



PLATAFORMA PORTUGUESA
PARA OS DIREITOS
DAS MULHERES



CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

PORTUGAL - SHADOW REPORT

THE 6TH AND 7TH GOVERNMENTAL PERIODIC REPORTS

Prepared by
Portuguese Platform for Women's Rights
for the 42nd CEDAW Session



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List of Abbreviations

- CCGE** - Commission for Citizenship and Gender Equality
- CELE** - Commission for Equality in Labour and Employment
- CEWR** - Commission for Equality and Women's Rights
- NGO** - Non-Governmental Organisation
- WRNGOs** - Women's Rights NGO's



Introduction

Due to Portuguese constitutional provisions, the *Convention on the Elimination of All Forms of Discrimination against Women* is part of Portuguese national law and can be directly invoked in the Court of Law. In spite of these important provisions, CEDAW lacks visibility and it is neither invoked in Court nor included in the University Law *curricula* or in the training of Judges. Also the Parliament, which ratified CEDAW almost thirty years ago, never committed itself in increasing CEDAW's visibility or its implementation assessment.

There is a need to reinforce partnership between the Government and Women's Rights NGOs (WRNGOs). In opposition to the process adopted in prior CEDAW examination, in 2002, the Portuguese Government did not consult with WRNGOs when preparing following reports.

This is a sign of the present lack of cooperation between the current national mechanism for equality, the Commission for Citizenship and Gender Equality and the WRNGOs, reflected, namely, in the composition of the NGO's Consultative Council. This Council was restructured in a non-transparent way, not including some relevant organizations namely the Portuguese Platform for Women's Human Rights, among others.

The law which created the new national mechanism for equality is ambiguous regarding its actual scope of application as it has been extended to cover other forms of discrimination under the umbrella-type approach of citizenship. Such approach raises the strong concern of discrimination against women being considered just one among other types of discrimination, therefore not clearly acknowledging its structural and horizontal character and the specific forms of discrimination against women.

The Commission for Equality in Labour and Employment (CELE) lacks human resources and has seen its competences diminished.

The need to monitor and strengthen the implementation of laws is an urgent and crucial issue. There still is a frustrating lack of continuous monitoring and periodic evaluation of the implementation of laws, policies and programmes.



*Articles 1 and 2
Elimination of Legal and Real Discrimination.*

*Article 3
Measures, including legislation, in particular in the political, social, economic and cultural fields, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men*

Although there are no discriminatory laws in place **there is a wide gap between *de jure* equality and *de facto* equality.**

National machinery for equality

Since the creation of national mechanisms for equality in the 70's, **none of the successive Governments has allocated sufficient human and budgetary resources for the advancement of women's rights and equality issues.** Both the Commission for Equality and Women's Rights (CEWR) and the Commission for Equality in Labour and Employment (CELE) suffered from a continuous deficit of resources.

Nowadays the situation is even worst since **huge structural changes** are taking place with **frightening consequences for the advancement of women's human rights.**

It is important to note that after the period in analysis, in the year of 2007, the CEWR undertook a profound structural reform. Its designation has been changed to Commission for Citizenship and Gender Equality (CCGE) and its competences were expanded. As a result, **women's rights lost visibility and are in serious risk to be just one among many other issues this new structure has to deal with.**

The NGO's Consultative Council of the CEWR was extinct as an expertise forum for women's human rights and gender equality, losing the knowledge of 30 years of joint work, since the new Council includes other organisations dealing with other types of discriminations. On the other hand, none of these WRNGOs were invited to integrate other sectoral *fora* which still remain in other policy areas, for instance, the Consultative Council for Youth, the Consultative Council for Immigration Issues, among others.



The members of the **Inter-ministerial Consultative Council** have particular responsibilities to cooperate with the national machinery in the mainstreaming of gender in all policies. **Evidence shows the need for specific training on women's human rights and gender equality for these civil servants as well as on national and international instruments** the Portuguese Government is committed to. What has been observed in other sectoral policy plans reflects this lack of knowledge and notes the failure in gender mainstreaming, which they are responsible for.

There is, therefore, an urgent need of **gender equality training for civil servants** because this shortness of knowledge about Women's Human Rights and equality between women and men makes it difficult to promote the advancement of women in all spheres.

The composition of the recently created **Technical and Scientific Advisory Group** reinforces the **ambiguity in the CCGE competences**, since it intends to cover the fields of "citizenship, human rights, women's rights and gender equality"¹, as if **women's human rights were not a transversal issue to all these fields**.

Furthermore, with the creation of this Technical and Scientific Advisory Group, **the uniqueness of the WRNGOs expertise was lost in detriment to the technical / academic knowledge**, as if there were no experts among WRNGOs.

Although the staff has, in fact, increased, the CCGE's increase of competences has **not been followed by an increase in the number of high qualified civil servants with specific experience, knowledge and training on gender equality and Women's Human Rights**.

The **National Plans for Equality, Domestic Violence or Trafficking are not actually national ones**. They are continental plans and **do not include Azores and Madeira Islands under the same reference**. This situation raises major concern on Women's Human Rights in Portugal.

The evaluation of the **II National Plans for Equality and Against Domestic Violence lacked public dissemination**. The design of the III National Plan for Equality took place without benefiting from the conclusions of the evaluation of the II National Plan for Equality, since this evaluation took place after its elaboration.

Financial support to NGO's within the European Social Fund - "Promotion of Equal Opportunities between Men and Women" managed by the National machinery had

¹ Portuguese Responses to CEDAW/C/PRT/Q/7/Add.1, pp. 4



as one of its first consequences the **withdrawal of 84% (!) of the subvention annually granted by the Government exclusively to WRNGO's projects.**

Although financial resources allocated by the **European Social Fund** were comparatively higher than the governmental annual subvention granted to WRNGO, **WRNGO had to compete with much larger, long-professionalised and long government supported NGOs of other sectors** - such as local development and social sector NGOs - which is not the case in the Women's Rights sector.

Unlike the previous governments annual subvention granted to WRNGO, the European Social Fund involved very complex and exasperating time-consuming administrative procedures, both in the application and the implementation of projects.

Furthermore, long and unexpected delays concerning reimbursements during the implementation of the projects, **constrained WRNGO to appeal to bank credits which has made some of them insolvent and facing bankruptcy** due to very high bank interests, which were not eligible for reimbursement. In addition and due to this fact, many WRNGOs had to deal with many problems with services and providers in order to implement their projects.

Finally the technical structure created to coordinate the European Social Fund, the so-called *system of technical and financial support to NGO's* managed by the national machinery, did not include gender experts nor experts in European Social Fund applications. As a consequence, **the system of technical and financial support to NGO's was hardly able to provide the support it was meant to.**

In the new **Social Fund period in Portugal - 2007-2013** - one of the analysis criteria for project funding under the budget managed by the CCGE is that organisations are only eligible if they contemplate in their Statutes and Bylaws the promotion of equality between women and men. **Evidence shows that NGOs from other sectors changed their Statutes and Bylaws to be eligible for funding** - although the majority pay no attention to equality both in their internal system of government and organisation and external intervention and action - and once again long professionalised NGOs from other sectors will benefit **from funding that at its origin had the intention to empower women's rights civil society organisations and intervention.**

The competences of the CELE (tripartite entity composed of representatives from government and social partners) **diminished** as a direct result of the **CCGE restructuring**, as some of them seem - in a way that lacks clarity of objectives - to have been transferred to CCGE, but in different moulds. For example, **the attribution of quality prizes to Corporations with good and well succeeded**



practices in gender equality at work, were previously handled by CELE, in line with its sphere of competence.

The CELE presently suffers from very limited human resources, resulting in a huge difficulty in undertaking its work and in a restricted scope of action with harmful consequences for the situation of women in the labour market.

Gender Violence

We consider that **very few provisions** were made regarding other forms of Violence against women, beyond domestic violence, such as **all forms of sexual violence**.

The **State Budget did not consider budgetary resources** for the implementation of the II and III National Plans against Domestic Violence.

Regarding the protection of victims, the first shelter for women survivors of domestic violence, managed by a women NGO, only opened in October 2001; other shelters accommodated not only women survivors of domestic violence but also social emergency situations, such as homeless people, pregnant women and young women, for example.

It's **inaccurate to talk about a “national network of women shelters”**. In fact, evaluation criteria of domestic violence situations differ from shelter to shelter since **there are no common standards or guidelines**.

The number of existing shelters is **highly insufficient** and the waiting lists are exceedingly long; **no geographical mobility** is offered to the victims, which means that they are accommodated in local shelters, which represents an added **risk for their lives**.

The majority of the shelters created in 2002 and 2003 accepted only women who presented a formal complaint for domestic violence, which we consider a **violation** of Women's Fundamental Rights in regard to the **women's power of decision**. As for **immigrant women**, only those who have a valid entry permit are accepted (which does not include all immigrant women).

At a national level there are few emergency shelters. In case of emergency, women can call the **National Emergency Hotline (144)**, which is not specific for **domestic violence** situations, and they will be housed for 48 hours. The housing provided consists mostly in **very worn-out Residential spaces**, where **multiple**



social problems are melted, including delinquency situations, without any technical supervision.

For example: Social Services pay for a room in a **Residential** and the manager can place **2 to 3 persons with different problems and sexes in the same room**. Worst, placing a **woman** in this kind of Residential may have as a result the **risk of losing her children**, because local social service agents consider that the children are in danger in such a place and take the children **into children's institutions**.

Besides that, **even when women are placed far from home**, they are **required** to be counselled by their **residential local Social Security service the day after**, which does not provide a **safety response** for their lives.

Women survivors of domestic violence don't have priority in public housing services, they wait on average at least five years for a house. Therefore, it is very difficult for women living in shelters to reorganize their lives.

Only in 2008 were women survivors of domestic violence legally exempted from paying a tax service in Hospitals or National Health Centres, although the practical realization of this principle is **not yet confirmed**.

Nowadays we observe that perpetrators have been known to use this mechanism and present themselves in the Health Service as victims.

Institutional community support networks specialised on Domestic Violence are almost non-existent.

Coercion measures included in the law - such as preventive prison, perpetrator withdrawing or electronic bracelet - **are scarcely used by judges**.

Judicial proceedings are very slow (it takes a minimum of 3 to 4 years from the complaint until the sentence). **Sentences hardly ever protect women**: most convictions for domestic violence acts result in suspended term or around 2 years of prison, with no withdrawing measure for the perpetrator after being released and no police monitoring when these measures are pronounced.

There is **no data collection regarding the number of effective convictions and prison sentences or the number of restraining orders applied by the judicial system**. Namely, there are no administrative measures that would enforce an effective eviction of the perpetrator from the home.



The financial compensation mechanisms for survivors of domestic violence are scarcely used due to the complex and difficult design of the legal provisions in this area.

A large number of women give up presenting a complaint because of the difficulty to gather evidence and the lack of witnesses.

Although there were more projects in the area of domestic violence, very few measures were taken in order to promote the sustainability of those projects that create services. As a consequence, these have closed after they had been running for some time. On the other hand, project funding opportunities always require co-funding, which represents a big amount of money for women's NGO.

Sexual violence against women and young girls has not yet been recognised as a national and endemic problem. Portugal has no specialised services in this field, as for example rape crisis centres and there is no national plan of intervention in this field.

*Article 5
Elimination of gender stereotypes.
Recognition of maternity as a social function and of the common
responsibility of men and women
in the upbringing and development of their children.*

Although observing a slight improvement in pedagogical materials that integrate more information about the social role of women, in general gender stereotypes and invisibility of women are predominant.

Gender stereotypes are also constant in the media and advertising

Nothing has been done to eliminate stereotyped sex roles within the Roma community: a significant number of Roma girls still drop out of school after the Primary school and are brought up to be mothers and spouses, for example.



Article 6
Measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Concerning trafficking of women, there is a lack of support for women trafficked for sexual exploitation, such as shelters, legal and psychological support, education and vocational training. It is essential to allocate resources for this purpose. At the moment some NGOs provide these kinds of services (namely psychological support and housing) but have no funding to do it.

There should be specific shelters with specialized staff for trafficked women in order to guarantee their physical and psychological integrity; for the moment, there is only one such shelter.

Trafficked women usually don't have legal entry or stay permits or any documents at all (also, their passports are often confiscated by traffickers) and need a special legal status in order not to be deported.

Training for professionals and civil servants (police forces, lawyers, judges, health professionals, Social Security) is utterly needed. There is a need to build a specialized community support network.

Research is essential to accurately know the situation of trafficked women in Portugal and trafficking schemes.

Awareness raising campaigns have to be promoted in order to inform the public and to alert communities to denounce to the authorities possible trafficking situations.

Traffickers are not condemned for trafficking in women if not caught red-handed, because of the difficulty to gather evidence of the crime, therefore special legislation for these cases must be approved and reinforced.



*Article 7
Measures to eliminate discrimination against women
in the political and public life.*

The presence of women in political and public life is not sufficient yet and still in need to be pushed. The key positions continue to be held by men within the political parties, Government, public bodies, regional and local authorities, economic and social partners, etc.

The approval of the Parity Law (quotas that oblige to a minimum of 33,3% of women and men candidates in electoral lists) in 2006 will allow a larger participation of women in Parliament and City Councils in the next elections. **Nevertheless, the quota is to be applied in the list regardless of eligible positions and there is a persistent need to monitor the situation.**

The lack of equality between women and men at decision-making levels in all spheres still persists. **The poor presence of women in key decision making bodies is in part due to insufficient assumption of the social value of maternity and the difficulties in balancing work and family life and in part to prejudices against women's capacities.**

National mechanisms should promote an accurate and comprehensive study of the situation concerning women's participation in decision making at all levels (not only at political ones, *stricto sensu*) as figures, patterns and trends concerning judges and other judicial officers, public administrative bodies, media, economic and social partners, civil dialog actors (3rd sector) and decision makers in the economic and cultural fields are of the utmost importance for Governmental and non-governmental consistent and articulate intervention, as well as the implementation of a permanent observatory to monitor the situation.

Women's empowerment is of strategic importance to all other critical issues concerning women's advancement and equality.



Article 8

Measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

No measures have been taken to ensure to women equal opportunities to represent Portuguese Government at the international level and to participate in the work of international organizations.

The presence of women in such representations is mainly due to two factors: increasing presence of women applying to diplomatic service and better results in their appliance procedures (higher evaluation in university graduation and in diplomatic applying tests), and acknowledgement of reputation obtained at international levels in other activities not dependent upon Governmental appointment.

Article 10

Elimination of discrimination to ensure equal rights in the field of education.

The current Basic Law of the Educational System (*Lei de Bases do Sistema Educativo*) (Law 46/1986) refers, at Art.3^o sub-heading j), states that “The educational system organizes itself in order to secure Equal Opportunities for both genders, namely through the practice of coeducation and school and professional orientation, and sensitizes, for that purpose, a group of intervenients in the educational process.” However, until the present, that sub-heading has not been regulated, nor have specific measures from the Ministry of Education been implemented.

In Portugal gender equality policies have not yet been mainstreamed in the educational sector. We notice some occasional measures; however their application is not stimulated by ministerial guidelines (e.g. integration of equality between women and men as selection criteria in the choice of educational manuals at the school level).

In Portugal education remains insufficiently sensitive to gender issues. Research has shown that gender stereotypes persist in pedagogical programmes and materials.



The actions developed in the educational field have not been an initiative of the Ministry of Education, it is instead the initiative of the national machinery, of WRNGO, of some City Councils where Equality Counsellors exist and of some primary and secondary schools (in this case, most of the time the projects are occasional and local).

Education and lifelong training are restricted to the promotion of a balanced access and have not been accompanied by measures to combat gender stereotypes when choosing the curriculum.

The success of girls is an European phenomenon that does not occur because of policies that promote gender equality, at the same time it is not reflected in gender equality indicators (e.g. in employment and labour market; in terms of wages; in the use of time or reconciliation).

Statistics of Professional Secondary Schools register a lower feminization rate than ordinary Secondary Schools and Technical Secondary Schools, as well as a bigger bias of the choices by sex in the different study fields. However, Professional Schools secure a better professional insertion.

The significant percentage of women in some professional training courses is due to the fact that these are aimed preferably to unemployed people, of which women are the majority.

Vertical segregation still persists, with women predominantly in the lower teaching categories.

Horizontal segregation persists in higher education: women are still in a larger proportion in social sciences and men in technical and scientific fields.

Human rights, and particularly women's and children human rights are not included in the core curriculum; it should be mandatory for Faculties of Law and recommended from basic school.

Women have difficulties in the access to continuous professional training, especially when it is after working hours, because of the lack of reconciliation measures.



*Article 11
Measures to eliminate discrimination against women in the field of
employment.*

*Measures to prevent discrimination against women on the grounds of
marriage or maternity and to ensure their effective right to work.*

The glass ceiling is still operating, although women have higher academic qualifications than men they do not reach top positions in the companies. **Need to implement affirmative actions.**

When looking for the first job, graduated women take twice longer than men with the same education. The same happens to women that are unemployed and looking for a new occupation, regardless of their education level.

The burden of maternity is still an issue for the majority of women. Need to sensitize employers to the benefits and modalities of reconciliation of private, family and professional life for both women and men.

A gender pay gap still persists and is particularly wider in the higher levels of qualification.

Precarious job contracts are a major obstacle for women to denounce discriminatory practices. WRNGOs are very concerned about the European fashion of the so-called flexicurity measures.

Even if the law prohibits **sex discrimination in employment advertisements**, **indirectly** it still goes on: jobs like secretary, waitress or hairdresser appear mainly in the female form and jobs like electrician, manager or civil engineer appear mainly in the male form. Need to strengthen the monitoring of the law and fight this kind of **stereotypes**.

Women are very often asked questions about their private life (if they are married, if they have children or want to) at **job interviews**, which is completely illegal. This kind of practises is not denounced and employers are not supervised. **Need to inform women about their rights and to press the monitoring of the law.**

Some employers keep pressuring men not to take the Paternity leave, offering to pay an extra amount. Need to press the monitoring of the law.



Concerning Parental leave, few people enjoy their rights because of financial difficulties since only the first 15 days are paid.

Article 12

Measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

Abortion was legalized. Law 16/2007, of 17th April, permits the voluntary interruption of pregnancy during the first 10 weeks of pregnancy, free of payment at a public hospital.

A reflection period of 48 hours is imposed and within two weeks following the abortion the women must attend family planning education sessions to be informed on contraceptive methods.

Family planning does not reach all people, particularly young women. Health Centres with specific consultation for teenagers covered only 57,3% of all health centres. In 2002, 5.9% of all born babies were of women under 20 years.

There are some State Hospitals where doctors refuse to practice the abortion, under the figure of “conscientious objector”, permitted by the Law.

There is no clear data on the number of hospitals where the law is being effectively put in place.

Generalised information and communication regarding sexual and reproductive health did not take place after the approval of the law, which means that the prevention is not fully generalised, with consequences on the fact that women sometimes try to get an abortion past the 10 weeks allowed by law.



*Article 13
Measures to eliminate discrimination against women in other areas of
economic and social life in order to ensure, on a basis of equality of men and
women, the same rights.*

Discrimination in sports still is a critical issue although many of the Portuguese international results in the sports area are due to women.

There is a huge deficit of women's participation at sports decision making levels such as sports federations (in many cases supported by the State budget and enjoying a public utility status) and Portuguese Olympic Committee as well as at the National Sports Council which is an advisory body of the Government.

Women's competition prize money is still much lower than men's. In some cases, competitions organized by City Councils or sports clubs mention in their rules that the prize money is lower for women.

Portuguese Platform for Women's Rights

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