

Fundamental rights protection of persons with disabilities living in institutions

Right to protection from violence, abuse, torture and
cruel, inhuman or degrading treatment

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Disclaimer

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1. Legal and policy framework prohibiting violence in institutions for persons with disabilities

1.1. Specific provisions prohibiting the use of violence

Table 1: Legal provisions

a)	Legal provision	Article 166 of the Criminal Code, under chapter V (of Title I - Of crimes against people) referring to Crimes against sexual freedom and self-determination, addresses cases of sexual abuse of a hospitalized person. This article stipulates that “1 - Whoever, taking advantage of the functions or position that, in any capacity, exercises or holds in: a) Establishment where criminal reactions depriving liberty are carried out; b) Hospital, hospice, asylum, convalescent or health clinic, or other establishment intended for assistance or treatment; or c) Educational establishment, educational centre or residential care home; performs a significant sexual act with a person who is hospitalized there and who is in any way entrusted to their care is punishable by a prison sentence of six months to five years. 2 - If the relevant sexual act consists of copulation, anal intercourse, oral intercourse or vaginal or anal insertion of parts of the body or objects, the offender is punished with a prison sentence of one to eight years.”
b)	Reference	Portugal, <i>Decreto-Lei 48/95, que aprova o Código Penal</i> (Decree-Law 48/95, approving the Criminal Code), 15 March 1995.
c)	Binding	Yes (Law- Criminal Code)
d)	Issue covered	Sexual violence against people in institutions, including people with disabilities in institutions
e)	National / regional / local coverage	National

f)	Enforcement / monitoring mechanism	As this provision is foreseen in the Criminal Code, its enforcement and monitoring falls within the scope of the judicial system (courts).
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a)	Legal provision	Article 8 (1) of the Mental Health Act establishes special rights and duties of people in need of mental health care. It establishes that people in need of mental health care have the right not to be subjected to: a) Coercive measures, including isolation and physical or chemical means of restraint; b) Electroconvulsive therapy or transcranial magnetic stimulation without their written consent; c) Psychosurgical interventions without their written consent and the favourable written opinion of two psychiatrists and a neurosurgeon appointed by the National Coordination of Mental Health Policies (<i>Coordenação Nacional das Políticas de Saúde Mental</i>). The law also establishes some exceptions regarding this right. - In the provision of mental health care, coercive measures, including isolation and physical or chemical means of restraint, may only be used to the extent strictly necessary to prevent serious and imminent offence to the body or health of the person in need of such care or of a third party. They can only be used as a last resort and for a limited period strictly necessary. It also has to be specifically and expressly prescribed by a doctor or immediately brought to their attention for consideration and approval, in cases of urgency or danger of delay. Information on the nature of the coercive measures applied, the reasons for their use and their duration must be immediately and compulsorily recorded in the medical file (Article 11). - Regarding electroconvulsive therapy or transcranial magnetic stimulation, within the context of involuntary treatment judicially decided, may only be used when these techniques are medically prescribed, prove to be the best therapeutic alternative and the prescription is confirmed by two psychiatrists in addition to the prescribing doctor. Information on the use of the techniques and the reasons for them must be immediately and compulsorily recorded in the clinical file (Article 12).
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- Advance directives and the appointment of a health care proxy – unilateral document in which a person of legal age and capacity expresses their conscious, free and informed will in advance regarding the healthcare they wish to receive or do not wish to receive, in the event that, for whatever reason, they are unable to express their will personally and autonomously – may include provisions expressing the clear and unequivocal wishes of the person in terms of mental health care, namely with regard to: in-patient treatment; coercive measures, including isolation and physical or chemical means of restraint; electroconvulsive therapy or transcranial magnetic stimulation; and psychotropic medication. If this is the option of the person, a medical opinion attesting to their capacity to give conscious, free and informed consent is attached to the advance directive, and this opinion is mandatory if the advance directive of will is contained in a written document signed in front of an official from the National Living Will Registry.

Chapter IV of the Mental Health Law also foresees measures regarding involuntary treatment. In cases of involuntary treatment, the cumulative prerequisites are:

- the existence of a mental illness;
- the refusal of medically prescribed treatment necessary to prevent or eliminate the danger;
- the existence of danger: to personal or property legal assets; or to third parties (due to the mental illness and the refusal of treatment); or to oneself, due to the mental illness and the refusal of treatment, when the person does not have the necessary discernment to assess the meaning and scope of consent;
- the purpose of the treatment due to the mental illness and the refusal of treatment;

Involuntary treatment can only take place if it is: the only way to guarantee medically prescribed treatment; adequate to prevent or eliminate one of the foreseen situations of danger; and proportional to the seriousness of the mental illness, the degree of danger and the relevance of the legal asset. It takes place on an outpatient basis, provided by community mental health teams, unless hospitalisation is the only way to guarantee medically prescribed treatment, ceasing as soon as treatment can be resumed on an outpatient basis. Restrictions on the rights, wishes and preferences

		of people in need of mental health care resulting from involuntary treatment are those that are strictly necessary and appropriate for the effectiveness of the treatment, safety and the normal operation of the inpatient unit of the local or regional mental health service.
b)	Reference	Portugal, <u>Lei 35/2023, que aprova a Lei da Saúde Mental, altera legislação conexa, o Código Penal, o Código da Execução das Penas e Medidas Privativas da Liberdade e o Código Civil e revoga a Lei n.º 36/98, de 24 de julho</u> (Law 35/2023, which approves the Mental Health Law, amends related legislation, the Criminal Code, the Code for the Execution of Sentences and Custodial Measures and the Civil Code, and repeals Law 36/98, of 24 July), 21 July 2023
c)	Binding	Yes (Law - Mental Health Law)
d)	Issue covered	Involuntary treatment on the basis of impairment Use of physical and chemical restraints Electroconvulsive therapy or transcranial magnetic stimulation
e)	National / regional / local coverage	National
f)	Enforcement / monitoring mechanism	When it comes to involuntary treatment, the monitoring entity is the Commission to Monitor the Implementation of the Legal Framework for Involuntary Treatment (<i>Comissão de Acompanhamento da Execução do Regime jurídico do Tratamento Involuntário</i>). This commission is responsible for visiting inpatient units, of local or regional mental health services, and communicate directly with people in involuntary treatment; request or send any administrative or judicial body information on the situation of people undergoing involuntary treatment; receive and analyse complaints from people in involuntary treatment or people with legal standing to request it; request from the Public Prosecutor's Office before the competent court the judicial procedures deemed appropriate to correct any situations of violation of the law that it finds in the exercise of its functions; collect and process information on the application of the involuntary treatment regime; issue recommendations to the entities involved in implementing the involuntary treatment regime; and propose to the government the measures it deems necessary to implementation of this law.

1.2. General provisions prohibiting the use of violence applicable by analogy

The **Portuguese Constitution** ⁽¹⁾, in its article 71 (1), establishes that citizens with physical or mental disabilities fully enjoy the rights and are subject to the duties enshrined in the Constitution, with the exception of the exercise or fulfilment of those for which they are incapacitated. This means that they enjoy the rights enshrined in the constitutional catalogue of rights, freedoms and guarantees. Within the scope of the present report, the two following rights should be highlighted. Article 25 states that the moral and physical integrity of persons is inviolable and that no one shall be subjected to torture or to cruel, degrading or inhuman treatment or punishment. Furthermore, Article 26 (1) recognises the right to personal identity, personality development, civil capacity, citizenship, good name and reputation, image, speech, privacy of private and family life and legal protection against any form of discrimination.

The **Criminal Code**, approved by Decree-Law 48/95 ⁽²⁾, establishes, *lato sensu*, a provision regarding hate crimes in its Article 240. Although, this article refers to discrimination on the grounds of other characteristics, it also includes discrimination on the grounds of disability. Therefore, it states that anyone that founds or sets up an organisation; carries out propaganda activities that incite or encourage discrimination, hatred or violence against a person or group of persons on the grounds of the characteristics foreseen; or even participates in the organisations, activities they undertake or assists the organisation, including financing them, commits a crime of discrimination and incitement to hatred and violence. Moreover, whoever, publicly, by any means intended for dissemination (in particular, through the apology, denial or gross trivialisation of crimes of genocide, war or against peace and humanity) causes acts of violence against a person or group of persons, defames or insults a person or group of persons, threaten a person or group of persons or incites discrimination, hatred or violence against a person or group of persons, on the grounds of the characteristics foreseen, which includes people with disabilities, also incurs in a crime of discrimination and incitement to hatred and violence. The crime is punishable by imprisonment from 6 months to 5 years.

Article 143 refers to crimes against physical integrity, and addresses cases of simple offense to physical integrity. The article stipulates that “Anyone who offends another person's body or health is punished with a prison sentence of up to 3 years or a fine.

⁽¹⁾ Portugal, *Constituição da República Portuguesa* (Constitution of the Portuguese Republic), 10 April 1976.

⁽²⁾ Portugal, *Decreto-Lei 48/95, que aprova o Código Penal* (Decree-Law 48/95, approving the Criminal Code), 15 March 1995.

[...]”. On the other hand, Article 144, refers to crimes against physical integrity, addressing cases of serious offense to physical integrity. The article stipulates that “Anyone who offends another person's body or health in such a way as to: a) Deprive them of an important organ or limb, or seriously and permanently disfigure them; b) Take away or seriously affect their ability to work, intellectual capabilities, procreation or sexual enjoyment, or the possibility of using their body, senses or language; c) Cause a particularly painful or permanent illness, or serious or incurable mental anomaly; or d) Cause danger to their life; is punished with a prison sentence of two to ten years”.

Article 148 establishes the crime of offense to physical integrity due to negligence. This article stipulates that “whoever, through negligence, offends the body or health of another person, is punished with a prison sentence of up to 1 year or a fine of up to 120 days.” However, the court may waive the penalty. If the act results in a serious offense to physical integrity, the offender is punished with a prison sentence of up to 2 years or a fine of up to 240 days.

It should be noted that practices of forced sterilisation are criminalised through the crime of offense to physical integrity (in all its forms). These practices have to be distinguished from practices of voluntary sterilisation. In this sense, Law 3/84 ⁽³⁾ establishes that voluntary sterilisation can only be carried out by people over the age of 25, by means of a duly signed written declaration, containing the unequivocal expression of their will that they wish to undergo the necessary intervention and the mention that they have been informed of the consequences of it, as well as the identity and signature of the doctor asked to intervene. The age limit requirement is waived in cases where sterilisation is determined for therapeutic reasons (Article 10). However, in 2016, the Medical Deontology Regulations (mentioned below) set a precedent regarding children and young people or people with disabilities/incapacitated people (see below).

Article 152-A establishes the crime of mistreatment, according to which anyone who has a child, young person or a person who is particularly defenceless due to their age, disability, illness or pregnancy in their care, custody, direction or education, or who works for them, and inflicts on him or her, whether or not repeatedly, physical or mental ill-treatment, including corporal punishment, deprivation of liberty and sexual offences, or treats him or her cruelly; employs them in dangerous, inhuman or prohibited activities; or burdens them with excessive labour; is punished with imprisonment of between one and five years, if a more serious penalty is not imposed. An aggravated penalty is foreseen if the mistreatment results in serious physical injury or in death.

⁽³⁾ Portugal, [*Lei 3/84, sobre educação sexual e planeamento familiar*](#) (Law 3/84 on sex education and family planning), 24 March 1984.

Article 165 foresees the crime of sexual abuse of a person incapable of resistance. This article stipulates that “anyone who performs a significant sexual act with a person who is unconscious or unable, for any other reason, to resist, taking advantage of their condition or incapacity, is punished with a prison sentence of 6 months to 8 years. If the relevant sexual act consists of copulation, anal intercourse, oral intercourse or vaginal or anal introduction of parts of the body or objects, the offender is punished with a prison sentence of two to ten years.”

Article 172 foresees the crime of sexual abuse of dependent or in a particularly vulnerable situation of children and young people. It states that whom exercises parental responsibility or has been entrusted with upbringing or care; or abuses a position of clear trust, authority or influence over the minor; or takes advantage of another situation in which the child or young person is particularly vulnerable, particularly for reasons of health or disability, and engages in a significant sexual act with or on a child or young person under the age of 14, or induces the child or young person to engage in such an act with another person, is punished by a prison sentence of 1 to 8 years.

However, the Criminal Code also foresees other crimes that, when committed against a person or group of people with disabilities, are punishable with aggravated penalties. This is the case in the crimes of:

- aggravated murder;
- crimes against personal freedom: threat, coercion, persecution, forced marriage and preparatory acts; abduction;
- crimes against sexual freedom: sexual coercion, rape, sexual fraud, non-consensual artificial procreation, incitement to prostitution, sexual harassment;
- crimes against sexual self-determination: sexual abuse of children, sexual acts with teenagers, resorting to child prostitution, incitement to child prostitution, child pornography and acts contrary to sexual orientation, gender identity or expression;

Law 46/2006 ⁽⁴⁾ prohibits and punishes discrimination on the grounds of disability and the existence of an aggravated health risk. It considers, among others, as a discrimination practice the adoption of an act in which, publicly or with the intention of wide dissemination, a natural or legal person, public or private, makes a statement

⁽⁴⁾ Portugal, [*Lei 46/2006, que proíbe e pune a discriminação em razão da deficiência e da existência de risco agravado de saúde*](#) (Law 46/2006, which prohibits and punishes discrimination on the grounds of disability and the existence of an aggravated health risk), 28 August 2006.

or transmits information by virtue of which a group of people is threatened, insulted or demeaned on grounds of discrimination based on disability. This law is further regulated by Decree-Law 34/2007 ⁽⁵⁾.

Law 16/2007 ⁽⁶⁾, on the exclusion of illegality in cases of voluntary termination of pregnancy (also known as the Abortion Law), establishes that if the pregnant woman is under the age of 16 or psychically incapable, respectively and successively, as the case may be, consent is given by her legal representative, ascendant or descendant or, failing that, by any relatives in the collateral line (Article 1 (5)).

Law 104/2009 ⁽⁷⁾ approves the regime for granting compensation to victims of violent crimes and domestic violence. It establishes as violent crimes, among others, offenses that fall under the legal definitions of “violent crime” and “especially violent crime” set out in Article 1 of the Code of Criminal Procedure. Therefore, the Code of Criminal Procedure ⁽⁸⁾ establishes that violent crimes are conducts that are intentionally directed against life, physical integrity, personal freedom, sexual freedom and self-determination or public authority and are punishable by a maximum prison sentence of 5 years or more; and particularly violent crimes as conducts that are also intentionally directed against life, physical integrity, personal freedom, sexual freedom and self-determination or public authority, that are punishable by a maximum prison sentence of 8 years or more. In these cases, the victim has a right to compensation from the State.

Law 15/2014 ⁽⁹⁾ recognises the right to family support/assistance for children admitted to a healthcare establishment, as well as for people with disabilities, people in a situation of dependency and people with an incurable disease in an advanced stage

⁽⁵⁾ Portugal, [*Decreto-Lei 34/2007, que regulamenta a Lei 46/2006, de 28 de Agosto, que tem por objecto prevenir e proibir as discriminações em razão da deficiência e de risco agravado de saúde*](#) (Decree-Law 34/2007, which regulates Law 46/2006, of 28 August, aimed at preventing and prohibiting discrimination on the grounds of disability and aggravated health risk), 15 February 2007.

⁽⁶⁾ Portugal, [*Lei 16/2007, sobre a exclusão da ilicitude nos casos de interrupção voluntária da gravidez*](#) (Law 16/2007, on the exclusion of illegality in cases of voluntary termination of pregnancy), 17 April 2007.

⁽⁷⁾ Portugal, [*Lei 104/2009, que aprova o regime de concessão de indemnização às vítimas de crimes violentos e de violência doméstica*](#) (Law 104/2009, approving the system for granting compensation to victims of violent crimes and domestic violence), 14 September 2009.

⁽⁸⁾ Portugal, [*Decreto-Lei 78/87, que aprova o Código do Processo Penal. Revoga o Decreto-Lei 16489, de 15 de fevereiro de 1929*](#) (Decree-Law 78/87, approving the Code of Criminal Procedure. Revokes Decree-Law 16489, of 15 February 1929), 17 February 1987.

⁽⁹⁾ Portugal, [*Lei 15/2014 sobre a Lei consolidando a legislação em matéria de direitos e deveres do utente dos serviços de saúde*](#) (Law 15/2014, on the Law consolidating legislation on the rights and duties of health service users), 21 March 2014.

and at the end of life (Article 12 (5)). Although not directly related with violence, this law establishes an indirect way of protecting a person with disabilities from violence in healthcare establishments, especially when they are hospitalised.

Law 130/2015 ⁽¹⁰⁾ approves the Victim Statute, transposing Directive 2012/29/EU of the European Parliament and of the European Council, of October 25, 2012, which establishes standards relating to the rights, support and protection of victims of crime and which replaces the Decision - Council Table 2001/220/JHA of 15 March 2001. This law establishes as an “especially vulnerable victim”, people whose particular fragility is due, to their age, state of health or disability, or to the fact that the type, degree and duration of victimisation has resulted in injuries with serious consequences for their psychological equilibrium or the conditions of their social integration. It also foresees in its article 3 that all victims, regardless of ancestry, nationality, social status, gender, ethnicity, race, language, age, religion, disability, political or ideological beliefs, sexual orientation, culture and educational level, enjoy the fundamental rights inherent in the dignity of the human person, and are guaranteed equal opportunities to live without violence and preserve their physical and mental health.

Regulation 707/2016 ⁽¹¹⁾, that establishes the Medical Deontology Regulations, foresees some ethical standards that doctors should follow regarding people with disabilities. On a more general note, Article 29 establishes that doctors must be particularly solicitous and careful towards children and young people, elderly people, and disabled or particularly defenceless persons when he or she finds that their relatives or other guardians are unable or unwilling to take care of their health or ensure their well-being. Therefore, whenever a doctor is called upon to treat one of the aforementioned persons, the doctor has a special duty to verify if the person is a victim of abuse, mistreatment or harassment. If the doctor finds that the person is a victim of violence, he or she must take the appropriate steps to ensure the protection of the victim, including alerting the competent authorities.

Regarding consent, Article 21 establishes that the consent of children and young people or people with cognitive alterations, that render them temporarily or permanently incapable of giving their consent, must be requested from their legal

⁽¹⁰⁾ Portugal, [*Lei 130/2015, que procede à vigésima terceira alteração ao Código de Processo Penal e aprova o Estatuto da Vítima, transpondo a Diretiva 2012/29/UE do Parlamento Europeu e do Conselho, de 25 de outubro de 2012, que estabelece normas relativas aos direitos, ao apoio e à proteção das vítimas da criminalidade e que substitui a Decisão-Quadro 2001/220/JAI do Conselho, de 15 de março de 2001*](#) (Law 130/2015, which makes the twenty-third amendment to the Code of Criminal Procedure and approves the Victim's Statute, transposing Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing rules on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of 15 March 2001), 4 September 2015.

⁽¹¹⁾ Portugal, [*Regulamento 707/2016 sobre o Regulamento de Deontologia Médica*](#) (Regulation 707/2016, on the Medical Deontology Regulations), 21 July 2016.

representative. In the case of children and young people, their opinion must be taken into account, according to their maturity, but the doctor is not exempt from obtaining the consent of their legal representatives and weighing up any conflicting interests. At the same time, when there is an advance directive of will or the appointment of a health care proxy by the person, the doctor must respect their decisions under the terms of the law, without prejudice to the exercise of the right to conscientious objection. The actions of the doctor must always be aimed at defending the best interests of the person, especially when the person is unable to communicate their wishes. Within this context, the patient's best interests are understood to be the decision they would make in a free and informed manner if they had the capacity to do so. Furthermore, it is up to the doctor to consider, in each case, the need to apply to the court for judicial authorisation of the patient's consent.

In more specific situations, the Medical Deontology Regulations also establish ethical standards regarding people with disabilities. Article 68 (7) establishes that the harvesting of human organs or tissues from an adult with mental disabilities can only be done with judicial authorisation. For children and young people (with or without disabilities) an authorisation from the parents/guardians or the court (when there is no parents/guardians) is needed (Article 68(5)). Article 74 (4) establishes that the methods of irreversible sterilisation, tubal ligation and vasectomy in the case of children and young people or impaired people, can only be performed after a duly substantiated request in order to avoid serious risks to their lives or the health of their hypothetical children, and always with the prior opinion of the National Council of Ethics and Deontology of the Portuguese Medical Association (*Conselho Nacional de Ética e Deontologia da Ordem dos Médicos*). Article 86 (2) establishes that experimentation on children and young people and impaired people is ethically admissible, as long as it is dictated by their interests.

Still regarding consent, it should be noted that the Directorate General for Health (*Direção-Geral da Saúde*), has issued, in 2013 (updated in November 2015), the **Standard 015/2013 on informed, clear and free written consent**. ⁽¹²⁾ This document establishes guidelines to doctors in order to obtain informed, clear and free written consent from patients. It establishes that informed, clear and free written consent is mandatory in cases of, among others, voluntary termination of pregnancy (abortion), invasive techniques on pregnant women, voluntary sterilisation, placement of intrauterine subcutaneous contraceptive devices, electroconvulsive therapy and psychosurgical intervention, harvesting and transplantation of organs from living donors, research on people, surgical and/or anaesthetic procedures (with the exception of simple, short-term operations to treat superficial tissue or easily accessible structures, with local anaesthesia) and major invasive diagnostic or therapeutic procedures. It also establishes that decisions about the health of a person

⁽¹²⁾ For more information, see the [website of the Portuguese Contraception Society](#).

who lacks the capacity to decide requires, regardless of whether their involvement is attempted, the authorisation from their legal representative, healthcare proxy, authority or a person or body designated by law. In the case of people with hearing or visual impairments, the communication process inherent in informed, clear and free written consent must be carried out using means of communication adapted to this population (sign language or Braille), so that they can be involved in the decision-making process.

1.3. Policy framework

The following policy frameworks are arranged in chronological order. However, the last example is a recommendation for the development of a new policy. Therefore, it was put at last.

Table 2: Policy framework

a)	Policy instrument	Strategy for the Protection of Older People (<i>Estratégia de Proteção ao Idoso</i>)
b)	Reference	Portugal, <i>Resolução do Conselho de Ministros 63/2015, que aprova a Estratégia de Proteção ao Idoso</i> (Resolution of the Council of Ministers 63/2015, approving the Strategy for the Protection of Older People), 25 August 2015.
c)	Targeted population	Older people.
d)	Mention of / reference to risk of violence	Yes.
e)	Specific measures / safeguards	Yes. The introductory text to the Strategy states that, due to the right to dignity, older people should be able to live in dignity and safety, without being exploited or physically or mentally abused; and that they should be treated fairly, regardless of their age, gender, racial or ethnic origin, disability or other condition, and be valued regardless of their economic contribution. Regarding violence, the measures established can be applicable to non-institutional and institutional settings. Therefore, within the context of Measure 4, it is foreseen a revision of the Criminal Code, in order to establish: - It is a criminal offence: 1. Drawing up a notarial act involving an older person who is, at the time, notoriously limited or altered in their mental functions, in terms that make it impossible for them to make decisions autonomously or in an informed manner, without the insurance of legal representation;

		2. Coercing an older person who is, at the time, notoriously limited or altered in their mental functions, in terms that make it impossible for them to take decisions autonomously or in an enlightened manner, to grant power of attorney for the purpose of administering or disposing of their property; 3. Denying the reception or stay of an older person in a public or private institution for the hospitalisation of older people, due to their refusal to grant power of attorney for the purposes of administration or disposal of their assets or to make a disposition of assets in favour of the institution in question; 4. Abandoning an older person in hospitals or other establishments dedicated to the provision of health care, when the older person is in the care of the perpetrator; 5. Preventing or hindering the access of an elderly person to the acquisition of goods or the provision of services of any kind, due to their age; - It is an aggravating circumstance: 1. If offences of insult and defamation are directed at a person who is particularly defenceless due to age, disability or illness; 2. If the offence of fraud involves a plan, campaign or promotion designed to induce someone to purchase goods or services that they have not previously requested, carried out through telephone contacts on the initiative of the promoter of the plan, campaign or promotion. These revisions to the Criminal Code have not been implemented. In 2015, one proposal ⁽¹³⁾ was presented to the Parliament and was even approved in the general vote. However, the proposal expired when it was being discussed in a special committee, before the speciality
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⁽¹³⁾ Portugal, [Projeto de Lei 62/XIII, sobre a 41ª alteração ao Código Penal, aprovado pelo Decreto-Lei 400/82, de 23 de setembro, criminalizando um conjunto de condutas que atentam contra os direitos fundamentais dos idosos](#) (Draft Law 62/XIII, on the 41st amendment to the Penal Code, approved by Decree-Law 400/82, of September 23, criminalizing a set of conducts that violate the fundamental rights of the elderly), 04 December 2015.

		vote ⁽¹⁴⁾ . A second proposal ⁽¹⁵⁾ was presented in 2022, but it was rejected in the general vote ⁽¹⁶⁾ .
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a)	Policy instrument	National Strategy for Equality and Non-Discrimination 2018-2030 (<i>Estratégia Nacional para a Igualdade e a Não Discriminação 2018-2030</i>)
b)	Reference	Portugal, Resolução do Conselho de Ministros 61/2018, que aprova a Estratégia Nacional para a Igualdade e a Não Discriminação 2018-2030 (Resolution of the Council of Ministers 61/2018 approving the National Strategy for Equality and Non-Discrimination 2018-2030), 21 May 2018.
c)	Targeted population	Persons with disabilities Victim's rights
d)	Mention of / reference to risk of violence	Yes.
e)	Specific measures / safeguards	Yes. Although the Strategy is more focused on gender and sexuality issues, there are some specific measures to protect people with disabilities in institutional and non-institutional settings. - Within the Strategic Aim 1, it is foreseen that non-governmental organisations of people with disabilities should be involved in the actions developed to train professionals in the social economy sector regarding gender based violence. - Within the Strategic Aim 2, it is foreseen the restructuring of the Information Service for Victims of Domestic Violence, guaranteeing specialised support 24 hours a day, ensuring the accessibility of information, by qualified professionals with training adapted to people with disabilities, on all forms of violence against women and domestic violence, in accordance with the Istanbul Convention, and immediate intervention in emergency situations. The training of the professionals that work in this service is also foreseen on Strategic Aim 4.

⁽¹⁴⁾ For more information, see the [Parliament website](#).

⁽¹⁵⁾ Portugal, [Projeto de Lei 241/XV/1, que criminaliza novas condutas atentatórias dos direitos de pessoas especialmente vulneráveis, procedendo à alteração do Código Penal](#) (Draft Law 241/XV/1, which criminalizes new conducts that violates the rights of especially vulnerable people, amending the Criminal Code), 22 July 2022.

⁽¹⁶⁾ For more information, see the [Parliament website](#).

		- Within the Strategic Aim 6, it is foreseen the developing of initiatives/actions that promote inclusion and equality between man and women among people with disabilities, in organisations and in the community.
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a)	Policy instrument	National Strategy for the Rights of the Child for the period 2021-2024 (<i>Estratégia Nacional para os Direitos da Criança para o período 2021-2024</i>)
b)	Reference	Portugal, <u>Resolução do Conselho de Ministros 112/2020 que aprova a Estratégia Nacional para os Direitos da Criança para o período 2021-2024</u> (Resolution of the Council of Ministers 112/2020 approving the National Strategy for the Rights of the Child for the period 2021-2024), 18 December 2020.
c)	Targeted population	Children and young people
d)	Mention of / reference to risk of violence	No.
e)	Specific measures / safeguards	No. The Strategy is divided in five axes/goals, called Priorities. Priority IV of the strategy refers to the imperative need to protect children and young people from all forms of violence, physical or mental, harm or abuse, neglect, violence against women and domestic violence, maltreatment or exploitation, including sexual abuse. Although the measures under this priority are based on preventing violence against children and young people at home, at school, in society and in the digital space, one of the measures is the development of a special programme for the prevention of violence against children and young people with disabilities.

a)	Policy instrument	National Strategy for the Inclusion of People with Disabilities 2021-2025 (<i>Estratégia Nacional para a Inclusão das Pessoas com Deficiência 2021-2025</i>)
b)	Reference	Portugal, <u>Resolução do Conselho de Ministros n.º 119/2021, que aprova a Estratégia Nacional para a Inclusão das Pessoas com Deficiência 2021-2025</u> (Resolution of the Council of Ministers 119/2021, approving the National Strategy for the Inclusion of People with Disabilities 2021-2025), 31 August 2021
c)	Targeted population	Persons with disabilities

d)	Mention of / reference to risk of violence	Yes.
e)	Specific measures / safeguards	Yes. Within Strategic Axis 1, regarding Citizenship, equality and non-discrimination, the general objectives number 2 is to promote inclusion, equality and the prevention of violence in organisations and in the community. It foresees as specific objectives: to deepen the action of public administrations in realising equality and inclusion; and preventing violence against people with disabilities and qualifying intervention; On more specific terms, it foresees the following measures to prevent violence: - To draw up methodological guidelines for preventing, signalling and intervening in situations of risk or violence against people with disabilities (of any age) for law enforcement and civil protection agents, magistrates, education and health professionals and technicians from Private Social Solidarity Institutions; - Create and implement an awareness-raising programme at national level prevention of violence against people with disabilities; - Promote awareness-raising activities among people with disabilities to prevent violence and abuse; - Promote coordinated intervention in the areas of disability and the prevention and fight against violence against women and domestic violence, namely based on the specialised response for women with disabilities in the National Support Network for Victims of Domestic Violence; - Training of professionals and agents in the field of disability in the dimensions of multiple discrimination, promotion of equality and intervention in the field of violence against people with disabilities. These specific measures are foreseen in Part C of the Strategy (Annex map: presentation of the strategic axes, general objectives and their specific objectives, concrete measures/actions to be developed, indicators, organisations involved and targets measures/actions to be developed). Although this strategy was approved in 2021, recent data from the Ministry of Social Security shows that only 31% of the measures foreseen for the years 2021 to 2023 have been implemented, and that Portugal had failed to meet

		70% of its defined objectives for supporting people with disabilities ⁽¹⁷⁾ .
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a)	Policy instrument	National Strategy for the Rights of Victims of Crime - 2024-2028 (<i>Estratégia Nacional para os Direitos das Vítimas de Crime - 2024-2028</i>)
b)	Reference	Portugal, Resolução do Conselho de Ministros 2/2024, que Aprova a Estratégia Nacional para os Direitos das Vítimas de Crime - 2024-2028 (Resolution of the Council of Ministers 2/2024, Approving the National Strategy for the Rights of Victims of Crime - 2024-2028), 5 January 2024.
c)	Targeted population	Victim's Rights
d)	Mention of / reference to risk of violence	No.
e)	Specific measures / safeguards	No. Part A, point 1.1 of the Strategy defines as particularly vulnerable victims: children and young people, pregnant women and the elderly, the sick, people with disabilities and immigrants. In this sense strategic axis 2, regarding information and access to justice, foresees the creation of information materials on victims' rights and existing support services, adapted to victims with special needs and translated into the official languages of the EU and/or other languages of significant expression, in different media. Strategic Axis 4 regarding victim participation in criminal proceedings, foresees the establishment of a legal framework that: - Ensures victim protection and assistance, including specific measures for particularly vulnerable victims. - Ensures that children and other victims with specific communication needs are informed in advance about the proceedings in which they are taking part and their terms. - Ensure that children and other victims with specific communication needs are always heard with the intervention of a suitably qualified professional, without jeopardising the direction of the proceedings by the judicial authority.

⁽¹⁷⁾ No official source available, information reported in the media. Jornal de Notícias (2024), "[Portugal falhou em 70% das metas de apoio às pessoas com deficiência](#)" (Portugal has failed to meet 70% of its targets for supporting people with disabilities), 13 June 2024.

a)	Policy instrument	Parliament Resolution 163/2019 – in development
b)	Reference	Portugal, <i>Resolução da Assembleia da República 163/2019, que recomenda ao Governo a elaboração de um plano de desinstitucionalização para pessoas com deficiência</i> (Parliament Resolution 163/2019, recommending that the government draw up a deinstitutionalisation plan for people with disabilities)
c)	Targeted population	Persons with disabilities / deinstitutionalisation
d)	Mention of / reference to risk of violence	No.
e)	Specific measures / safeguards	No.

1.4. Major court decisions and jurisprudence or notable developments

The jurisprudence regarding people with disabilities has been focused on the interpretation of the impediment system. Therefore, in its majority, the cases that reach higher courts are related to the rights that people with disabilities are allowed to exercise freely and the rights that can be restricted and in which circumstances.

From the decisions that are publicly available – in Portugal only decisions from the Courts of Appeal, Supreme Court of Justice and Constitutional Court are publicly available – few are related with violence against persons with disabilities in institutional settings. The only two decisions found are related with the crime of mistreatment, being one committed against a disabled child in a residential home, in 2006 ⁽¹⁸⁾, and the other against an older person with dementia on a residential facility for older people, in 2023 ⁽¹⁹⁾.

It should be noted that the 2006 case was judged within a context that is no longer valid, due to the legislative and conceptual progress within society and the law and cannot be taken as an example of the legal and institutional approach to this problem. The 2023 case determined that the concept of mistreatment is not limited to the most

⁽¹⁸⁾ Portugal, Supreme Court of Justice (Supremo Tribunal de Justiça), [Judgement 06P468](#), 5 April 2006.

⁽¹⁹⁾ Portugal, Court of Appeal of Oporto (Tribunal da Relação do Porto), [Judgement 820/21.9T9AVR.P1](#), 18 October 2023.

obvious situations of harm to the physical or psychological integrity of the victims, often translated into physical/sexual aggression, insults, humiliation, or threats. It also encompasses a very broad spectrum of behaviours that are likely to offend the physical, psychological, and emotional health of the person to whom they are directed, including the lack of food and personal hygiene care that is required and adequate to preserve the well-being and personal integrity of said person. It also defined that it is the responsibility of the institution that houses older people to ensure that the necessary tasks are carried out to guarantee the well-being and health of its users, providing for their food, hygiene, and medical care on a daily basis. If the institution, and its legal representatives, fail to provide the adequate and necessary care, either by negligence or because they do not hire enough staff, then they also committed a crime of ill-treatment by omission.

The decisions of District Courts (lower courts) are not publicly available. In relevant cases, the media tends to, to some extent, follow the case and gather additional information to provide to the general public through the newspapers.

In 2021, the President of an institution that develops and carries out occupational, therapeutic, sporting, cultural and leisure activities for young people and adults with mental disabilities, and also provides health care services and psychological and social support, was sentenced to four and a half years in prison for the offence of sexually abusing a young woman with severe mental disabilities who was a user of the institution. The panel of judges justified this sentence on the grounds of "the seriousness of the situation" and because, with a suspended sentence, "community confidence" could "be seriously affected". The defendant was also ordered to pay the victim five thousand euros in compensation ⁽²⁰⁾.

In recent years, complaints of mistreatment on residential facility for older people, particularly nursing homes, have also catch the media's attention and caused public outcry. Although the news surrounding these cases do not mention directly people with disabilities, the residents of these structures tend to be more vulnerable and, some of them, have physical and psychological impairments/disabilities in the sense that need help to perform some or various tasks. Therefore, since 2018, there have been some cases of mistreatment involving (legal and illegal) residential facilities for older people. The complaints have led to inspections and even to the opening to judicial criminal proceedings. As an example, one of the biggest case has involved a residential facility in Matosinhos (in the Oporto area) where situations of negligence and mistreatment aroused. The first complaint was made in 2018, which led to an

⁽²⁰⁾ Observador (2021), "[Presidente da Cercibeja condenado a prisão por abuso sexual de jovem deficiente](#)" (Cercibeja president sentenced to prison for sexually abusing young disabled woman), 12 November 2021.

inspection in 2019. However, more recent complaints, made by users and employees regarding medical negligence and mistreatment, led to the opening of an investigation by the General Inspection of Health Activities (*Inspecção-Geral das Atividades em Saúde*) together with the Institute for Social Security (*Instituto da Segurança Social*) ⁽²¹⁾. The complaints also came to the attention of the Matosinhos City Council, which received 38 complaints since 2020, and the Public Security Police (*Polícia de Segurança Pública*), which referred them to the Public Prosecutor's Office, that opened several investigations. The investigations led to the prosecution of the former President and Director of the institution for 67 crimes of mistreatment. However, in the closing arguments, the Public Prosecutor's Office dropped 49 offences and called for an "exemplary and effective prison sentence". ⁽²²⁾

On 19 March 2024, both the defendants were sentenced to six years and six months in prison for 18 offences of ill-treatment. The residential facility was also sentenced to pay a fine of 510,000 euros. The decision emphasised that the "degree of violation" of the defendant's duty to care was "remarkable, given the particularly vulnerable situation of the victims". Although the court admits that one cannot be tempted to consider that all the users of the residential facility were victims of crimes of ill-treatment, the extensive collected evidence made it possible to form the "sustained" conviction that the physical condition of the 18 victims was a "regrettably" culmination of a "prolonged process over time" of lack of adequate care, which is related to the physical and psychological weakness and fragility in which the victims found themselves. Emphasising that the damage caused by these crimes is "irreversible" and "reprehensible", the court also stressed that the two defendants violated the duties inherent in the positions they held, despite the fact that the institution had the financial means to meet those needs, and had not, for reasons of cost containment, hired doctors or, among other things, purchased essential products for the basic care of the residents. For one of the judges, there was even a "baffling" attempt to "justify the unjustifiable". It should also be noted that, in this case, there was also a civil claim brought by the relatives of a user who ended up dying. In this regard, although the criminal charge was ruled out, due to the lack of an autopsy, the court also decided to sentence the institution and the other defendants in solidarity to pay compensation for damages in the sum of 18,000,00 euros. ⁽²³⁾

⁽²¹⁾ Observador (2023), ["IGAS ordenou inspecção ao Lar do Comércio em Matosinhos por suspeitas de maus-tratos"](#) (IGAS orders inspection of Lar do Comércio in Matosinhos for suspected mistreatment), 9 June 2023.

⁽²²⁾ Observador (2024) ["MP pede prisão efetiva e "exemplar" por maus-tratos no Lar do Comércio em Matosinhos"](#) (MP calls for effective and "exemplary" imprisonment for ill-treatment at Lar do Comércio in Matosinhos), 23 January 2024.

⁽²³⁾ Observador (2024), ["Pena de prisão efetiva para julgados por maus-tratos no Lar do Comércio em Matosinhos"](#) (Effective prison sentence for those accused of mistreatment at Lar do Comércio in Matosinhos), 19 March 2024.

These cases have led to developments regarding policy frameworks. In 22 March 2023, the current General Attorney Office issued an order that granted to the Central Investigation and Penal Action Department (*Departamento Central de Investigação e Ação Penal*) – a department of the Public Prosecutor's Office – direct jurisdiction for investigation and prosecution of cases involving facts that could constitute a crime of mistreatment of users of residential care facilities for older people (licensed or unlicensed), misappropriation of their income and assets and other criminal behaviours associated with the operation of these facilities, namely economic and financial offences. In the event that knowledge of any of the offences covered by this deferral of jurisdiction is initially acquired by other departments and units of the Public Prosecutor's Office, they must, by the most expeditious means, make immediate transmission to this department, forwarding any information they may have ⁽²⁴⁾. This order establishes that offences regarding users of residential care facilities for older people are now concentrated in a single structure within the Public Prosecutor's Office.

1.5. Accreditation standards and regulations of public and privately run institutions

As a preliminary remark, it should be noted that, in Portugal, public and private actors have established public-private partnerships with the aim of creating and developing a network of social responses. This model was established in 1996, with the signing of the Cooperation Pact for Social Solidarity (*Pacto de Cooperação para a Solidariedade Social*). Since then, this pact has represented the benchmark of the public-social partnership model that develops the national network of social protection, facilities and services, mainly aimed at citizens in situations of greater vulnerability and social exclusion ⁽²⁵⁾, which includes the social responses available to people with disabilities. In 2021, a new deal was signed ⁽²⁶⁾ for the next decade. Although this deal does not address violence directly, it establishes some principles and values that shape the relationship between the partners with the users of the social responses. Therefore, among the values guiding the partners' intervention there is the focus on the person and their well-being, at all stages of their life; the guarantee of the participation of the person in their individual and community development processes; and the promotion of quality of life and well-being. More recently, it was also signed the Co-operation

⁽²⁴⁾ For more information, see the [website of the Public Prosecutor's Office](#).

⁽²⁵⁾ For more information, see the [website of Institute for Social Security](#).

⁽²⁶⁾ For more information, see the [website of Institute for Social Security](#).

Commitment 2023-2024 (*Compromisso de Cooperação 2023-2024*), an agreement between the State and its partners in the social and solidarity sector, which updates Social Security's financial contributions to institutions that provide social services. These financial contributions does not address issues related to the prevention of or response to violence against the users of services ⁽²⁷⁾. Consequently, the majority of the social responses available are established and created through this public-private partnership.

Accreditation

The current legal framework, regarding accreditation standards, does not establish any direct provision on preventing violence, but rather the guiding principles that can, indirectly and directly, protect people with disabilities from violence.

Having the above-described context into account, when it comes to accreditation, **Decree-Law 64/2007** ⁽²⁸⁾ defines the legal regime for the installation, operation and supervision of institutions for social support managed by private entities. It establishes that within the scope of support for people with disabilities, the following social responses can be created: 1) activities and training centre for inclusion; 2) residential home; 3) autonomous residence; and 4) care, accompaniment and entertainment centre for people with disabilities (Article 4 (1) (c)). Atypical or innovative responses that do not correspond to the social responses established may be created through specific regulations (Article 5-A).

Overall, this Decree-Law establishes the technical requirements for the accreditation process. Regarding rights, protections and response to violence, this decree makes some indirect references to the rights and protections of its users. Article 26 establishes that each institution has its own internal operating regulations, which shall include, among others: the conditions and criteria for admitting users; the care and services to be provided; the rights and duties of users; and the organisation's duties regarding the provision of care to users and information to the family. It also establishes a sanctioning regime (Articles 39-A to 39-K).

- The sanctioning regime establishes a set of situations that can constitute very serious offences, serious offences and minor offences. Article 39-B establishes as

⁽²⁷⁾ Portugal, XXIII Constitutional Government (XXIII Governo Constitucional) (2023), "[Governo e Setor Social assinam Compromisso de Cooperação para vigorar em 2024](#)" (Government and Social Sector sign Co-operation Commitment to run until 2024), press release, 7 December 2023.

⁽²⁸⁾ Portugal, [Decreto-Lei 64/2007, que define o regime jurídico de instalação, funcionamento e fiscalização dos estabelecimentos de apoio social geridos por entidades privadas](#) (Decree-Law 64/2007, which defines the legal regime for the installation, operation and supervision of social support establishments managed by private entities), 14 March 2007.

very serious offences. the opening or operation of an establishment that is not licensed or does not have a valid operating authorisation;

- the inadequacy of the facilities, as well as poor hygiene and safety conditions, in relation to the established requirements;
- excess capacity in relation to that authorised for the establishment;
- the impediment of inspection actions;
- the lack of human resources with the appropriate professional category and allocation to the activities and services developed in each establishment;
- the lack of internal regulations;
- the inadequacy or lack of care and services to meet the needs of users, namely personal hygiene, food, administration of drugs in accordance with the appropriate medical prescription and access to health care;
- and the lack of an individual intervention plan, when applicable.

The offence of opening or operation of an establishment that is not licensed or does not have a valid operating authorisation is punishable with a fine between 20,000 and 40, 000 euros, and the others are punishable with a fine between 5,000 and 10,000 euros (Article 39-E (1 and 2)). The offences provided for are also punishable by intent or negligence (Article 39-F (1)).

Article 39-C establishes as serious offences the following acts:

- the failure to submit, within 30 days of its occurrence, an application to replace the prior notification or operating authorization, following a change in the name of the establishment or the identification of the managing entity;
- failure to communicate following changes to the location of the activity pursued by the social response or the authorized capacity;
- the inadequacy of the facilities, as well as poor hygiene and safety conditions, in relation to the established requirements;
- excess capacity in relation to that authorized for the establishment;
- the impediment of inspection actions, namely due to the failure to provide access to all the premises of the establishment and the information essential for the evaluation and inspection of its operation;

- lack of monthly data communication or the communication of incorrect data regarding the frequency of users, in the case of responses with a cooperation agreement;
- providing false information in the prior notification, without prejudice to other applicable sanctions.
- failure to present the criminal records of the members of the management or administrative bodies and human resources, under the terms of the specific regulations.

These serious offences are punishable with a fine between 2,500 and 5,000 euros (Article 39-E (c)). The offences provided for are also punishable by intent or negligence (Article 39-F (1)).

As for minor offences, article 39-D establishes that these are the non-compliance with the provisions of article 27 (regarding public display of a series of documents) and non-compliance with the rules of the specific regulations applicable to each type of social response, when they do not fall under articles 39-B and 39-C. These type of offences are punishable with a fine between 500 and 1,000 euros (Article 39-E (d)).

In addition, Article 39-H also establishes a set of ancillary sanctions that may be applied cumulatively with the fines foreseen for very serious and serious infringements. These sanctions are:

- a temporary ban on direct or indirect exercise of social support activities in any social support establishments (the ban can have a maximum duration of three years);
- a temporary prohibition from exercising the profession or activity to which the offense relates (the ban can have a maximum duration of three years);
- deprivation of the right to a benefit granted by public, national or community entities or services, within the scope of the exercise of the activity of providing services and social support establishments;
- closure of the establishment and suspension of prior notification or operating authorization;
- publication, at the offender's expense, in places suitable for fulfilling the general prevention purposes of the legal system, of the conviction imposed for the practice of the administrative offense.

Article 28 also establishes that providers of the services must have a complaints book, and the inspection, investigation of cases and application of fines and ancillary sanctions are the responsibility of the Institute for Social Security.

Article 31 (1) states that local services of the Institute for Social Security are responsible for: assessing the operation of the establishment, and verify the conformity of the activities pursued with those provided for in the operating authorisation; and assessing the quality and verifying the regularity of the services and care provided to users, particularly with regard to installation and accommodation conditions, equipment suitability, human resource ratios, food and hygiene and safety conditions. Furthermore, Article 32 also adds that, without prejudice to the inspection action of other competent bodies, the local services of the Institute for Social Security are also responsible for carrying out inspections of establishments and to initiate procedures regarding the illegal actions detected, as well as to promote and monitor the implementation of the proposed measures and the consequent application of fines and ancillary sanctions (see section 2.1.). Furthermore, Article 5 also establishes that the technical conditions for setting up and running institutions are regulated in specific diplomas and regulatory instruments approved by the member of the government responsible for the social security area.

Therefore, there is a set of laws that regulate in detail the technical conditions for setting up and running institutions that provide social responses to citizens in situations of greater vulnerability and social exclusion, including people with disabilities.

Order 70/2021 ⁽²⁹⁾, which regulates the general conditions of the building, the terms and technical conditions of installation and the organisation, operation and installation of centres for activities and training for inclusion - equipment designed to develop occupational activities for people with disabilities, with the aim of promoting their quality of life, enabling greater access to the community, its resources and activities, and constituting a means of empowerment for inclusion, according to their needs, capacities and level of functionality - must comply with the guiding principles of its activity, namely uniqueness (recognising the individuality of people with disabilities), non-discrimination, self-determination, autonomy, participation, information, quality, citizenship, and inclusion (Article 3). It should be mention that regarding the principle of information, the disabled person has the right to have access to all information that

⁽²⁹⁾ Portugal, [Portaria 70/2021, que regulamenta as condições gerais do edificado, os termos e as condições técnicas de instalação e de organização, funcionamento e instalação a que deve obedecer a resposta social do Centro de Atividades e Capacitação para a Inclusão \(CACI\)](#) (Order 70/2021, which regulates the general conditions of the building, the terms and technical conditions of installation and the organisation, operation and installation that the social response of the Centre for Activities and Training for Inclusion (CACI) must comply with), 26 March 2021.

directly or indirectly concerns them and to be informed and enlightened about their rights and duties. More specifically, Article 16 also establishes that the management institution has the duty to ensure that the development of activities do not jeopardise the health and safety or physical integrity of people with disabilities. Furthermore, Article 18 establishes that the person with disabilities has the right to have their dignity, privacy, intimacy and individuality preserved, to be informed and to participate in all decisions in which they are an interested party, whenever possible; and to have their individual interests, personal, social and professional needs and expectations respected.

Article 33 (1) establishes that the operation of the centres for activities and training for inclusion are subject to monitoring, evaluation and supervision by the competent services of the Institute for Social Security, under the terms of Decree-Law 64/2007 ⁽³⁰⁾, mention above. **Order 59/2015** ⁽³¹⁾, which defines the conditions for the organisation, operation and installation of residential institutions - an institution for the collective accommodation, for temporary or permanent use, of people with disabilities who are unable to live in their family environment - establishes that these institutions have to contribute to the well-being and improved quality of life of its residents, governed by the principles of humanisation and respect for residents' privacy and individuality (Articles 4 and 5). Article 21 (1) also establishes that the operation of these residential institutions are subject to monitoring, evaluation and supervision by the competent services of the Institute for Social Security, under the terms of Decree-Law 64/2007 ⁽³²⁾.

When it comes to foster care, Decree-Law 391/91 ⁽³³⁾, which regulates the family foster care system for older people and adults with disabilities, foresees that the person in care has the rights inherent to the recognising of their dignity as a human

⁽³⁰⁾ Portugal, [Decreto-Lei 64/2007, que define o regime jurídico de instalação, funcionamento e fiscalização dos estabelecimentos de apoio social geridos por entidades privadas](#) (Decree-Law 64/2007, which defines the legal regime for the installation, operation and supervision of social support establishments managed by private entities), 14 March 2007.

⁽³¹⁾ Portugal, [Portaria 59/2015, que define as condições de organização, funcionamento e instalação de estabelecimentos residenciais, designados por lar residencial e residência autónoma](#) (Order 59/2015, which defines the conditions for the organisation, operation and installation of residential establishments, known as residential homes and autonomous residences), 2 March 2015.

⁽³²⁾ Portugal, [Decreto-Lei 64/2007, que define o regime jurídico de instalação, funcionamento e fiscalização dos estabelecimentos de apoio social geridos por entidades privadas](#) (Decree-Law 64/2007, which defines the legal regime for the installation, operation and supervision of social support establishments managed by private entities), 14 March 2007.

⁽³³⁾ Portugal, [Decreto-Lei 391/91, que disciplina o regime de acolhimento familiar de idosos e adultos com deficiência](#) (Decree-Law 391/91, which regulates the family foster care system for the elderly and adults with disabilities), 10 October 1991.

being, regardless of their situation of dependency or loss of autonomy (Article 11). In this situation, the management institutions are responsible for monitoring and supervising the situation of foster care (Article 14). Article 13 and 15 establish that the management institutions are the regional centres of the Social Security and the Santa Casa da Misericórdia de Lisboa or private social solidarity institutions, in conjunction with the two previous entities.

It should also be noted that foster care for children and young people is provided by Decree-Law 139/2019 ⁽³⁴⁾, which also applies to children with disabilities. According to Article 23, the child or young person has, among others, the right to individualised treatment in order to guarantee, in a safe environment: the satisfaction of their biological, emotional and social needs, according to their age and stage of development; the access to health services and equal opportunities and access to family and educational experiences for the exercise of citizenship and qualification for independent living; and the consideration, in accordance with their age and maturity, of their opinions on issues that concern them. They also have the right to contacts with their case manager and the professionals involved in their promotion and protection process, under conditions of confidentiality, to clarify doubts, submit complaints or any other form of expression of their will. Taking into account their age and ability to understand, they also have the right to information about their promotion and protection process.

Furthermore, Article 32 (1) also states that the services of social security are responsible for carrying out the assessment and supervision of foster care. They must also guarantee access to all the social protection measures to which the child or young person is entitled, as well as liaise, when necessary, with institutions with cooperation agreements that develop non-residential social responses, with a view to integrating children or young people who are in foster care (Article 31 (1)).

Lastly, the Support Care Home (*Lar de Apoio*) is a social response aimed at children and young people between the ages of 6 and 18, with disabilities or specific educational needs, who requires specific support structures located far from their usual place of residence. There isn't a law to regulate this type of response, which lead to the development of a technical support guide that integrates a set of rules that constitute guiding principles for the creation and functioning of these structures ⁽³⁵⁾. According to this guide, the Support Care Home is responsible for: respecting the individuality and privacy of its residents; accompany and stimulate the overall development of its

⁽³⁴⁾ Portugal, [Decreto-Lei 139/2019, que estabelece o regime de execução do acolhimento familiar, medida de promoção dos direitos e de proteção das crianças e jovens em perigo](#) (Decree-Law 139/2019, which establishes the implementation regime of family foster care, a measure to promote the rights and protection of children and young people in danger), 16 September 2019.

⁽³⁵⁾ For more information, see the [website of the Institute for Social Security](#).

residents in collaboration with the family, school and other local structures; guaranteeing, in collaboration with families, the necessary health care, particularly in terms of prevention and detecting problematic situations; providing a diet that is qualitatively and quantitatively appropriate to the age of the children and young people, as well as their special needs; and promoting, in collaboration with local resources, conditions for the development of leisure activities for children/young people, in accordance with their interests and potential. However, the guide does not have rules regarding oversight or monitoring.

Standards and regulations of public and privately run institutions

When it comes to standards and regulation of public and privately institutions, the majority of the social responses available for people with disabilities are established and created through a public-private partnership model, as mentioned above. Therefore, they comply with the regulations that have indirect protections regarding violence. However, it should be noted that, there are two institutions that provide social responses to people with disabilities with special status.

The Casa Pia is a public institute, part of the State's indirect administration, with administrative and financial autonomy and its own assets. Its mission is to integrate children and young people, particularly those without a suitable family environment, guaranteeing them inclusive educational paths, based in particular on prolonged schooling, quality vocational education and a commitment to professional integration and, whenever necessary, taking them in. Therefore, its remit is to: integrate children and young people without a suitable family environment, in danger or at risk of exclusion; develop life projects for the children and young people it takes in, by promoting diversified preventive strategies, in conjunction with their families and other partners; ensure inclusive educational pathways for children and young people, through prolonged schooling and quality vocational education; develop vocational education model that focuses on strengthening work-linked training and professional integration; and develop programmes for the rehabilitation, training and integration of children and young people with disabilities, with a view to their educational, professional and social inclusion (Article 1 and 3 of **Decree-Law 77/2012** ⁽³⁶⁾).

The Santa Casa da Misericórdia de Lisboa is a legal person governed by private law and with administrative public utility. Therefore, is under tutelage of the member of the Government who oversees the area of social security. Its purpose is to improve the well-being of people, primarily the most disadvantaged, by providing social action,

⁽³⁶⁾ Portugal, [Decreto-Lei 77/2012, que aprova a orgânica da Casa Pia de Lisboa, I. P.](#) (Decree-Law 77/2012, which approves the organisational structure of Casa Pia de Lisboa, I. P.), 26 March 2012.

health, education and teaching, culture and promoting quality of life, in accordance with the Christian tradition and works of mercy of its original commitment and its centuries-old work in favour of the community, as well as promoting, supporting and carrying out activities aimed at innovation, quality and safety in the provision of services and developing initiatives within the social economy. It develops and pursues all forms of social action, particularly in the areas of children and young people, family and the community, elderly, disabled and other unprotected segments of the population (Article 1 and 4 of **Decree-Law 235/2008** ⁽³⁷⁾). Furthermore, as explained above, Decree-Law 391/91 ⁽³⁸⁾, which regulates the family foster care system for older people and adults with disabilities, this body is also a management entity, responsible for monitoring and supervising the situation of foster care.

Nonetheless, although these two institutions have a special status, when they create any of the social responses listed above, they have to comply with the same regulations put into place to private institutions.

When it comes to standards regarding the prevention and response to violence, in addition to the aforementioned legal protections established in the accreditation framework, there are some non-binding guides and roadmaps put into place by public and private entities, which have the aim to provide guidance to the management institutions of the various social responses when dealing with their users/residents. These are:

1. The Good Practices Manual - A guide to residential care for people with disabilities - For managers, professionals, residents and family members ⁽³⁹⁾, published by the Institute for Social Security (Instituto da Segurança Social), addresses issues of violence, overmedication, involuntary treatment on the basis of impairment, use of physical and chemical restraints, seclusion, fixation and other harmful or coercive practices, neglect, ill-treatment or deprivation of liberty. These issues are addressed under the section on “When something goes

⁽³⁷⁾ Portugal, [Decreto-Lei 235/2008, que aprova os estatutos da Santa Casa da Misericórdia de Lisboa, revogando o Decreto-Lei 322/91, de 26 de Agosto, alterado pelo Decreto-Lei 469/99, de 6 de Novembro](#) (Decree-Law 235/2008, approving the statutes of the Santa Casa da Misericórdia de Lisboa, revoking Decree-Law 322/91, of 26 August, amended by Decree-Law 469/99, of 6 November), 3 December 2008.

⁽³⁸⁾ Portugal, [Decreto-Lei 391/91, que disciplina o regime de acolhimento familiar de idosos e adultos com deficiência](#) (Decree-Law 391/91, which regulates the family foster care system for the elderly and adults with disabilities), 10 October 1991.

⁽³⁹⁾ Grupo de Coordenação do Plano de Auditoria Social e CID - Crianças, Idosos e Deficientes - Cidadania, Instituições e Direitos. (2005) [Manual de Boas Práticas - Um guia para o acolhimento residencial das pessoas em situação de deficiência - Para dirigentes, profissionais, residentes e familiares](#) (Good Practices Manual - A guide to residential care for people with disabilities - For managers, professionals, residents and family members), Lisbon, Instituto da Segurança Social.

wrong - mistreatment”, that typifies the types of mistreatment and its consequences, analyses concrete hypothetical situations of violence to help understand the idea, gives advices on how to prevent mistreatment, how to act, and lists the different legal principles and standards applicable (see pp. 96 to 114). Regarding information, this manual also establishes that, in a preliminary stage, when a potential user with disabilities has the first contact with the institution, the institution's technician responsible for admission, has to inform the potential user has to be informed of several aspects including his or her rights in a simple and clear way, considering the person's characteristics (see p. 42). The manual lists the institutions responsible for monitoring and inspection such as the General Inspection of the Ministry of Labour, Solidarity and Social Security (Inspeção-Geral do Ministério do Trabalho, Solidariedade e Segurança Social) and the Inspection Department of the Institute for Social Security (Departamento de Fiscalização do Instituto da Segurança Social), providing some guidelines for internal channels of evaluation (see pp. 166 to 171).

2. The Roadmap for the Prevention of Mistreatment of People with Intellectual Disabilities and/or Multiple Impairments – Assessment and Diagnosis ⁽⁴⁰⁾, produced by the National Federation of Social Solidarity Cooperatives (Federação Nacional de Cooperativas de Solidariedade Social - FENACERCI). This Federation is a representative structure of co-operatives working in the field of disability, whose mission is to promote the quality and sustainability of the responses provided by its member organisations, promoting and carrying out training and representation activities, and validation and accreditation in the community and with interlocutor organisations. FENACERCI provides an assessment/diagnosis instrument that allows to identify, record and signal situations of mistreatment and defines a specific protocol for prevention and action in situations that occur within the family or by people significant to the person with a disability. There is no information publicly available on whether this protocol is used by institutions or on data of such records.
3. The Roadmap for Prevention and Intervention in Institutional Contexts: Situations of Mistreatment of People with Intellectual Disabilities and/or Multiple Impairments ⁽⁴¹⁾, on the other hand, also produced by the National

⁽⁴⁰⁾ Neto, S., Mendes, A., Rodrigues, A., Faustino A., Saraiva, A. (2010), [*Roteiro para a Prevenção de Maus-Tratos a Pessoas com Deficiência Intelectual e/ou Multideficiência – Avaliação e a Diagnóstico*](#) (Roadmap for the Prevention of Mistreatment of People with Intellectual Disabilities and/or Multiple Impairments – Assessment and Diagnosis) Lisbon, Federação Nacional de Cooperativas de Solidariedade Social.

⁽⁴¹⁾ Neto, S., Mendes, A., Faustino A., Jorge. R. (2011), [*Roteiro Para a Prevenção e Intervenção em Contexto Institucional – Situações de Maus-Tratos a Pessoas com Deficiência Intelectual e/ou Multideficiência*](#) (Roadmap for Prevention and Intervention in Institutional Contexts:

Federation of Social Solidarity Cooperatives, aims to evaluate/diagnose and determine an action protocol in situations of mistreatment that occur in an institutional context involving disabled people, employees, management and family/significant others. This new “Roadmap” introduces new dimensions of analysis in the diagnostic assessment process that relates to situations of violence and mistreatment in an institutional context, namely situations of discrimination, neglect, psychological, physical and/or verbal violence against people with disabilities by the employees of the institutions.

2. Monitoring of institutions for persons with disabilities

2.1. Public monitoring mechanisms

Table 3: Public monitoring

a)	State / public monitoring mechanism	Commission to Monitor the Implementation of the Legal Framework for Involuntary Treatment [<i>Comissão de Acompanhamento da Execução do Regime jurídico do Tratamento Involuntário - CAERJTI</i>]
b)	Reference	https://saudemental.min-saude.pt/comissao-de-acompanhamento-da-execucao-do-regime-juridico-do-tratamento-involuntario-caerjti/
c)	Scope of monitoring mandate	Among others competencies, the committee is responsible for: visiting inpatient units of local or regional mental health services and communicating directly with persons in involuntary treatment; receive and analyse complaints from people in involuntary treatment or people with legal standing to request it; request or sending any administrative or judicial bodies information on the situation of people undergoing involuntary treatment; request that the Public Prosecutor's Office take any legal action deemed appropriate to correct any situations of violation of the law that it finds in the course of carrying out its duties; and issuing recommendations to bodies involved in implementing the involuntary treatment regime (Article 39 of the Mental Health Act).
d)	Regularity of monitoring	There is no public information regarding the regularity of monitoring and scheduling of visits.
e)	Power to conduct ad hoc / unannounced visits	Yes. According to Article 39 of the Mental Health Act , one of the responsibilities of this body is to conduct visiting inpatient units of local or regional mental health services and communicating directly with persons in involuntary treatment.
f)	Power to conduct investigation or initiate criminal and/or administrative proceedings	Yes. According to Article 39 of the Mental Health Act , the commission is also responsible for receive and analyse complaints from people in involuntary treatment or people with legal standing to request it. This means it has the power to initiate administrative proceedings. However, it has to forward its findings to the competent authorities, as established above.
g)	Power to impose sanctions	No.

h)	Involvement of CSOs/DPOs	Yes. According to Dispatch 11614/2023 , that sets up the commission to monitor the implementation of the legal regime for involuntary treatment , within its compositions there are two representatives from two different civil society organizations: one from the AlertaMente - National Association for Mental Health (<i>AlertaMente - Associação Nacional para a Saúde Mental</i>), and other from Familiarmente - Portuguese Federation of Associations of Families of People Experiencing Mental Illness (<i>Familiarmente - Federação Portuguesa das Associações das Famílias de Pessoas com Experiência de Doença Mental</i>).
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2.2. Independent monitoring mechanisms

Table 4: Independent monitoring

a)	National monitoring institution	Ombudsperson [<i>Provedoria de Justiça</i> (PJ)]
b)	Reference	https://www.provedor-jus.pt/en/
c)	Scope of monitoring mandate	As the Ombudsperson, the body receives complaints of persons who feel harmed by unfair or illegal public administration's acts or when their fundamental rights are violated. Furthermore, since 1999, the Ombudsperson gained the status of National Human Rights Institution, accredited with A-status by the United Nations, and, therefore, added to its mission: to promote and to defend the fundamental human rights against all forms of aggression, particularly the rights of children, the elderly and the disabled people. However, since 2013, it is also the National Preventive Mechanism under the Optional Protocol to the Convention Against Torture and Other Cruel, Cruel, Inhuman or Degrading signed by Portugal (Resolution of the Council of Ministers 32/2013). Under this role, the National Preventive Mechanism, an independent entity within the Ombudsperson's Office, can conduct unannounced visits to places of detention with the aim of preventing situations of torture, ill-treatment or other abuse (Decree-Law 80/2021 and Regulation of the Support Structure for the National Prevention Mechanism).
d)	Regularity of monitoring	As the Ombudsperson, the monitoring is done based on the complaints received and/or on circulating information. As it is stated in Article 24 of the Statute of the Ombudsperson: "1 – The Ombudsperson carries out its functions based on complaints presented by citizens, individually or collectively,

		or on its own initiative, regarding facts that come to its knowledge in any other way.” (Law 9/91, of 9 April). However, in the case of the National Preventive Mechanism, the monitoring decision is based on several criteria, in particular the content of previous reports and references to risk factors. According to any news or complaints, urgent visits may be justified. There is a concern to visit as many establishments as possible throughout the country and to do so on a regular basis ⁽⁴²⁾.
e)	Power to conduct ad hoc / unannounced visits	Yes. According to Article 21 of the Statute of the Ombudsperson: “1 – In carrying out its functions, the Ombudsperson has powers to: a) Carry out, with or without notice, inspection visits to any and all sectors of central, regional and local administration activity, namely public services and civil and military prison institutions, companies and services of general interest, whatever their nature legal entity, or any entities subject to its control, listening to the respective bodies and agents and requesting information, as well as the exhibition of documents, that it deems appropriate; [...]”. It must be pointed out that the inspections developed by the Ombudsperson can only be done to public entities or to private entities subject to the control of the public administration. The National Preventive Mechanism focuses their activity on prisons, educational centres for the detention of young people, temporary settlement centres for foreigners (and similar spaces), detention cells in police stations or courts, and hospital units with psychiatric admissions ⁽⁴³⁾.
f)	Power to conduct investigation or initiate criminal and/or administrative proceedings	Yes, the Ombudsperson has full autonomy to act on its own initiative, investigating, monitoring, reporting irregularities and recommending changes. As stated on b) of Article 21 of the Statute of the Ombudsperson: “1 – In carrying out its functions, the Ombudsperson has powers to: [...] b) Carry out all investigations and inquiries that it deems necessary or convenient, being able to adopt, in matters of collecting and producing evidence, all reasonable procedures, as long as they do not conflict with the rights and legitimate interests of citizens; [...]”. The same applies to the National Preventive Mechanism. Both the Ombudsperson and the National Preventive Mechanism can make recommendations to the visited entity, following their visit.

⁽⁴²⁾ For more information see [the Ombudsperson website](#).

⁽⁴³⁾ For more information see [the Ombudsperson website](#).

g)	Power to impose sanctions	No. As stated on b) of Article 35 of the Statute of the Ombudsperson: “1 – When in the course of the process there is sufficient evidence of the commission of criminal or disciplinary infractions or administrative offenses, the Ombudsperson must inform them, depending on the case, to the Public Prosecutor's Office or to the entity hierarchically competent to initiate disciplinary or administrative proceedings. [...]”. The same applies to the National Preventive Mechanism.
h)	Involvement of CSOs/DPOs	No. They can only submit complaints. However, regarding the National Preventive Mechanism, who can also perform regular visits to places where people are deprived of their liberty, their advisory body, a coordination committee within their structure, is made up of, among others, representatives of different independent and civil society organisations. These persons, because of their relevance to the Preventive Mechanism mandate, are invited to give their opinion on the conducted activities. This advisory body can also propose visits and accompany the activity carried out by the National Preventive Mechanism, namely in the assessment and monitoring of the visit protocols (Regulation of the Support Structure for the National Prevention Mechanism).

a)	National monitoring institution	National Monitoring Mechanism for the Implementation of the United Nations Convention on the Rights of Persons with Disabilities [<i>Mecanismo Nacional de Monitorização da Implementação da Convenção das Nações Unidas Sobre os Direitos das Pessoas com Deficiência</i> (Me-CDPD)]
b)	Reference	No page available yet
c)	Scope of monitoring mandate	National monitoring and implementation process of the United Nations Convention on the Rights of Persons with Disabilities. According to the Legal regime of the national mechanism for monitoring the implementation of the Convention on the Rights of Persons with Disabilities, established by Law 71/2019, of 2 September , “1 - The Me-CRPD is responsible for promoting, protecting and monitoring the implementation of the Convention.” (Article 3). The law doesn't expressly include inspection within the competencies of the Me-CRPD. In article 3 (1)(2)(h), it is mentioned that one of the competencies is: “Monitor the implementation, by the Portuguese authorities, of the recommendations made to Portugal by the United Nations Committee on the Rights of Persons with Disabilities;”. In practice, this is interpreted that the Me-CRPD can monitor the inspection services, as responsible for the implementation of the Convention, but not the residential institutions themselves.

d)	Regularity of monitoring	No
e)	Power to conduct ad hoc / unannounced visits	No
f)	Power to conduct investigation or initiate criminal and/or administrative proceedings	No clear information. The framework of the law indicates that the Me-CRPD is still in its early stages of functioning.
g)	Power to impose sanctions	No.
h)	Involvement of CSOs/DPOs	Yes. The Me-CDPD is formed by several members including: two representatives of national confederations, federations or associations that promote disabled people's rights and five representatives of disability CSOs, one for each of the areas of impairment: visual, motor, intellectual, hearing and organic.

a)	National monitoring institution	National Council of Ethics and Deontology of the Portuguese Medical Association [<i>Conselho Nacional de Ética e Deontologia da Ordem dos Médicos</i>]
b)	Reference	https://ordemdosmedicos.pt/
c)	Scope of monitoring mandate	Within the context of the Medical Deontology Regulations , Article 74 (4) establishes that the methods of irreversible sterilisation, tubal ligation and vasectomy in the case of children and young people or people with disabilities/incapacitated people, can only be performed after a duly substantiated request in order to avoid serious risks to their lives or the health of their hypothetical children, and always with the prior opinion of the National Council of Ethics and Deontology of the Portuguese Medical Association (<i>Conselho Nacional de Ética e Deontologia da Ordem dos Médicos</i>). Therefore, this national council assumes monitoring and approval competencies on these issues.
d)	Regularity of monitoring	Non-applicable. The body issues an opinion when submitted.
e)	Power to conduct ad hoc / unannounced visits	Non-applicable.

f)	Power to conduct investigation or initiate criminal and/or administrative proceedings	Non-applicable.
g)	Power to impose sanctions	Non-applicable.
h)	Involvement of CSOs/DPOs	Non-applicable.

2.3. Findings and recommendations of monitoring visits

There aren't specific public reports available on violence in institutions against disabled people.

In 2013 the Ombudsperson created the People with Disabilities' Line, a specialised service directed to disabled people (not only the ones in institutions) providing support and information on their rights, particularly in areas such as health, social security, housing, equipment and services. The Annual Report to the Parliament, produced by the Ombudsperson, provide brief information about the issues that prompt disabled people to use the Ombudsperson People with Disabilities' Line. See table 6 under 3.2 for more information. Thus in 2022 ⁽⁴⁴⁾, this line received 507 calls, 0.2% of which reported issues of mistreatment. In 2021 ⁽⁴⁵⁾, the line received 457 calls, out of which 2 reported to Abuse/neglect and another 2 reported to Discrimination and violation of rights. In 2020 ⁽⁴⁶⁾, out of the 642 calls, received 3 referred to Abuse/neglect and 4 to Discrimination and violation of rights. In 2019 ⁽⁴⁷⁾ this line peaked the number of phone calls, receiving a total of 856 calls, 4 reported to Abuse/neglect and 19 reported Discrimination and violation of rights. There are no disaggregated data on the

⁽⁴⁴⁾ Provedoria de Justiça (2023), [Relatório à Assembleia da República 2022](#) (Report to the Parliament 2022 – Ombudsperson).

⁽⁴⁵⁾ Provedoria de Justiça (2022), [Relatório à Assembleia da República 2021](#) (Report to the Parliament 2021 – Ombudsperson).

⁽⁴⁶⁾ Provedoria de Justiça (2021), [Relatório à Assembleia da República 2020](#) (Report to the Parliament 2020 – Ombudsperson).

⁽⁴⁷⁾ Provedoria de Justiça (2020), [Relatório à Assembleia da República 2019](#) (Report to the Parliament 2019 – Ombudsperson).

accommodation of person who used the Line to complain, so it is not possible to specify if or how many persons from institutions have also used this complaints' pathway.

As for the National Preventive Mechanism, the activity of this body, as stated above, is focused on prisons, educational centres for the detention of young people, temporary settlement centres for foreigners (and similar spaces), detention cells in police stations or courts, and hospital units with psychiatric admissions ⁽⁴⁸⁾. Since its creation, in total, 409 visits were conducted. From these visits, some recommendations were made. By way of example:

- In 2017, two recommendations were issued to two different entities in the health sector: a psychiatric clinic and a local health unit. To the psychiatric clinic, it was recommended the consolidation of the guidelines for restriction measures, in accordance with the guidelines of the Directorate-General for Health, including the definition of the list of therapeutic solutions that should be considered chemical containment measures; the prompt reassessment of the clinical and legal situation of patients, whose consent to the administration of ongoing therapy raises doubts, and the promotion, in disqualification proceedings involving the psychiatric clinic in question, of the heterogeneity of the people appointed to represent or assist the representative of the interdicted person's will, in terms that favour the desirable openness to the community ⁽⁴⁹⁾. To the local health unit, it was recommended that the guidelines for restriction measures should be consolidated, in accordance with the guidelines of the Directorate-General for Health, including the definition of the list of therapeutic solutions that should be considered chemical containment measures; the prompt re-examination of the clinical and legal situation of patients whose consent to the administration of ongoing therapy raises doubts; equipping the two isolation rooms with an audible alarm system that would allow assistance to be called if necessary, promoting patient safety and ensuring patient calm; and improving the "Physical Restraint Episode Record Sheet" to ensure that all relevant data is recorded ⁽⁵⁰⁾. Both recommendations await response from the entity.
- In 2019, a recommendation was issued to the Director-General of Reintegration and Prison Services (*Diretor-Geral da Reinserção e Serviços Prisionais*) alerting for the urgent need to create adequate mental health mechanisms of response in educational centres for young people. In this sense, it recommended the setting

⁽⁴⁸⁾ For more information see [the Ombudsperson website](#).

⁽⁴⁹⁾ Mecanismo Nacional de Prevenção, (2017) [Recomendação 12/2017/MNP](#) (Recommendation 12/2017/MNP), Lisboa, Mecanismo Nacional de Prevenção.

⁽⁵⁰⁾ Mecanismo Nacional de Prevenção, (2017) [Recomendação 13/2017/MNP](#) (Recommendation 13/2017/MNP), Lisboa, Mecanismo Nacional de Prevenção.

up, in liaison with the health authorities, of a therapeutic unit for the treatment of acute cases diagnosed within the mental health panorama. Alternatively, consideration could be given to setting up a unit within the scope of the pilot units for the provision of integrated long-term mental health care. In addition, it was recommended that the Directorate-General for Reintegration and Prison Services, in conjunction with the health authorities, increase the number of specialised medical staff (child psychiatrists) in the various educational centres, so that complex cases could be diagnosed more quickly ⁽⁵¹⁾. This recommendation was partially accepted and its being monitored.

⁽⁵¹⁾ Mecanismo Nacional de Prevenção (2019), [Recomendação 1/2019/MNP](#) (Recommendation 1/2019/MNP), Lisboa, Mecanismo Nacional de Prevenção.

3. Availability and function of formal, informal and independent complaints mechanism

3.1. Access to competent criminal justice authorities

Regarding the access to criminal justice authorities, the legal system distinguishes between two types of authorities: criminal police authorities (police authorities) and judicial authorities (public prosecutors and the courts).

Law 49/2008 ⁽⁵²⁾, which approves the Criminal Investigation Organisation Law, establishes that the competent judicial authority shall direct the investigation at each stage of the proceedings and are assisted, in the investigation, by the competent criminal police bodies (Article 2). This law defines that, within the criminal investigation process, public prosecutors and the courts are the main authorities to conduct the process in different stages of the proceedings – public prosecutors conduct the investigation process, while the courts conduct the judicial process after an accusation has been made -, and both are assisted by the police authorities.

Article 3 for the Criminal Investigation Organisation Law establishes as police bodies with general competence the Criminal Police (*Polícia Judiciária*), the National Republican Guard (*Guarda Nacional Republicana*) and the Public Security Police (*Polícia de Segurança Pública*). It should be noted that the Criminal Police has reserved jurisdiction over certain crimes such as, among others, crimes with intent or aggravated by the result, when the death of a person is an element of the offence, crimes against cultural identity and personal integrity, and crimes against the freedom and sexual self-determination of children and young people or incapacitated persons or to which, in the abstract, a penalty of more than 5 years in prison is foreseen (Article 7). On the other hand, the National Republican Guard and the Public Security Police are generally responsible for investigating crimes whose jurisdiction is not reserved to other criminal police bodies, as well as crimes whose investigation is entrusted to them by the competent judicial authority (Article 6).

⁽⁵²⁾ Portugal, [Lei 49/2008, que aprova a Lei de Organização da Investigação Criminal](#) (Law 49/2008, which approves the Criminal Investigation Organisation Law), 27 August 2008.

When it comes to access to competent criminal justice authorities, the mechanisms to crime reporting available to the general public can also be applied to people with disabilities. If the victim or any person that has knowledge of a crime that was or is being committed, they can report or file a complaint with any of the police bodies mentioned above. If the body has no jurisdiction over that crime, then it can carry out the necessary and urgent precautionary acts to ensure the means of proof and then refer the case to the competent criminal police body as soon as possible, which may not exceed 24 hours (Article 5).

The report/complaint can be done in person, by telephone or online. Having notice of the crime, the police body also report it to the Public Prosecutor's Office as soon as possible, since they act in proceedings under the direction and functional dependence of the competent judicial authority, without prejudice to their hierarchical organisation (Article 2). Alternately, the report/complaint can also be done in person, by telephone or online directly to the Public Prosecutor's Office.

It should be noted that these mechanisms, even the online one, are not adapted to people with disabilities. However, the National Republican Guard, since 2013, has a computerised system for receiving SMS, which allows people who are deaf or hard of hearing to send written messages in the event of an emergency. This system was implemented in partnership with the Portuguese Federation of Deaf Associations (*Federação Portuguesa das Associações de Surdos*), a civil society structure that represents the interests of the affiliated associations and the entire national deaf community. According to the last Annual Internal Security Report (cross-cutting document that aims to cover the various areas linked to internal security, with the aim of giving the public a cross-sectional view of various themes, namely recorded crime, road accidents, investments in infrastructure and equipment, staff numbers, operational results, prison population, international cooperation, legislation produced, among others), regarding the year of 2022, 832 SMS were received and 628 were sent ⁽⁵³⁾.

As established before, it should be noted that, when it comes to situations that involve facts that could constitute a crime of mistreatment of users of residential care facilities for older people (licensed or unlicensed), misappropriation of their income and assets and other criminal behaviours associated with the operation of these facilities, namely economic and financial offences, these cases have to be reported or referred to the Central Investigation and Penal Action Department (*Departamento Central de Investigação e Ação Penal*) – the Public Prosecutor's Office department responsible for the coordination and management of the investigation and prevention of violent,

⁽⁵³⁾ Sistema de Segurança Interna (2023), [Relatório Anual de Segurança Interna 2022](#) (Annual Internal Security Report 2022), Lisboa, Sistema de Segurança Interna.

economic-financial, highly organised or particularly complex crimes – due to the General Attorney Office order that granted to this department direct jurisdiction over this cases ⁽⁵⁴⁾. In the event that knowledge of any of the offences covered by this deferral of jurisdiction is initially acquired by other departments and units of the Public Prosecutor's Office, they must, by the most expeditious means, make immediate transmission to this department, forwarding any information they may have. Since this is a recent policy, there is no data in the impact of this measure.

3.2. Access to formal, informal and independent complaints mechanisms

Table 5: Complaints mechanisms

a)	Complaints procedure	Partnership between the Portuguese Association for Victim Support (<i>Associação Portuguesa de Apoio à Vítima - APAV</i>) and the Portuguese Sign Language Video Interpreter Service (<i>Serviço de Vídeo Intérprete de Língua Gestual Portuguesa – Serviin</i>)
b)	Formal, informal or independent	Independent
c)	Reference	https://serviin.pt/Surdo https://serviin.pt/Parceiros https://apav.pt/apav_v3/images/pdf/FI_Violencia_contra_pessoas_deficiencia_2020.pdf
d)	Brief description of the complaints procedure	The Serviin system allows deaf or hard of hearing people to communicate with partner organisations of this system in sign language, without resorting to other means. The system provides real-time video interpretation. One of the partners of this system is APAV, which has the system integrated into their national network of Victim Support Offices, the Victim Support Line, and other neighbourhood services. There is no public data available regarding its use by people living in institutions.
e)	Power to investigate	No. APAV can collect the reports/complaints and forwards them to the competent body, including judicial bodies.
f)	Power to impose sanctions	No. APAV only collects the report/complaint and forwards them to the competent body.
g)	Evaluation	No data is publicly available.
h)	Disaggregated data on complaints	No data is publicly available.

⁽⁵⁴⁾ For more information, see the [website of the Public Prosecutor's Office](#).

a)	Complaints procedure	Disabled Citizens' Line (<i>Linha do Cidadão com Deficiência</i>) of the Ombudsperson's Office (<i>Provedoria de Justiça</i>)
b)	Formal, informal or independent	Independent
c)	Reference	https://www.provedor-jus.pt/linha-do-cidadao-com-deficiencia/
d)	Brief description of the complaints procedure	The Disabled Citizens' Helpline is a free phone line specially dedicated to people with some kind of disability, providing information on the rights and support available to these citizens, particularly in areas such as health, social security, housing, facilities and services. There is no publicly available information regarding outreach / raising awareness activities of the existence of the phone line. However, the number is on the webpage of the Ombudsperson.
e)	Power to investigate	Yes. As established in point 2.2., the Ombudsperson's Office has the power to carry out, with or without warning, inspection visits and investigations and inquiries it deems necessary or convenient and adopt all reasonable procedures for gathering and producing evidence.
f)	Power to impose sanctions	Yes. The Ombudsperson can make recommendations to the competent bodies, with a view to correct illegal or unjust acts by public authorities or improve the organisation and administrative procedures of the respective services (Article 20, Statute of the Ombudsperson).
g)	Evaluation	The Ombudsperson is obliged to present to the Parliament an Annual Activity Report, noting the initiatives taken, the complaints received, the steps taken and the results obtained (Article 23). This report provides some information concerning the Disabled Citizens' Line.
h)	Disaggregated data on complaints	The data available does not make it possible to understand whether the complaints regarding mistreatment and discrimination and violation of rights occur in an institutional setting. However, according to the last available Activity Report ⁽⁵⁵⁾ regarding 2022, 21% of the calls received via specialised lines were made to the Disabled Citizens' Line. This percentage corresponds to 507 calls (a small increase compared to 2021 – 457 calls). Of these calls, around 65% were made by people with disabilities. Regarding the degree of disability, within the 507 calls made, 9% regarded a person with up to 60% degree of disability; 12% regarded a person with a 90% degree of disability or more; 21% regarded a person with a degree of disability between 80% to 89%; 27% regarded a person with a degree of disability between 60% to 79%; and 31% of the calls did not specify the degree. For the 507 calls received, 41%

⁽⁵⁵⁾ Provedoria de Justiça (2023), [Relatório à Assembleia da República 2022](#) (Report to the Parliament 2022).

		involved an organic disability; 17% were related to a motor disability; 13% were related to an intellectual disability; 9% regarded multidisability; and only 6% regarded a sensory disability. Only 2% were related to other disabilities and 12% were non-identified. Regarding the subject of the calls, 7.3% were about social responses, 0.2% were complaints of mistreatment, and other 1.3% regarded discrimination and violation of rights.
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a)	Complaints procedure	Discrimination Complaint (<i>Queixa por Discriminação</i>) of the National Institute for Rehabilitation (<i>Instituto Nacional para a Reabilitação</i>)
b)	Formal, informal or independent	Independent
c)	Reference	https://www.inr.pt/nao-discriminacao
d)	Brief description of the complaints procedure	Within the context of Law 46/2006 ⁽⁵⁶⁾ , that prohibits and punishes discrimination on the grounds of disability and the existence of an aggravated health risk (mentioned above), the National Institute for Rehabilitation receives complaints, and forwards them to the competent authorities.
e)	Power to investigate	Yes. Decree-Law 31/2012 ⁽⁵⁷⁾ , this body ensure the investigation of administrative offence proceedings that fall to it by law in the area of the rights of people with disabilities (Article 3).
f)	Power to impose sanctions	No. It only receives complaints and ensure the investigation of administrative offence proceedings that fall within its scope.
g)	Evaluation	Regarding the discrimination complaint, the National Institute for Rehabilitation draws up an Annual Report on the application of Law 46/2006, which includes information on the complaints received.
h)	Disaggregated data on complaints	There isn't any disaggregated data regarding institutional settings. According to the last annual report ⁽⁵⁸⁾ , regarding data of 2022, a total of 159 complaints of discrimination on the grounds of

⁽⁵⁶⁾ Portugal, [Lei 46/2006, que proíbe e pune a discriminação em razão da deficiência e da existência de risco agravado de saúde](#) (Law 46/2006, which prohibits and punishes discrimination on the grounds of disability and the existence of an aggravated health risk), 28 August 2006.

⁽⁵⁷⁾ Portugal, [Decreto-Lei 31/2012, que aprova a orgânica do Instituto Nacional para a Reabilitação, I. P.](#) (Decree-Law 31/2012, which approves the organisation of the National Institute for Rehabilitation, I. P.), 9 February 2012.

⁽⁵⁸⁾ National Institute for Rehabilitation (2022), [Relatório Anual - 2022 sobre práticas de atos discriminatórios em razão da deficiência e do risco agravado de saúde: Aplicação da Lei 46/2006, de 28 de agosto, que proíbe e pune a discriminação em razão da deficiência e da](#)

	disability and aggravated risk to health were received. This includes both complaints submitted to the National Institute for Rehabilitation (67), and complaints submitted directly to other entities with inspection, regulatory or sanctioning powers under Law no. 46/2006. In percentage, complaints of discrimination on the grounds of disability account for 59.26%, and those of discrimination on the grounds of aggravated health risk account for 39.51% of the total. In addition, there is no information on the nature of the disability in 1.23% of the complaints. 2.47% of the complaints regarded the adoption of acts in which, publicly or with the intention of wide dissemination, a natural or legal person, public or private, makes a statement or transmits information by virtue of which a group of people is threatened, insulted or demeaned on grounds of discrimination based on disability.
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a)	Complaints procedure	Complaints Book (Livro de Reclamações)
b)	Formal, informal or independent	Formal
c)	Reference	https://www.livroreclamacoes.pt/Inicio/
d)	Brief description of the complaints procedure	According to Decree-Law 156/2005 ⁽⁵⁹⁾, every supplier of goods or service providers, who has contact with the general public, is required to have a complaints book where everyone can write a complaint regarding the service provided by the entity target in the complaint. There's also a digital platform where everyone can present a complaint. Decree-Law 156/2005 establishes that, after completing the complaint form, the supplier of the goods, the service provider or the employee of the establishment must, within 15 working days, send the original of the complaint form to the competent entity to investigate (in the case, the Institute for Social Security) (Article 11). The law also establishes that when a user is unable to fill in the complaint form, for reasons of illiteracy or physical incapacity, the service provider or any person

[existência de risco agravado de saúde](#) (Annual Report - 2022 on discriminatory practices on the grounds of disability and aggravated health risk: Application of Law 46/2006, of 28 August, which prohibits and discrimination on the grounds of disability and the aggravated health risk).

⁽⁵⁹⁾ Portugal, [Decreto-Lei 156/2005, que estabelece a obrigatoriedade de disponibilização do livro de reclamações a todos os fornecedores de bens ou prestadores de serviços que tenham contacto com o público em geral](#) (Decree-Law 156/2005, which establishes the obligation to make a complaints book available to all suppliers of goods or service providers who have contact with the general public), 15 September 2005.

		responsible for handling the complaint must, at the time of submitting the complaint and at the request of the consumer or user, fill it in as described orally by the latter (Article 4).
e)	Power to investigate	Non-applicable. The power to investigate belongs to the Institute for Social Security (see point 2.1.)
f)	Power to impose sanctions	Non-applicable. The power to investigate belongs to the Institute for Social Security (see point 2.1.)
g)	Evaluation	There is no public information available.
h)	Disaggregated data on complaints	There is no public information available.

4. Support to victims

4.1. Forms of cooperation between competent authorities

The Inspection Department of the Institute for Social Security, I.P. [*Departamento de Fiscalização do Instituto da Segurança Social, I.P. (ISS, I.P.)*] is the public entity with prime access to victims and possible victims in institutions for disabled people. This department, as defined in Article 8 of the Statutes of the Institute for Social Security, I. P., ⁽⁶⁰⁾ referring to the Inspection Department, is responsible for: “[...] i) Inform and clarify the institutions that own and users of social support institutions regarding their rights and obligations, with a view to preventing or correcting the commission of infractions; [...] l) Promote and carry out crime prevention actions. [...]”.

It should also be highlighted that, as stated in section 1.5., since 1996, public and private institutions have established a public-social partnership model that develops the national network of social protection, facilities and services, mainly aimed at citizens in situations of greater vulnerability and social exclusion ⁽⁶¹⁾, which includes the social responses available to people with disabilities. Although, the legal system regulating this mode do not directly address violence, it establishes some principles and values that shape the relationship between the partners with the users of the social responses. Therefore, among the values guiding the partners' intervention there is: the focus on the person and their well-being, at all stages of their life; the guarantee of the participation of the person in their individual and community development processes; and the promotion of quality of life and well-being.

Public authorities have, also, produced the [Good Practices Manual - A guide to residential care for people with disabilities - For managers, professionals, residents and family members](#) (Institute for Social Security, 2005). As referred in section 1.5, this manual includes a section titled “When something goes wrong - mistreatment”, that typifies the types of mistreatment and its consequences, analyses concrete hypothetical situations of violence, gives advices on how to prevent mistreatment, how to act in cases of mistreatment, and lists the different legal principles and standards applicable. (see pp. 96 to 114). Additionally, the National Federation of the Cooperatives of Social Solidarity (Federação Nacional de Cooperativas de Solidariedade

⁽⁶⁰⁾ Portugal, [Portaria n.º 135/2012, que aprova os Estatutos do Instituto da Segurança Social, I. P.](#) (Ordinance 135/2012, which approves the Statutes of the Institute for Social Security, I. P.), 8 May 2012.

⁽⁶¹⁾ For more information, see the [website of Institute for Social Security](#).

Social - FENACERCI), produced two roadmaps that are pivotal for any intervention in area of violence against people with cognitive or multiple impairments. The first roadmap, produced in 2010, [Roadmap for the Prevention of Mistreatment of People with Intellectual Disabilities and/or Multiple Impairments – Assessment and Diagnosis](#), provides an assessment/diagnosis instrument that allows to identify, record and signal situations of mistreatment and defines a specific protocol for prevention and action in situations that occur within the family or by people significant to the person with a disability. The second roadmap, produced in 2011, [Roadmap for Prevention and Intervention in Institutional Context: Situations of Mistreatment of People with Intellectual Disabilities and/or Multiple Impairments](#), aimed to evaluate/diagnose and determine an action protocol in situations of mistreatment that occur in an institutional context, involving disabled people, employees, management and family/significant others. This 2011 “Roadmap” introduces new dimensions of analysis in the diagnostic assessment process that relate to situations of violence and mistreatment in an institutional context, namely situations of discrimination, neglect, psychological, physical and/or verbal violence against people with disabilities by the employees of the institutions. Finally, the [Portuguese Victim Support Association](#) (APAV), that aims to promote and contribute to the information, protection and support of citizens who are victims of criminal offenses, produced an [Information Sheet regarding violence against disabled people](#). This information sheet defines violence and disability, presents the different forms of violence that can affect disabled people, provides statistics regarding the prevalence of violence against disabled people at international level, analyses the impacts of violence and the signs of alert, presents the victim support services offered by the association and provides available contacts to file complaints or seek for support.

4.2. Access to information and support

There are several guidelines and good practices manuals produced by public and private institutions. However, there is no evidence of provisions/measures regarding the facilitation of information and support for victims inside the institutions. These documents provide, mostly, guidelines for the professionals on how to act in cases of violence and on how to detect these situations. Therefore, these documents, referred in the previous section, are not available on accessible formats for disabled people.

The exceptions are: the Ombudsperson People with Disabilities’ Line (800 20 84 62), the support offered by APAV through the Victim Support Line (116 006), the APAV Victim Support Offices, the accessible website [Infovítimas Inclusivo](#) and the [CERCIAG](#) Shelter for Disabled Women Victims of Violence.

The Ombudsperson People with Disabilities’ Line is a free specialised service directed to disabled people, available on weekdays (from 9:30am to 5:30pm and outside these

hours there is a message recorder), providing information on the rights and support, particularly in areas such as health, social security, housing, equipment and services. This line can also be used to denounce any situation of violence and/or disrespect for people's rights, and, if the case warrants, the Ombudsman Disabled Citizen Line will forward the situation to the competent authorities and contact the relevant institutions. There isn't information regarding the availability of accessible support.

The [Portuguese Victim Support Association](#) (APAV) provides two types of support to disabled people: the Victim Support Line (116 006) and the APAV Victim Support Offices. The Victim Support Line is a free specialised service directed to the general public, available on weekdays (from 9am to 9pm). The APAV Victim Support Offices are local offices (16 in total, throughout the country) that provide support services to citizens who are victims of crime and their families in their communities. These offices, available on weekdays, provide emotional, legal, psychological and social personalised support services to the victims of crime. APAV offers an accessible service for people with hearing impairments that have been victims of crime and violence, providing a Portuguese Sign Language Video Interpreter Service, mentioned above on section 3.2.

The [CERCIAG Shelter for Disabled Women Victims of Violence](#), created in 2018, is a specific temporary shelter response for women with a moderate or severe intellectual impairment, temporary or permanent, whether or not associated with a physical impairment, victims of violence. As it is stated on their website, this service aims to restore the victims' confidence and security and subsequently support them to (re)organise and (re)build a life project. This shelter can accommodate up to 7 women and offers a specialised and personalised support regarding rights, legal and social protection, housing, occupation, training and/or employment.

5. Evidence, data and research

There is a general lack of evidence on disabled people's experience of violence in Portugal, either in institutional settings or within the communities. Most of the information available is released by the media, specially news reports regarding cases that due to specific reasons (type of crime, type of impairment of the person victimised, institutional responsibilities of the perpetrator or access to courts) gained media attention. More recently, after the assessment report produced by the United Nations on Portugal's implementation of the Convention on the Rights of Persons with Disabilities (2016), the issue of forced sterilisation of disabled women, particularly of women with cognitive impairments, gained particular attention. This prompted the publication of several news on national media ⁽⁶²⁾, and the approval by the National Parliament of a proposal of the Liberal Party to promote a national study on violence against girls and women with disabilities, namely on the reality of forced sterilisation practices in Portugal, and the adequate funding has been approved in the national budget for 2023 ⁽⁶³⁾. There isn't, however, any more information or evidence about the development of this study or its research results.

Another example is the report made within the European project "RESPONSE - Responsive services to address gender-based violence against women with disabilities" ⁽⁶⁴⁾, in which Portugal participated through FENACERCI. This report focused on gender-based violence (GBV) against disabled women in the 6 participating countries (France, Hungary, Lithuania, Poland, Portugal, and Spain) and aimed to analyse the challenges faced by disabled women who are victims of gender-based violence, the tools available to professionals who support disabled women victimised by GBV, and mapping existing support institutional responses and good practices. This study involved 270 participants, namely disabled women, disability service providers

⁽⁶²⁾ Examples include:

Público (2016), "[Esterilização de deficientes: Governo averigua denúncias sobre um tema 'tabu'](#)" (Sterilization of disabled people: Government investigates complaints about a "taboo" topic), 26 June 2016.

Público (2016), "[O caso da menina 'demente' que chegou ao Conselho Nacional de Ética](#)" (The case of the "demented" girl who reached the National Ethics Council), 26 June 2016.

Público (2016), "[Testemunho de uma mãe com 78 anos: 'A laqueação das trompas da minha filha foi das decisões mais difíceis que tive que tomar'](#)" (Testimony from a 78-year-old mother: "Having my daughter's tubes tied was one of the most difficult decisions I've had to make"), 26 June 2016.

⁽⁶³⁾ Lusa (2022), "[OE 2023 - Portugal vai elaborar estudo sobre violência contra pessoas com deficiência](#)" (SB 2023 - Portugal will prepare a study on violence against people with disabilities), 24 November 2022.

⁽⁶⁴⁾ RESPONSE Consortium, [Report on the State of the Art - Responsive services to address gender-based violence against women with disabilities](#).

and general service providers. The survey conducted revealed that 8 out of 10 disabled women with disabilities were victims of GBV, that most of them did not report their experience and that those who did it, did it only after a long period of time and reported negative experiences about the support received. Moreover, the report evidenced that there is a lack of adequate follow-up or support for victims after reporting an assault, and that there is a lack of information and of means of action. The professionals working in the institutions reported a lack of training on how to support disabled women who are victims of GBV, lack of accessibility to specific services and resources, lack of cooperation between disability service providers and general services, and the slowness of legal procedures. These are, however, general conclusions, because the report does not focus on data from specific countries. The report only focused the national level when addressed the regulatory frameworks and good practices (pp. 54 to 75).

Annex I – Promising practice

Title (original language)	Linha do Cidadão com Deficiência
Title (EN)	People with Disabilities' Line
Organisation (original language)	Provedoria de Justiça
Organisation (EN)	Ombudsperson
Government / Civil society	Government
Funding body	
Reference (incl. URL, where available)	https://www.provedor-jus.pt/en/people-with-disabilities-line/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2013
Type of initiative	Support telephone line
Main target group	Disabled people
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Ombudsperson People with Disabilities' Line is a free specialised service directed to disabled people, available on weekdays (from 9:30am to 5:30pm and outside these hours there is a message recorder), providing information on the rights and support, particularly in areas such as health, social security, housing, equipment and services. This line can also be used to denounce any situation of violence and/or disrespect for people's rights, and, if the case warrants, the Ombudsperson Disabled Citizen Line will forward the situation to the competent authorities and contact the relevant institutions. There isn't information regarding the availability of accessible support.
Highlight any element of the actions that is transferable (max. 500 chars)	Free phone line means providing support to disabled people regarding information on rights and services, but also a space to present complaints and denounce situations of disrespect towards disabled people's rights. All elements are transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	Support offered is a continuous need for disabled people and this is a warrant space of disabled people's rights.
Give reasons why you consider the practice as having concrete measurable impact	This support line is accessed annually by an average of 500 disabled people looking for specialised support regarding their needs.

Give reasons why you consider the practice as transferable to other settings and/or Member States?	This is a specialised and personalised support service for disabled people adequate to their specific needs.
Explain, if applicable, how the practice involves beneficiaries and stakeholders, including DPOs, in the design, planning, evaluation, review assessment and implementation of the practice.	Not applicable.
Explain, if applicable, how the practice provides for review and assessment.	The Ombudsperson produces an Annual Report for the Parliament with brief information about people accessing the support line and the issues that led disabled people to use the Ombudsperson People with Disabilities' Line.

Title (original language)	Despacho da Procuradora Geral da República
Title (EN)	General Attorney Order
Organisation (original language)	Procuradoria-Geral da República
Organisation (EN)	General Attorney Office
Government / Civil society	Government
Funding body	Not applicable.
Reference (incl. URL, where available)	https://www.ministeriopublico.pt/sites/default/files/anexos/despachos/despacho_pgr_22-03-2023.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	22 March 2023
Type of initiative	Internal policy framework
Main target group	Older people living in residential facilities
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The order grants to the Central Investigation and Penal Action Department (<i>Departamento Central de Investigação e Ação Penal</i>) – a department within the Public Prosecutor's Office – direct jurisdiction for investigation and prosecution of cases involving facts that could constitute a crime of mistreatment of users of residential care facilities for older people (licensed or unlicensed), misappropriation of their income and assets and other criminal behaviours associated

	with the operation of these facilities, namely economic and financial offences. In the event that knowledge of any of the offences, covered by this deferral of jurisdiction, is initially acquired by other departments and units of the Public Prosecutor's Office, they must, by the most expeditious means, make immediate transmission to this department, forwarding any information they may have.
Highlight any element of the actions that is transferable (max. 500 chars)	With the issuing of this order cases, regarding offences against users of residential care facilities for older people, are now being investigated and prosecuted by the same structure within the Public Prosecutor's Office. All elements are transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This order allows a better coordination within the structure of the Public Prosecutor's Office, when dealing with offences against users of residential care facilities for older people, by concentrating the resources available in only one department.
Give reasons why you consider the practice as having concrete measurable impact	Since this department is responsible for coordinating and directing the investigation and prevention of violent, highly organised or particularly complex crime, including offences against users of residential care facilities for older people in the roll of crimes that this department investigates, can have impact since, in some cases, the crimes committed against older people in residential care facilities involve more than one type of crime.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Every country has a Public Prosecutor's Office or some similar structure. Therefore, this practice is transferable since it only requires an order from the competent entity to issue organisational orders (mainly, the General Attorney).
Explain, if applicable, how the practice involves beneficiaries and stakeholders, including DPOs, in the design, planning, evaluation, review assessment and implementation of the practice.	Not applicable.
Explain, if applicable, how the practice provides for review and assessment.	The Public Prosecutor's Office publishes every year an Annual Report that includes a description and analysis of the activities of the Central Investigation and Penal Action Department.