



Newsletter 2 March – April 2017

This is the Portuguese Ombudsman's newsletter in which it's presented its activities in March and April.

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The Portuguese Ombudsman traditional activity

The development of the Portuguese Ombudsman traditional activity is mainly substantiated by procedures that comes from citizen's complaints or are open by its own initiative, instructed and analyzed every day.

The Portuguese Ombudsman' recommendation on the regulation approval on the qualification to teach English in the first cycle was welcomed

The recommendation 5/B/2016 on the regulation approval on the qualification to teach English in the first cycle was welcomed. The Secretary of State Assistant and of Education initiated the procedure leading the amendment of the Administrative Rule 260-A/2014 on the acquisition of professional qualification for teaching in the recruitment group 120.

The Portuguese Ombudsman understood that it was a question of freedom to pursue a profession and the right of access to public functions on equal terms.



The Portuguese Ombudsman asked the Constitutional Court to declare unconstitutional the norms which restricts who can elaborate buildings' fire safety projects

The Portuguese Ombudsman asked the Constitutional Court to review the rules constitutionality defining the universe of professionals who can develop buildings' fire safety projects and their self-protection measures. These are determinations reserved to specialists enrolled in the Architects Association, Engineers Association and Technical Engineers Association.

The Portuguese Ombudsman considered that such rules restrict the freedom of profession of other subjects who, in the absence of such constraints, could participate in those plans.

In the case of freedom of access and profession exercise, the restriction should be in a law by the Parliament, which does not happen.

The Portuguese Ombudsman insists to end discrimination of the public health subsystems' beneficiaries accessing the National Health Service

The Portuguese Ombudsman urged the Minister of Health to end the negative discrimination that still persists in relation to National Health Service (NHS) users who are both beneficiaries of a public health subsystem, just because they have this quality.

The Portuguese Ombudsman stressed that the accumulation of the beneficiary status of a health subsystem can not be detrimental to the user, who in no circumstances loses his or her capacity as a NHS beneficiary, which the Constitution of the Portuguese Republic defines as universal, general and tendency free of charge, as it does not fail to contribute to its financing through the general tax system. This situation should not happen because the subsystems are currently financed, for the most part, by the beneficiaries and some of them are mandatory.

The regime on the receipt of undue benefits is being reviewed

The Portuguese Ombudsman suggested to the Government to consider to make changes in the regime for the reimbursement of social benefits improperly received and to reduce the limitation period for debts resulting from such undue payments (currently still 10 years) by harmonizing it with the period of five years (in force), both for the prescription of contributions due to social security, and for the replacement of public moneys. In this sense, it was suggested the adoption of a legislative measure to amend Decree-Law 133/88 or the approval of a new regime for the refund of unduly paid benefits.



In its reply, the Secretary of State for Social Security informed the Portuguese Ombudsman «(...) the system of benefits unduly paid is being completely revised».

The Portuguese Ombudsman alerted the Secretary of State for Social Security to adopt legislative measures to ensure that compulsory parental leaves are always fully subsidized

The Portuguese Ombudsman received a complaint from a citizen who, having taken the compulsory parental leave (article 43 of the Labour Code), found himself unable to access the corresponding parental allowance (father exclusive) (payable by Security Social) for failing to meet the warranty period legally required for this purpose.

The problem is that the parental leave in question, although compulsory, is only subsidized by Social Security if the worker has, at the time the determining factor of the benefit, six months, consecutive or unsequential, Social Security' records (guarantee period). In this case, the father is obliged to take parental leave of 15 working days, but in this case, was unable to access the corresponding allowance because he had been working for a short time and had not fulfilled that guarantee period.

The Portuguese Ombudsman sent a letter to the Secretary of State of Social Security suggesting to amend the legislation in force, to ensure that compulsory parenting leave will be always, without submission to any condition, fully subsidized, so that their effective enjoyment can not make any economic or professional harm to the working parents and workers.

The Portuguese Ombudsman asked the Constitutional Court to declare unconstitutional the civil protection municipal tax of the Lisbon Municipality

The Portuguese Ombudsman asked the Constitutional Court to review the rules which creates the civil protection municipal tax of the Municipality of Lisbon.

While not receiving the legal denomination of tax, the tax in question constitutes a real tax, since it will not be possible to identify for its taxable persons, any concrete or specific benefit in order to be classified as a genuine tax. As it is a real tax, its creation should be in a law by the Parliament which does not happen.

To this end, the Ombudsman considers that those determinations are organically unconstitutional.



The recommendation made by the Portuguese Ombudsman in order to change the unemployment allowances regime was partially accepted

The recommendation 4/B/2016 addressed to the Minister of Labour, Solidarity and Social Security was partially welcomed. The meeting of the Council of Ministers of April 6th approved the amendment to the unemployment benefit reduction after the 180 days inbound. The Portuguese Ombudsman continues to wait the answer to the questions set out in points I and III of the same recommendation.

The recommendation made by the Portuguese Ombudsman to the Minister of Education to adopt measures for the medical boards regular execution and the protection of workers with long-term illness was welcomed

The recommendation 4/A/2016 addressed to the Minister of Education was welcomed. The Portuguese Ombudsman has recommended the adoption of measures to eliminate the omission of the execution of the medical check-ups in several regional offices and the dissemination of guidelines in schools to workers with prolonged illness.

The Portuguese Ombudsman, prisons and the 21st century: visits diary

Last year the Portuguese Ombudsman started to visit the Portuguese prisons under the project *The Portuguese Ombudsman, prisons and the 21st century: visits diary*. In this newsletter timeframe, the Portuguese Ombudsman personally visited the *Pinheiro da Cruz* Prison (March 15th) and the Oporto Prison (April 20th).

The community can monitor this project throughout the reports available in the institutional website.

The Portuguese Ombudsman as National Human Rights Institution

Commemorative dates

As National Human Rights Institution, the Portuguese Ombudsman points out, through various initiatives and messages available on its institutional website, some evocative dates. Within this newsletter' timeframe were celebrated the following dates: *World Health Day* (April 7th), *International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims* (March 24th), *International Day to Eliminate Racial Discrimination* (March 21st) and *International Women's Day* (March 8th).



Other messages from the Portuguese Ombudsman

On April 10th the Portuguese Ombudsman, in a message published on the institutional website, reaffirmed its rejection for the practice of terrorist acts harmful to the most basic human rights.

The Portuguese Ombudsman as the National Preventive Mechanism

Visits

The *National Preventive Mechanism* (NPM) made thirteen visits, without previous notice, to police forces detention places, to prisons, to educational centers, to detention places, courts and mental health units.

Within this timeframe, two recommendations were issued, addressed to the Director Reinsertion and Prison Services (*recommendation 10*) and the other to the Minister of Internal Administration (*recommendation 11*).

The NPM also received answers to two recommendations, namely *recommendation 7*, which had been addressed to the Minister of Justice to improve the conditions of the detention facilities of the *Instância Central do Tribunal Judicial da Comarca de Santarém*, mainly through the introduction of equipment to allow the citizens to rest while waiting, and the *recommendation 10* addressed to the Director Reinsertion and Prison Services to improve the kitchen conditions, its adjacent spaces and the cafeteria of Setúbal Prison.

International cooperation activities

The Portuguese Ombudsman participated in the Global Alliance of National Human Rights Institutions Annual Meeting

This body of State participated in the Global Alliance of National Human Rights Institutions (GANHRI) annual meeting and



conference, which took place in March 6th - 8th at the *Palais de Nations* in Geneva. This year's event was subordinated to the theme *Early warning, conflict prevention and re-establishment of peaceful societies: the role of NHRIs*.



The Portuguese Ombudsman participated in the international seminar promoted by the Global Alliance of National Human Rights Institutions, UNICEF and the High Commissioner for Human Rights

This body of State as a National Human Rights Institution, participated in the international seminar promoted by the Global Alliance of National Human Rights Institutions (GANHRI), UNICEF and the Office of the High Commissioner for Human Rights, on March 9th in the *Palais de Nations*, in Geneva. The theme of this event was *The role of NHRIs in the promotion and protection of children's rights - contributions to the implementation of the 2030 Agenda*.



At this meeting, this body of State presented its experience in promoting and defending the children rights under the perspective of the third additional protocol to the Convention on the Rights of the Child.

European Union National Preventive Mechanisms Conference launch

This body of State participated in the European Union National Preventive Mechanisms Conference launch, which took place on April 4th and 5th in Strasbourg. This event is the result of a joint program between the European Union (namely the Directorate-General for Justice of the European Commission) and the Council of Europe called the *Network of SPACE national correspondents and Network of national prison monitoring bodies (especially NPMs)*, and also with the collaboration of the Ludwig Boltzman Institute.

Participation in the Demos Project

This body of State participated in the international conferences *La mediación institucional y las nuevas exigencias de los ciudadanos* between March 29th and 31st in Senegal, and *O papel do Provedor de Justiça no espaço da Macaronésia e Países Terceiros*, on April 26th to 27th in Cape Verde.

These conferences were developed under the program *Demos*, financed by the European Union, through the Interreg MAC Program and the European Regional Development Fund (ERDF) to improve the Ombudsmen performance in the MAC Region, which includes the archipelagos of the Canary Islands and the Autonomous Regions of Madeira and the Azores, with the participation of Cape Verde, Mauritania and Senegal with the support of the European Regional Development Fund.



Angola

This body of State continued its collaboration in the project *Apoio para o reforço dos Direitos Humanos em Angola*, within the cooperation with the Ombudsman of Angola. This project is supported by the United Nations Development Program (UNDP).



This initiative ran from March 27th to April 28th and was attended by several workers from the Ombudsman of Angola who had the opportunity to exchange experiences and prepare instruments and strategies definition for institutional promotion and communication.

Portuguese Ombudsman participations

The Portuguese Ombudsman received the Council of Europe Commissioner for Human Rights

This body of State received the Commissioner of the Council of Europe for Human Rights, Nils Muiznieks, on March 6th. The purpose of this visit was to reflect on Roma citizens human rights.



*The Portuguese Ombudsman participated in the Seminar *Contraordenações – Reforma precisa-se?**

On March 10th, the Portuguese Ombudsman participated as moderator of a discussion table at the seminar *Contraordenações – Reforma precisa-se?* in the António de Almeida Santos auditorium, at the Parliament.

The Portuguese Ombudsman participated in the 40th Anniversary Commemorative Session of the Conselho Superior da Magistratura

On March 24th the Portuguese Ombudsman participated in the 40th Anniversary Commemorative Session of the Supreme Judicial Council at the Supreme Court of Justice, in Lisbon.

The Portuguese Ombudsman participated in the 2016 Pessoa Award Ceremony

On March 29th the Portuguese Ombudsman was present at the 2016 *Pessoa* Award ceremony, delivered to Frederico Lourenço, at Culturgest, in Lisbon.



The Portuguese Ombudsman attended the dinner in honor of the President of the Republic of Chile
The Portuguese Ombudsman participated in the dinner in honor of the President of the Republic of Chile, Michelle Bachelet, on 30th March, at the Vila de Sintra Palace.

The Portuguese Ombudsman participated in the Council of State

On March 31st the Portuguese Ombudsman participated in the Council of State, in the *Palácio de Belém*.

The Portuguese Ombudsman participated in the Day of Oporto's Universidade Lusófona

On April 1st the Portuguese Ombudsman participated in the Day of Oporto's Universidade Lusófona with a communication entitled *O mundo, a universidade e o século XXI*.

The Portuguese Ombudsman received the Association for the Prevention of Torture

From April 3rd to 5th the Portuguese Ombudsman received two members of the Association for the Prevention of Torture (APT) to meet the Portuguese National Preventive Mechanism.

This visit was carried out under a protocol signed by the *Federação Iberoamericana de Ombudsman*, the APT and the Projeto de Fortalecimento da Federação Ibero-Americana de Ombudsman (PROFIO / GIZ), whose



purpose is to carry out joint actions aimed at ensure an effective functioning of the Ombudsman institutions within of the Iberoamerican space.

The Portuguese Ombudsman received the Residents Assembly from Bairros da Torre, Jamaika, Quinta da Fonte e 6 de Maio

The Portuguese Ombudsman received, on April 18th, the Residents Assembly from Bairros da Torre, Jamaika, Quinta da Fonte e 6 de Maio.





The Portuguese Ombudsman participated in the Valores de Abril, Valores da Europa e da Cidadania Europeia conference

On April 19th, the Portuguese Ombudsman took part in the *Valores de Abril, Valores da Europa e da Cidadania Europeia* conference, promoted by the Municipality of Gondomar, as part of the commemorations of the 43rd anniversary of the *25 of April*.

The Portuguese Ombudsman celebrated its 42nd anniversary with a visit to the High Commission for Migration

On April 21st, the Portuguese Ombudsman celebrated its 42 years serving democracy, the rule of law and citizens fundamental rights with a visit to the *Centro Nacional de Apoio à Integração de Migrantes* in Lisbon.

On this occasion were presented several information brochures concerning the Ombudsman's activity on the immigrants' rights promotion and defense.



The flyers are available in Portuguese and in six foreign languages (French, English, Mandarin, Romanian, Russian and Ukrainian) and are the result of the institutional cooperation between this body of State and the High Commission for Migration.

The Portuguese Ombudsman participated in the 43rd Anniversary Commemorative Session of the 25 of April

On April 25th, the Portuguese Ombudsman took part in the 43rd Anniversary Commemorative Session of the 25 of April, at the Portuguese Parliament.

The Portuguese Ombudsman participated in a commemorative concert and reception

On April 25th, the Portuguese Ombudsman took part in the April Revolution commemorative concert and reception, invited by the President of the Republic, at the National Palace of Queluz.



THE PORTUGUESE OMBUDSMAN
In the defense of citizen's rights.

The Portuguese Ombudsman was received in a hearing by the President of the Parliament

The Portuguese Ombudsman was received on April 26th by the President of the Parliament to deliver the 2016 Annual Activity Report.



Other activities

Interviews

On April 26th the Portuguese Ombudsman was *interviewed* by *Antena 1*.

On April 29th was transmitted the *Linha da Frente*, an RTP' program, with the Portuguese Ombudsman participation.



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