

The role of NHRIs in promoting gender equality and the empowerment of rural women and girls – GANHRI Report for the 62nd Session of the Commission on the Status of Women

Questionnaire for National Human Rights Institutions (NHRI)

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I. Basic information on your National Human Rights Institution

- 1. Name of your institution:** Provedor de Justiça (Maria Lúcia Amaral is the current Ombudsman).
- 2. Country:** Portugal
- 3. Name and position of respondent:** Cristina Sá Costa - Legal Advisor

II. Work of your NHRI on women's rights

4. Does your NHRI have: *(Please click the ones applicable)*

- A commissioner or ombudsperson responsible for women's rights
- A department, division or unit responsible for women's rights
- A focal person for women's rights
- All units work on women's rights
- None of the above, we do not work on women's rights
- Others, please specify _____

Comments : The Deputy Ombudsman is the focal person.

5. Does your NHRI have the mandate to receive individual complaints?

- yes
- no

Comments: Please note that, so far, the main intervention of the Portuguese Ombudsman regarding the rights of rural women results from citizen's complaints. It is not disaggregated by rural women and girl's rights. Nevertheless, it is possible to easily identify the subject matter, i.e. rural matters, as well as gender of the complainant.

The Ombudsman may also act on his own initiative, defending and promoting the citizens' rights, freedoms and guarantees, as well as their legitimate interests, particularly the most vulnerable citizens on account of their age, race or ethnicity, gender or disability.

6. Does your NHRI have regional offices (i.e. offices in places other than the main seat of the NHRI) and if so, do these regional offices specifically target rural women and girls?

Yes

No

Comments: The Portuguese Ombudsman has regional offices in the Autonomous Regions of the Madeira and the Azores, but they don't specifically target rural women and girls rights, although part of its activity is related to rural issues.

III. Your work on the overarching aspects of the rights of rural women

Please note that the questionnaire has been structured around the General Recommendation No. 34 on “The rights of rural women”¹ of the Committee on the Elimination of Discrimination against Women. This structure has been chosen to highlight the various aspects of the topic and guide you in identifying pertinent examples and good practices. Not all aspects of the questionnaire are applicable to the work of each NHRI. If a specific question is not applicable to your work, simply leave the space blank.

General Recommendation No. 34 clarifies State party obligations under Art. 14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). While all CEDAW provisions apply to rural women, Art. 14 specifically highlights and addresses the particular situation of rural women and the corresponding State party obligation.

The General Recommendation sets out a number of overarching State party obligations to respect, protect and fulfil the rights of rural women and girls, as well as State party obligations in relation to specific dimensions of the rights of rural women and girls.

7. Does your NHRI work on any of the following overarching aspects of the rights of rural women and girls?

The establishment of non-discriminatory legal frameworks and the access to justice specifically with regard to rural women girls? If so, please provide examples:

The Portuguese Ombudsman has not developed specific work on the establishment of non-discriminatory legal frameworks targeting rural women. However, much of our work within human rights has an impact on rural women's rights.

¹ See CEDAW/C/GC/34,
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/GC/34&Lang=en.

Concerning access to justice, the Portuguese Ombudsman is engaged in increasing both the awareness and the legal literacy of rural women by providing them information on their rights, on the existent judicial and quasi-judicial procedures, as well as on free legal assistance.

Besides providing written information, the Ombudsman's staff also transmits personalized information on their rights and on available remedies through the Public Relations Division and telephone help lines, in a particularly swift and informal manner.

The local offices in the Autonomous Region of the Azores and Madeira receive verbal complaints from rural women.

The Ombudsman intervention in the judiciary can only be exercised with regard to the administrative aspects of the court's activity – especially on cases of judicial delays – and can not cover the content or merits of judicial decisions and sentences. The complaints regarding judicial delay and delays in obtaining free legal assistance are frequent and some of them are presented by rural women. The complaints relating to the judiciary are dealt through the High Council of the Judiciary, High Council of Administrative and Tax Courts and the High Council of the High Council of the Public Prosecution Service.

The Ombudsman integrates the Thematic Network of Women of the Ombudsman Iberoamerican Federation, which is a forum to exchange experiences, good practices and studies, such as «Procedures to be adopted in access to justice and effective judicial protection of victims of domestic violence: Objectives, Limitations and proposals», in <http://www.portalfio.org/redes/red-de-defensorias-de-mujeres/documentos-informes-de-la-red/>.

Macroeconomic policies, including trade, fiscal and investment policies as well as bilateral and multilateral agreements and their effects on the rights and needs of rural women and girls, including the impact of agricultural and general trade liberalization, privatization and the commodification of land, water and natural resources? If so, please provide examples: The Portuguese Ombudsman has not developed work related to macroeconomic policies and multilateral agreements and their effects on the rights and needs of rural women and girls.

Climate change, natural disasters, land and soil degradation, water pollution, droughts, floods, desertification, pesticides and agrochemicals, extractive industries, monocultures, biopiracy and the loss of biodiversity or similar threats and their effects on the rights and needs of rural women and girls? If so, please provide examples:

In 2017, the Portuguese countryside was devastated by intense forest fires which affected an extensive territory and caused damage to several rights, including the right to life, the right to health, the right to a safe environment and to adequate housing, with a special focus on vulnerable groups, including women. Presently, the institution is receiving and dealing with complaints related to the effects of the fires. As an example, we recently received a request from an old women, living in a rural isolated area, because she is unable to use telephone communications due to the damage caused by fire to telecommunication infrastructure. We are currently working with the operator in order to reach a quick solution.

Apart from this, the Portuguese Ombudsman was also indicated as the institution responsible to calculate compensations due to families of the victims deceased in the fires, with the scope of ensuring prompt payment of the claims. The situation of women who had no paid work was taken into account in the establishment of the criteria for compensation.

Also, the Ombudsman receives some complaints from women living in rural areas who contest the costs of access to water for agricultural use, particularly in the South of Portugal, in areas highly vulnerable to desertification, with cyclical periods of drought.

In the context of the projects that required the construction of water storage infrastructures, such as dams, to ensure enough water reserves in periods of water scarcity, the role of the Ombudsman has been to verify if the irrigation taxes are collected in accordance with the applicable legislation.

The Portuguese Ombudsman has worked with complaints about the contamination of natural resources, with risks to public health and salubrity, namely caused by intensive livestock farming. The plaintiffs protest against water and soil pollution caused by discharge of effluents. The Ombudsman requests inspections to the competent authorities and, in justified cases, recommends the interruption of the activity and its transfer to an alternative zone. Some of this complaints are filed by rural women affected by such activities.

Extraterritorial obligations of non-State actors and how their actions may specifically affect the rights and needs of rural women and girls? If so, please provide examples: NO

Discrimination against disadvantaged and marginalised groups of rural women and girls? If so, please provide examples:

Discrimination of older women is often composed by other forms of discrimination, namely based on levels of poverty and illiteracy. Some poor older women living in rural areas have received almost no school education.

The Portuguese Ombudsman has a Senior Citizen's Helpline which is a toll-free telephone number specifically aimed to deal with problems of elderly people, mainly by providing information on rights as well as on support means they could be entitled to, e.g. in health, social security, housing, equipment and services. The Ombudsman's staff provides prompt and personalized information. If necessary, the situation is referred to the competent authorities (for instance, to the Social Security Institute) and contact is established with the appropriate institutions, such as healthcare facilities.

Besides dealing with complaints and providing information, the Senior Citizens Helpline also carries out a significant practical role in combating the isolation and exclusion to which many older persons are subjected to. Often, the most important thing to the caller is the possibility to receive some attention and understanding, which helps to lessen the feelings of loneliness.

The Portuguese Ombudsman carries out ex-officio inspections to the residential homes for the elderly, some in rural areas, with the purpose of assessing the living conditions offered by these

institutions and also the adequacy of the supervision carried out by the competent public authorities with regard to the establishment and operation of such facilities.

The Ombudsman has also a specific mean of contact regarding problems of childhood and youth: The Children's Helpline. If the case justifies it, the Ombudsman's staff can refer the situation to the appropriate authorities (for example, to the local Commission for the Protection of Children and Young People) and establish contact with other institutions (such as schools if, in particular, whenever there is a problem concerning the right to education).

The number of complaints from women living in rural areas on the grounds of race or ethnic discrimination is low, although women and girls may experience higher rates of poverty and other forms of social exclusion.

This could be attributed to the circumstance that some ethnic communities, such as the Roma community, when facing discrimination issues, do not possess information on how to present a complaint.

As an example, a complaint was address to the Portuguese Ombudsman concerning the alleged discrimination of Roma students in a public school, at the level of basic education. Further to investigations carried out, the Ombudsman concluded that there was not a discriminatory conduct. However, he recommended the school principal to pave the way for proper communication between the school and the student's families, including through the existing cultural mediator.

The elimination of discriminatory stereotypes that compromise the equal rights of rural women and girls and harmful practices, such as child and/or forced marriage, female genital mutilation, polygamy or the inheritance of ancestral debt? If so, please provide examples: NO

The prevention and elimination of all forms of violence against rural women and girls? If so, please provide examples:

Concerning violence against women and girls, the action of the Portuguese Ombudsman is mainly focused on the investigation of complaints about the actions and/or omissions of government departments, agencies, employees, police or other security forces. The Ombudsman's staff provides information on the services and programs available and promotes access by the victims to existing support programs and services.

When Portugal ratified the Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention, the Portuguese Ombudsman suggested to the Ministry of Justice the criminalization of stalking and cyberstalking. Both crimes are already covered in our Criminal Code, following a legislative initiative of the Parliament.

Recently, a civil society organization, working on the defence and promotion of women's rights, filed a complaint contesting a court decision in which prejudice argumentation was used to justify domestic violence. Although this NHRI can not scrutinize the contents of judicial decisions and sentences, the current Ombudsman did not fail to express the understanding that domestic violence, which continues to affect women in a disproportionate manner, constitutes an intolerable violation of fundamental rights.

Rural women human rights defenders and their activities? If so, please provide examples: NO

Child and/or forced labour and the trafficking of rural women and girls and its root causes? If so, please provide examples: In 2014, the Portuguese Ombudsman decided to launch a procedure to investigate the action of Portuguese authorities on preventing and combating labour exploitation. This action was triggered by a newspaper article which mentioned the recruitment of workers to agricultural Portuguese sector in conditions of slavery. The victims were being recruited using deception and coercion. Some were foreign workers.

The Ombudsman is committed to promote the creation of mechanisms to improve coordination between different authorities, as well as to adapt national answers to new challenges, in particular new forms of trafficking and recruitment.

The Ombudsman integrates the thematic network of Migrants of Human Trafficking, of Ombudsman Iberoamerican Federation which is a forum to exchange experiences and good practices (Please see <http://www.portalfio.org/redes/red-sobre-migrantes-y-migracion-y-trata-de-personas/documentos-informes-de-la-red/>).

The rights of rural women with regard to nationality, including the right to acquire, change, retain or renounce their nationality, or transfer it to their children and foreign spouse, personal identification, and civil registration procedures? If so, please provide examples:

The Portuguese Ombudsman carries out initiatives and intervenes on behalf of immigrants and foreigners in Portugal, namely in order to protect and promote their rights and to avoid situations of discrimination, ensuring the full implementation of the constitutional principle of equality and non-discrimination. However, most of the complaints are from urban areas, according to the migratory distribution.

The equality before the law and legal capacity in civil matters of rural women, including the capacity to conclude contracts and administer property independent of their husband or any male guardian? If so, please provide examples: Not applicable (equality before the law and legal capacity are guaranteed).

The harmonisation of personal status and family laws with Art. 16 CEDAW and the guarantee that rural women have equal rights in marriage, including to marital property upon divorce or death of their spouse and to maintenance or alimony? If so, please provide examples: Not applicable (equal rights are guaranteed by law).

8. Does your NHRI involve rural women in its processes in view of their empowerment and participation or does it partner with rural women, civil society organisations (CSO), UN agencies, and other bodies in its work on the rights of rural women and girls?

If so, please provide examples: So far, our NHRI did not participate in such initiatives.

IV. Your work on specific dimensions of the rights of rural women

9. Does your NHRI carry out work on the following issues relating to sustainable development?

Developing or integrating a gender perspective in agricultural and rural development policies, strategies and plans? If so, please provide examples: So far, our NHRI did not participate in such initiatives.

Protecting the rights of rural women and girls in the context of development programmes linked to disarmament, demobilization and reintegration efforts in a conflict or post-conflict situation? If so, please provide examples: Not applicable.

10. Does your NHRI carry out work aimed at improving the accessibility, affordability or cultural acceptability of health care services for rural women and girls?

They may include, but are not limited to, the following services: primary health care, including family planning; access to contraception, including emergency contraception; access to safe abortion and high-quality post-abortion care; prenatal, perinatal, postnatal and obstetric services; HIV prevention and treatment services; mental health services; counselling on nutrition, the feeding of infants and young children; mammography and other gynaecological examinations services; prevention and treatment of non-communicable diseases; access to essential medicines; palliative care.

If so, please provide examples:

The Portuguese Ombudsman carries out work aimed at improving the accessibility to health care services for rural women and girls.

For example, the registration of elderly women in the health center closest to their home was denied due to the unavailability of vacancies. Alternatively, the users were referred to other health centers in the region. In this context, there have been difficulties in accessing health care, such as, the refusal of health services to provide home care due to the great distance of the applicant household. The intervention of the Ombudsman is aimed at solving each individual case and, on the other hand, at establishing articulation between the public health services and the entities that facilitate the access of the users to the National Health Service.

The Ombudsman also carries out work aimed at improving the affordability of health care services.

Elderly women in rural areas, with lower income and with high levels of illiteracy, face difficulties in obtaining health care services free of charge, due to unawareness of legal requirements or because they don't know how to meet the requirements, increasingly computerized.

The Portuguese Ombudsman recommended the Government to create a mechanism that would allow the exempt some users of this formality, as an essential condition for benefiting from free access to health care.

11. Does your NHRI work on the reduction of maternal mortality and morbidity in rural women and girls?

If so, please provide examples: NO.

In what concerns the maternal mortality, this institution receives complaints, most of them related to inadequate medical assistance during childbirth, with negative health consequences to the mother and/or child. As the appreciation of medical malpractice exceeds the technical capacity of the Ombudsman, the role of the institution has been to adequately refer the citizens to the competent public bodies and to control the fulfillment of the right to a quick and adequate reply.

12. Does your NHRI disseminate information to rural women and girls (in local languages and dialects through various media, including in writing, through illustrations and orally) on health related issues?

They may include, but are not limited to, the following issues: hygiene; preventing communicable, non-communicable and sexually transmitted diseases; healthy lifestyles and nutrition; family planning and the benefits of delayed childbearing; health during pregnancy; breastfeeding and its impact on child and maternal health; violence against women, including sexual and domestic violence and harmful practices.

If so, please provide examples:

The Portuguese Ombudsman has already elucidated women from rural areas who have difficulties in accessing information on the procedures applicable to receiving the reimbursement of specific products, such as diapers. These difficulties were exacerbated by changes of the applicable procedures, that the less literary users weren't able to understand with the desired clarity and readiness in order to exercise their rights.

13. Does your NHRI work on projects designed to ensure that rural women and girls engaged in work (whether paid or unpaid, in the informal or formal sector or in family enterprises) have access to adequate social protection, including income security, childcare facilities and health care?

If so, please provide examples: In the past, rural women had no access to paid or well-paid jobs and, consequently, their contributions to pension schemes were very low or even inexistent. This resulted in lower old-age pensions for women when compared with men or in the impossibility for them to achieve a contributory pension.

Presently, women engaged in rural work ,that have never paid contributions, have access to social protection (non contributive pension) and health care. Women under pension age in poverty may also claim for solidarity benefits (insertion social income) and the current social protection scheme is the same for both rural women and men. In many cases, women in rural areas are not aware of their social rights. The Ombudsman is committed to disseminating information on women's rights, also in a verbal way if necessary, and to solve the delays through contacts with the competent public authorities.

14. Does your NHRI work on projects designed to improve the quality, accessibility and affordability of education (including adult literacy programmes and on-the-job training) for rural women and girls?

Such work could include, but is not limited to, combating discriminatory stereotypes; changing negative attitudes towards girls' education; providing financial support to rural girls and their parents; reducing the engagement of rural girls in unpaid care work; providing safety against threats and attacks; providing adequate facilities for girls (hygiene, childcare, breastfeeding).

If so, please provide examples: The Portuguese Ombudsman receives complaints regarding accessibility to schools in rural areas. Some schools were closed because they were in poor condition and had few students. Despite the fact that the new schools have better facilities, they are farther distant from the people's households. Our work consists in verifying if the justifications are valid and, in that case, to ensure that students have the adequate means of transportation to attend the new schools.

Under the protocol established between the Ombudsman and the Ministry of Education, in order to promote Human Rights in schools, including the right to non-discrimination, several schools have been visited by the Ombudsman over the last years, some in rural areas.

15. Does your NHRI work on projects designed to promote rural women's recognition and empowerment as farmers and clients, for example through women's representation in agricultural extension and rural advisory services or through access to technical knowledge on farming and food production?

If so, please provide examples: NO

16. Does your NHRI work on issues relating to employment for rural women and girls?

Such issues could include, but are not limited to: the transition of rural women from the informal to the formal economy; expanding opportunities for rural women to run businesses and other enterprises; improving rural working conditions (e.g. paid maternity leave, setting living wages, social

security in cases of sickness or invalidity, child care services and the prevention of exploitation and abuse in the workplace); protecting the right to bargain collectively; promoting rural women's engagement as producers, entrepreneurs, suppliers, workers and consumers in value chains and markets.

If so, please provide examples: In Portuguese rural areas there has been an increase in the percentage of women engaged in agricultural production, such as women entrepreneurs, and, on the other hand, a decrease in the number of rural women working in agriculture. This change was mainly due to the non-discrimination and gender equality measures provided in the Rural Development Program 2007-2013 (PRODER), and reinforced by the Rural Development Program (PDR) 2020, which included greater representation of women in management, administration and management bodies and greater equal pay for women and men performing the same or similar tasks in the applicant body.

The Ombudsman receives complaints from rural women on the delay in the examination of application requests for rural development programs and is often involved in ensuring timely appreciation and decision of such requests.

In what concerns women's social rights, but not specific to rural women, the Ombudsman detected that pregnant employees who saw their employment contract ceased were not entitled to parental or unemployment benefits, after their children's birth. The Ombudsman addressed legislative amendment suggestions to the Government, which were accepted.

17. Does your NHRI work on initiatives designed to ensure the active, free, effective, meaningful and informed participation of rural women in political and public life, and at all levels of decision-making?

Such work could include, but is not limited to: addressing unequal power relations between men and women; removing practical barriers to rural women's participation; ensuring the participation of rural women as decision makers in peacebuilding efforts and processes.

If so, please provide examples: No.

18. Does your NHRI work on issues relating to rural women's rights over land and natural resources?

Such work could include, but is not limited to, eliminating discrimination of rural women in relation to land rights; raising awareness about rural women's rights to land, water and other natural resources; protecting rural women from the negative impacts of the acquisition of land by national and transnational companies, development projects, extractive industries and megaprojects; ensuring access for rural women to financial services; ensuring rural women farmers and producers access to markets and marketing facilities; ensuring access to labour-saving and environmentally sound technology; improving access to and knowledge about information and communication

technology and to mobile networks; eliminating discrimination against women in land and agrarian reform programmes; enabling rural women to benefit from the public distribution, lease or use of land, water bodies, fisheries and forests, or from agrarian reform policies.

If so, please provide examples: In Portugal, there is no legal discrimination of rural woman in relation to land rights.

The Portuguese Ombudsman receives complaints from rural women, or with in impact on them, regarding land and natural resources and raises awareness about rights to land and water during complaint procedure.

A group of residents in a village asked the intervention of the Ombudsman before the environmental public authorities, opposing to projects of construction and expansion of quarries which have impact on the quality of life, environment and people's health. The execution of the project will also imply the occupation of quality agricultural land and soil contamination. The Ombudsman recommended declaration of nullity of the acts practiced in the environmental impact assessment of the quarry expansion project.

19. Does your NHRI work on issues relating to adequate living conditions for rural women and girls?

These issues may include, but are not limited to: improving the quality of rural housing to address the specific needs of rural women; ensuring access to sufficient, safe, acceptable and physically accessible and affordable water; ensuring access to adequate sanitation and hygiene; ensuring access to sustainable and renewable sources of energy; addressing the mobility needs of rural women.

If so, please provide examples:

The Portuguese Ombudsman receives complaints from rural women, concerning several subjects, such as house conditions, access to affordable water and sanitation, among others.

Both the water supply and the sanitation services in Portugal have undergone important advances to ensure universal access. Nevertheless, some complainants argue that connections required by Municipalities are unnecessary since they have alternative (private) systems and they have no way to support the costs. The Ombudsman has been providing information on the advantages of public network over private systems, therefore ensuring better quality of drinking water.

The Ombudsman also deals with complaints regarding women isolation, in some cases due to the lack of proper physical accessibility, for instance, caused by the non-pavement of rural roads.

Most recently, the closure of local post offices in rural areas has been a concern expressed in some complaints.

20. Does your NHRI work on the protection of rural women and girls working as seasonal migrant farmworkers?

If so, please provide examples: NO

21. Are there any other institutions or bodies in your country that have the mandate to protect and/or promote the rights of women and girls?

Yes

No

21a) If yes, please specify (name, mandate, and legal basis)

The official bodies with mandate to protect and/or promote the rights of women, from a gender equality perspective, are the Commission for Citizenship and Gender Equality (CIG) and the Commission for Equality in Labour and Employment (CITE).

The Commission for Citizenship and Gender Equality is a promotion-type and legal support body of the public administration. Its mission is to ensure the implementation of public policies on citizenship and the promotion and defence of gender equality (Implementing Decree Law 1/2012, of 6 January).

The Commission for Equality in Labour and Employment's main responsibilities are to fight discrimination and to promote equality between women and men in labour, in employment and in vocational training; to protect parentally (maternity, paternity and adoption) and to achieve the reconciliation of professional, personal and family life (Decree Law 76/2012, of 26 March).

There are other institutions that have mandate and/or promote the rights of women, in specific contexts, such as:

i) The High Commission of Migration which has the mission of collaborating on determining, executing and assessing the public, transversal and sectorial policies concerning migrations, that are relevant for the integration of migrants and ethnic groups (Decree Law 31/2014, of 27 February).

ii) The Commission for Equality and Against Racial Discrimination (Law 93/2017, of 23 August) which aims to prevent and stop racial discrimination in all its forms, as well as sanctioning the practice by any person of acts of violation, denial or conditioning of the practice of economic, social or cultural rights, motivated by that person's belonging to a particular colour, nationality or ethnic origin;

iii) The National Institute for Rehabilitation which is responsible for the promotion of rights of persons with disabilities, and to ensure the planning, implementation and coordination of national policies to promote the rights of persons with disabilities (Decree Law 31/2012, of 9 February).

Apart from these, several NGO's in the country have within their mandate the promotion and protection of women's rights, namely rural women and girls rights.

22. Do you collaborate with the above institutions or bodies?

If so, please provide examples: It should be noted that the Portuguese Ombudsman is an independent State body, as established in the Constitution (Article 23 (3)) and in its Statute (Article 1, (2) of Law 9/91, of 9 April), elected by the Parliament. This means that the Ombudsman, within the mandate to protect and promote human rights, cannot receive instructions from any other body, institution or entity, including the Government, and that the collaboration with the above mentioned entities is carried out in full autonomy and independence.

The Portuguese Ombudsman follows the work of the above institutions and bodies to the extent that their opinions, studies and activities are of interest to the assessment of the complaints and to the ex-officio cases. If deemed adequate, the Ombudsman may also refer complainants to these institutions.

23. Please provide any additional information about projects or studies related to the specific situation of rural women and girls in your country, in particular with regard to the differences in needs of rural women and girls compared to urban women and girls: Our Institution has no knowledge of any project or study related to specific situation of rural women in Portugal, but the theme is discussed in studies with more general scope, such as «Poverty and Social Exclusion in Rural Areas; Country Studies (Portugal), European Commission.

Thank you very much for filling in the questionnaire!

Please send the completed questionnaire by 19 January 2018 to the following address survey@ganhri.org.