



PERMANENT MISSION OF PORTUGAL  
GENEVA

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The Permanent Mission of Portugal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to its request, dated 18<sup>th</sup> December 2023, has the honour to enclose herewith the input of the Portuguese authorities to the expert workshop and a comprehensive thematic study on the human rights dimension of care and support.

The Permanent Mission of Portugal avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 09 April 2024



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**MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS**  
**Direção-Geral de Política Externa**

**Input from Portugal for an expert workshop and a comprehensive thematic study on the human rights dimension of care and support.**

**1. In your country, regional or at the global level, how are the following rights recognized and protected under national, regional and/or international law? Please provide concrete examples, such as legal provisions, jurisprudence of courts and/or human rights mechanisms:**

- **Human rights of unpaid and paid caregivers**, including those who are women, persons with disabilities, children and older persons;
- **Human rights of recipients of care and support**, including those who are women, persons with disabilities, children and older persons;
- **Human right relevant to self-care of caregivers and recipients of care and support**, including those who are women, persons with disabilities, children and older persons.

**Such recognition and protection may be made in relation to, but not limited to, the rights to work, social security, adequate housing, health, education, enjoyment of scientific advancement, legal capacity, equality in marriage, independent life in the community, rest and leisure, and the rights relevant to participation. It may include the recognition of care and/or support as human right(s) under the law.**

The adoption of the Statute of the Informal Caregiver has been an important development in 2019 (Law 6/2029).

Paid and unpaid caregivers, as well as recipients of care and support (including women, children and young persons, adults with disabilities and older persons), are entitled to special leave from work, training, access to healthcare, as well as social security rights, including social benefits and services. Social services are provided in partnership between the state and the social sector.

These rights are recognised and protected by national legislation, with regional and local administrative adaptations. Both the Social Security Institute (ISS) and the National Health Service (SNS) exercise national competences on a decentralised basis via local and regional authorities, in accordance with the administrative division of the Portuguese



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territory. For example, Local Social Security Centres are responsible for the implementation and management of social security services and benefits at local level for unpaid and paid carers and recipients of care and support. Social security and health services in Madeira and the Azores are administratively autonomous. All national legislation relating to unpaid and paid caregivers, and recipients of care and support, apply at local and regional level, but the Autonomous Regions may offer more favourable conditions within the regional legal framework (e.g. supplement to child benefit - Complemento Açoriano ao Abono de Família para crianças e jovens (CAAF)).

In practice, healthcare is provided by the National Health Service, while social benefits in cash are provided by the social security system. Social services and other benefits in kind are provided by a range of institutions (from the public, private and social sectors) and through the integrated and continuous intervention of the social assistance and health care systems, which are organized according to two operational territorial levels: regional and local. Social sector institutions which operate under cooperation agreements established with the social security system, are financed, in whole or in part by public funds. Individuals and families benefiting from state-funded social services pay a fee for the service provided, which is calculated according to personal or family income and the level of care and dependency.

International standards on social rights also apply to the national legal framework. With regard to the human rights treaties establishing the right to social security, Portugal has ratified and accepted obligations under ILO Convention 102 on Social Security (Minimum Standards), the International Covenant on Economic, Social and Cultural Rights, the European Social Charter (revised) and the European Code of Social Security and its Protocol.

Legal provisions on the right to social security and social protection for paid and unpaid caregivers, as well as recipients of care and support:

- Constitution of the Portuguese Republic;
- Social Security Framework Law No. 4/2007 of 16 January 2007, amended by Law No. 83-A/2013 of 31 December 2013;
- Decree-Law No. 265/99 of 14 July 1999 on long-term care supplement (supplement for dependents), amended several times;
- Decree Law No. 101/06 of 6 June 2006 on the National integrated continuous care Network (national integrated continuing care network - RNCCI), in the current wording;
- Ordinance No. 311/2021, of 20 December on the standards regulating the national, regional and local coordination of units and teams for continuous mental health care, as well as the organizational and operational conditions of the aforementioned units and teams for the adult population and for childhood and youth ( National, regional



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and local coordination of integrated long-term mental health care units and teams (CCISM)), as well as the conditions of organization and operation of units and teams providing CCISM for the adult population and for childhood and youth );

- Law No 6/2019 of 6 September - Statute of the informal caregiver
- Regulatory decree No. 1/2022 of 10 January - Regulates the recognition of informal caregiver, as well as support measures for informal caregivers and persons recipients of care and support) (Regulates the terms and conditions for recognition as an informal caregiver, as well as support measures for informal caregivers and care recipients.);
- Law No 3/2022; Ordinance No. 198/2022; Order No 14837-E/2022; Ordinance No. 304/2022; Ordinance No. 305/2022, on free subsidized day-care.

**2. Concrete policy or programmatic measures taken to promote and ensure the rights of caregivers and recipients of care and support in national care and support systems, mentioned under Question 1 above. If possible, please indicate the impacts of such measures.**

**Such measures may include, but not limited to, social security/protection, working conditions, human support, childcare, long-term care and support, health services, education, transportation, housing, water and sanitation, assistive devices, digital technology, deinstitutionalization<sup>1</sup>, access to justice, governance, financing, monitoring and evaluation, and awareness raising.**

**Unpaid and paid caregivers**

Paid caregivers: mainly professional providers (social and health workers) belonging to the National Network for integrated Long-Term care (RNCCI), which include different legal entities, such as hospitals, health centres, district social security centres, private social solidarity institutions, NGOs, local authorities and non-profit organisations.

The protection provisions applicable to the professional providers of the RNCCI units and teams are the same as those applicable to other employees and the self-employed workers: legal residence for health care, a compulsory system based on insurance for social security cash benefits, and an income guarantee system for non-contributory cash benefits granted on a means-tested basis, where appropriate.

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<sup>1</sup> <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd5-guidelines-deinstitutionalization-including>



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Unpaid caregivers: people who provide permanent or regular care to a dependent family member. The law defines two types of informal caregiver: i) the main informal caregiver who is the spouse or partner or a family member up to the 4<sup>th</sup> degree of consanguinity or affinity of the person being cared for, who lives and does not receive any remuneration for his or her professional activity or for the care provided to the person being cared for; ii) the non-primary informal caregiver who is the spouse or partner or relative up to the 4th degree in direct or collateral line of descent of the person being cared for and who provides regular, but not continuous, cares to that person – with or without remuneration for the professional activity or care provided.

The recognition of informal caregivers is the responsibility of the Social Security Institute.

The duly recognized informal caregiver is entitled to the main informal caregiver support allowance (Support allowance for main informal caregiver). The allowance takes as reference value a percentage of the IAS (reference value used to calculate and determine various social benefits granted by the Portuguese State) and varies according to personal income (increased by 50% of the contribution on the remuneration value of 1 IAS if the caregiver is affiliated to the voluntary social insurance scheme and as long as he/she pays regular contributions).

In addition to the above-mentioned support allowance, informal caregivers are entitled to: training to develop their skills and acquire new skills to provide adequate health care for the person they care for; psychological support from health services, if needed, even after the death of the person they care for; rest periods to ensure their well-being and emotional balance; access to the voluntary social security scheme; benefit from remuneration registration (credited periods), for example during periods of part-time work of the non-primary informal caregiver works part-time or when the primary caregiver stops working and is not entitled to unemployment benefit.

### **Recipients of care and support**

Support in cash and/or in kind, related to the services or allowances provided, with the exception of healthcare provided by the National Health Service (SNS).

The types of benefits and services provided include financial support, social services, accommodation (temporary or permanent), nursing care, services to support basic needs and essential activities of daily living, whether at home or in residential or semi-residential institutions. More specifically, recipients of care and support may have access to several social benefits and services, namely, the following (the list is not exhaustive):

### **General Population**

**Healthcare**: Provided directly by the State through the National Health Service (SNS);



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**Long-term Care:** provided by the National Integrated Long-term Care Network (RNCCI), managed jointly by the Social security system and the National Health Service. Mainly benefits in kind provided through the integrated and continuous intervention of social assistance and health care for the population in general:

- Home support service (Home Support Service): provided by specialized teams (integrated long-term care teams – ECCI) with a mix of social and health workers. Provision of care and services to families and/or individuals at home who are in a situation of physical and/or psychological dependency, and who are temporarily or permanently unable to meet their basic needs and/or carry out the essential activities of daily living, and who do not benefit from family support for this purpose;
- Convalescent centres (Convalescent care units) for medical rehabilitation following hospitalisation;
- Medium-term and rehabilitation centre (Medium-term care and rehabilitation unit), in conjunction with the hospital, for medical rehabilitation care and social / psychological support;
- Long-term and maintenance centre (Long-term care and maintenance unit) for social support and maintenance treatment for persons suffering from chronic illnesses.

**CONTINUOUS INTEGRATED MENTAL HEALTH CARE**

<b>ADULTS</b>	<b>CHILDREN AND ADOLESCENTS</b>
<p><u>Autonomous mental health residence</u>– is intended for people with a reduced degree of psychosocial disability due to a serious mental health condition, clinically stabilized, without adequate family or social support: planning of daily activities, promotion of professional or socio-professional activities and medication management;</p>	
<p><u>Autonomy Training Residence</u> – support for persons with a mild or reduced disabilities: psycho-social rehabilitation activities, training for family members and informal carers, nursing care, training and supervision in medication management. Maximum stay: 12 months;</p>	<p><b>Also available for children and adolescents aged between 11 and 17 years old with a severe mental health condition, clinically stable</b></p>

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<p><u>Residence with moderate support</u>– support for persons with a moderate disabilities: psycho-social rehabilitation activities, activities of daily living, training of family members and informal carers, nursing care, training and supervision of medication management;</p>	
<p><u>Residence with maximum support</u>– support for persons with a high degree of disability: psycho-social rehabilitation activities, activities of daily living, hygiene and comfort care, training of family members and informal caregivers and provision and management of therapeutic measures.</p>	<p><b>Also available for children aged between 11 and 17</b></p>
<p>Socio-occupational units - The aim of the socio-occupational unit it is to develop psycho-social rehabilitation programmes for people with moderate and low levels of psycho-social disability due to severe mental health condition , who are clinically stable, but with disabilities in relational, occupational and social integration.</p>	<p><b>Also available for children and adolescents aged between 13 and 17 -</b> It provides a support in the field of rehabilitation, training for independence and the development of socio-cognitive skills; the linkage with schools and a guidance towards vocational training services; educational, socio-cultural and sporting activities in conjunction with schools, municipalities and other community structures; and a supervision of the medication management</p>
<p><u>Homecare teams</u> from RNCCI - EAD: Care provided to adults with severe mental health condition or to children and adolescents (aged 5 to 17 years) who are clinically stabilized and require a programme adapted to their level of psycho-social incapacity with the aim of rehabilitating their skills in different areas of life, supported by health and social support measures;</p>	<p><b>Also available for children and adolescents</b></p>



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**OLDER PERSONS :**

<b>SOCIAL SERVICES AND FACILITIES</b>
<u>Foster Families</u> Intended for persons over the age of 60 who because of family circumstances or the lack of other social support are no longer able to remain in their own homes, namely no vacancy at a residential structure. Accommodation is provided in the home of a family who can ensure a stable and secure environment.
<u>Residential facilities for older persons</u> For older persons and persons with disabilities who can no longer receive the necessary support and nursing care in their own homes and need to be placed in an institution, either temporarily or permanently. This facility is for persons over the age of 65 (access for those under 65 considered on a case-by-case basis by the institutions).
<u>Night Units</u> for older persons who are isolated and, accordingly, in need of assistance during the night (from 6pm to 8am);
<u>Day care Units</u> for older persons. At least 8 hours per day;
Socialising Unit - Social response to support social, recreational and cultural activities, organized and promoted with the active participation of older persons, living in a given community.
<u>Holiday and leisure centre</u> – A social response aimed at all age groups of the population and the whole family to satisfy the need for leisure and a break from routine, essential for the physical, psychological and social balance of its users.
<b>SOCIAL SECURITY ALLOWANCES</b>
<u>Allowance for dependency</u> : Allowance paid to recipients of disability, old-age and survivors' pensions who require permanent care from a third party. Monthly amount indexed to the amount of the social pension (pensão social), depending on the level of dependency (1st or 2nd).

**CHILDREN**

<b>SOCIAL SERVICES AND FACILITIES</b>
<u>Childminder</u> – Persons specially trained to look after 1 to 4 children aged between 3 months and 3 years who are not their own or close relatives in their own home, for a period of time corresponding to the parents working hours;
Family nursery's) – group of childminders, supported technically and financially by an institution.





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<p><u>Nurseries</u>– Collective day care for children from 3 months to 3 years of age, during a daily period corresponding to the working hours of their parents;</p>	<p>Free of charge for children born before 1 September, 2021, if the parents’ income is in the 1<sup>st</sup> or 2<sup>nd</sup> income bracket as defined by the family financial contribution for nurseries in the social and solidarity network, and for</p>
<p><u>Preschool Education Institutions (kindergarten)</u> - For children over the age of 3 until entry into primary school providing educational activities and family support;</p>	<p>children born after 1 September, 2021 who attend childcare facilities in the for-profit or social and solidarity networks who are included in the pool list of nurseries.</p> <p>From 1 January 2023, free places were extended to the for-profit network if there are no free places available in the solidarity network, subject to a cooperation agreement, and during the years the child attends the nursery.</p>
<p><b><i>SOCIAL SECURITY ALLOWANCES</i></b></p>	
<p><u>Family allowance supplement for children with disabilities</u>): paid monthly to descendants up to the age of 24 (if the descendant was already receiving the allowance on 30 September 2019) or up to the age of 10 (if the allowance has been claimed after 1st October 2019). 50% bonus if the beneficiary of the supplement is part of a single-parent family.</p>	
<p><u>Special education allowance</u>: descendants up to the age of 24. The monthly cost is set according to the actual cost of the special education for each disabled descendent. If the descendent attends a specialised educational institution, the amount of the allowance will be the same as the monthly costs set by these institutions, without any payment by the family. In cases where individual assistance from a specialist is required, the amount of the allowance is equal to the difference between the cost of the assistance and the family’s contribution, but it may not exceed the maximum monthly cost of the specialist education. The contribution paid by the family depends on the monthly fees of the specialist educational establishment, the household income and the number of persons in the household, as well as the housing costs and the annual fixed costs calculated in accordance with the list approved by the Government.</p>	
<p><u>Childcare allowance</u> granted to the father or mother in the event of illness or accident of a child under 12 years of age or, without age limit, in the case of a child with disability or a chronically ill child: up to 30 days per calendar year; child aged 12 or over: up to 15 days per calendar year. Daily allowance of 65% of the average daily wage;</p>	



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Benefit for assistance to children with disabilities, chronically ill or cancer-stricken children: for the father or mother for a maximum of 6 months (renewable for up to 4 years –maximum 6 years in cases covered by the special protection scheme for children suffering from cancer);

Allowance for assistance by a third party: granted to disabled children.

***PERSONS WITH DISABILITIES***

***SOCIAL SERVICES AND FACILITIES***

Residential facilities for persons with disabilities: persons with permanent or temporary disabilities over the age of 16 years.

Foster families: temporary or permanent integration of adults with disabilities, either full-time or part-time (maximum of 3) in foster families, which ensure that their basic needs, including in terms of medical care, are met;

Activity and Training Centre for Inclusion – Facility for the development of occupational activities for persons with disabilities, aged 18 and over. Minimum 8 hours/day;

Autonomy and inclusion - Temporary or permanent housing developed in an apartment, house or other similar type of housing, located in residential areas in the community, intended for people with disabilities or incapacity, with the ability to live independently, and aims to provide, through individualized support, the conditions for the implementation of an autonomous and inclusive life project.

***SOCIAL SECURITY ALLOWANCES***

Social Inclusion Benefit for people with disabilities. The benefit consists of three components: a basic component, a supplement and a top-up. To be entitled to the basic component, the disabled person must have a disability resulting in a degree of incapacity of at least 80%, or a disability resulting in a degree of incapacity of at least 80%, if he or she is entitled to an invalidity pension. The supplement is paid to the person entitled to the basic component that is aged 18 or over, who is in a situation of economic need or hardship, and who is not institutionalised in a social institution or in a foster family.



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*VICTIMS OF DOMESTIC VIOLENCE*

<i>SOCIAL SERVICES AND FACILITIES</i>
Home Shelter: temporary protection and support for persons (mostly women) escaping domestic violence and all forms of intimate partner violence.
<i>SOCIAL SECURITY ALLOWANCES</i>
Social benefits for persons recognised with the status of victim of domestic violence under the domestic violence legislation: <u>Special benefit for victims of domestic violence</u> : paid for up to 10 days to facilitate the family reunification;
More favourable conditions of access to <u>unemployment benefit</u> : Victims of domestic violence are entitled to unemployed benefit regardless of whether they are voluntary or involuntarily unemployed;
Social insertion minimum allowance: subject to means testing.

- 3. Main challenges faced at the national level** in creating robust, resilient and gender responsive, disability-inclusive and age-sensitive care and support systems with full respect for human rights.

Ensure access to quality, affordable and sufficient social services, especially housing facilities for the older persons and daycare for all children.