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
Title or short description of promising practice in original language and in English	Refujobs (projeto e plataforma online de apoio à contratação) Refujobs (project and online recruitment support platform)
Organisation (Government / Civil society) in charge of promising practise (original language/English )	Alto Comissariado para as Migrações High Commissioner for Migration
Funding body	National government
Reference (incl. url, where available)	<a href="https://www.refujobs.acm.gov.pt/pt/">https://www.refujobs.acm.gov.pt/pt/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Since May 2018 (still ongoing)
Main target group	Refugees
(around 1000 characters)	As an online tool, the Refujobs platform (available in three languages: Portuguese, English and Arabic) was created with the main goal of enhancing the professional skills of refugees and the job opportunities available in Portuguese public entities and private companies. This project is a Simplex + strategy (which aims for administrative modernisation) and has the support of the Portuguese Charter for Diversity partners. This online tool provides recruitment support, where potential applicants and companies can register for free with the aim of matching refugee profiles with employment or training opportunities. The role of the High Commissioner for Migration is to connect registered candidates and companies or entities with job offers/internships or training opportunities.

	The Refujobs initiative also includes refugee training for business implementation. The High Commissioner for Migration has been developing initiatives to promote migrant entrepreneurship, reinforced in 2015 with the creation of the Support Office for the Migrant Entrepreneur.
Indicate level of implementation: Local/Regional/National	National
Indicate success factors – why has the practice effectively promoted integration?	<p>The main goal of the project is to promote the recruitment and vocational training of refugees. Naturally, employment is an important part of the integration of refugees and a factor to promote independence. According to the information received from the Secretariat of State for Citizenship and Equality, the following training courses are available:</p> <ul style="list-style-type: none"> <li>- “REFUTUR – Tourism Training Project” (Porto) – Training in Tourism (Catering), held from January to March, at the Porto School of Hotels and Tourism. Of the 11 immigrant women who completed the course, 3 were hired after the internship. The course lasted 158 hours of in-class training and 160 hours of internship.</li> <li>- “REFUTUR – Tourism Training Project” (Lisbon) – Training in Tourism (Catering and Accommodation), held between February and May at the Lisbon School of Hotel and Tourism. 23 people (4 immigrants and 19 refugees) participated, mostly from Angola, Somalia, Syria, Brazil, Nepal and Jamaica. The course lasted 158 hours of in-class training and 160 hours of internship).</li> <li>- Certified “Kitchen/Restaurant” training course – Promoted by The High Commissioner for Migration, the Lisbon Tourism School and Portugal Tourism, resulting from a partnership established under the Training Project for the Integration of Refugee People hosted in Portugal. Aimed at refugees welcomed in Portugal, over 18 years-old and with the 9th grade or higher, this course had 12 participants. It was taught in 12 sessions between March and April, with a total duration of 50 hours, both in Portuguese and English.</li> </ul>
If the initial funding of the initiative ended, how has the initiative been continued/followed-up?	Not applicable.
Explain, if applicable, how the practice is being reviewed and assessed.	<p>The High Commissioner for Migration is responsible for the mediation between the companies or entities and the applicants before and after their placement, respecting the principle of information confidentiality. Whenever there is a chance for a match, the High Commissioner for Migration monitors the interview results, confirming their placement in the job market. If they do not get a placement, the High Commissioner for Migration keeps their profile in the platform for further opportunities. The process ends when they get a placement.</p> <p>In addition, the High Commissioner for Migration monitors companies, ensuring their active participation in providing job offers.</p>

Does the initiative apply to both asylum seekers and protection status holders – and/or support the transition from one to the other?	This platform was created to respond to the need of integration of refugees in the labour market. However, when the job offers aren't taken by refugees, they are extended to other immigrants from the database of the Job Support Office of the High Commissioner for Migration.
Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided?	No.

Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b> Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter.
Title (original language)	IA & Prevenção Rodoviária
Title (EN)	AI & Road Safety
Organisation (original language)	Ministério da Administração Interna
Organisation (EN)	Ministry of Internal Affairs
Government / Civil society	Government
Funding body	Pending evaluation for funding from COMPETE 2020 – Competitiveness and Internationalisation Operational Programme
Reference (incl. url, where available)	<a href="https://www.simplex.gov.pt/medidas">https://www.simplex.gov.pt/medidas</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date: July 2019 Finishing date: 3Q2020
Type of initiative	Artificial intelligence
Main target group	Citizens, public administration
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The project aims to develop a traffic accident surveillance system through data analysis models that will predict traffic accidents, taking into account external factors such as weather conditions, light, traffic, etc. By the end of each month it will be able to record the number of major accidents over 30 days and the accident accumulation zones. The surveillance system aims to promote semi-automatic detection of significant changes in road accident patterns (such as location, timing, configuration and typology and social impact of accidents). The project aims to provide for the collection of data that will explain the most common causes of traffic accidents and that will be a valuable support for decision making regarding traffic and road safety policies. It

	will also facilitate the availability, to citizens, national and European bodies, of statistical information on road infrastructures.
Highlight any element of the actions that is transferable (max. 500 chars)	All the elements of the action are transferrable
Give reasons why you consider the practice as sustainable (as opposed to 'oneoff activities')	Since traffic accidents are a relevant social problem in the Portuguese society, this is one of the measures of the SIMPLEX2019 – a proven sustainable programme that has reported significant impact on the daily life of citizens, companies, public administration and civil society.
Give reasons why you consider the practice as having concrete measurable impact	The SIMPLEX2019 programme has a monitoring and impact assessment procedure, based on an electronic platform shared by all areas of government, that facilitates assessment of the measure.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The introduction of artificial intelligence and the creation of data analysis models are transferable to other settings and/or Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The measure was designed on the basis of a participatory process within the Public Administration.
Explain, if applicable, how the practice provides for review and assessment.	The SIMPLEX measures benefit from the Monitoring Plus programme that aims to evaluate and assess each of the measures implemented, namely via use and satisfaction surveys.

Thematic area	<b>RIGHTS OF THE CHILD</b>
	Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.
Title (original language)	Plano de Ação do Ministério Público “Crianças e Crimes na Internet”
Title (EN)	Public Prosecution Action Plan “Children and Crimes in the Internet“
Organisation (original language)	Procuradoria-Geral da República
Organisation (EN)	Attorney General Office
Government / Civil society	Public body
Funding body	Public Prosecution Service

Reference (incl. url, where available)	<a href="http://cibercrime.ministeriopublico.pt/sites/default/files/documentos/pdf/plano_acao_crianças_crimes_internet.pdf">http://cibercrime.ministeriopublico.pt/sites/default/files/documentos/pdf/plano_acao_crianças_crimes_internet.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Starting date: 5 February 2019 Finishing date: 4 February 2020
Type of initiative	Action plan, including seminars, workshops, training sessions and the elaboration of a roadmap of good practices and investigation
Main target group	Public prosecutors from criminal courts and family and children courts; other bodies from the child protection services and the juvenile justice system
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Action Plan aims at improving the Public Prosecution capacity to deal with criminal phenomena that occur while using the internet when they are perpetrated by children between the ages of 12 and 16 or where children are victimised.
Highlight any element of the actions that is transferable (max. 500 chars)	The Action Plan foresees the elaboration of a good practices and investigation roadmap that can serve as an inspiration to other contexts.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The good practices and investigation roadmap might lead to the enforcement of new practices inside the public prosecution body. Considering the central role of the public prosecution in this matter, this practice has the potential to contribute to the justice system's improvement.
Give reasons why you consider the practice as having concrete measurable impact	The activities developed in this Action Plan are mainly in-person meetings. These meetings aim to: promote the coordination between Public Prosecutors from the criminal and guardianship areas; and improve coordination with bodies that have competencies on matters related to children, enhancing the efficiency of the Public Prosecution Service's performance in procedures. These meetings include interventions from magistrates and third party entities.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The Action Plan includes the elaboration of a roadmap of good practices and investigation that can serve as an inspiration for other contexts.
Explain, if applicable, how the practice involves beneficiaries and	Two kinds of workshops are planned. One with different bodies aiming at defining the good practices to detect the phenomena of children abusing other children (bullying, social networks) and of children being victims of the internet (child pornography, online scam) and to manage the coordination between different bodies. The other workshop only involves



stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	public prosecutors and it aims at defining the good practices of investigating crimes carried out on social networks and related to child pornography.
Explain, if applicable, how the practice provides for review and assessment.	An assessment seminar is planned for February 2020. However, since the Action Plan aims mainly to promote institutional and interinstitutional dialogue, it won't be easy to define objective criteria.

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b>
	Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
Title (original language)	Campanha DitadosImpopulares - #PortugalContraAViolência
Title (EN)	UnpopularSayings Campaign - #PortugalAgainstViolence
Organisation (original language)	Comissão para a Cidadania e a Igualdade de Género (CIG), Secretaria de Estado para a Cidadania e a Igualdade
Organisation (EN)	Commission for Citizenship and Gender Equality, State Secretariat for Citizenship and Equality
Government / Civil society	Government
Funding body	Social Gambling
Reference (incl. url, where available)	<a href="https://www.cig.gov.pt/aco-es-no-terreno/campanhas/campanha-ditadosimpopulares/">https://www.cig.gov.pt/aco-es-no-terreno/campanhas/campanha-ditadosimpopulares/</a> <a href="https://www.cig.gov.pt/aco-es-no-terreno/campanhas/campanha-portugalcontraaviolencia/">https://www.cig.gov.pt/aco-es-no-terreno/campanhas/campanha-portugalcontraaviolencia/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2 different periods: a) 13 September 2019 (for 15 days) b) 21 November 2019 (for 20 days)
Type of initiative	Awareness campaign
Main target group	Society as a whole
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	This campaign to prevent and combat domestic violence and violence against women aims to deconstruct popular sayings by emphasizing the idea that violence is not a private matter. It also intends to inform about the services of the National Domestic Violence Victims Support Network and calls on all people (not only victims) to report domestic violence to the authorities and request support from this National Network.

Highlight any element of the actions that is transferable (max. 500 chars)	The design of the campaign can be adapted to other matters.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The campaign has been widely disseminated on TV, the social media, social networks and on the internet.
Give reasons why you consider the practice as having concrete measurable impact	It is not likely to measure concrete impact. The number of online views of the campaign materials can be measured. During the first presentation of the campaign, it has had 62,957 single views on the social networks and website of CIG and the video spot had 400 broadcasts in general tv channels. For the second presentation, the marketing materials were also disseminated on tv, radio and social networks and it was spread out to other formats taking into account new partnerships celebrated with private companies. Thus it was disseminated in the metro, railway, petrol pumps and storefronts of a major communication company. Until 2 December (the campaign is ongoing until de 10 December), it has had: 5 million views in social networks; 2 million views in ATM machines; 400 broadcasts in tv channels; 300 broadcasts in radio stations; 300,000 publications in national and regional press; 300 rears on buses.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The design and concept of the campaign can be adapted to other Member States, since domestic violence has deeply origins in cultural dimension, this kind of campaign may be useful to promote social change in other societies.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The first stage of the campaign was designed in partnership with the media. The second stage was implemented in partnership with 17 NGOs that work on domestic violence and violence against women, the media, and 4 private companies. These partnerships aimed at a wider dissemination of the campaign.
Explain, if applicable, how the practice provides for review and assessment.	Information not available.

Thematic area	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	Terceira fase de implementação da prestação social para a inclusão (PSI)
Title (EN)	3rd phase of the implementation of the Social Benefit for Inclusion (PSI)
Organisation (original language)	Presidência do Conselho de Ministros
Organisation (EN)	Presidency of the Council of Ministers
Government / Civil society	Government
Funding body	National Budget
Reference (incl. url, where available)	Decree-Law 136/2019, 6 September <a href="https://dre.pt/web/en/home/-/contents/124500726/details/normal">https://dre.pt/web/en/home/-/contents/124500726/details/normal</a> <a href="https://dre.pt/home/-/dre/124500726/details/maximized">https://dre.pt/home/-/dre/124500726/details/maximized</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	1 October 2019 No end date
Type of initiative	Social benefit
Main target group	Disabled children and disabled adolescents
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Introduces the access to the Social Benefit for Inclusion (PSI) for disabled children (above 9 years old) and adolescents with an incapacity level equal or higher than 60%, therefore expanding the age limit of the previously financial benefits. The 1st phase of the Social Benefit for Inclusion for disabled people in Portugal was introduced in October 2017, and it was called Basic component – “Componente base”. This is a financial benefit of universal application for disabled adults with an incapacity level equal or higher than 80% (maximum value of 273.39 €), and means tested for those with an incapacity level between 60% and 79 %, that was meant to compensate for the added expenses of living with impairment. The 2nd phase, named Complement – “Complemento”, was introduced in October 2018 and it is a financial benefit (maximum value of 438.22 €) meant to elevate disabled people above the poverty line. Therefore, the target group was disabled people living in economically disadvantaged families.
Highlight any element of the actions that is transferable (max. 500 chars)	The universal access introduced by this measure is a good practice that recognises the high living costs of disabled people and the exclusion disabled people experience. This translates into higher poverty rates among disabled people and families with a disabled element.
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	It extends the access to the Social Benefit for Inclusion to disabled children and disabled adolescents, compensating families for part of the added cost of caring for a disabled child or adolescent. Single-parent families receive 35% more benefits. It is financed by the national budget.
Give reasons why you consider the practice as having concrete measurable impact	It will increase the financial resources of families with disabled children and adolescents. This is much needed due to the high living costs of these families. The high living costs result from extra expenses regarding medication, healthcare services, access to therapies, lack of accessible public transports, non-inclusive education services and physical infrastructures, parents’ absences from work due to medical appointments and therapies, which results in a reduction of their monthly income. However, the impact of this initiative is limited, because the government established that for those between 10 and 17 years old the basic component

	would be reduced by 50% (136 €) and single-parent families would get 35% more.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The universal aspect of this measure and the recognition that disabled people living in disabling societies have extra living costs should be transferred to other settings and member states. In fact, these disabling societies, where many disabled European people still live, just considering this minority, rarely think and consider disabled people's needs and wishes, provide them with reduced opportunities to participate in the life of the community, to access the educational system on an equal basis, to access the labour market, to constitute a family and to access sexual rights. Therefore, any measure that recognises these aspects and compensates disabled people (as a short/medium term strategy until the disabling aspects can be eradicated) for living in such conditions should be replicated.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Organisations of disabled people and civil society have the opportunity to contribute to the hearing process before the legal document is issued.
Explain, if applicable, how the practice provides for review and assessment.	Not applicable.

## Annex 2 – Case law

Thematic area	<b>EQUALITY AND NON-DISCRIMINATION</b>  Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report
Decision date	04/04/2019
Reference details	Judgment by the Supreme Administrative Court, Case no. 0279/14.0BALS-B-S1 Rapporteur: Carlos Carvalho Appeal requesting the reassessment of a compensation for pecuniary and non-pecuniary damages Available at <a href="http://www.dgsi.pt/jsta.nsf/35fbbbf22e1bb1e680256f8e003ea931/cb3c5fe968d13206802583d6004c8c03?OpenDocument">http://www.dgsi.pt/jsta.nsf/35fbbbf22e1bb1e680256f8e003ea931/cb3c5fe968d13206802583d6004c8c03?OpenDocument</a>
Key facts of the case (max. 500 chars)	A. started proceedings for non-contractual civil liability against Centro Hospitalar de Lisboa, EPE. In a judgment by the Supreme Administrative Court, issued on 9 October 2014 (Case no. 0279/14), the court, while calculating the amount of the damages, argued that, since A. was already 50 years old and had two children, her sex life was less important and, therefore, reduced the amount of damages. This decision was deemed discriminatory by the ECtHR on the grounds of age and gender (Case of Carvalho Pinto de Sousa Morais v. Portugal, Application no. 17484/15), infringing Articles 8 and 14 of the ECtHR.
Main reasoning/argumentation (max. 500 chars)	Since the appealed decision was considered discriminatory on the grounds of age and gender by the ECtHR, the Appellant requested its re-examination and the reassessment of the amount of the compensation for pecuniary (expenses with housekeeper) and non-pecuniary damages.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Supreme Administrative Court clarified that, due to the ECtHR's decision, the Supreme Administrative Court's judgment of 9 October 2014 had to be revoked with respect to the amount of pecuniary and non-pecuniary damages.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Supreme Administrative Court decided in favour of the appeal. The defendant was sentenced to pay €12,000 for pecuniary damages (expenses with housekeeper) and €100,000 for non-pecuniary damages.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>“Com efeito, o juízo fundamentador que foi utilizado na pronúncia do acórdão a rever quanto ao quantum indemnizatório fixado naquele âmbito foi objeto de juízo crítico e dissonante por parte do referido acórdão do TEDH que sobre o mesmo se debruçou e que o considerou desconforme e violador dos arts. 8.º e 14.º da CEDH. Nessa medida, não podendo manter-se na ordem jurídica tal juízo, porquanto desconforme com a pronúncia que foi, entretanto, firmada pelo TEDH no seu acórdão, importa, então, (...) conceder provimento ao recurso de revisão e, em decorrência, revogar o acórdão recorrido no segmento relativo ao quantum indemnizatório arbitrado à A. a título de danos patrimoniais havidos com os custos com empregada e a título de danos não patrimoniais pela mesma sofridos (...).”</p> <p>“In fact, the argument used in the judgment under review with respect to the compensation amount was the subject of a critical and dissenting judgment by the ECtHR, which determined it was in violation of Articles 8 and 14 of the ECHR. Since that judgment cannot be upheld in law, because it differs from the judgment</p>

	of the ECtHR, it is therefore necessary to (...) accept the appeal and, consequently, revoke the judgment under appeal in the segment concerning the damages awarded to A. for property damages, related to the expenses with housekeeper, and non-property damages suffered by her (...).”.
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Thematic area	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report
Decision date	13/02/2019
Reference details	Judgment by the Supreme Administrative Court, Case no. 0135/12.7BEMDL 0977/17 Rapporteur: Aragão Seia Appeal regarding the payment of vehicle tax Available at <a href="http://www.dgsi.pt/jsta.nsf/35fbbbf22e1bb1e680256f8e003ea931/a3400ee2e5932545802583b00052654f?OpenDocument&amp;ExpandSection=1">http://www.dgsi.pt/jsta.nsf/35fbbbf22e1bb1e680256f8e003ea931/a3400ee2e5932545802583b00052654f?OpenDocument&amp;ExpandSection=1</a>
Key facts of the case (max. 500 chars)	Due to the death of the beneficiary of an exemption of vehicle taxes, as established in Article 58 of the Vehicle Tax Code (Law 22-A/2007 of 29 June), the Portuguese Tax Authority decided that the only heir of the beneficiary (his son) had to pay the remainder of the tax due to the fact that he was not able to meet the criteria established in the provisions of the Vehicle Tax Code (age and driving licence) to continue benefiting from the exemption.
Main reasoning/argumentation (max. 500 chars)	According to the Appellant, the interpretation of Article 49 (1) of the Vehicle Tax Code made by the court infringes Article 13 (1) of the Portuguese Constitution and Article 21 of the Charter of Fundamental Rights of the European Union because it leads to a differentiated treatment between adult and minor heirs, since they have a benefit that minor heirs can't have because they aren't able to have a driving license. As such, there is discrimination on the grounds of age between adult and minor heirs.
Key issues (concepts, interpretations ) clarified by the case (max. 500 chars)	The Supreme Administrative Court decided that the issue regarding the application of the criteria of “age” and “driving license” couldn't be assessed in the context of succession, but as universal criteria applied in the moment of the import of vehicles, which, in practice, has the same consequence – only those who fulfil the criteria can benefit from the tax exemption.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Supreme Administrative Court concluded that the criteria imposed to the original importer (age and driving license) have a universal application and, therefore, apply to the original importers and to their heirs. As such, it was not considered that there could be a negative distinction regarding minor heirs that is not equality applied to those who acquire a vehicle abroad and want to import it when they change their residence. However, we must point out a dissenting vote by one of the judges who believes that this interpretation is against Article 13 (1) of the Portuguese Constitution and Article 21 of the Charter of Fundamental Rights of the European Union. In this case, it is impossible for the heir to meet the criteria of Article 49 of the Vehicle Tax Code (namely, having a driving license) due to his age (two years old at the date of the action). Such interpretation precludes the heirs, due to their age, to benefit from the right of the transmission of the tax exemption.
Key quotation in original language and translated into English with reference details (max. 500 chars)	“Por tudo o exposto sumariamente entendemos que da conjugação dos preceitos que determinaram a liquidação devia retirar-se a seguinte interpretação: “As isenções previstas e obtidas no âmbito do CISV e neste consideradas como transmissíveis mortis causa, não sofrem revogação total ou parcial, caso se verifiquem na pessoa do transmissário os respectivos pressupostos ou caso tal não aconteça por razões que objectivamente não lhe podem ser imputáveis como por exemplo a sua menoridade à semelhança do que sucede com os incapazes (art. 49.º n.º 2 do CISV)”. [citação retirada do voto de vencido]

	<p>“I believe that we should interpret the provisions determining the liquidation as: “The exemptions envisaged and obtained under the Vehicle Tax Code and considered transferable by death shouldn’t be fully or partially revoked if the transferee meets the respective criteria or if he doesn’t meet the criteria for reasons that can’t be attributed to him, such has minority, as in the case of those who are incapacitated (Article 49 (2) of the Vehicle Tax Code”. [quotation from the dissenting vote]</p>
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Thematic area	<p><b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b></p> <p>Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.</p>
	No case law has been identified for this thematic area.

Thematic area	<p><b>ROMA INTEGRATION</b></p> <p>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.</p>
Decision date	May 22, 2019
Reference details	<p>1700/17.1T9VIS-B.C1          Helena Bolieiro          Institutional educational guardianship measure          Non-institutional supervisory measure          Excessive measure</p>
Key facts of the case (max. 500 chars)	Following a robbery and driving without legal authorisation to do so, a Roma minor was punished by the court of first instance with the custodial measure of detention in an open education centre for nine months. The minor appealed the decision to a higher court.
Main reasoning/argumentation (max. 500 chars)	The minor appealed the decision of the court of first instance as he did not agree with the protective measure applied to him
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The judge who assessed the appeal considered the measure applied to the youth to be disproportionate, excessive and overly punitive. She highlighted the fact that the young man confessed to his actions and understood that they were reprehensible, despite suffering from cognitive/mental limitations. Moreover, the fact that the minor is a Roma, living according to the traditions of his community, makes it possible to conclude that internment in an educational centre will further aggravate his emotional fragility by uprooting him and in no way contribute to his re-education and reintegration. On the contrary, it may give rise to feelings of revolt, incomprehension and despondency; it may turn out to be counter-productive and have a negative educational impact.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Appeal dismissed in its entirety and, as a consequence, the ruling was revoked. A non-institutional educational supervisory measure was applied to the youth, as provided for in Article 16 of the LTE instead of the internment in an open educational centre originally applied.
Key quotation in original language and translated into English	<p>“aliado ao facto de ser de etnia cigana, vivendo segundo as tradições tão singulares daquele grupo étnico, leva-nos a concluir que o internamento em centro educativo agravará, ainda mais, a sua fragilidade emocional, desenraizando-o, e em nada contribuirá para a sua reeducação e reinserção”</p>

with reference details (max. 500 chars)	“coupled with the fact that he is a Roma, living according to the unique traditions of that ethnic group, we conclude that internment in an educational centre will further aggravate his emotional fragility by uprooting him and will in no way contribute to his re-education and reintegration into society”
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Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b> Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
Decision date	27/09/2019
Reference details	Proc. 631/19.5BEPRT – Northern Central Administrative Court
Key facts of the case (max. 500 chars)	Following the publication of Ordinance 119/2018, 4th May and the subsequent repositioning of the teachers that have entered the career since 1/01/2011, a teacher has asked the Board of the School Group for access to written information on the name, service time and level of each repositioned teacher. This request was denied and the teacher filed for a motion to consult documents and deliver certified copies. The court of first instance decided in favour of the applicant. The defendant appealed, invoking the data protection regulation.
Main reasoning/argumentation (max. 500 chars)	Data protection rights are not unlimited and must be compatible with other rights such as the fundamental right of access to administrative documents and the right to participate in public administration. Access to the requested information is imposed by the principles of legality, equality and transparency of the administration.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The court decision has clarified the compatibility between the GDPR and the law on access to administrative documents.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court has ordered the administration to provide the requested information.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>A proteção das pessoas singulares relativamente ao tratamento dos seus dados pessoais, no que aqui interessa, na vertente da divulgação ou concessão do acesso a terceiros, tem limites, decorrentes do cumprimento das obrigações jurídicas a que o responsável pelo tratamento esteja sujeito. Ou seja, apesar de fundamental, a proteção de dados no que toca ao tratamento dos seus dados pessoais, não é um direito absoluto, devendo compaginar-se com outros direitos, o que sucede, no caso concreto, como veremos, por estarem em causa, outros direitos (entre os quais, o direito fundamental de acesso aos arquivos e registos administrativos – artigos 268.º, n.º 1 e 2 da CRP).</p> <p>Personal data protection with regard to disclosure or granting of access to third parties has limitations arising from fulfilment of the legal obligations to which the controller is subject. In other words, although fundamental, personal data protection is not an absolute right and should be combined with other rights (...) (including the fundamental right of access to administrative documents and archives - Articles 268 (1) and (2) of the Constitution).</p>



Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b> Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
Decision date	18/09/2019
Reference details	Proc. 26/2018 – Constitutional Court Judgement 464/2019 <a href="http://www.tribunalconstitucional.pt/tc/acordaos/20190464.html">http://www.tribunalconstitucional.pt/tc/acordaos/20190464.html</a>
Key facts of the case (max. 500 chars)	In January 2018, 35 Members of Parliament from three parties (PCP, PEV and BE) officially requested the Constitutional Court to provide a ruling on the constitutionality of Articles 3 and 4 of the Organic Law 4/2017, 25 August, which grants intelligence services (the Portuguese Internal Intelligence Service, SIS; and the Portuguese External Intelligence Service, SIED) access to telecommunication and internet data. Article 3 states that SIS and SIED intelligence officers may have access to equipment base and location data for the purpose of producing the information necessary for safeguarding national defence, internal security and preventing sabotage, espionage, terrorism, proliferation weapons of mass destruction and highly organized crime. Article 4 states that SIS and SIED intelligence officers may only have access to traffic data for the purpose of producing the information necessary for the prevention of espionage and terrorism.
Main reasoning/argumentation (max. 500 chars)	The members of Parliament invoked the violation of article 34 (4) of the Portuguese Constitution, that guarantees the inviolability of correspondence, telecommunications and other forms of communication by public authorities, except in the cases enshrined in criminal procedure law.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Constitutional Court considered that the compatibility of articles 3 and 4 of Organic Law 4/2017 of 25 August with the Constitution should be sought under Articles 26 (1) (right to freedom of personal development and the right to private and family life) and 35 (1) and (4) (prohibition of the access to personal data) of the Constitution. In that sense, the Court has performed a proportionality test to article 3 in order to assess if the legal regime is excessive. It concluded that this provision passed the proportionality test when information is accessed for the purpose of producing the information necessary for the prevention of acts of sabotage, espionage, terrorism, proliferation of weapons of mass destruction and highly organized crime. Nonetheless, it stated that it does not pass the proportionality test when this access is used for producing the information necessary for safeguarding national defence and security, since these are vague and undetermined concepts and there is no guarantee of judicial assessment. Also article 4 of Organic Law 4/2017 of 25 August did not pass the proportionality test. The Constitutional Court has considered that this provision allows for the possibility of disproportionate access to data in undefined situations, disregarding effective means of reaction against unlawful interventions.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Constitutional Court decided to: a) Declare the unconstitutionality, with general binding force, of the rule in Article 3 of Organic Law 4/2017 of 25 August, in so far as it allows access by intelligence officers of SIS and SIED to equipment and location data, when they do not support actual communication, for the purpose of producing the information necessary for safeguarding national defence and security, since it breaches Articles 26 (1) and 35 (1) and (4) in conjunction with Article 18 (2) of the Constitution of the Portuguese Republic; b) Not to declare the unconstitutionality of the rule in article 3 of Organic Law 4/2017 of 25 August, in so far as it admits access by the information officers of these services within the scope of their duties, regarding

	<p>equipment and location data, when they do not support concrete communication, for the purpose of producing the information necessary for preventing acts of sabotage, espionage, terrorism, proliferation of weapons of mass destruction and highly organized crime;</p> <p>c) Declare the unconstitutionality, with general mandatory force, of the rule in article 4 of Organic Law 4/2017 of 25 August, for it violates the provisions of article 34 (4) of the Constitution, with regard to the access to traffic data involving intersubjective communication, and the provisions of Articles 26 (1) and 35 (1) and (4) in conjunction with Article 18 2 (2) of the Constitution, as regards the access to traffic data not involving intersubjective communication.</p>
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>No juízo de proporcionalidade sobre as medidas restritivas tem que ser equacionado o risco de, sob a capa da luta contra o terrorismo e a espionagem, os cidadãos serem reduzidos a identidades digitalmente criadas e heteroconstruídas, baseadas em perfis definidos por terceiros, com a consequente desumanização das pessoas e estandardização dos seus comportamentos, aniquilando-se a privacidade e condicionando-se a liberdade, assim acabando por perverter a democracia. O desvalor do sacrifício imposto à liberdade dos cidadãos assume aqui um especial peso na análise da relação meio-fim inerente ao teste da proporcionalidade.</p> <p>When testing the proportionality of restrictive measures, one must include in the equation the risk that citizens are reduced to digitally created identities and hetero-constructed identities while based on profiles set by third parties, under the guise of fighting terrorism and espionage. Consequently, in this scenario, people will be dehumanized and their behaviour standardized, privacy will be lost and limitations will be imposed on freedom, all of which will corrupt democracy. The means-ends analysis of the proportionality test takes very much into consideration the depreciation of the fact that citizens sacrifice part of their freedom.</p>

Thematic area	<p><b>RIGHTS OF THE CHILD</b></p> <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.</p>
Decision date	30/05/2019
Reference details	<p>336/18.4T8OER.L1.S1 – Supreme Court of Justice</p> <p><a href="http://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/32d36f4f4a970a598025840a00511a7f?OpenDocument&amp;Highlight=0,seguran%C3%A7a,internet,crian%C3%A7a">http://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/32d36f4f4a970a598025840a00511a7f?OpenDocument&amp;Highlight=0,seguran%C3%A7a,internet,crian%C3%A7a</a></p>
Key facts of the case (max. 500 chars)	<p>A television channel produced and broadcasted the first two episodes of a reality doc that showed the general public how to discipline children. The children that participated in this reality show were be enrolled by their parents, who would give consent. The reality doc included a psychologist, a coach or a therapist that would help parents establish boundaries and rules vis-à-vis their children and the show broadcasted several episodes of the children’s daily life and their interaction with their parents (namely their conflicts). The Public Prosecution, representing the children’s interests, requested the cancellation of this television show and the prohibition of its broadcast, arguing that it violated the children’s rights to their image, and their privacy and that it would be harmful for their development.</p>
Main reasoning/argumentation	<p>The consent given by the parents to enrol their children in the reality doc is void since it offends public order in the sense that it violates the undeniable and unrenounceable value of human dignity.</p>

(max. 500 chars)	
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The right to image and privacy are the materialisation of the principle of human dignity. The limitations to personality rights are not admissible if they trespass the limits of human dignity and disrupt public order. The consent given by the parents authorising the limitation of their children's rights to image and intimacy is irrelevant if it offends the value of human dignity.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The television channel was forbidden to broadcast the first two episodes of the show and to broadcast or, by any means, divulge the following episodes without the previous consent of the Child Protection Commission.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>Alcançando ou “tocando” a essência do valor intrínseco da pessoa humana, “excede os limites da adequação social” e, consequentemente, ofende a ordem pública. Esta ofensa torna-se, sem dúvida, mais ostensiva e adquire gravidade reforçada pelo facto de as pessoas em causa serem crianças. Reveste a forma de exploração, para efeitos comerciais, da imagem e da vida íntima de crianças. As crianças são como que “lançadas no mercado”, instrumentalizadas aos fins comerciais das entidades promotoras, o que é incompatível com a sua dignidade, que é – deve ser – “um bem fora do comércio”.</p> <p>Reaching or “touching” the essence of the intrinsic value of human dignity “exceeds the limits of social adequacy” and consequently offends public order. This offense is undoubtedly more conspicuous by the fact that the persons concerned are children. It takes the form of exploitation of the image and privacy of children for commercial purposes. Children are ‘thrown into the market’, instrumentalized for the commercial purposes of the promoters, which is incompatible with their dignity, which is - should be – ‘a good out of business’.</p>

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b>
	Please provide the most relevant high court decisions in relation to one of the topic addressed in this Chapter..
Decision date	09/07/2019
Reference details	Case 742/16.9PGLRS.L1-5 – Lisbon Appeal Court <a href="http://www.dgsi.pt/jtrl.nsf/33182fc732316039802565fa00497eec/fce6f72f7f1bfb2880258478003b2ae3?OpenDocument&amp;Highlight=0,persegui%C3%A7%C3%A3o">http://www.dgsi.pt/jtrl.nsf/33182fc732316039802565fa00497eec/fce6f72f7f1bfb2880258478003b2ae3?OpenDocument&amp;Highlight=0,persegui%C3%A7%C3%A3o</a>
Key facts of the case (max. 500 chars)	For about a month, the defendant sent several WhatsApp messages to the victim knowing that the victim did not want to receive them. The victim felt her freedom limited, her private life, her peace and quiet, and even feared for her life and physical integrity. She was compelled to change telephone number. The defendant was convicted of stalking charges and appealed that ruling.
Main reasoning/argumentation (max. 500 chars)	The defendant argues that the court of first instance did not correctly evaluate the context of the messages and didn't take into account the fact that the victim replied to some messages. The defendant argues that there is no ground to consider this behaviour a crime of stalking.

Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Court of Appeal clarifies what behaviours can be considered stalking: routine actions, apparently harmless, like offering gifts or insistently phoning, or intimidation, like in this case, where the defendant sent offensive and threatening messages. The ruling delivered by the Court of Appeal states that sending many messages, at any time of day or night, goes beyond the mere purpose of insulting or threatening. It shows the will to stalk another person by any means, in such a way as to cause fear or restlessness or to limit the victim's freedom of determination.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court of Appeal rejected the appeal and confirmed the sentence of the court of first instance: the defendant was convicted to a 15 month suspended prison sentence.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>Pela sua persistência e contexto de ocorrência, este padrão de conduta pode escalar em frequência e severidade o que, muitas vezes, afecta o bem-estar das vítimas, que são sobretudo mulheres e jovens.</p> <p>A perseguição consiste na vitimação - palavra formada por derivação do verbo vitimar, (...) - de alguém que é alvo, por parte de outrem, o assediante, de um interesse e atenção continuados e indesejados, como vigilância, ou perseguição, os quais são susceptíveis de gerar ansiedade e medo na pessoa-alvo.</p> <p>Due to its persistence and the context of its occurrence, this pattern of conduct can escalate in frequency and severity, which often affects the well-being of victims, who are mainly women and young women.</p> <p>Stalking is victimization - a word formed by derivation of the verb victimize, (...) - from someone who is the target of continued and unwanted interest and attention, such as vigilance or persecution, which are likely to generate anxiety and fear in the person targeted.</p>

Thematic area	<p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p>Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
Decision date	26/02/2019
Reference details	<p>Judgment set down by the Porto Court of Appeal, Case no. 6137/17.6T8VNG.P1</p> <p>Rapporteur: Alexandra Pelayo</p> <p>Appeal requesting the declaration, through a judicial sentence, that an adult is unable to manage his/her life and assets (declaration of interdição).</p> <p>Available at</p> <p><a href="http://www.dgsi.pt/jtrp.nsf/56a6e7121657f91e80257cda00381fdf/9898f7508effdee880258411003bafa0?OpenDocument&amp;Highlight=0,Conven%C3%A7%C3%A3o,sobre,os,Direitos,das,Pessoas,com,Defici%C3%Aancia">http://www.dgsi.pt/jtrp.nsf/56a6e7121657f91e80257cda00381fdf/9898f7508effdee880258411003bafa0?OpenDocument&amp;Highlight=0,Conven%C3%A7%C3%A3o,sobre,os,Direitos,das,Pessoas,com,Defici%C3%Aancia</a></p>
Key facts of the case (max. 500 chars)	The case first started in 2017. The Public Prosecutor's Office started proceedings in order to declare that the appellant is unable to manage his/her life and assets (declaration of interdição) due to psychic anomaly. When the case started, there were two legal institutions that regulated restrictions on the legal capacity of adults: interdição and inabilitação. In the case of interdição, the court declared that an adult who suffers from psychic anomaly, deafness-muteness or blindness, was to be prevented from exercising his/her rights alone due to the fact that he/she was unable to manage his/her life and assets (e.g. enter into a purchase agreement). Someone who was subjected to a declaration of interdição would be treated as an underage person. In the case of inabilitação, the adult

	<p>was only considered to be unable to manage his/her assets, which means that their legal capacity was only partially restricted. The declaration of inabilitação could be applied to adults whose psychic anomaly, deafness-muteness and blindness didn't justify their interdição (they could still manage their life) or in other circumstances (usual prodigality, alcohol abuse or drug abuse).</p> <p>In this case, the first instance court declared that the person at stake was only unable to manage his/her assets, so it issued a declaration of inabilitação.</p> <p>The Public Prosecutor's Office agreed with the decision. However, the appellant did not agree with the ruling of the first instance court and appealed to the Porto Court of Appeal requesting the declaration that he/she was unable to manage his/her life and assets (interdição).</p> <p>In the meantime, Law 49/2018, of 14 August, which establishes the legal framework for the accompanied adult ("maior acompanhado") was approved and extinguished the legal institutions of interdição and inabilitação.</p>
Main reasoning /argumentation (max. 500 chars)	In the Appellant's opinion, the decision made by the court a quo didn't correctly assess the evidence, because not all the documental evidence presented in the proceedings was analysed.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	According to the Porto Court of Appeal, the first instance decision didn't correctly assess the evidence. Also, due to Article 26 (2) of Law 49/2018, of 14 of August, which establishes the legal framework for the accompanied adult ("maior acompanhado") and extinguishes the legal institutions of interdição and inabilitação, procedures that restricted the legal capacity of adults, this regime will be applied to the pending cases. As such, the case was sent back to the first instance court in order to determine the accompanying measures of the appellant.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court of Appeal decided in favour of the appeal, determining the alteration of the factual basis and incorporating the documental evidence that wasn't analysed by the first instance court. Since the legal framework was altered, the case was sent back to the first instance court to be adapted to Law 49/2018, of 14 of August, which approved the legal framework of the accompanied adult ("maior acompanhado") that extinguished the legal institutions of interdição and inabilitação, procedures that restricted the legal capacity of adults.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>"Os institutos jurídicos Interdição/Inabilitação colocavam o foco na primazia dada à segurança e certeza do comércio jurídico (...). Hoje, toda esta perspectiva mudou (...). O primeiro passo nesse sentido foi dado com a ratificação de Portugal da Convenção dos Direitos das Pessoas com Deficiência (...). A perspectiva mudou e a dimensão de protecção jurídica que surge como parte integrante dos desafios da inclusividade, em especial no que concerne ao reconhecimento de que o adulto com incapacidade é um – igual – sujeito perante a lei, dotado de personalidade jurídica e com direito a que sejam levadas a cabo medidas adequadas à promoção do exercício da sua capacidade jurídica com a máxima autonomia possível. O "foco" é agora colocado no próprio visado (...). E tal ocorre, através da adopção pelo tribunal de medidas de acompanhamento, com conteúdo variável, "modelado" na pessoa do visado, de acordo com as necessidades concretas por aquele evidenciadas."</p> <p>"The Interdição/Inabilitação legal institutions focused on the priority given to the security and certainty of legal trade (...). Today, this whole perspective has changed (...). The first step in this direction was taken with ratification of the Convention on the Rights of Persons with Disabilities (...). The perspective has changed and the dimension of legal protection that emerges as an integral part of the challenges of inclusiveness, in particular</p>

<p>as regards to the recognition that the disabled adult is an – equal – subject to the law, endowed with legal personality and s/he has the right that the appropriate measures are taken to promote the exercise of their legal capacity with the highest possible autonomy. The “focus” is now placed on the person her/himself (...). And this happens by having the court carry out accompanying measures, with variable content, “suited” to the person, according to the concrete needs evidenced by s/he.”</p>
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