

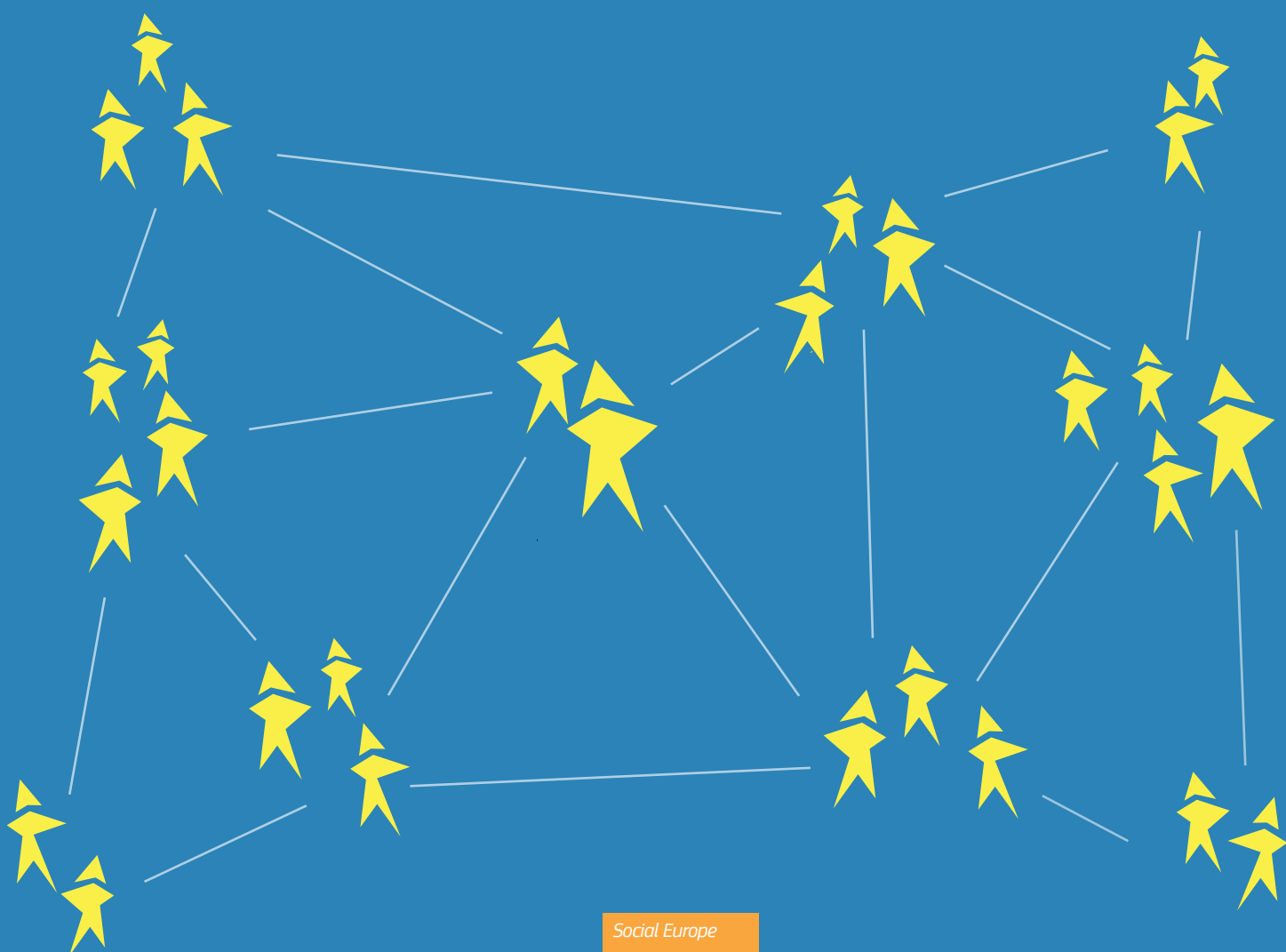


EUROPEAN SOCIAL POLICY NETWORK (ESPN)

Social protection for people with disabilities

Portugal

Pedro Perista



Social Europe

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Pedro Perista

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Summary

This report analyses some important cash and in-kind social protection provisions available to adults with disabilities (i.e. aged 18 or above). There are other important provisions available to them in other areas not covered in this report. In line with Article 1 of the UN Convention on the Rights of Persons with Disabilities, “people with disabilities” should be understood as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.

In Portugal, there are two types of long-term disability schemes for working-age people. Disability insurance schemes, which provide contribution-based benefits, include the *Pensão de invalidez* (invalidity pension) and the *Regime especial de proteção na invalidez* (special regime of protection in invalidity). Disability assistance schemes, which provide tax-financed benefits, include the *Prestação social para a inclusão* (social benefit for inclusion) and the *Complemento por Dependência* (dependency supplement).

There are no disability-specific old-age pension schemes in Portugal. Moreover, when a recipient of an invalidity pension reaches the standard retirement age, their invalidity pension is automatically converted into a *Pensão de velhice* (old-age pension).

There are also no cash benefits in Portugal aimed at covering disability-related healthcare expenses such as those for doctors’ visits, medications and hospital stays. In the field of housing, the programme supporting access to housing is aimed at providing a housing solution to those living in poor housing conditions – including the incompatibility of housing with a person’s specific characteristics, such as disability or incapacity – and without the financial means to meet the costs of adequate housing.

People with disabilities in Portugal also have access to key general social protection contributory and non-contributory cash benefits in terms of: old age – the old-age pension and the *Pensão social de velhice* (old-age social pension); unemployment – the *Subsídio de desemprego* (unemployment insurance) and the *Subsídio social de desemprego* (unemployment assistance); and guaranteed minimum income schemes and other social assistance benefits – the *Rendimento social de inserção* (social insertion income) and the *Complemento solidário para idosos* (solidarity supplement for older people). Overall, there are no eligibility conditions for people with disabilities that are different from those for people without disabilities, and there are no additional amounts/compensation for them. Thus, the schemes do not take into account the fact that people with disabilities may have to meet extra costs related to disability – which results in a relative disadvantage compared with people without disabilities.

The national system for providing assistive products to people with a disability/incapacity is a public universal system. As regards personal assistance, a pilot project is currently underway, called the “model of support for independent living” (*Modelo de Apoio à Vida Independente* – MAVI).

Even if it cannot be considered a prominent issue, access to social protection for people with disabilities occasionally becomes part of the national debate in Portugal. Access to social protection schemes for people with disabilities underwent a major reform in 2017 with the creation of the social benefit for inclusion. In January 2022 a new law was published, giving people with a degree of disability/incapacity of at least 80% the ability to retire early at age 60 without penalty. Another important change regards the implementation of the aforementioned MAVI project for independent living. Even if such a model cannot be considered an innovation as such, its implementation in Portugal after a long standing absence should be acknowledged and may even be considered as good practice in the Portuguese context.

Taking steps to ensure the necessary funds for this programme’s continued and steady implementation should be encouraged. Other recommendations include easing access to the social benefit for inclusion, as well as reducing bureaucracy and delay in the issuing of medical certificates of incapacity and in access to assistive products.

1 Access to disability-specific income support

1.1 Disability-specific benefits/pensions available to working-age people

This section covers two types of long-term disability schemes for working-age¹ people. Disability insurance schemes, which provide contribution-based benefits, include the *Pensão de invalidez* (invalidity pension) (Section 1.1.3) and the *Regime especial de proteção na invalidez* (special regime of protection in invalidity) (Section 1.1.5).

Disability assistance schemes, which provide tax-financed benefits, include the *Prestação social para a inclusão* (PSI – social benefit for inclusion) – both the basic component (Section 1.1.1) and the supplement (Section 1.1.2) – and the *Complemento por Dependência* (dependency supplement) (Section 1.1.4).

There are some disability-specific benefits/pensions available to working-age people who do not work at all, and some that may be cumulated with income from work. The latter include the PSI, both as regards the basic component (Section 1.1.1) and the supplement (Section 1.1.2). The dependency supplement (Section 1.1.4) and the special regime of protection in invalidity (Section 1.1.5) cannot be cumulated with income from work. Recipients of the relative invalidity pension (Section 1.1.3) may cumulate it with income from work, whereas recipients of the absolute invalidity pension may not.

1.1.1 *Prestação social para a inclusão – componente base* (Social benefit for inclusion – basic component)

a) Eligibility conditions

Disability-related qualifying criteria: The applicant must have an associated degree of incapacity of at least 60%. Thus, severity of the disability is taken into account. Duration of the disability is considered in the sense that incapacity must have begun before the applicant reached the age of 55.

Age: None (i.e. there are no age requirements for accessing this benefit).

Nationality and/or residency: Legal residence in Portugal² or situation envisaged in special legislation or in international instruments.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: Unlike the supplement (Section 1.1.2), the basic component of the benefit is not formally means-tested. However, in some circumstances the calculation of the amount of the benefit may be equal to zero – see c) below.

Other: None.

Gaps and/or obstacles: Even if there are no age-related eligibility conditions, the applicant must possess a certificate attesting a disability with an associated degree of incapacity of at least 60%, issued or requested before they reached 55. As a result, those acquiring a disability after reaching 55 are excluded from the benefit, which represents a gap.

¹ I.e. people between the age of 15 and the standard pensionable age (66 years and 7 months in 2022).

² This applies to EU and non-EU nationals as well as to people with refugee status.

b) Disability assessment framework

Type of assessment: Functional capacity assessment.

Responsible authorities: Overall, the Ministry of Health through medical committees set in place by regional health services. However, the armed forces and law-enforcement authorities are responsible for setting their own medical committees.

Method: Mixed (i.e. combination of documentary evidence and personal interaction).

Supporting evidence: Medical report, supplementary diagnostic tests/exams.

Assessor: Medical doctors.

Decision-maker: Medical committee.

Critical analysis: The assessment framework makes it de facto difficult for some people with disabilities to receive the benefit. People acquiring a disability after 55 are excluded from the benefit. Similarly, if the person is assessed with 80% or higher incapacity only after reaching 55 (even if already having been recognised with at least 60% incapacity) and their income is equal to or higher than the "monthly threshold" (see Section 1.1.1c, below), the amount received will be €0, which means in practice that they are excluded from the benefit. The main reason for this seems to be to restrict the number of people eligible for the benefit, thus reducing costs. Additionally, it reflects a characteristic of the Portuguese social protection system, namely that benefits are often not aimed at covering increased expenses *stricto sensu* but only the increased expenses of the socio-economically most vulnerable population.

c) Benefit entitlements

Level of the benefit: Beneficiaries with a degree of disability assessed at 80% or greater, and those assessed at 60-79% but without any income, receive €275.30 per month. Other beneficiaries assessed at 60-79% are differentiated between those with labour income and those with other types of income. The former receive the lower of: i) €275.30 per month; or ii) the difference between the monthly threshold and the person's total monthly income. The monthly threshold is the lowest of: i) €767.92 (if the person is self-employed) or €658.22 (if the person is an employee); and ii) €438.22 plus the person's monthly labour income. For this purpose, the following contributory benefits are considered as labour income: sickness benefit; unemployment insurance; and maternity, paternity and adoption benefit. Beneficiaries with 60-79% disability who have other types of income receive the lower of: i) €275.30 per month; or ii) the difference between €438.22 and the person's monthly income.

Duration of the benefit: The recipient is entitled to the benefit for as long as the eligibility criteria continue to be met. However, reviews take place every 12 months, whenever the recipient reports changes in terms of income, household composition or degree of incapacity, or whenever there are changes in the monthly threshold and in other reference values.

Interactions with other income or other income-related benefits: None – but see note on the supplement (Section 1.1.2, below).

Challenges: The amount of the benefit is rather low and there are impediments regarding cumulation with other sources of income. As an example, and as mentioned above, beneficiaries with 60-79% disability but without any income receive €275.30 per month. According to the latest statistics issued by Statistics Portugal, in 2020 the poverty threshold in Portugal stood at €554.42 per month (€6,653 per year).

1.1.2 Prestação social para a inclusão – complemento (Social benefit for inclusion – supplement)

a) Eligibility conditions

Disability-related qualifying criteria: The applicant must have an associated degree of incapacity of at least 60%. Thus, the severity of disability is taken into account. Duration of the disability is considered in the sense that incapacity must have begun before the applicant reached 55.

Age: Recipients of the basic component aged 18 or over. Thus, the applicant must possess a certificate attesting a disability with an associated degree of incapacity of at least 60%, issued or requested before they turned 55.

Nationality and/or residency: Legal residence in Portugal³ or situation envisaged in special legislation or in international instruments. Additionally, the recipient should neither be imprisoned nor living in a state-funded institution or with a foster family.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: The applicant household's mean monthly income per capita should be lower than 1.5 times the amount of the social support index (*indexante dos apoios sociais* – IAS) (i.e. €664.80 in 2022).

Other: None.

Gaps and/or obstacles: The same gaps and obstacles identified in Section 1.1.1, above, apply.

Disability assessment framework

Type of assessment: Functional capacity assessment.

Responsible authorities: Overall, the Ministry of Health through medical committees set in place by regional health services. However, the armed forces and law-enforcement authorities are responsible for setting their own medical committees.

Method: Mixed (i.e. combination of documentary evidence and personal interaction).

Supporting evidence: Medical report, supplementary diagnostic tests/exams.

Assessor: Medical doctors.

Decision-maker: Medical committee.

Critical analysis: The assessment framework makes it de facto difficult for some people with disabilities to receive the benefit. People acquiring a disability after 55 are excluded from the benefit.

b) Benefit entitlements

Level of the benefit: The benefit varies according to household composition and income. The "supplement threshold" is calculated by applying an equivalence scale to the annual reference value of the benefit (€5,258.63 in 2022): 1 for the beneficiary, 0.7 for each of the other adults in the household, and 0.5 for each child in the household. The benefit corresponds to the difference between the supplement threshold and the household's income. The ceiling is €438.22 per month. If the household's income is higher than the supplement threshold, no payment is made. If two or more beneficiaries live in the same household, the ceiling of €438.22 per month is increased by 75% for each additional beneficiary.

³ This applies to EU and non-EU nationals as well as to people with refugee status.

Duration of the benefit: The recipient is entitled to the benefit for as long as the eligibility criteria continue to be met. However, reviews take place every 12 months, whenever the recipient reports changes in terms of income, household composition or degree of incapacity, or whenever there are changes in the monthly threshold and in other reference values.

Interactions with other income or other income-related benefits: When the disability derives from third-party liability, the supplement is suspended until the sum of the amounts that the beneficiary would receive reaches the amount of the compensation for loss of earnings capacity. When the latter is not clearly identified, it is assumed that it corresponds to two thirds of the total amount of the compensation received. It cannot be cumulated with the supplement of the family benefit for children and young people with disability, the allowance for assistance by a third party, the solidarity supplement for older people, the *Pensão social de velhice* (old-age social pension), or the invalidity social pension.

Challenges: The challenges identified in Section 1.1.1, above, regarding the low amount of the benefit and the impediments regarding cumulation with other sources of income, also apply here.

1.1.3 *Pensão de invalidez* (Invalidity pension)

a) Eligibility conditions

Disability-related qualifying criteria: The applicant must have a non-work-related permanent work incapacity. These can be of two types. The first regards cases of relative invalidity – workers who, before reaching the standard retirement age, become unable to earn more than one third of their usual wage, as a result of a permanent incapacity due to an illness or accident not covered by the specific legislation on accidents at work and occupational diseases. They should also not be expected to recover and become able to earn more than 50% of their previous wage within a period of three years. In these situations, a reassessment is required three years after the pension is granted. The second type regards cases of absolute invalidity – workers with a full and permanent incapacity to carry out any working activity. Thus, the severity of the disability is considered. The duration of the disability is not taken into account.

Age: None (i.e. there are no age requirements for accessing this benefit).

Nationality and/or residency: None (i.e. there are no nationality or residency requirements for accessing this pension⁴).

Waiting period: None (i.e. it is granted from the moment the disability is certified or the moment the pension is requested, whichever is later).

Contributory history: A contributory history of at least five (consecutive or non-consecutive) years for the relative invalidity pension, three years for the absolute invalidity pension, and 72 months for an invalidity pension under the voluntary social insurance scheme. However, these are not applicable if: i) attribution of the pension follows the exhaustion of the maximum of 1,095 days under sickness benefit and the permanent work incapacity has been certified, or if ii) the beneficiary starts receiving a pension for relative invalidity after the revision of his/her work incapacity by absolute invalidity,.

Level of financial resources: None (i.e. the pension is not means-tested).

Other: None.

⁴ This applies to EU and non-EU nationals as well as to people with refugee status.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this pension.

b) Disability assessment framework

Type of assessment: Functional capacity assessment.

Responsible authorities: The Institute of Social Security (ISS).

Method: Mixed (i.e. combination of documentary evidence and personal interaction).

Supporting evidence: Medical report, supplementary diagnostic tests/exams.

Assessor: Medical doctors.

Decision-maker: Medical committee.

Critical analysis: No recent evidence could be found allowing for an analysis of the way the assessment framework is designed and implemented. However, media reports from late 2016 echo data released by the ISS, according to which over 50% of the requests made were rejected on the grounds that the qualifying criteria were not met.⁵

c) Benefit entitlements

Level of the benefit: The calculation of the amount of the invalidity pension is complex, and different rules apply according to (for example) the duration and start date of the applicant's contribution record, the start date of the pension and the amount of salary received. In 2022, the minimum monthly amount of the relative invalidity pension ranged between €278.05 for beneficiaries with less than 15 years of contributions and €402.32 for beneficiaries with at least 31 years of contributions. The minimum monthly amount of the absolute invalidity pension is €402.32. Beneficiaries receiving minimum pensions since 2017 and whose total monthly income, including all pensions received and the dependency supplement (Section 1.1.4), is lower than 1.5 times the IAS (i.e. €664.80 in 2022) receive the extraordinary supplement for minimum invalidity pensions (*Complemento extraordinário para pensões de mínimos de invalidez*). This ranges between €4.71 and €19.24 per month, depending on different criteria including the contributions record and the start date of the invalidity pension.

Duration of the benefit: The pension is provided without a defined term. However, when a recipient reaches the standard retirement age, their invalidity pension is automatically converted into an old-age pension.

Interactions with other income or other income-related benefits: Both relative and absolute invalidity pensions cannot be cumulated with unemployment and sickness benefits. Additionally, the absolute invalidity pension cannot be cumulated with labour income.

Challenges: The amounts provided may be very low. In 2020, the annual mean amount was €5,020.⁶ According to the latest statistics issued by Statistics Portugal, in 2020 the poverty threshold in Portugal stood at €6,653 per year.

⁵ *Mais de metade dos pedidos de pensão de invalidez são recusados*, DN 07/12/2016, available at: <https://www.dn.pt/sociedade/mais-de-metade-dos-pedidos-de-pensao-de-invalidez-sao-recusados-5538530.html> (all hyperlinks accessed 17 February 2022).

⁶ Available at: <https://www.pordata.pt/Portugal/Pens%C3%A3o+m%C3%A9dia+anual+da+Seguran%C3%A7a+Social+total++de+sobreviv%C3%Aancia++de+invalidez+e+de+velhice-706>.

1.1.4 Complemento por Dependência (Dependency supplement)

a) Eligibility conditions

Disability-related qualifying criteria: The person with disability should be in a situation of dependency. Two different degrees of dependency are considered. The first degree includes people who are unable to autonomously perform tasks relating to feeding, mobility or looking after personal hygiene. The second degree of dependency covers people who, in addition to meeting the above criteria, are bed-bound or have been diagnosed with severe dementia. The severity of the disability is therefore taken into account. The duration of the disability is not taken into account.

Age: None (i.e. there are no age requirements for accessing the supplement).

Nationality and/or residency: None (i.e. there are no nationality or residency requirements for accessing the supplement⁷).

Waiting period: The supplement is paid from the month following the moment it is requested or all eligibility criteria are met, whichever is later.

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: None (i.e. the supplement is not means-tested).

Other: The supplement may be granted to people requiring the permanent assistance of a third party to perform the essential activities of daily living. It may be given to: i) recipients of an invalidity, old-age or survivor's pension under the general social security scheme or the voluntary insurance scheme; ii) recipients of an old-age and survivor's pension under the non-contributory scheme; iii) recipients of the PSI; and iv) people who are not pensioners yet, who have a chronic illness liable to cause invalidity or in a situation of dependency formally recognised by the social security services.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

b) Disability assessment framework

Type of assessment: Assessment of care or support needs.

Responsible authorities: The ISS.

Method: Mixed (i.e. combination of documentary evidence and personal interaction).

Supporting evidence: Medical report, supplementary diagnostic tests/exams.

Assessor: Medical doctors.

Decision maker: Medical committee.

Critical analysis: No evidence could be found allowing for an analysis of the way the assessment framework is designed and implemented.

⁷ This applies to EU and non-EU nationals as well as to people with refugee status.

c) Benefit entitlements

Level of the benefit: The amount of the supplement varies according to the level of dependency recognised by the social security services. In 2022 the monthly supplement granted under the general social security scheme varied between 50% of the social pension (€106.96) for cases of first-degree dependency and 90% of the social pension (€192.52) for cases of second-degree dependency. The respective monthly supplements granted under the special regime for agricultural activities and the non-contributory system were 45% of the social pension (€96.26) and 85% of the social pension (€181.82).

Duration of the benefit: The recipient is entitled to the supplement for as long as the eligibility criteria continue to be met.

Interactions with other income or other income-related benefits: The supplement cannot be combined with vocational training, income from work or with a similar benefit such as the benefit for informal carers.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to the supplement. However, the amounts provided are low, being less than €200 per month for people who are bed-bound or have been diagnosed with severe dementia.

1.1.5 *Regime especial de proteção na invalidez (Special regime of protection in invalidity)*

a) Eligibility conditions

Disability-related qualifying criteria: The applicant should have permanent work incapacity and a prognosis of rapid loss of autonomy caused by paramyloidosis, Machado-Joseph disease, AIDS, multiple sclerosis, cancer, amyotrophic lateral sclerosis, Parkinson's, Alzheimer's or other rare diseases. Permanent work incapacity can be of two types. The first regards cases of relative invalidity – workers who, before reaching the standard retirement age, become unable to earn more than one third of their usual wage, as a result of a permanent incapacity due to an illness or accident not covered by the specific legislation on accidents at work and occupational diseases. They should also not be expected to recover and become able to earn more than 50% of their previous wage within a period of three years. In these situations, a reassessment is required three years after the benefit is granted. The second type regards cases of absolute invalidity – workers with a full and permanent incapacity to carry out any working activity. The severity of the disability is taken into account but the duration is not.

Age: None (i.e. there are no age requirements for accessing this benefit).

Nationality and/or residency: None (i.e. there are no nationality or residency requirements for accessing this benefit⁸).

Waiting period: None (i.e. it is granted from the moment the disability is certified or the benefit is requested, whichever is later).

Contributory history: Contributory record of at least three (consecutive or non-consecutive) years.

Level of financial resources: When the applicant does not have the contributory record required, they should be subject to means-testing – their monthly gross income should be 40% or less of the IAS (i.e. €177.28 in 2022) or 60% in the case of couples (i.e. €265.92 in 2022).

⁸ This applies to EU and non-EU nationals as well as to people with refugee status.

Other: The applicant may not be a recipient of an old-age or invalidity pension.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

b) Disability assessment framework

Type of assessment: Functional capacity assessment.

Responsible authorities: The ISS.

Method: Mixed (i.e. combination of documentary evidence and personal interaction).

Supporting evidence: Medical report, supplementary diagnostic tests/exams.

Assessor: Medical doctors.

Decision-maker: Medical committee.

Critical analysis: No evidence could be found allowing for an analysis of the way the assessment framework is designed and implemented.

c) Benefit entitlements

Level of the benefit: A monthly amount corresponding to 3% of the reference salary per year with a contributory record. The reference salary equals the sum of the three best yearly incomes of the most recent 15 years, with contributions divided by 42. In 2022, the monthly minimum amount of the benefit was 30% of the reference salary or €278.05, whichever was higher. The ceiling was 80% of the reference salary.

Duration of the benefit: The recipient is entitled to the benefit for as long as the eligibility criteria continue to be met.

Interactions with other income or other income-related benefits: The benefit may not be cumulated with old-age and invalidity pensions, a pension under the voluntary insurance scheme, or unemployment and sickness benefits. Additionally, it cannot be cumulated with labour income if the recipient was recognised as having absolute invalidity.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

1.2 Disability-specific old-age pension schemes

There are no disability-specific old-age pension schemes in Portugal. Moreover, when a recipient of the invalidity pension reaches the standard retirement age, their invalidity pension is automatically converted into an old-age pension.

1.3 Income support aimed at covering disability-related healthcare and housing expenses

1.3.1 Healthcare

There are no cash benefits in Portugal aimed at covering disability-related healthcare expenses such as those for doctors' visits, medications and hospital stays. Rather, people with at least 60% incapacity may be exempted from user fees for a number of healthcare services, including (for example) rehabilitation services and non-urgent medical care transport services.

1.3.2 Housing

1.3.2.1 1^o Direito – Programa de apoio ao acesso à habitação (1st Right – Programme supporting access to housing)

a) Brief description

The 1^o Direito – Programa de apoio ao acesso à habitação (1st Right – Programme supporting access to housing) is aimed at providing a housing solution to those living in poor housing conditions and without the financial means to meet the costs of adequate housing. The concept of poor housing conditions encompasses different situations, including the incompatibility of housing with a person's specific characteristics, such as disability or incapacity. In order to be entitled, the applicant should: i) not be an owner or tenant of another dwelling considered to be suitable; and ii) have movable assets of less than 7.5% of 240 times the IAS (i.e. €7,977.60 in 2022). In addition, their household's mean monthly income should be lower than four times the IAS (i.e. €1,772.80 in 2022). People should apply to the municipal authorities of the place of residence. Municipalities should consider these applications in their own local housing strategies and make an application to the programme for funding.

b) Main gaps/obstacles

The programme is means-tested. It cannot therefore be described as a programme aimed at covering disability-related housing expenses in general, but rather at covering those of people who are economically more vulnerable. In addition, the focus of the programme is on poor housing conditions. Thus, even if, as mentioned above, the concept of poor housing conditions encompasses the incompatibility of housing with a person's specific characteristics, such as disability or incapacity, it may be difficult, in practice, to include within the scope of the programme the adaptation of a home to meet the needs of someone with disabilities, if it is not in poor condition.

c) Main adequacy challenges

Evidence is very scarce on the main challenges related to the adequacy of the benefit to cover the extra housing costs related to disability. Thus far, only one evaluation report has been made available. The report notes that "*since programme 1.º Direito was only recently established, this first assessment focuses on the adhesion phase, i.e. the elaboration and delivery of the local housing strategies by municipalities/autonomous regions*" (IHRU, 2020:2).

2 Access to some key general social protection cash benefits

2.1 Old-age benefits

2.1.1 Pensão de velhice (Old-age pension)

a) Eligibility conditions

There are no eligibility conditions for people with disabilities that are different from those for people without disabilities.

b) Additional amount/compensation included and adequacy issues

There is no additional amount/compensation included in the *Pensão de velhice* (old-age pension) for people with disabilities, as compared with people without disabilities. The pension therefore does not take into account the fact that people with disabilities can have higher expenses. In 2020, about 69% of pensioners received a pension

below the national minimum wage (€635 per month in 2020).^{9/10} In these cases, it will be more difficult for the pension to meet the extra costs related to disability. For the analysis undertaken in this and in other parts of Section 2, it is important to bear in mind that, according to the latest statistics issued by Statistics Portugal, in 2020 the poverty threshold in Portugal stood at €554.42 per month (€6,653 per year).¹¹

c) Gaps/obstacles

As there are neither different eligibility conditions nor additional amounts/compensation, people with disabilities are disadvantaged relative to people without disabilities. The contributory history required is the same, but it may be more difficult to fulfil for a person with disabilities.

2.1.2 Pensão social de velhice (Old-age social pension)

a) Eligibility conditions

There are no eligibility conditions for people with disabilities that are different from those for people without disabilities.

b) Additional amount/compensation included and adequacy issues

There is no additional amount/compensation included in the pension for people with disabilities, compared with people without disabilities. Thus, it does not take into account the fact that people with disabilities can have higher expenses. The monthly amount of the pension is significantly below the poverty threshold; in 2022 it stood at €213.91. An automatic solidarity supplement is added to this amount, of €18.62 per month for those under 70 and €37.23 per month for those aged 70 or over. Thus, people with disabilities will probably face increased difficulty in meeting the extra costs related to disability.

c) Gaps/obstacles

As there are neither different eligibility conditions nor additional amounts/compensation, people with disabilities are disadvantaged relative to people without disabilities.

2.2 Unemployment benefits

2.2.1 Subsídio de desemprego (Unemployment insurance)

a) Eligibility conditions

There are no eligibility conditions for people with disabilities that are different from those for people without disabilities.

b) Additional amount/compensation included and adequacy issues

There is no additional amount/compensation included in this benefit for people with disabilities, compared with people without disabilities. According to the latest statistics issued by the ISS, in December 2020 and December 2021 the average

⁹ Available at:

[https://www.pordata.pt/Portugal/Pensionistas+de+invalidez+e+velhice+do+regime+geral+da+Seguran%C3%A7a+Social+com+pens%C3%B5es+inferiores+ao+sal%C3%A1rio+m%C3%ADnimo+nacional+\(em+euros\)-2003](https://www.pordata.pt/Portugal/Pensionistas+de+invalidez+e+velhice+do+regime+geral+da+Seguran%C3%A7a+Social+com+pens%C3%B5es+inferiores+ao+sal%C3%A1rio+m%C3%ADnimo+nacional+(em+euros)-2003).

¹⁰ Available at:

https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0004325&contexto=bd&selT=ab=tab2&xlang=pt.

¹¹ Available at:

https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&contexto=pi&indOcorrCod=0004218&selT=ab=tab0.

monthly amount of the *Subsídio de desemprego* (unemployment insurance benefit) was €550 and €577, respectively, fairly close to the poverty threshold in 2020.

c) Gaps/obstacles

As there are neither different eligibility conditions nor additional amounts/compensation, the people with disabilities are disadvantaged relative to people without disabilities. The contributory history required is the same, but it may be more difficult to fulfil for a person with disabilities. Additionally, former recipients of an invalidity pension who were considered fit for work – thus becoming unemployed – receive a monthly sum corresponding to 80% of the IAS (i.e. €354.56 in 2022) if living alone or 100% of the IAS (i.e. €443.20 in 2022) if living with other people. These amounts are lower than for other recipients as, in general, the amount of the benefit should correspond to 65% of the reference wage, and the minimum admissible amount for the benefit is the equivalent to 100% of the IAS.

2.2.2 *Subsídio social de desemprego* (Unemployment assistance)

a) Eligibility conditions

There are no eligibility conditions for people with disabilities that are different from those for people without disabilities.

b) Additional amount/compensation included and adequacy issues

There is no additional amount/compensation included in this benefit for people with disabilities, compared with people without disabilities. According to the latest statistics issued by the ISS, in both December 2020 and December 2021 the average monthly *Subsídio social de desemprego* (unemployment assistance) benefit was less than €400, significantly below the poverty threshold in 2020.

c) Gaps/obstacles

As there are neither different eligibility conditions for them nor additional amounts/compensation, people with disabilities are disadvantaged relative to people without disabilities. The benefit is means-tested and limited to applicants with an equivalised household income lower than 80% of the IAS (i.e. €354.56 in 2022). Considering the figures presented, there is therefore the real possibility that a person with income higher than the means-test threshold is excluded from the benefit and is confronted with poverty after paying for the extra costs related to disability.

2.3 Guaranteed minimum income schemes and other social assistance benefits

2.3.1 *Rendimento social de inserção* (Social insertion income)

a) Eligibility conditions

There are no eligibility conditions for people with disabilities that are different from those for people without disabilities.

b) Additional amount/compensation included and adequacy issues

There is no additional amount/compensation included. However, the means test does not include disability and long-term care benefits. Thus, as the *Rendimento social de inserção* (RSI – social insertion income) is a differential benefit (i.e. the monthly benefit will correspond to the difference between the maximum rate of the RSI and the household's total income), there will, in practice, be a difference between the amounts received by people with the same characteristics in terms of income, household size, etc. depending on whether they are recipients of a disability benefit or not, to the advantage of the former. In any case, according to the latest statistics issued by the ISS, in both December 2020 and December 2021 the average monthly

amount of the RSI was less than €120, significantly below the poverty threshold in 2020.

c) Gaps/obstacles

As there are neither different eligibility conditions nor additional amounts/compensation, people with disabilities are disadvantaged relative to people without disabilities.

2.3.2 *Complemento solidário para idosos* (Solidarity supplement for older people)

a) Eligibility conditions

Overall, the *Complemento solidário para idosos* (solidarity supplement for older people) is available only for people over the standard pensionable age (66 years and seven months in 2022). There is an exception regarding recipients of the invalidity pension, who may be under the standard pensionable age.

b) Additional amount/compensation included and adequacy issues

There is no additional amount/compensation included in the supplement for people with disabilities, compared with people without disabilities. The supplement's ceiling is currently set at €5,258.63 per year for one person and €9,202.60 per year for a couple. In 2020, the poverty threshold stood at €6,653 per year. Thus, even if the measure, of a differential nature, is aimed precisely at raising the income of people over the standard pensionable age (and of invalidity pensioners) to a level close to the poverty threshold, nonetheless its ceiling remains below the poverty threshold.

c) Gaps/obstacles

Recipients cannot cumulate this benefit with the PSI (see Section 1.1.1).

3 Provision of assistive technology and personal assistance

3.1 Access to assistive products

The national system for the provision of **assistive products** (SAPA), established by Decree-Law 93/2009 of 16 April, and amended most recently by Law 2/2020 of 31 March, is a public universal system that is designed to provide assistive products for people with a disability/incapacity.¹² Within the scope of the SAPA, the definition of assistive products includes the products, devices, equipment or technical systems which are available on the market or specially produced and aimed at preventing, compensating, mitigating or eliminating constraints on activity or on the participation of people with disability.

In order to be eligible for support, both the disability and the assistive product should be included on the list approved on a yearly basis by order of the National Institute for Rehabilitation (*Instituto Nacional para a Reabilitação* – INR). The list should identify which products require a medical prescription and which may be prescribed by a multidisciplinary technical team.

The ISS co-funds the products at 100% whenever these are not co-funded by any other health sub-system or insurance company. However, actual funding is subject to ISS budget resources, which are determined on a yearly basis by order of the Ministries of Education, Health, and Labour, Solidarity and Social Security.

¹² The autonomous governments of Azores and Madeira are responsible for running equivalent programmes in the respective regions.

A few **obstacles** may be identified as regards access to assistive products. First, they must be included on the list approved by the INR, which may make access to the latest, most up-to-date equipment more difficult. Second, as a general rule, financial support is granted only before acquisition/repair, even if the rules also allow for reimbursement in exceptional cases of medical urgency. Thus, there may be cases where acquisition/repair is delayed more than is recommended, in order to be sure of complying with the rules. Third, as actual funding is subject to ISS budget resources, there is a theoretical risk that funding will be declined. Fourth, although the measure is not means-tested, the assistive device is provided only after the evaluation of the socio-economic conditions of the applicant and of the importance of the device to the applicant's life (Pinto, Kuznetsova and Hilário, 2017). Fifth, the same authors stress that the functioning of the SAPA is extremely slow and excessively bureaucratic, and that it may take over a year until the reimbursement is made or the device actually provided.

3.2 Personal assistance for people with disabilities

As regards **personal assistance**, the MAVI pilot project is currently underway, co-funded by the EU. It should run at least till 2023. The project is being implemented through a set of local support centres (*Centros de Apoio à Vida Independente – CAVIs*), run by non-governmental organisations for people with disabilities, which make personal assistance available. They should each support a minimum of 10 and a maximum of 50 people. A total of 35 CAVIs are currently in place in all regions of mainland Portugal. They may provide support regarding: i) hygiene, nutrition, health maintenance and personal care; ii) household assistance; iii) travel; iv) mediation of communication; v) labour context; vi) attendance at vocational training; vii) attendance at higher education and research activities; viii) culture, leisure and sport activities; ix) active job-search; x) creation and development of social networks of support; xi) participation and citizenship; and xii) support for decision-making, including the collection and interpretation of background information.

In order to be eligible, people should be aged at least 16 and have a recognised disability with an associated degree of incapacity of at least 60%, except for people with intellectual and/or mental disability and people on the autism spectrum. In these latter cases, they may benefit from personal assistance regardless of the recognised degree of incapacity.

According to legislation, the person assisted has the right to designate or propose a personal assistant. However, a direct work relationship between them cannot be established (i.e. the personal assistant needs to be hired by a CAVI). Regardless of having proposed a specific person as personal assistant or not, the person assisted has the right to participate actively in the selection process of their personal assistant, through participation in selection interviews. They also have the right to terminate the personal assistance with a given assistant if a breach of trust occurs. Even if a model of independent living for people with disabilities cannot be considered an innovation as such, its implementation in Portugal after a long standing absence should be acknowledged, and may even be considered as good practice in the Portuguese context (see Section 4.3).

Nonetheless, there are **gaps/obstacles** that may be identified, starting with the fact that this is still a pilot project, and will remain so until at least 2023. According to the latest news issued by the INR on the activity of the CAVIs, in December 2021 a total of 955 people were supported (497 females and 458 males).¹³ This figure is higher than the total number of people envisaged in the application phase, but nonetheless much lower than the approximately 12,600 recipients of the allowance for assistance by a third party at the same date (see details on this allowance below).

¹³ Available at: https://www.inr.pt/noticias/-/journal_content/56/11309/680483.

A recent paper highlights some weaknesses of the pilot project, considering, for instance, that “*the Portuguese government was very restrained and limited the measure to be a legislative initiative and not a right granted to people with disabilities in Portugal*” (Fontes and Martins, 2021: 531). Furthermore, the authors consider that the government was too normative in the project’s design, by imposing a model rather than allowing greater autonomy and the ability to test different solutions; and that the budget allocation was too low, limiting the project’s reach and impact. More concretely, they consider that the budget is insufficient to allow up to 30% of beneficiaries to extend the period of personal assistance up to 24 hours per day (as suggested in the legislation). As a result, the authors conclude that “this is a policy measure of short reach and limited impact” (Fontes and Martins, 2021: 531).

An allowance exists for assistance by a third party (*Subsídio por assistência de terceira pessoa*). In 2022 its amount was €110.41 per month. The beneficiary should be a co-habiting ancestor of the person with disability, who should be in a situation of dependency (i.e. needing permanent assistance for at least six hours per day to ensure basic daily needs in terms of feeding, mobility and looking after personal hygiene). The situation of dependency should derive exclusively from the disability. The benefit is not granted if the permanent assistance required is provided in a health or social support unit run or financed by the state.

The person with disability cannot have any professional activity covered by a mandatory social protection system, and should be a recipient of the family allowance (i.e. the age limit is 24), including its disability supplement.

The allowance may be framed by the contributory system (i.e. the person has access to contribution-based benefits) or by the non-contributory system (i.e. the person only has access to tax-financed benefits). If the allowance is framed by the contributory system, the applicant should have a contribution record in the first 12 out of the 14 months before applying to the benefit, unless they are a pensioner.

When the allowance is framed by the contributory system, the married applicant’s monthly income should be lower than twice the amount of the social pension (i.e. €427.82 in 2022). If the applicant is separated, divorced or a widow, their monthly income should be lower than the monthly amount of the social pension (i.e. €213.91 in 2022). No similar condition applies to single people. When the allowance is framed by the non-contributory system, the applicant should meet one of the following means-testing conditions: i) a monthly gross personal income equal to 40% or less of the IAS (i.e. €177.28 in 2022) as long as their household income is equal to, or lower than, 1.5 times the IAS (i.e. €664.80 in 2022); ii) household income per capita equal to 30% or less of the IAS (i.e. €132.96 in 2022). In this latter case, the social services should – on a case-by-case basis – identify the applicant as being in a situation of risk or of social dysfunction, due to income loss or a sharp increase in expenses, for reasons of illness, accident, unemployment, invalidity or rehabilitation.

4 National debates, reforms and recommendations

4.1 National debates

Even if it cannot be considered to be a prominent issue, access to social protection for people with disabilities occasionally becomes part of the national debate in Portugal. In November 2021, the **Portuguese parliament discussed different proposals regarding early retirement for reasons of disability** presented by all left-wing parties represented there. Only one proposal was approved, presented by the centre-left Socialist Party (*Partido Socialista*), supporting the government of the time in office (see

next section).¹⁴ The other proposals presented by left-wing parties were rejected – the Communist Party (*Partido Comunista Português* – PCP), the Left-Wing Bloc (*Bloco de Esquerda* – BE), the Green Party (*Partido Ecologista "Os Verdes"* – PEV) and the centre-left People, Animals and Nature Party (*Partido Pessoas-Animais-Natureza* – PAN).¹⁵

Overall, these proposals advocated easier access to social protection for people with disabilities than the proposal that was approved. The BE proposed 55 as the standard retirement age for people with disabilities with 20 years of contributions, at least 15 of which with an associated incapacity of at least 60%.

The PEV proposed that people with disability/incapacity of at least 60% should be able to retire at 60 without penalty. They would need to have at least 15 years of contributions. Additionally, there should be at least 20 years between the time the disability was declared and the time retirement was requested.

The PAN made a similar proposal, but considered that early retirement should be possible at 55, with at least 20 years of contributions and that there should be at least 15 years between the time the disability was declared and the time retirement was requested.

The PCP proposal was not so concrete. Rather, it more generally considered that the special regime for the early retirement of people with disabilities should consider the record of contributions (total and with incapacity), the type of functions and the type of disability/incapacity.

In late January 2022 Portugal held parliamentary elections. The **electoral programmes** of the different parties included the issue of access to social protection for people with disabilities.

The programme of the Socialist Party, now in office, contains a commitment to implement the definitive MAVI model as from 2023. It also mentions the search for innovative approaches to the provision of assistive technology, by supporting national research and the production of IT products and technologies. Additionally, it refers to the intention to top up the PSI (see Sections 1.1.1 and 1.1.2) through the co-funding of one-off expenditure on education, training, housing and rehabilitation resulting from a worsening of the physical, sensory or intellectual condition of people with disabilities.

The programme of the centre-right Social-Democratic Party (*Partido Social Democrata* – PSD), the party that gained the second most votes, is vaguer in the sense that it contains a general commitment to improve the equal participation and autonomy of people with disabilities and their access to equipment, services and social benefits.

In January 2022 the **Portuguese Ombudsperson's Office** issued a reminder letter to the state secretary for the inclusion of people with disabilities.¹⁶ The letter highlights the approval of Decree 230/2021 in October 2021, envisaged as a positive development designed to ease access to the PSI (see Section 1.1.1) by people with a disability acquired, developed or certified after the age of 55. The decree is welcomed as fulfilling one of the recommendations issued by the Ombudsperson's Office to the Minister of Labour, Solidarity and Social Security in February 2020.

However, the Ombudsperson considers that "serious situations of lack of social protection remain" as a result of significant delays in the issuing of medical certificates of incapacity. As the law determines that the benefit is due only from the month in which the certificate is presented to the relevant authorities, the delay is considered as

¹⁴ The parliament was dissolved in December 2021 by decision of the President of the Republic, following the rejection of the draft state budget for 2022.

¹⁵ *Assembleia da República chumba redução da idade de reforma para pessoas com deficiência*, Observador 12/11/2021. Available at: <https://observador.pt/2021/11/12/assembleia-da-republica-chumba-reducao-da-idade-de-reforma-para-pessoas-com-deficiencia/>.

¹⁶ Available at: <https://www.provedor-jus.pt/documentos/Of%C3%ADcio%20insist%C3%AAncia.%20PSI.pdf>.

“seriously compromising the effectiveness of this social benefit”. The Ombudsperson’s Office had also recommended that the law be changed so that the benefit could be received from the moment of request, as long as the medical certificate did certify the degree of incapacity that is part of the eligibility conditions. Even if the recommendation was accepted, no piece of legislation to that end was adopted in the two years that have elapsed.

As regards **adequacy issues**, it is worth emphasising that the discussions leading to the approval of new rules for early retirement by reasons of disability (see Section 4.2) were underpinned by a specific study commissioned by the government and delivered to the national parliament in September 2021. Some of its results are mentioned in a press release by the minister of work, solidarity and social security. Implementing the study’s recommendations was included as a commitment in the draft state budget for 2020, which referred to early retirement at 55 with a contribution record of at least 20 years, of which at least 15 with a degree of disability/impairment of at least 60%.

According to the press release, the scheme was expected to reach initially 6,700 people. The average pension amount was estimated to be €687 per month and the yearly budget impact was projected to reach €147 million. Interestingly, the press release notes that *“in terms of effectiveness of social protection, the study concludes that, in the configuration proposed in the draft State Budget for 2020, the amount of the pension would be lower than the poverty threshold for most potential beneficiaries (56%). This is particularly hard and undesirable since the access to early retirement implies the end of labour market participation of the person with disability. Considering the risk of originating very low pension amounts, the Government decided to include in the scenario a minimum amount of pension of €288.80 per month for contributory careers of at least 20 years”*.¹⁷

The concern with poverty-proofing is welcomed and important as the amounts of many social benefits have been described as not being adequate (see e.g. Pereirinha *et al.*, 2020). More specifically, as emphasised by the parallel report about the monitoring of the rights of people with disabilities in Portugal, issued by the Disability and Human Rights Observatory, *“the low levels of benefits awarded by the Portuguese State do not adequately protect against the social and economic risks of disability, nor do they allow an adequate level of living”* (ODDH, 2015: 23).

Indeed, in 2020 the AROPE¹⁸ rate for the population aged 16-64 clearly shows the greater vulnerability of people with some disability, and especially of those with severe disability (26.1% and 37%, respectively), relative to people with no disability (16.8%). If the two former categories are analysed together, the AROPE rate for people with some or severe disability is 28.5% – 69.6% higher than that of people with no disability.¹⁹

4.2 Recent reforms and reforms currently in the pipeline

Access to social protection schemes for people with disabilities underwent a major reform in October 2017 with the **creation of the PSI** (Sections 1.1.1 and 1.1.2), through Decree-Law 126-A/2017 of 6 October. The benefit is aimed at supporting people with a degree of disability/impairment of at least 60% (see Section 1). The benefit replaced previously existing benefits such as the monthly life annuity, the invalidity social pension, the disability pension of transitional schemes for agricultural workers and the social solidarity supplement. Initially, the benefit covered the adult population only. However, in October 2019 it was extended to children (under 18). In October 2021, Decree

¹⁷ Available at: <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBQAAAB%2bLCAAAAAAABAAzNDK0NAQJISyegUAAAA%3d>.

¹⁸ At risk of poverty or social exclusion.

¹⁹ Source: Eurostat EU-SILC [HLTH_DPE010], downloaded 17 February 2022.

230/2021 defined the process for certifying the disability of PSI applicants, as well as the competent certifying authority. As mentioned in Section 4.1, above, this is deemed as particularly relevant for people with a disability acquired, developing or certified after the age of 55.

Another important change regards the **MAVI** (see Sections 3 and 4.3), implemented through Decree-Law 129/2017 of 9 October, and implemented on the ground as from 2019. Published in the same year, Decree-Law 27/2019 of 14 February represented the first alteration to the previous legislation, allowing for a transition period of six months during which a person with disability living e.g. in a residential home may also benefit from personal assistance.

In late November 2021 the Portuguese parliament approved **new rules for early retirement for reasons of disability**. These were published on 7 January 2022 through Law 5/2022. Within this new legal framework, there is the possibility for people with at least 80% disability/incapacity to retire at 60 without penalty. In order to be eligible, the person should have at least 15 years of contributions between the time the disability was declared and the time retirement was requested (República Portuguesa, 2022b).

Another recent change was introduced by Decree-Law 1/2022 of 3 January, which acknowledges, in its preamble, that response times and backlogs have increased in the last decade, and especially in the **context of the COVID-19 pandemic**. The decree-law changes the assessment scheme for people with disabilities, speeding up the procedures for issuing a multi-use incapacity medical certificate, in particular the possibility of issuing it electronically (República Portuguesa, 2022a).

In addition, it approves a transitional exceptional regime whereby, in the case of certain pathologies, medical boards may issue the multi-use incapacity medical certificate on the basis of a process evaluation only, thus not requiring an in-person physical assessment of the applicant. These measures are specifically mentioned as decisions taken within the scope of the COVID-19 pandemic and scheduled to last till 31 December 2022. They are expected to improve the speed of access by people with disabilities to social protection.

Other measures had been taken previously as a response to the pandemic, aimed at improving access to social protection. The validity of multi-use incapacity medical certificates issued electronically for purposes of social (as well as economic and fiscal) benefits was extended (Decree-Law 104/2021). The condition is that they include, as an annex, a proof that a new medical committee has been requested. At the time of writing, certificates with initial validity till 2019 or 2020 are valid till 30 June 2022. Certificates with initial validity till 2021 or 2022 are valid till 31 December 2022. Decree-Law 10A/2020 had set an exceptional regime for the composition of medical committees, notably allowing for the recruitment of retired physicians and establishing that the president of the committee should preferably have specific competences in the assessment of bodily injuries or prior proven participation in similar medical committees. The government considers that these measures link to the topics of the reminder letter issued by the Portuguese Ombudsperson's Office (see Section 4.1) notably by "*aiming at decreasing to the best possible extent the periods of lack of social protection*".²⁰

All measures decided as a response to the pandemic were established on a temporary basis.

Finally, it seems important to mention that a **new formal status for informal carers** was approved in September 2019. It establishes a set of rights and supporting measures,

²⁰ 78 mil avaliações para pessoas com deficiência já realizadas e atestados prorrogados até final de 2022, Comunicados da República Portuguesa – XXII Governo, 20/01/2022. Available at: <https://www.portugal.gov.pt/pt/gc22/comunicacao/comunicado?i=78-mil-avaliacoes-para-pessoas-com-deficiencia-ja-realizadas-e-atestados-prorrogados-ate-final-de-2022>.

including a means-tested cash benefit for principal informal carers.²¹ The benefit ran under a pilot phase in selected municipalities from June 2020. Legislation approving the widening of the benefit to the whole Portuguese territory was published in January 2022.

The order establishing the means test condition has not yet been published. However, during the pilot phase, the carer's household equivalent income (OECD scale) should be lower than 1.2 times the IAS (€531.84 in 2022). The amounts received under the PSI supplement (Section 1.1.2), the social insertion income (Section 2.3.1) and the solidarity supplement for older people (Section 2.3.2) are disregarded in the calculation of household income.

There is a set of eligibility conditions. The carer must be 18 or more. Additionally, carers who are recipients of an early-retirement pension or of a relative invalidity pension should be under the pension statutory age (66 years and seven months in 2022). The carer should also be legally resident in Portugal and the person cared for should not be in residential care. The person cared for should be a recipient of the allowance for assistance by a third party (Section 3) or of the dependency supplement (Section 1.1.4). However, those with first-degree dependency should be specifically assessed by the competent services in order to demonstrate that they are temporarily or permanently bed-bound or needing permanent care.

Only principal carers are eligible for the benefit (i.e. spouses or other family members living in the same household as the person being cared for, providing care on a permanent basis without remuneration). The benefit for principal informal carers cannot be cumulated with either unemployment or sickness benefits, or with income from work and most pensions. The exception regards old-age early-retirement pensions that suffered a reduction of at least 20% after the reduction rate and/or the sustainability factor have been applied.

No contributory history is required and there is no waiting period. However, an informal carer receiving an early-retirement pension must demonstrate that, by the time they claimed the pension or up to 12 months after that date, they were part of a household with a beneficiary of the dependency supplement. The benefit is differential (i.e. its monthly amount corresponds to the difference between the benefit's reference amount – a percentage of the IAS still to be defined – and the carer's income). The amount of the benefit may be increased so that the carer may partially cover the costs of registering in the voluntary insurance scheme if s/he wishes to do so. The increase is 50% of the corresponding costs.

No **reforms currently in the pipeline** were identified.

4.3 Good practice and recommendations on how to tackle gaps and obstacles

The **implementation of the MAVI** may be singled out as good practice in the Portuguese context. After having been delayed, it is currently being implemented as a pilot project, which should run at least till 2023. As emphasised by a report of the Academic Network of European Disability Experts on Portugal, "*the development of a Pilot Project of Personal Assistance was foreseen in the National Disability Strategy (2011-2013), but it has not been materialised due to the economic crisis and the lack of financial resources (...) [which] has had negative consequences in the exercise of the right to live independently in the community of people with disabilities*" (Pinto, Kuznetsova and Hilário, 2017: 53).

²¹ The benefit is attributed to the carer and not to the person cared for, which is why the benefit was not included in Section 1. However, it seems relevant to mention it here considering what it may represent for people with disabilities in need of permanent care.

The programme is presented as “a *shift of paradigm of public policies for the inclusion of people with disabilities as it tries to counteract the dominant trends of institutionalisation or dependence from family members*” (República Portuguesa, 2017: 5609).

The MAVI is based on a set of guiding principles: i) universality, which implies that each and every person with disability has access to the support they need for achieving their life goals; ii) self-determination, which means that a person with disability has the right to live independently and take decisions regarding their own life; iii) individualisation, which implies tailored planning and support; iv) functionality of support, implying that support should be adequate to the person and for promoting their autonomy and full participation in society; v) inclusion, which implies that society should adapt in order that all citizens, including people with disabilities, may be integrated and use all available resources on an equal footing; vi) citizenship and participation, which implies that a person with disability has the right to access goods and services on an equal footing, as well as the right and duty to play an active role in society; and vii) equal opportunities, implying that services, activities, information, documentation, etc. are accessible to all, including people with disabilities.

As mentioned above, the programme is implemented through a set of local support centres, the CAVIs (see Section 3). The number and distribution of hours of personal assistance should be defined by the person with disability or their legal representative jointly with the personal assistant(s) and a representative of the CAVI.

The maximum number of (consecutive or non-consecutive) hours of support per week allocated to each person is 40. In exceptional reasoned cases the number of hours may be extended up to 24 hours per day. However, this situation cannot exceed 30% of the beneficiaries of each CAVI.

The regulation of the MAVI was altered in 2019. Decree-Law 27/2019 of 14 February highlighted that the programme was based on the assumption that there should be no overlap between different types of public support to people with disabilities. In concrete terms, the MAVI could not be combined with residential support. However, it also notes that the Portuguese government subsequently decided that people with disabilities living in residential homes should also be given the right to make a gradual transition to the personal assistance model. As a result, a transitional period of six months during which the person may benefit from both models was approved (República Portuguesa, 2019).

Considering the need to tackle the gaps and obstacles hindering access by people with disabilities to adequate social protection benefits and services, the following **recommendations** seem appropriate.

- Strengthening data-collection mechanisms, ensuring that comprehensive, reliable and disaggregated data on disability and people with disabilities are collected, in line with Article 31 (statistics and data collection) of UN Convention on the Rights of Persons with Disabilities.
- Considering that the MAVI pilot project is co-funded by the EU and that the lack of financial resources has prevented earlier implementation, it would seem advisable to take steps to ensure the necessary funds for the programme's continued and steady implementation.
- Eliminating delays in the issuing of the medical certificates of incapacity.
- Widening eligibility for the PSI to those with a disability acquired and/or aggravated after the age of 55.
- Reducing bureaucracy and delay in access to the national system for the provision of assistive products.
- Approving legislation so that the PSI may be received from the moment of request and as long as the medical certificate certifies the degree of incapacity that is part of the benefit's eligibility conditions.

- Generally, ensuring the adequacy of the benefits and that they adequately meet the extra costs related to disability.

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