



# Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General  
16 December 2024

Original: English  
English, French and Spanish only

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## Committee on the Elimination of Discrimination against Women

### Information received from Portugal on follow-up to the concluding observations on its tenth periodic report\*

[Date received: 12 December 2024]

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\* The present document is being issued without formal editing.



## **I. Follow-up information**

1. Pursuant to §47 of the concluding observations of the Committee on the Elimination of Discrimination against Women on the tenth periodic report of Portugal, in which the Committee requested follow-up on the implementation of four recommendations, in accordance with article 18 of the Convention, Portugal submits the following information.

### **A. Follow-up information relating to paragraph 11 (c) of the concluding observations (CEDAW/C/PRT/CO/10)**

2. On 8th March 2018, Portugal adopted the National Strategy for Equality and No-Discrimination 2018-2030. It is the first instrument which explicitly refers to intersectionality as a principle that occurs at the intersection of gender/sex with other factors of discrimination, including national origin.

3. Intersectionality is one of the cross-cutting lines of the National Strategy.

4. Within the framework of the National Strategy, there are 3 action plans: i) for equality between women and men; ii) on preventing and elimination of violence against women and girls; iii) a specific Plan addressed to elimination of discrimination against LGBT+ persons.

5. In order to combat discrimination against women, particularly in vulnerable situations, other relevant Plans and measures were adopted:

- The II National Plan for Youth - Adopted in September 2022, considers Youth as a heterogeneous social group and strikes a balance between comprehensive policies for youth and policies targeted at groups in more vulnerable situations or with specific needs;
- The National Strategy for the Integration of Roma Community - Adopted in 2013, includes among its strategic objectives equality between women and men. The dimension of gender equality and the fight against discrimination is mainstreamed to the entire process of planning, implementation, monitoring and evaluation, taking into account the special circumstances and needs of Roma women and men, as well as the hierarchical relationships between them;
- The inclusion of the policy area of combating harmful traditional practices in the guidelines of the National Strategy for Equality and Non-Discrimination, such as female genital mutilation (FGM) and child marriage;
- The establishment of a Thematic Working Group on Female Genital Mutilation (FGM) in 2019, to promote dialogue and support the implementation of policies and measures to combat violence against women. It is composed of 15 public institutions, 12 NGOs, and municipalities.

6. Additionally, other measures aimed at persons with special vulnerability were implemented, namely:

- Creation of shelters for victims in situations of special vulnerability; one for women with disabilities; a shelter for women with mental health problems and other in response for the LGBTI population;
- Opening of Victim Support Offices at the National Support Centres for the Integration of Migrants (CNAIM) in Lisbon, Faro and Porto, as an innovative response developed to improve support to migrant victims of domestic violence and/or harmful practices;

- Initiation of procedures to open three residential structures for elderly women victims of violence, with 120 places, in three Portuguese regions: North, Centre and Alentejo;
- Creation of 31 psychological and psychotherapeutic support teams for children and young victims of domestic violence with a focus on trauma, in 2021, supported by the National Support Network for Victims of Domestic Violence with an allocation of 2,788 million euros;
- The increase of the period of permanence in an emergency shelter to three months, extendable for two equal periods, for victims with increased vulnerability, as a result of the amendment to the Regulatory Decree No.2/2018;
- The inclusion of a gender perspective in the Immigrant Integration Indicator Reports with indicators disaggregated by gender.

7. Regarding training and dissemination of information, the following initiatives should be underlined:

- Promotion of awareness-raising actions on gender equality by the former High Commissioner for Migration (ACM), in cooperation with the CIG, for its collaborators;
- Seminar on the situation of black and Afro-descendant women in Portugal, also organised by the former ACM;
- Inclusion of training modules on “Gender in interventions with homeless people” and Sexual orientation, gender identity and sexual characteristics”, as part of the continuing training plan for workers at the Local Centres for the Integration of Homeless People;
- Two training actions as part of a partnership between CIG and the Women’s Rights Platform: A 7-hour training session on women’s human rights and a workshop entitled “A human rights-based approach to intersectional discrimination” given by the European Network of Women Migrants;
- Launch of the public consultation for the production of white papers and recommendations on “Intersectional and Multiple Discrimination”. Under the framework of the EEA Grants, the aim is to analyse the framework of intersectional and multiple discrimination in national legal frameworks;
- Launch by CIG of an e-book entitled “Women’s Daily Lives and Disability” on the situation of women with disabilities;
- Development of the study “Cleaning in times of pandemic: between precariousness and risks in the health of cleaning service workers”, within the framework of the Special Support Gender Research for COVID 19, available in link: <https://www.cig.gov.pt/2021/11/estudo-mostra-que-50-das-empregadas-de-limpeza-estem-receio-de-contrair-covid-19/>.

## **B. Follow-up information relating to paragraph 15 (a) of the concluding observations**

8. The Commission for Citizenship and Gender Equality (CIG) is the service of the central administration of the State responsible for the implementation of public policies in the areas of citizenship and gender equality. Its organic structure is established by Regulatory Decree-Law No. 1/2012, of 6 January.

9. CIG adopts a comprehensive, gender mainstreaming approach, collaborating with civil society, academia, municipalities, and other sectors to implement action

plans addressing gender equality and the trafficking in human beings, with the aim of reducing inequalities, combating domestic and gender-based violence, dating violence, promoting LGBTI+ rights and contributing to the eradication of trafficking in human beings. In addition the CIG holds delegated powers under PT2030 to manage funds for gender equality and prevention of domestic violence through the PESSOAS2030 programme for the management of funds in the area of equality and prevention of domestic violence, in which it is supported by the Task Force for Gender Equality.

10. In August 2023, a new Action Plan for equality between women and men was approved for the period 2023–2026; it has seven main goals: *i*) to mainstream the fight against gender-based discrimination and equality between women and men in all public policies; *ii*) to promote education free of gender stereotypes; *iii*) to promote equality in research and development, and in the digital world; *iv*) to guarantee full and egalitarian participation of women in the labour market; *v*) to promote the balance between professional, family and personal lives; *vi*) to combat poverty and to promote access to health; *vii*) to promote gender equality in culture and the media.

11. The Commission for Citizenship and Gender Equality offers technical support to all other public entities from central administration so that they can define sectoral gender equality plans (note also that each Ministry must appoint an equality counsellor). Support is also offered to private companies (note that state-owned enterprises and companies listed in the stock exchange are mandated by law, since 2017, to draft a yearly gender equality plan). The Commission also offers support to municipalities when drafting their local gender equality plans; while they are not mandated by law to do so, 195 out of 308 municipalities have already adopted such plans.

12. The State Budget for 2021 was the first to include a specific norm stipulating that each area of government's budget must include a gender perspective and that programmes or initiatives undertaken by each area of government should include disaggregated data by sex. Additionally, since 2018, every legal diploma (both those issued by Parliament and by Government), before their approval and when they undergo final analysis, must be accompanied of a technical note which must include a gender impact assessment.

### **C. Follow-up information relating to paragraph 23 (d) of the concluding observations**

13. In its 10th report Portugal noted that:

- In what regards cooperation and coordination between family and criminal courts, as already informed to the Committee, Law no. 24/2017, of 24 May, establishes the urgent regulation of the exercise of parental responsibilities in case of domestic violence between the parents.

14. In fact, this law established the urgent regulation of parental responsibilities in situations of domestic violence and added:

- Article 1906-A of the Civil Code: It allows the joint exercise of parental responsibilities to be deemed contrary to the interests of the child if coercive measures or restrictions on parental contact are imposed as a result of domestic violence or abuse;
- New paragraph 4 of Article 31 of Law No. 112/2009: Establishes urgent measures to restrict parental contact in domestic violence cases, requiring immediate communication with the Public Prosecution Service to initiate the regulation of parental responsibility;

- New paragraph 4 of Article 200 of the Code of Criminal Procedure: Similar to the previous article, it mandates the urgent communication of restrictions on parental contact to the Public Prosecution Service;
- New Articles 24-A and 44-A of the General Regime of Civil Guardianship Proceedings: Prevents mediation when coercive measures or contact restrictions are imposed and requires the Public Prosecution Service to request urgent regulation or alteration of parental responsibilities within 48 hours. A conference is held within five days, and a provisional regime is established if the parents cannot agree.

15. These legislative changes aim to ensure the safety of victims and protect the rights of children in cases of domestic violence.

16. To fully inform the Committee on Portugal's efforts in the matter of coordination between family and criminal courts, mention should be made to the Directive no. 5/2019, issued by the Prosecutor's General establishing procedures to be followed by Prosecutors in matters of domestic violence. Note that the Prosecutor's General Office is a hierarchical structure where Prosecutors must follow orders by the Prosecutor's General Office, including through directives.

17. Following the creation, in 2019, of the Specialized and Integrated Sections on Domestic Violence (SEIVD) in Lisbon and Porto and within the scope of the Regional Directorates for Criminal Investigation and Prosecution, Directive no. 5/2019 included a detailed chapter dedicated to the coordination of the criminal and the family and children's areas.

18. SEIVD's are made up of a Criminal Action Unit (NAP) and a Family and Children's Unit (NFC). Roughly speaking, this Directive includes rules on communication between NAP and NFC and specific procedural rules for NFC, which include liaison with the Child and Youth Protection Commissions (CPCJ), all of which are of a priority nature.

19. The Directive ensures that these rules also apply where there are no SEIVD's and whenever there are reports of children being present in the context of domestic violence, regardless of whether they are the recipients of the violent acts.

20. Under this Directive, Prosecutors are obliged to act under a 72-hour period granting protection measures for the victim and the promoting coercive measures for the aggressor.

21. Also in place is a 72-hour manual for the criminal police bodies to act under such period in coordination with the Public Prosecution Offices.

22. Regarding civil protection measures mention should also be made to the amendment of divorce proceedings in case of domestic violence by Law no. 23/2003 (Articles 1779 of the Civil Code and articles 931, 990 and 998 of the Code of Civil Procedure) establishing that "in cases where one of the spouses is accused or has been convicted of committing a crime of domestic violence against the spouse requesting the divorce, the latter has the option of waiving the attempt at conciliation".

23. Domestic violence is a crime punished by the Criminal Code, and people who suffer from have access to a Victim Statute and the rights and protection measures therein, from the complaint or notice of the crime to the trial stage – Law no. 130/2015.<sup>1</sup>

<sup>1</sup> [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2394&tabela=leis&nversao=&somiolo=](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2394&tabela=leis&nversao=&somiolo=)

24. Indeed, Portuguese law has made huge progress when it comes to victim protection, mainly in the domestic violence area with Law no. 112/2009.<sup>2</sup>

25. These efforts are centred in the victim's needs, and naturally, are developed from a criminal proceedings point of view. Criminal proceedings are now strengthened with coercive measures of civil nature or that have immediate repercussions in family and children law proceedings, being immediately communicated by prosecutors or judges for action in family and children's courts.

26. Regarding access to other protection measures against abusive partners, besides the ones already mentioned regarding divorce, parental and parental responsibilities, Laws no. 130/2015 and no. 112/2009 introduced several protection measures that are adopted at the early stages of criminal proceedings by the Police, the Prosecutor or under the National Support Network for Victims of Domestic Violence, namely:

- Police accompaniment for the removal of goods from the victim's home;
- The application of the tele assistance measure and the use of a structure or response from the national support network for victims of domestic violence, namely shelters, and confidential domicile;
- Risk assessments;
- The use of statements for future reference to avoid victimization;
- The accompaniment of the victim by an expert or a person they trust during the proceedings.

27. In conclusion, Portugal firmly believes that its legislation already entails a comprehensive approach to the phenomenon of domestic violence and that the necessary communications mechanisms are in place to ensure victim's protection against the aggressor. As such, no recourse to civil courts to obtain criminal protection measures against aggressors is envisaged. Furthermore, as domestic violence is a public crime under Portuguese criminal legislation, there is no need for the victim to engage, by itself, in criminal proceedings, as the judicial authorities involved are able to act on its own initiative and initiate criminal proceedings based on the mere notice of the crime (by anyone who wishes to report it or when the crime comes to his/her attention by any means) and even if the victim does not file a complaint.

#### **D. Follow-up information relating to paragraph 41 (c) of the concluding observations**

28. The Portuguese National Health Service (NHS) provides universal access to health care, including sexual and reproductive health, ensuring equality for all women, regardless of their legal status, socioeconomic background, age, disability or disease, guided by human rights principles and the professional codes of ethics and deontology of the different professional bodies working in the health services in Portugal.

29. Access to information is essential for citizens to fully exercise their rights. Health interventions can only take place after free and informed consent. Users must be informed in advance about the purpose, nature, risks, and alternatives beforehand. The person providing the information must ensure understanding. Anyone aged above eighteen and without permanent or temporary cognitive impairments has the capacity to consent. If someone is unable to consent, consent cannot be given by a family

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<sup>2</sup> [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1138&tabela=leis](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1138&tabela=leis).

member or spouse; but by a court-appointed legal representative or guardian, in line with the principles of autonomy and self-determination and current legislation.

30. There is a legal framework that requires that the participation of persons with disabilities be ensured to the greatest extent possible must be ensured in order to obtain consent, which may be given in writing, orally, or by any other direct means of expressing their will.

31. Informed consent may be:

- Tacit or implicit, when it results from facts that are likely to reveal it;
- Presumed, when the user is incapable of expressing his or her will and when the situation is urgent, without prior expression of will, in the sense of refusal of health care;
- With the intervention of third parties, namely their legal representative or judicial authority in the case of persons with disabilities.

32. Consent may be revoked at any time, up to the time of the consented act.

33. Nationwide, there are several legal diplomas that integrate gender-sensitive and preventive measures against all forms of discrimination against women, of intersectoral or specific scope for the health sector, and that contribute to the response and intervention with regard to the rights of women with disabilities and/or other vulnerabilities, namely:

- National Strategy for the Inclusion of Persons with Disabilities (2021–2025), adopted by the Resolution of the Council of Ministers no. 119/2021;
- Law no. 110/2019, which establishes the rights applicable in the context of preconception, medically assisted procreation, pregnancy, childbirth and the postpartum period. This Law states that “Women and new-borns must be subjected only to the necessary procedures during labour, birth and the postnatal period, and care must be provided according to the best scientific knowledge (...);”
- Law no. 17/2016, expands the access to medically assisted procreation to all women regardless of infertility diagnosis, marital status or sexual orientation, including female couples;
- Law no. 35/2023, (Mental Health Law), guarantees the right of persons with mental health needs to freely decide on their healthcare (Article 7). It also prohibits psychosurgical interventions without the written consent from the patient and the approval of two psychiatrists and a neurosurgeon (Article 8). The law defines the exercise of the rights of persons with mental health needs, including provisions for representation by a healthcare proxy or agent when person is unable to consent (Article 9);
- Law no.3/84 – Law on Voluntary Sterilisation, establishes the obligation to give informed consent through written declaration to undergo the voluntary sterilisation procedure (Article 10.º);
- Law no.95/2019, which approves the Basic Health Law, in relation to the rights of citizens on informed consent, affirms that the individuals in a way to decide, freely and clearly (...) *about the health care offered to them* have the right (...) *to be informed in an adequate, accessible, objective, complete and intelligible way about their situation, the objective, nature, possible alternatives, the benefits and risks of the proposed interventions and the likely evolution of their health status depending on the plan of care to adopt* (...) It also establishes the right to access their health information directly, without the mediation of a health professional;

- Law no. 49/2018 – Legal Scheme of the *Adult Accompanied*, regarding to the health's actions, in terms of promoting women's rights and eliminating all forms of discrimination, including women and girls with disabilities, are guaranteed transversally through the implementation of various health programs, guidelines and technical documentation from the Directorate-General of Health;
- Opinion on the National Ethics Council for Life Sciences (no. 35/CNECV/01) and is also found in the Code of Ethics of the Medical Order (art. 66), which states that irreversible sterilization methods, like tubal ligation and vasectomy, require full, informed consent. For minors or incapacitated individuals, judicial consent is needed. In emergencies, decisions for incapacitated patients must prioritize their best interests;
- Norm 015/2013 (DGS), with update in 4/11/2015 – Establishes that informed consent is given freely and in writing;
- Translation of informed consents in the field of sexual and reproductive health. The Directorate-General of Health (DGS) translates informed consents regarding sexual and reproductive health to ensure better understanding and informed decision-making. The voluntary abortion consent form has been translated into 14 languages and is available on the DGS website since October 2023<sup>3</sup>.

## Health professionals training and ethical standards

34. The Health Programme for the Prevention of Violence in the Lifecycle addresses the prevention of all forms of violence, including gender-based violence and violence against girls and women. It encompasses all forms of victimization throughout the life cycle and in different contexts with generic protocols of action for intervention across the NHS at primary and hospital care levels, ensuring equality and equity. Despite its broad spectrum of action, the programme takes into account the specific vulnerabilities of women and girls.

35. The Clinical Registry of Violence in Adults, implemented in NHS systems, guides health professionals on best practices and referrals. With 551 multidisciplinary teams, the programme provides training, awareness, and intervention on gender-sensitive issues, including CEDAW topics.

36. Other activities are regularly organized, as:

- Awareness-raising actions targeting the general population, the community, health professionals and other sectors on gender equality, sexual and reproductive health, prevention of violence against women and domestic violence, female genital mutilation, sexual violence, trafficking in human beings, etc;
- Production of campaigns and educational materials, including the commemoration of milestones, on human rights, gender equality and the prevention of violence against women;
- Participation in the project *Sexual Violence in Intimate Relationships*, a joint initiative of the CIG and the Family Planning Association (APF), with intersectoral support, which aims to raise awareness and provide training for public administration and health professionals through awareness campaigns;

<sup>3</sup> <https://www.dgs.pt/saude-a-a-z.aspx?v=%3d%3dBAAAAB%2bLCAAAAAAABABLszU0AwArk10aBAAAAA%3d%3d#programas-de-saude/saude-sexual-e-reprodutiva/interrupcao-da-gravidez/informacao-a-populacao>.

- Participation, as a partner organisation, in the project improving prevention, assistance, protection and (re)integration systems for victims of sexual exploitation of the Directorate-General for Health.

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