



Contribution of the Portuguese Ombudsman
**Implementation of the International Covenant on Economic, Social and Cultural
Rights**
02.10.2013

In compliance with the honorable invitation made by the United Nations Committee on Economic, Social and Cultural Rights, the Portuguese Ombudsman, as a defender and promoter of citizen's rights, freedoms and safeguards, and as a National Human Rights Institution - holder of the A-status accreditation since 1999 - presents to the Committee its contributions regarding the implementation of the Covenant on Economic, Social and Cultural Rights in Portugal.

Article 2

- 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*
- 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*
- 3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to nonnationals.*

Despite the access, albeit limited, granted for immigrants to the National Health Service by decision n. 25360/2001, of the Ministry of Health (Ministério da Saúde), issued after an intervention of the Portuguese Ombudsman, some difficulties have persisted, essentially at the level of access to primary health care, in the case of citizens not registered with portuguese social security.

Concerning National Health Service hospitals, similar difficulties have emerged regarding former portuguese emigrants, once again because the lack of connection to the portuguese social security.



Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

A case¹ was closed in 2012, under which, inspections were carried out in 2011 to several Job Centres. This aimed to assess the procedures adopted on the allocation of financial support for the creation of jobs under PEOE (programme for job offers) and PAECPE (support programme for entrepreneurship and for the creation of self-employment).

Having heard the Institute for Employment and Vocational Training (*Instituto do Emprego e da Formação Profissional*), the Ombudsman noted that, despite those programmes have since been revised, while the Job Centres are required to control the maintenance of companies created and jobs subsidised – what will happen, at least, by the end of 2013 – it will be necessary:

1. To safeguard the strict compliance of decisions deadlines on the applications submitted by promoters, making available the informatic tools necessary for such control and ensuring that the Job Centres technicians effectively use them;

2. To ensure that is provided to the project promoters all information on the responsibilities and commitments to that they must be bound for receiving the financial support and the necessary training for the management of companies they want to create;

3. To guarantee that control visits are conducted to monitor the implementation of projects with a regularity that may allow avoiding, or at least, detecting on schedule, difficulties in complying with the contract for granting incentives;

4. To bear in mind that situations of non-compliance arising from causes not attributable to the promoter should receive special attention by the Job Centres, in light of the gravity of the reason invoked, the time of the impediment verification and the evidence provided to the Job Centres.

¹ P-13/10 (A2)



The Ombudsman has also communicated the above concerns to the Ministry of Economy and Employment (*Ministério da Economia e do Emprego*), in order to be taken into account the need to duly ensure the rights of the job project promoters, in the framework of the employment policies that will be implemented.

In recent years, the Portuguese Ombudsman has received complaints from citizens beneficiaries of employment measures (measures “*contrato emprego-inserção*” and “*contrato emprego-inserção +*”). These are political measures designed to improve professional integration of people receiving unemployment benefits or those entitled to a minimum guaranteed income subsidy, which requires them to perform activities useful to society (that benefit society) in both public and private entities, for a period of twelve months. In majority of the complains related to the improper use of these measures to fill Public Administration career jobs. This situation has been brought to the Ombudsman’s attention by a Union Confederation (*CGTP – Confederação Geral dos Trabalhadores Portugueses*).

During 2012, the Ombudsman has received several complaints from kindergarten, elementary, middle and high school teachers who have been working a long period of time under fixed-term work contracts. They argued that long-term work under this type of contract violates Council Directive 1999/70/CE concerning the ETUC, UNICE and CEEP framework agreement on fixed-term work contracts. In one of the complaints, a teacher has been teaching since 2001, in several schools, with annual fixed-term work contracts. Not only the teacher was faced with a never ending precarious situation, but also worked longer hours and received lower income/salary. This is representative of a discriminative treatment for equal labour performance. Portuguese Ombudsman agreed with the complaining teachers and alerted the Education and Science Minister of the need to adjust Portuguese law regime with European Union Law on this subject.

Also during 2012, and concerning the same subject, the Ombudsman recommended Education and School Administration Secretary of State (*Secretaria de Estado da Educação e da Administração Escolar*) that these teachers should be granted the right to medical assistance and fair compensation in case of work injury. This Recommendation emerged from complaints presented by three fixed-term work contract teachers, victims of accident at work; which resulted in a temporary total inability to work. These three teachers complained that the payment they were receiving for injury compensation were wrongfully



terminated at the end of their contracts, despite the fact that their injury remained behind that moment.

The Ombudsman made a Recommendation to the Education and School Administration Secretary of State (*Secretaria de Estado da Educação e da Administração Escolar*) that the teachers continue to receive the compensation for their temporary total disability, while it exist, under the terms of the law, *i.e.*, until the time of discharge even after the end of contract. This recommendation was not accepted.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:*
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
- (b) Safe and healthy working conditions;*
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*

The Ombudsman has clearly communicated his concern with the need to balance the workers (especially civil servants) professional life with their private and family lives. In the past few years, there have been several complaints filed exclusively by female workers. Notwithstanding the existence of a labor agreement between Unions and Public Administration allowing for flexible timetables for workers with children less than 12 years old, the workers have faced resistance by their employers to the implementation of these flexible labor agreements. These complaints led the Ombudsman to publicly alert in 2012 the Minister of Agriculture (*Ministério da Agricultura*), who accepted the suggestions made towards a better balance between the workers professional and private or family life.

Concerning work safety, hygiene and health, we must emphasize that despite the existence of a proper legal regime to public administration services and civil servants, most of public services do not apply it or apply in a *de minimus* form. Recognizing this reality, the



Ombudsman has tried to assess working conditions during his inspections to the different public services entities.

Article 8

1. *The States Parties to the present Covenant undertake to ensure:*

(a) *The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;*

(b) *The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;*

(c) *The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;*

(d) *The right to strike provided that it is exercised in conformity with the laws of the particular country.*

2. *This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.*

3. *Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.*

Since 2012, Unions are contesting the lack of non-negotiable collective labour regulation instruments. These instruments (“*portarias de extensão*”) promote the extension of labor regulation conventions or arbitral decisions to workers not included in the convention terms, but integrated on the activity or professional sector of the convention. This situation was brought to Ombudsman attention by a Union Confederation (*CGTP - Confederação Geral dos Trabalhadores Portugueses*), which accuses the Government of a deregulation intent in the labor market. This kind of deregulation is particularly harmful to interests of the workers of companies that are not affiliated in employer’s associations who had subscribed labor conventions. According to the Unions, this kind of deregulation also promotes unfair competition, since “*portarias de extensão*” have a standardizing effect in



minimum working conditions and bring near competition conditions in corporations operating in the same economic sector.

The recent upsurge of strikes by prison guards provoked restrictions on the rights of prisoners, including preventing access to health care (except emergencies) and regular educational activities.

The resulting obstacle to performing work activities means the absence of receipt of payment by the inmates, limiting their economic capacity.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Sometimes difficulties were noted in the assignment of pensions by the portuguese competent authorities to citizens who have been emigrants, as a result of the need for consultation with foreign counterpart agencies.

Despite the availability, in many cases, of protocols of cooperation with similar bodies abroad, they are not always fulfilled, because of the excessive delay in the processing of requests by beneficiaries.

Article 10

The States Parties to the present Covenant recognize that:

- 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*
- 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.*
- 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.*

Delays in judicial processes influence negatively the exercise of economic rights.



This situation is especially felt in the regulation of parental responsibilities, since they involve delay in calculating the amount to be awarded to the children (and also to children at the age of majority who do not already have another source of income).

At the same time, the delay in payment of child maintenance by the Guarantee Fund of Food Due to Minors is also likely to cause harm to family life. This fund is expected to compensate for the failures in the payment of child maintenance after being subrogated to the rights of minors to the defaulting parents.

Artigos 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.



The Portuguese Ombudsman has made one Recommendation in order to improve the protection conferred to children and young people with special education needs, by a financial support given to their families (Special Education Subsidy), in order to guarantee their access to adequate education.

The Recommendation n.º 15/B/2012 was sent to the Secretary of State for Solidarity and Social Security (*Secretaria de Estado da Solidariedade e da Segurança Social*) after being confronted, in the last few years, with a significant number of complaints regarding the assignment of the Special Education Subsidy, which motivated several interventions near the Government. Such complaints reflect, in one hand, the delay in processes conclusion and, therefore, in the payment of the subsidy, and raise, on the other hand, several questions related with the analysis of the requests, the grounds for their refusal and, mostly, about the law interpretation made by the social security services.

Despite the several interventions made to solve the problem, in the end of 2010, the Ombudsman received new complaints related to the same subject, putting in evidence that the problem subsisted. Therefore, in October 2010, the Ombudsman addressed to the predecessor of the current Secretary of State for Solidarity and Social Security (*Secretaria de Estado da Solidariedade e da Segurança Social*), pointing out that the problems experienced in the attribution of special education subsidy drag on for years and are due, essentially, to the great difficulty in the interpretation and application of the existing legal concepts (*maxime* the concept of disability relevant for this purpose), aggravated by the spread of regulation on the subject and the outdated legal framework. Considering the problems identified and given the impact of the same in the attribution of special education subsidy, the Ombudsman concluded by the urgent need of revising the special education subsidy regulation.

Given the lack of response and in view of the swearing in of a new government, in 2011, the Ombudsman reiterated the issue with the current Secretary of State for Solidarity and Social Security (*Secretaria de Estado da Solidariedade e da Segurança Social*). After several reminders, clarifications were provided to the Ombudsman. Those, however, did not respond adequately to the appointed need of revising the special education subsidy regulation.



Given the stalemate, the Ombudsman recommended to the Secretary of State for Solidarity and Social Security (*Secretaria de Estado da Solidariedade e da Segurança Social*) to:

- a) Promote, in articulation with the Secretary of State for Education and School Administration (*Secretaria de Estado da Educação e da Administração Escolar*), a legislative initiative to fully review and clarify the regulation of the special education subsidy.
- b) In the meantime, and while not undertake such a review, promote the adoption of urgent measures to clarify the current regulation of special education subsidy, in order to enable immediate resolution of the ongoing processes.

In reply, the Secretary of State for Solidarity and Social Security (*Secretaria de Estado da Solidariedade e da Segurança Social*) informed that it had been proposed to the Ministry of Education and Science (Ministério da Educação e da Ciência) the creation of a working group to review the legislation.

Sequence: heeded. It was recognized the need of legislative alteration and an interministerial working group (Ministries of Social Security and Education) was created for that purpose.

http://www.provedor-jus.pt/site/public/archive/doc/Rec_15B2012_e_Oficio_SEEAE.pdf

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;



(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

The Ombudsman continues to provide special attention to the problems occurred in the framework of fiscal enforcements, particularly where the entities ordering and/or carrying out the attachments commit irregularities leading to the infringement of minimum limits of unseizability enshrined in law. This envisages making available to the debtors a minimum income that guarantees their subsistence.

The most frequent irregularities relate to the full attachment of bank account balances. This situation is particularly serious when salaries and pensions are deposited on the accounts in question, since they are often the sole source of income of the debtor and of his household. Hence, the full attachment – expressly prohibited by law – may put at risk their subsistence.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

The budgetary context of the National Health System (NHS), in the framework of the Economic and Financial Assistance Program (IMF, ECB and EC) has raised concerns in two main areas.

On one hand, the modification of the legal framework for the exemption or remission of user fees for access to health care provided by the NHS, and also the significant increase in those same rates.

The need of a medical proof for exemptions for persons with disabilities provoked a large number of requests while a shortage of human resources to constitute medical



committee boards has resulted in significant delays, sometimes the death of the applicant occurring prior to the required medical analysis.

The Ombudsman made a recommendation to the Government for the improvement of various aspects of the current legal framework. It should be emphasized the need to assess the economic condition of applicants taking into account the rapid changes in the situation (the case of unemployment was now resolved) and the need to consider the actual size of the household (the current system finds irrelevant the number of dependent children).

On the other hand, the access to drug therapies in the case of rare diseases (the so-called “orphan medicinal products”) and certain situations like oncological diseases and some chronic diseases, such as multiple sclerosis, is also a cause of concern.

The Ombudsman also has been concerned with ensuring not only access to health care but, especially, equal access regardless of place of residence or unit health care provider.

The Portuguese Ombudsman has made three Recommendations in order to improve the right of everyone to “the enjoyment of the highest attainable standard of physical and mental health.”

The Recommendations 8/B/2012 and 10/A/2012 were sent to the Minister of Economic Affairs and Employment (Ministério da Economia e do Emprego) after receiving several complaints from families of casino gamblers that suffer from the so called “pathological gambling” which is an internationally characterized mental pathology that requires clinical follow up.

The Ombudsman has confirmed that the admission and stay in casino game zones is only prevented by reasons of unsuitable attire or visible inability (e.g. under the age of majority). Since problem gamblers are not previously identified, their admission is allowed even when they are listed as self-excluded gamblers or they are banned by the administrative authorities or courts. Even people that are considered incapables or interdicts, whose access to the casinos is legally prohibited, are not, in practice, prevented to access because the sentences aren’t communicated to the casinos. Many banned or compulsive gamblers are lured by advertising directed to promote the client’s loyalty.



It was recognized that the National Health System doesn't have any specific measures or programs to address this problem in contrast to the drugs and alcoholism addiction problems.

The Ombudsman recommended the adoption of several measures to fulfill the lack of information and treatment measures. Some of those measures are:

- The problem gamblers should have the possibility to require the prohibition to access to the casinos through the family doctor or the mental health doctor;
- The promotion of greater disclosure of the symptoms and the self-excluded system, notably in the websites of casinos and public services responsible for monitoring casinos and control addictions;
- To provide the distribution of written information about the characteristics of the disease, the treatment centers and telephone lines of support;
- Create and disseminate information about the places where problem gamblers can treat themselves. *Inter alia*, this information should be included on the requirements for self-excluded gamblers;
- Encourage the prevention, treatment and study of gambling addiction, in particular through the allocation of funds from casinos;

It is also necessary to support the gamblers' families affected by high expenses due to the gamblers' addiction and by the accumulated debts, often at usurious rates.

The economic downturn, high unemployment levels and social disruption accentuated the need for the Ombudsman to recommend the Minister of Economic Affairs and Employment the urgent adoption of legislative and regulatory measures, based upon conclusions from several studies on the so-called 'responsible gaming'.

Follow up: The Minister of Economic Affairs and Employment committed to adopt all the measures recommended. Some of the measures have been already adopted, such as:

- The creation, in July, of the Referral Network/Articulation within the Addictive Behaviors and Dependencies: health public centers, hospitals and the family doctor will work together in order to assist the problem gamblers as soon as possible and to define the best way to help them;
- Training will be provided to the family doctors in order to be able to focus the assistance on initial behavior modifications;



- A Code of Conduct has been approved. It had the cooperation of the Casino's Association to increase the responsible gaming police.

http://www.provedor-jus.pt/site/public/archive/doc/Rec_10AB2012.pdf

The Recommendation 4/A/2013 was sent to the Directorate-General for Health after consideration of several complaints from previous years revealing the lack of coordination between different public authorities in monitoring the problems caused by carriers of Diogenes syndrome, which is a mental pathology characterized by intense accumulation of objects and waste within households.

The Ombudsman has confirmed that, although the legal framework regarding these situations seems to clearly define the competence of every entity involved, the neighbors who are affected by the infestation and the propagation of smells are often faced with the difficulties of local health authorities in ensuring public health conditions. In a significant number of cases, public services support an inadequate interpretation of their legal competences to handle this pathology that allows them to consider there is no effective risk to "public health". Whereas the severity of the management of these cases does not comply with a limited understanding of public competences, as it frequently occurs. Following the study of this matter, in cooperation with the Coordinator of the National Mental Health Unit, it was concluded that the elaboration of an orientating document would be of the utmost convenience.

The Ombudsman recommended the adoption of a document containing guidelines on how to handle these cases, in order to:

- Ensure a fair balance between the rights involved, through the adequate definition of procedures that allow the restoration of health conditions inside the building and the respect of the patient's dignity;
- Reach a coordinated action between health and municipal authorities involved in the treatment of these cases;
- Improve the effectiveness of the approach of local health services, allowing the early recognition of signalised situations and avoiding restricted interpretations of concepts;
- Disclose the information to the competent judicial authorities, avoiding unnecessary delays.

http://www.provedor-jus.pt/site/public/archive/doc/Rec_4A2013.pdf



Article 13

- 1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
- 2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
 - (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
 - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
 - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
 - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*
- 3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*
- 4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.*

The economic crisis has increased pressure on public schools, especially in large urban areas, leading to greater difficulties in providing suitable vacancies in the area where family life is based or in close proximity to the residence or ensuring a minimum distance between siblings who are studying in different schools. The lack of public response is especially evident in preschool.

The Ombudsman has had occasion to intervene in ensuring free meals or reduced price in schools, according to the family income. Indeed, there were situations where the various entities involved (municipalities or parents associations in charge of this service)



that formally guarantee gratuity or price reduction, but do not practice effectively, by requiring the payment of related services (eg, transport costs, and plating surveillance).

The extension of compulsory education to secondary school has exacerbated the problem of alternative curricular paths, in terms of supply.

In terms of social action in graduate education, the legislative changes of recent years have led to an increase in complaints related to the treatment of conditions resulting from the economic crisis, namely the sudden loss of income and exclusion for debts to the state.

Article 15

- 1. The States Parties to the present Covenant recognize the right of everyone:*
 - (a) To take part in cultural life;*
 - (b) To enjoy the benefits of scientific progress and its applications;*
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.*
- 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.*
- 3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.*
- 4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.*

Having noted that the legal system in force did not protect adequately the income arising from copyright, allowing its full attachment and putting at the risk the subsistence of authors that did not have other source of income, the Ombudsman decided to open an own-initiative case, aiming to stop this.

After having conducted several inquiries within the Ministers of Finance, Justice and Culture of two governments, the Ombudsman was pleased to note that attachments over artists' income became subject to the limits of unseizability that was already enshrined in law for employees, following the amendment by the end of 2012 to the Copyright and Related Rights Code, as recommended by the Ombudsman.



PROVEDOR DE JUSTIÇA

The changes to the rules of the Civil Procedure Code governing the income attachments, already in 2013, strengthen the protection of this income and ensure a minimum level of subsistence to authors and self-employed workers in general.