



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined eighth and ninth periodic reports of Portugal*

1. The Committee considered the combined eighth and ninth periodic reports of Portugal (CEDAW/C/PRT/8-9) at its 1337th and 1338th meetings, on 28 October 2015 (see CEDAW/C/SR.1337 and 1338). The Committee's list of issues and questions is contained in CEDAW/C/PRT/Q/8-9 and the responses of the State party are contained in CEDAW/C/PRT/Q/8-9/Add.1.

A. Introduction

2. The Committee welcomes the submission by the State party of its combined eighth and ninth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its delegation, which was headed by the Ambassador and Permanent Representative of Portugal to the United Nations Office and other international organizations in Geneva, Pedro Nuno Bártolo, and included representatives of the Commission for Citizenship and Gender Equality, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Internal Administration, the Ministry of Justice, the Ministry of Agriculture and Sea, the Ministry of Health, the Ministry of Education and Science, the Ministry of Solidarity, Employment and Social Security, the Office of the High Commissioner for Migration, and the Regional Secretary for Inclusion and Social Affairs of Madeira, as well as other representatives of the Permanent Mission of Portugal to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee notes the progress achieved since the consideration in 2008 of the State party's seventh periodic report (CEDAW/C/PRT/7) in undertaking legislative reforms, in particular the adoption of the following legislation:

* Adopted by the Committee at its sixty-second session (26 October-20 November 2015).



(a) Law No. 26/2014 on asylum, introducing a gender-sensitive framework for the protection of refugees and asylum seekers, in 2014;

(b) Amendments to the Penal Code to include “gender identity” as a prohibited ground of discrimination, in January 2013;

(c) Law No. 7/2011 on gender identity, on 15 March 2010, and amendments to the Civil Code recognizing different forms of family relations, on 31 May 2010;

(d) Labour Code, introducing legal provisions on the protection of parenthood and reconciliation of work and family life, on 12 February 2009;

(e) Law No. 112/2009 on domestic violence, on 16 September 2009.

5. The Committee welcomes the State party’s efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) Fifth national action plan for gender equality, citizenship and non-discrimination (2014-2017);

(b) Third national action programme for the elimination of female genital mutilation (2014-2017);

(c) Second national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security (2014-2018);

(d) National strategy for Roma people (2013-2020).

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to, among others, the following international and regional instruments:

(a) Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization (ILO), in 2015;

(b) International Convention for the Protection of All Persons from Enforced Disappearance, in 2014;

(c) Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), in 2013;

(d) Maternity Protection Convention, 2000 (No. 183), of ILO, in 2012;

(e) Convention on the Rights of Persons with Disabilities, in 2009.

C. Principal areas of concern and recommendations

Parliament

7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.

General context

8. The Committee notes with concern that austerity measures, many of which have been taken by the State party under the bailout agreements with the European Union institutions and the International Monetary Fund, have had a detrimental and disproportionate impact on women in many spheres of life. The Committee also notes that few studies and evaluations have been conducted to monitor the gender-specific effects of such measures. The Committee wishes to emphasize that the concerns expressed below take into account the exceptional circumstances that the State party has faced in recent years and is still facing. However, the Committee reminds the State party that, even in times of fiscal constraints and economic crisis, special efforts must be made to respect women's human rights, sustain and expand social investment and social protection and employ a gender-sensitive approach, giving priority to women in vulnerable situations.

9. **The Committee recommends that the State party conduct a comprehensive study on the consequences of the austerity measures on women and design an action plan to mitigate the adverse effects of such measures, as well as seek assistance and support from the European Union and the International Monetary Fund for its implementation.**

Implementation of the Convention in the autonomous regions of the Azores and Madeira

10. The Committee notes the adoption of municipal equality plans (Law No. 75/2013) and the appointment of gender equality advisers in the autonomous regions of the Azores and Madeira, but is concerned that the implementation of the Convention lags behind in those regions. The Committee is also concerned about the lack of a regional plan of action for gender equality in the Azores and the lack of a mechanism dedicated specifically to the promotion of gender equality.

11. **The Committee recalls the obligation of the State party to implement the Convention throughout its territory, including in the autonomous regions of the Azores and Madeira, and to take measures to ensure effective programmes and plans of action to promote women's rights and gender equality. The Committee also recommends that the State party support the establishment of an effective machinery for the advancement of women in the Azores and ensure that it is provided with adequate human, technical and financial resources.**

Visibility of the Convention, the Optional Protocol thereto and the Committee's general recommendations

12. The Committee welcomes the training and the numerous awareness-raising programmes carried out by the State party on the Convention, the Optional Protocol thereto and its general recommendations, including as part of the mandatory curricula of law schools and the professional training of judges and prosecutors. Nevertheless, the Committee is concerned about the lack of information provided concerning impact assessments with respect to such training activities, as well as the lack of data about cases in which the Convention has been referred to by national courts.

13. **The Committee recommends that the State party continue its efforts to provide systematic and mandatory training to judges, prosecutors and lawyers**

on the Convention, the Optional Protocol thereto and the Committee's general recommendations. It also recommends that the State party carry out impact assessments with respect to its training activities for legal professionals. The Committee further recommends that the State party promote the use of the Convention in national courts, give it greater visibility and collect and provide in its next periodic report data on court cases referring to the Convention.

National machinery for the advancement of women

14. The Committee notes the information provided by the State party indicating that there is effective coordination among the various bodies working on gender equality in the State party, such as the Commission for Citizenship and Gender Equality, the equality advisers functioning at the local level and the Commission for Equality in Labour and Employment. While acknowledging the State party's efforts to secure extrabudgetary resources for certain policies, the Committee is concerned about the reported reduction in budget allocations, especially to the Commission for Citizenship and Gender Equality, and that the extra funding may not be sustainable or sufficient for the Commission's extended tasks.

15. The Committee recommends that the State party take measures to provide the Commission for Citizenship and Gender Equality with sufficient and sustainable resources in order to enable it to carry out its functions effectively, and that it intensify its efforts to ensure effective coordination among the various government bodies working on gender equality.

Non-governmental organizations

16. The Committee is concerned about reports that non-governmental organizations working on women's rights have been particularly affected by the austerity measures, which have greatly compromised their activities. It is also concerned about the insufficient engagement of the State party with women's non-governmental organizations.

17. The Committee recommends that the State party take measures to reduce the adverse impact of austerity measures on non-governmental organizations that are working on women's rights and gender equality. In particular, it recommends that the State party provide adequate support, including financial assistance, to such non-governmental organizations and systematically consult them on all matters concerning women's rights and gender equality.

Temporary special measures

18. The Committee notes the information provided by the State party regarding its preference for measures that will have a long-term, transformative effect in terms of "rebalancing" society, and commends it for wanting to effectuate such changes, including through long-term measures within the framework of social, labour and family policies and by conducting gender impact assessments. Nonetheless, it considers that temporary special measures can be used as part of this long-term strategy, for example to rapidly help to alleviate the impact of austerity measures and protect women from being further disadvantaged or marginalized as a result of their implementation, thus accelerating the achievement of substantive equality between men and women.

19. **The Committee recommends that the State party include temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (1992) on temporary special measures, in its legislation, budgetary measures and social and health policies as a rapid response to some of the worst problems faced by women in the context of the austerity measures adopted by the State party. In adopting temporary special measures, the State party should establish specific goals and targets and timetables, as well as a system for monitoring implementation and progress.**

Stereotypes

20. The Committee welcomes the State party's efforts to combat gender stereotypes through education in schools, promotional materials and legislation prohibiting sex-based and gender-based discrimination in the media. It notes with concern, however, that gender stereotypes continue to persist in all spheres of life, as well as in the media, and that the State party lacks a comprehensive strategy for addressing discriminatory stereotypes.

21. **The Committee recommends that the State party further strengthen its efforts to overcome stereotypical attitudes regarding the roles and responsibilities of women and men in the family and in society by adopting a comprehensive strategy addressing the issue and continuing to implement measures to eliminate discriminatory gender stereotypes, educating the public and establishing, as soon as possible, a mechanism for regulating the use of discriminatory gender stereotypes in the media.**

Violence against women

22. The Committee welcomes the adoption of the fifth national plan to prevent and combat domestic and gender-based violence (2014-2017) and the use of electronic bracelets to prevent domestic violence. However, it is concerned about the following:

(a) The prevalence of gender-based violence against women in the domestic sphere and the disproportionately low (albeit increasing) numbers of prosecutions and convictions of perpetrators, compared with the high numbers of reported cases of domestic violence;

(b) The limited use of protection orders;

(c) The lack of coordination between family and criminal courts in cases of domestic violence. As a result, there are limited options available for women who need immediate protection orders, which require that they bring formal criminal charges against their abusers.

23. **The Committee urges the State party:**

(a) **To ensure the strict application of laws criminalizing violence against women, and take additional measures to prevent and protect women and girls from gender-based violence against women in the domestic sphere, including by effectively prosecuting and convicting perpetrators;**

(b) **To apply protection orders against abusive partners;**

(c) To establish a mechanism for ensuring effective cooperation and coordination between family and criminal courts in order to ensure that women have immediate recourse to protection orders and injunctions against abusive partners, without the need to engage in criminal proceedings.

24. The Committee welcomes Law No. 83/2015, aimed at implementing provisions of the Istanbul Convention, but remains concerned that, despite the improvements, the legislation of the State party is not fully in compliance with the provisions of the Istanbul Convention, given that it does not cover all forms of non-consensual sexual acts. The Committee is also concerned about the lack of crisis centres and emergency services for victims of rape, as well as the absence of standard protocols for hospital staff and police officers on gender-sensitive ways to deal with victims of rape. Furthermore, the Committee is concerned that marital rape is rarely prosecuted as a specific crime, in most cases being prosecuted as a form of domestic violence.

25. The Committee recommends that the State party:

(a) Take the measures necessary to adequately address sexual violence in its laws and policies and to ensure that all forms of non-consensual sexual acts are included in the definition of rape under the Penal Code;

(b) Establish crisis centres and emergency services for victims of rape and raise the awareness of hospital staff and police officers about the assistance required in such cases, as well as establish standard protocols dealing with victims of rape;

(c) Review its sentencing policy in cases of marital rape in order to ensure that it is punished in a way that is commensurate with the gravity of the crime.

26. The Committee welcomes the recent amendments to the Penal Code specifically criminalizing female genital mutilation. However, the Committee is concerned about the reports that that crime is being committed against its citizens or residents abroad, and regrets the lack of information concerning the application of extraterritorial jurisdiction in the State party with respect to that crime. The Committee notes the State party's efforts to raise awareness about the harmful effects of female genital mutilation on the health and the lives of women, both within and outside its territory, but expresses concern that those efforts may not be sufficient.

27. The Committee recommends that the State party ensure the strict application of legislation criminalizing female genital mutilation, including by prosecuting and adequately punishing perpetrators, and ensure extraterritorial jurisdiction with respect to female genital mutilation perpetrated outside its territory. The Committee also recommends that the State party strengthen targeted prevention strategies, including education and awareness-raising programmes, in particular for communities in which such harmful practices are prevalent. In doing so, the State party should take into account joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014).

Trafficking and exploitation of prostitution

28. The Committee welcomes the updated national referral system established in 2014 and the third national plan to prevent and combat trafficking in human beings (2014-2017), but is concerned:

(a) That poverty among and the social exclusion of women, in particular disadvantaged and marginalized groups of women such as migrant, asylum-seeking and Roma women, increase their risk of becoming victims of trafficking and exploitation in prostitution;

(b) That there is a lack of adequate victim identification mechanisms;

(c) That a lenient sentencing policy is applied for traffickers, who reportedly are often charged with the crime of pimping, which carries a lighter punishment;

(d) That there is a lack of information on the protection and assistance in place for victims of trafficking, including the issuance of temporary resident permits.

29. **The Committee urges the State party:**

(a) **To intensify its efforts to combat trafficking in women and children and prevent the trafficking of women who live in poverty and are at high risk of trafficking, as well as establish mechanisms for the identification of victims;**

(b) **To ensure the prompt and effective prosecution and conviction of traffickers under the relevant article of the Penal Code;**

(c) **To strengthen the protection and rehabilitation of women who are victims of trafficking by providing them with access to alternative income opportunities and providing undocumented women with temporary resident permits, irrespective of their ability or willingness to cooperate with the prosecutorial authorities.**

Participation in political and public life

30. The Committee welcomes the efforts of the State party to increase the representation of women in political and public life, which have steadily reaped results. However, the Committee is concerned that the parity law of 2006 establishes a minimum quota of 33.3 per cent for candidates of each sex on electoral lists for European, national and local elections, whereas parity may be seen as meaning equal (50-50) representation. In addition, the Committee notes that the parity law has had a limited effect at the local level and that its effectiveness is hampered by the leniency of the sanctions applied in the event of failure to comply with the quota. The Committee is also concerned that, despite some improvements, the numbers of women in decision-making posts in the executive branch of government (8 per cent in mayorships, 10-30 per cent in various executive bodies) and the diplomatic service remain low. While welcoming the very high proportion of women in the judiciary, the Committee regrets that only 8.2 per cent of justices on the Supreme Court of Justice are women and that a number of public bodies have fewer than 35 per cent women. Lastly, the Committee notes that Madeira will also use a parity system in future elections.

31. **The Committee calls upon the State party to increase the representation of women in political life by amending its parity law, in order to reach 50 per cent representation of both sexes in all legislative assemblies at the European,**

national and local levels. The same should be done in the autonomous regions. It also recommends that the State party reinforce the sanctions applied in the event of failure to comply with the law, for example by envisaging the automatic nullification of the electoral lists in question. Furthermore, the Committee recommends that the State party take targeted measures, including temporary special measures in accordance with article 4 (1) of the Convention, to increase the representation of women in decision-making positions in the executive branch and the diplomatic service, on the Supreme Court of Justice and in other public bodies.

Education

32. The Committee welcomes the significant achievements of the State party in increasing the participation of women and girls at the secondary and tertiary levels of education. The Committee is, however, concerned about the sex segregation of fields of study and the underrepresentation of girls in technology and vocational courses and apprenticeships at the secondary level, as well as in engineering, manufacturing and construction courses in higher education, which results in similar sex segregation of occupations in the labour market and higher unemployment rates for young women in spite of their higher rate of certification compared with employed males. While welcoming Law No. 69/2009, which mandates sexual education as a compulsory subject, and the report that it has been implemented in 83 per cent of all schools, the Committee is concerned that the sexual education programme is offered primarily in natural science courses in the third grade and biology courses at the secondary level, resulting in the exclusion of pupils who are not enrolled in those subjects. The Committee is also concerned that the focus is being placed primarily on health and the prevention of sexually transmitted diseases and early pregnancy, rather than on the social relations of gender and the impact of patriarchal attitudes and stereotypes.

33. The Committee recommends that the State party continue its efforts to increase the participation of women and girls at the secondary and tertiary levels of education, including in male-dominated areas such as mathematics, information technology, engineering and construction, to increase their opportunities for employment and thereby reduce their higher unemployment rates. The Committee also recommends that the State party change the mode of delivery of the sexual education programme by offering it as an intact, timetabled subject, thereby ensuring that all pupils are equally exposed to it. In addition, the content of the curriculum should be reviewed to ensure an approach that reflects a strong gender perspective, including unequal power in gender relations, responsible sexual behaviour and the prevention of early pregnancy.

Employment

34. The Committee welcomes Council of Ministers resolutions No. 19/2012, aimed at increasing the representation of women in decision-making positions in State-owned companies, and No. 18/2014, on equal pay for work of equal value. It also welcomes various measures taken to increase the representation of women in the private sector, including major companies traded on the stock market. However, the Committee is concerned:

(a) That, to date, the measures taken have had a limited impact on the employment situation of women, including their career advancement and salaries, which remain significantly lower than those of men;

(b) That the unemployment rate among women, especially young women below 25 years of age, is very high, and women who belong to disadvantaged and marginalized groups, such as Roma, migrant and older women, have very limited access to the labour market;

(c) That discrimination against pregnant women and new mothers continues to exist in the area of employment.

35. The Committee recommends that the State party:

(a) **Take targeted measures, including temporary special measures, such as providing financial incentives for the employment of women;**

(b) **Enhance access to the employment market for women, especially young women, and apply the principle of equal pay for work of equal value in all sectors of the economy;**

(c) **Increase employment opportunities for disadvantaged and marginalized groups of women, such as Roma, migrant and older women, including by providing training and opportunities for women's entrepreneurship;**

(d) **Take all measures necessary to eliminate discrimination against pregnant women and new mothers in terms of employment.**

Health

36. The Committee welcomes the State party's significant achievements in reducing infant and maternal mortality, but is concerned about the limited freedom experienced by women in their family planning and their choices of birth methods. It is particularly concerned about the reports that women are often subjected to overly medicalized births and caesarean operations without having been consulted beforehand. The Committee is also concerned about the amendments in 2015 to the law on voluntary termination of pregnancy (2007), which impose stringent conditions in the form of four separate obligatory consultations prior to abortion, in addition to fees.

37. The Committee recommends that the State party provide for adequate safeguards to ensure that overly medicalized procedures, such as caesarean operations, for childbirth are thoroughly assessed and carried out only when necessary and with the informed consent of the patient. The Committee also recommends that the State party amend its law on voluntary termination of pregnancy and eliminate the excessively burdensome conditions recently introduced, including the requirement of fees, in order to provide women with freedom of informed choice and ensure respect for their autonomy. The State party should organize its health services so that the exercise of conscientious objection in such cases does not impede the effective access of women to reproductive health-care services, including abortion.

Mortgages and financial credit

38. The Committee notes the measures taken by the State party to address the housing situation of families who are in arrears on mortgage or rent payments, including the adoption of a legal framework for the prevention and settlement of arrears relating to credit agreements with household customers and the creation of a property investment fund for rental housing. The Committee is, nevertheless, concerned about reports of evictions as a consequence of mortgage and rent arrears, which, in the light of austerity measures, can have serious consequences for female-headed households.

39. The Committee recommends that the State party strengthen its initiatives, including funds, to address the problem of mortgage and rent arrears, and ensure a gender-based approach in deciding on debt settlements, especially as regards female-headed households.

Rural women

40. The Committee notes the information provided by the State party about the growing number of rural women involved in commercial farming and the large investments made by the State party for such initiatives. Nevertheless, the Committee is concerned that many rural women continue to face significant problems in gaining access to employment and education, and are dependent on low social benefits.

41. The Committee recommends that the State party continue its efforts to encourage women's entrepreneurship, including in commercial farming, and take the measures necessary to provide women living in rural areas with enhanced educational and employment opportunities.

Roma women

42. The Committee notes the national Roma inclusion strategy (2013-2020) and is concerned that Roma women, especially those living in rural areas, face social exclusion and lack access to education, health, employment and housing. It is particularly concerned about the high school dropout rates among Roma girls owing to child and/or forced marriage. Furthermore, the Committee is concerned that a large number of Roma women continue to live in substandard housing conditions, often in informal settlements consisting of barracks, shacks or tents in isolated areas, with limited or no access to public transportation, basic services, such as safe drinking water or sanitation facilities, electricity or waste disposal facilities.

43. The Committee recommends that the State party increase its efforts, including within the framework of the national Roma inclusion strategy for the period 2013-2020, to ensure access to adequate housing and basic services for Roma women, including access to education, health and employment. The Committee also recommends that the State party take measures to prevent Roma girls from dropping out of school by raising the awareness of families and communities about the harmful effects of child and/or forced marriage on the health and development of girls.

Marriage and family relations

44. The Committee notes with concern:

(a) That the State party's legislation establishes different post-divorce conditions for men and women, under which men are allowed to remarry 180 days after the divorce, while women can do so only after 300 days, except under certain conditions that are not equally applicable to men, on the basis of the so-called "presumption of paternity" principle;

(b) That the default minimum age of marriage is set at 16 years (with parental approval), not 18 years;

(c) That, under the State party's legislation, access to assisted reproductive services is not available to all women.

45. **The Committee recommends that the State party:**

(a) **Revise its legislation to provide for equal treatment of men and women with regard to conditions following divorce and eliminate time limits for remarriage;**

(b) **Raise the minimum age of marriage to 18 years;**

(c) **Adopt legislative measures aimed at facilitating and expanding women's right to decide freely and responsibly on the number of their children in accordance with article 16 (e) of the Convention, and ensure access to assisted reproductive services, including in vitro fertilization, for all women without any restrictions.**

Beijing Declaration and Platform for Action

46. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

2030 Agenda for Sustainable Development

47. **The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.**

Dissemination

48. **The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official language of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the parliament and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It recommends**

that the present concluding observations be disseminated in an appropriate form at the local community level to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, the Optional Protocol thereto and relevant jurisprudence, in addition to the Committee's general recommendations, to all stakeholders.

Technical assistance

49. The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.

Ratification of other treaties

50. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.

Follow-up to the concluding observations

51. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 23 (c), 25 (b) and 37 above.

Preparation of the next report

52. The Committee invites the State party to submit its tenth periodic report in November 2019.

53. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.