



Reply to the Questionnaire
- Special Rapporteur on adequate housing –
Portuguese Ombudsman

1. *What role will national and international human rights standards on the right to adequate housing play in informing your positions and proposals for Habitat III? Can you please provide concrete examples in this regard?*

The Portuguese Government's proposals for Habitat III are not available yet.

According to the Portuguese Constitution (1976) the norms and principles of general or common international law form an integral part of domestic Portuguese law. The norms contained in duly ratified or approved international conventions come into force in Portuguese internal law, including parliamentary acts, once they have been officially published, and remain so, for as long as they are internationally binding on the Portuguese state. The norms issued by the competent organs of international organisations to which Portugal belongs come directly into force in Portuguese internal law, on condition that this is laid down in the respective constituent treaties (Article 8(1), (2) and (3) of the Constitution).

2. *One aspect for discussion in the context of Habitat III will likely be “social cohesion and housing”. What public policies, programmes or plans are being considering or have been put forward by national or subnational level governments related to “social cohesion” (for example: non-discrimination and equality) and the right to adequate housing? Please specifically reference any policies, programmes or plans aimed at ensuring inclusive housing for disadvantaged groups such as migrants and refugees, women, young people, older people, and people with disabilities in urban centres.*



Access to adequate housing has been a concern on Portuguese public policies, both at national and local level.

Recently, the National House Strategy¹ was presented for public discussion. This Strategy lays down the objectives for the housing sector with a focus on disadvantaged and marginalized groups, to reduce significantly the number of people at risk or in poverty or social exclusion, to promote integration of immigrants and ethnic minorities, to prevent and combat domestic and gender violence. Several public policies and plans were taken into account in the new National House Strategy aimed at ensuring inclusive housing for disadvantaged groups.

The 2010-2013 Plan for Immigrant Integration² contains several measures aimed to improve the access to housing: expand the social housing offer in connection with local authorities (Measure 41); create new housing solutions in partnership with immigrant associations, private social security institutions, non-governmental organisations and cooperatives (Measure 42); improve access of immigrants to rent assistance mechanisms (Measure 43), raise awareness of the need for effective compliance with the contractual obligations undertaken with tenants (Measure 44), implement urban rehabilitation committed to a new territorial approach (Measure 45). Some municipalities have their own plan for immigrant integration.

The 2015-2020 Strategical Plan for Migrations³ seeks to promote immigrants' house conditions (Measure 32).

Roma communities have access to a set of general programmes and measures aimed at individuals and groups living in situations of poverty and exclusion, such as the National Roma Communities Integration Strategy⁴ which defines as priorities: Increase knowledge of the housing conditions of Roma communities (Priority 26); To encourage practices that promote the integration of Roma communities, within the scope of housing policies (Priority 27); To adjust housing solutions and improve social

¹ <https://www.portaldahabitacao.pt/pt/portal/habitacao/EstNacHabitacao> (English version).

² Resolution of the Council of Ministers 74/2010, of 17 September.

³ Resolution of the Council of Ministers 12-B/2015, of 20 March.

⁴ Resolution of the Council of Ministers 25/2013, of 17 March.



housing quarters (Priority 28); To promote access to rental homes/home ownership (Priority 29). Some municipalities have their own programmes for Roma integration.

The National Plan of Promotion of the Accessibility⁵ defines the strategy to ensure accessibility. The objective of this plan is to remove obstacles and barriers faced by citizens through an integrated and coordinated policy to promote accessibility in Portugal up to 2015.

Housing adaptation grants for disabled people was one of the measures established by the 2011-2013 National Strategy on Disability⁶. Some municipalities have their own programs to support the costs of adapting (municipal or private) house modification to make them suitable for persons with disabilities⁷.

Specific Portuguese legislation helps to enforce, protect and promote the rights of persons with disabilities on housing:

- People with a proven degree of disability exceeding 60% have the right to receive a rent subsidy. This subsidy is also payable if the spouse – or the person with whom he or she lives under terms analogous to marriage – has a disability (Decree-Law 68/86, of 27 March, Article 3).

- Law 46/2006, of 28 August forbids the discrimination of persons with disabilities when renting or buying housing, and when accessing to housing loans. Sanctions can be applied to those who disrespect this prohibition (Article 4(c)).

- Disabilities are taken into account when allocating social housing⁸. Persons with disabilities have preference when they are on equal conditions with other candidates.

- The horizontal property regime, since 2012⁹ allows owners with disabilities to promote actions and measures (ramps, lifts or other mechanical devices)

⁵ Resolution of the Council of Ministers 9/2007, of 17 January.

⁶ Resolution of the Council Ministers 97/2010, of 14 December (Measure 72)

⁷For instance, the “Program Open House” in Lisbon City Council (www.cm-lisboa.pt/viver/intervencao-social/pessoas-com-deficiencia/casa-aberta).

⁸ <http://www.cm-lisboa.pt/servicos/por-temas/concursos/habitacao-municipal-candidatura-e-acesso>.

⁹ The review of the horizontal property regime to promote accessibility on the common parts of residential buildings was one of the measures established by the National Strategy on Disability.



that are necessary to ensure their accessibility to their houses, even if other owners disagree (Article 1425(3) of Civil Code amended by Law 32/2012, of 14 August).

- The Program “Porta 65”, which supports the housing lease for permanent residence has benefit applications for young persons with disabilities.
- The New Urban Lease Regime (Law 6/2006, of 27 February, recently amended by Law 79/2014, of 19 December) confers special protection to disabled tenants¹⁰. For instance, it provides for the possibility of deferring an eviction from rented housing property in case the evicted has a disability with a proven degree of incapacity exceeding 60%.
- Housing is economically more accessible to persons with disabilities which benefit of a special regime to contract housing loans (Law 64/2014, of 26 August).

The 2009-2015 National Strategy for the Integration of Homeless People includes direct intervention in situations of homelessness. Local action is promoted by the strategy.

Equal opportunities policies for all and policies of equality of opportunities between women and men are transversal to all measures. However, there are some specific sectorial programs and plans which are more directly related to the national policies aimed at gender equality, such as the National Plan for Equality - Citizenship and Gender Equality.

The 2014-2017 Plan to prevent and combat the Domestic and Gender-based Violence¹¹ provides specifically that housing support measures should be adopted for victims of domestic violence (Measure 26).

The victims of domestic violence have preferential accommodation under the Rental Regime for Supported Housing, when they are on equal conditions with other candidates (Article 11, of Law 81/2014, of 19 December).

¹¹ Resolution of the Council of Ministers 102/2013, of 31 December.



The Resolution of the Council of Ministers 11/2013 of 5 March states the National Strategy on Youth, as a result of the project White Book on Youth which stipulates the strategic guidelines for youth policies in Portugal. The strategic orientations of intervention that came out of the White Book project are spread in several areas, under which one there are guidelines for action and activities to conduct and perform. One of these main areas is housing.

PORTA 65 grants young people from 18 to 30 years old, direct subsidies to access the rental housing market. This programme envisages meeting the following objectives for the area of housing: i) promoting rent controlled housing for young people; ii) promoting housing benefits and mobility, making available public and private property for direct or mediated rent through housing stock; iii) supporting the management of the public rental stock by establishing contracts with local authorities previously certified; iv) Supported housing (Cohousing): promoting a support instrument to entities which rent collective housing to population groups with permanent or temporary specific needs.

Housing Comfort Programme for the Elderly¹², that intends to improve residential conditions and accessibility of older people, gives special emphasis to housing requalification.

Protection of older tenants has been also reflected in Law 79/2014, of 19 December (that amended the New Urban Lease Regime) and in Law 81/2014, of the same date (Rental Regime for Supported Housing).

Several programmes and policies have been put forward in Portugal to respond to the housing needs of low income families. For example:

- Re-housing programmes launched in the 1990's (PER and PER-families) aimed at re-housing population living in slums.

¹² Order 6716-A/2007, of 22 March.



- Measures and initiatives to support families with housing difficulties, namely by promoting cost-controlled housing within Cooperative Promotion (PROHABITA).
- Rehabilitation programmes to support, through the grant of public incentives, upkeep work and the improvement of degraded real estate and dwellings (RECRIA).
- Programmes intended to finance, through interest free loans, works and improvements to permanent own housing and vacant housing owned by individual or public entities, common parts of buildings included (SOLARH);
- Investment Fund for Rental Housing to support families with financial difficulties. It allows families to sell their houses to an Investment Fund, with whom they celebrate a rental contract, with option to buy back the property later on (Law 58/2012, of 9 November).
- Special credit line for the protection of «permanent own housing» provide by the Treasury Department at the Ministry of Finance line (Decree-Law 103/2009, 12 of May).
- The Institute for Housing and Urban Rehabilitation also supports families with low income through its own housing stock.

3. *In the light of the fact that subnational and local governments play an essential role with respect to the implementation of the right to adequate housing, what plans and procedures does your Government intend to implement to ensure they are engaged in the lead up to Habitat III as well as with respect to the implementation of commitments coming out of Habitat III?*

The plans and procedures that the Portuguese Government intends to implement to ensure that subnational and local governments play an essential role



with respect to the implementation of the right to adequate housing are not available yet.

- 4. What interesting or unique housing policies, programs or good practices consistent with the human right to housing does your Government intend to highlight through the Habitat III process? Please provide examples both from local, subnational or national levels of government, and, if applicable, from non-government actors as well.*

The Portuguese Government's proposals for Habitat III are not available yet.

- 5. Please reflect on mechanisms used to monitor compliance with Habitat II (1996) at the national level that have proven effective and, if possible, provide examples. What kind of mechanisms would your Government envisage as part of the monitoring and implementation of Habitat III?*

The National Plan of Action for Habitat II refers to the need for monitoring of implementation and evaluation of achievements and describes mechanisms to be established for the purpose. It outlines how the monitoring and evaluation process might be carried out, but without going into detail.

The plan's achievements should be developed by Public Administration, with inter-institutional cooperation and with the input of independent teams. But, unfortunately, there are no data available regarding to its effective monitoring.

The mechanisms that the Government envisages as part of the monitoring and implementation of Habitat III are not available yet.



PARTICULAR CONCERNS OF THE PORTUGUESE OMBUDSMAN IN HOUSING

Although national and local housing policies are based on human rights and prioritising the socially vulnerable, financial crisis and austerity measures affected investing in housing.

During recent years, the Ombudsman has handled with an increasing number of complaints related to the violation of right to adequate housing. Rehousing, social rent levels, delay in repairs and maintenance works and rent charges have led an expressive number of complaints.

The number of households on waiting lists for social housing has increased and there's a huge lack of supply.

The impact of the financial crisis is also on the demand side, where the high level of unemployment and debt linked to housing are worrying.

Young people often live with their parents most due to unemployment or temporary contracts with low wages.

In 2012, was established the new programme for social rent market which is aimed at people who can't access to social housing and don't have enough income to buy their own house (Law 81/2014, of 19 December).

The tenancy market in Portugal was characterized during decades by a rent freeze. But the reform of the New Urban Lease Regime, through Law 31/2012, of 14 August, occurred as an obligation as part of the Economic and Financial Assistance Programme, and gave the landlords more flexibility to negotiate residential leases.

The New Urban Lease Regime justified complaints from both tenants and landlords. In 2013, the Ombudsman had started screening a number of objections raised in respect of the new regime. Finally, in 2014, the Ombudsman suggested amendments to the New Urban Lease Regime concerning the protection of vulnerable elderly tenants that were reflected in Law 79/2014, of 19 December.



Other complaints refer to the necessary modification of housing to people with disabilities and senior citizens. The Ombudsman has undertaken several initiatives to improve conditions of accessibility in private and public buildings for people with disabilities.

Numerous works have been carried out on existing buildings to facilitate personal mobility, such as adapting lifts, accessible toilets and ramps. However, despite the efforts, there is still much to do to implement the accessibility law (Decree-Law 163/2006, of 8 August) because housing, housing-related facilities, neighbourhoods and public buildings were designed for people without disabilities. According to the 2011 census only 30% of the Portuguese buildings are accessible by wheelchair.

Unfortunately, the Decree-Law 53/2014, of 8 April, approved an exceptional regime for rehabilitation of buildings that exempts some urbanistic operations from observance of architectural accessibility standards (Article 4). The Ombudsman is analysing this law.

The large number of vacant housing units or without proper habitability is also a problem in housing in Portugal. Recently, the Ombudsman, to help empty homes get back into use, suggested to the Government to implement the Article 1345 of Civil Code, which provides that real state with unknown owner belongs to the Public Treasury. The suggestion was welcomed and included in the National House Strategy.