**Portuguese contribution:**

**Human rights in the context of HIV and AIDS**

**(Human Rights Council resolution 47/17)**

Portugal has pioneered a human rights-based response to HIV since the beginning of the epidemic, creating enabling legal environments, adopting progressive drug policies, extending access to HIV treatment and care to all, regardless of a person’s migration status and making advances to promote and protect the rights of LGBTI persons.

Before 2000, Portugal had the highest rate of HIV amongst injecting drug users in the region. In that context, Law 30/2000[[1]](#footnote-1) was approved as part of a set of policies and measures that characterize the “Portuguese model” in the approach of addictive behaviours and dependencies, facilitating social and health interventions, including HIV prevention, treatment, and care.

According to this Law, consumption and possession of drugs and psychoactive substances continues to be prohibited. However, the use and possession of quantities up to the limit considered necessary for average individual use are not a crime. Users are not brought to court and do not get a criminal record, although they may be subject to administrative sanctions. The Decriminalisation Law is based in the recognition that drug users are citizens that need health and social support rather than a criminal procedure.

Since the introduction of this policy and the scale up of harm reduction, treatment and social services, new HIV infections among persons who use drugs have decreased by 90%.[[2]](#footnote-2) Overall drug use rates have also fallen.

Over the years, Portugal has also made considerable efforts to promote and protect the rights of LGBTI persons and to eliminate all forms of discrimination based on sexual orientation and gender identity. Examples of that are the modification of article 13 of the Constitution of the Portuguese Republic (“Principle of Equality”), explicitly including sexual orientation as one of the grounds on which discrimination is prohibited (2004);[[3]](#footnote-3) the approval of same sex marriage in 2010;[[4]](#footnote-4) the recognition of equal adoption rights for same sex couples in 2016;[[5]](#footnote-5) and a gender identity law in 2018 that allows transgender adults to update their names and gender markers in the civil registry to reflect their gender identities without having to submit a medical certificate.[[6]](#footnote-6) Transgender minors ages 16 and 17 are also able to update their names and gender markers in the civil registry to reflect their gender identities, but they must present a clinical report. This is relevant in this context since some of LGBTI persons are among key populations for HIV/AIDS.

While Portugal continues to offer community-based care models and make efforts to better integrate health services, there are still opportunities to actively respond to and combat discrimination.

To take stock of this ongoing process, the National HIV program funded the second survey “Stigma Index”, for the period 2021-2022. The “Persons Living with HIV Stigma Index”[[7]](#footnote-7) is a tool that gathers evidence on how stigma and discrimination impact the lives of persons living with HIV. This tool and the data collection process are developed to be used by and for persons living with HIV and was created to reflect and support the Greater Involvement of Persons living with HIV and AIDS (GIPA) principle. The PLHIV Stigma Index was developed by UNAIDS, the Global Network of People living with HIV (GNP+), the International Community of Women living with HIV/AIDS (ICW) and the International Planned Parenthood Federation (IPPF) and implemented by local organizations. In the case of Portugal, the data collection process is developed by the NGO-led *Centro Anti-Discriminação VIH e SIDA*[[8]](#footnote-8) (Anti-Discrimination Centre).

Despite the progress made over the years, two important improvements were made in 2021: Portuguese authorities approved bills and guidelines to remove all barriers that stopped men who have sex with men from donating blood.[[9]](#footnote-9)

A second recent improvement: the Portuguese Parliament amended in 2021 the Legal Regime of the Insurance Contract, with the aim to reinforce access to credit and insurance contracts by persons in situations of aggravated health risk or disability by prohibiting discriminatory practices.[[10]](#footnote-10)

In the context of the of COVID-19 pandemic, the Portuguese Government decided to grant temporary residency rights to all immigrants and asylum seekers who applied for residency in the country before 18 March 2020, when the state of emergency for COVID-19 was announced.[[11]](#footnote-11) This measure ensured that all those persons still waiting for the residence permit had acess to social and health benefits, including access to the national health service, bank accounts as well as work and rental contracts. This is a practical example of a human rights-based approach in responding to COVID-19, respecting the rights and dignity and prioritizing measures to protect persons in vulnerable situations when responding to COVID-19.

Despite the actions taken and the advances achieved, Portugal faces the need to intensify prevention and testing strategies to reduce the number of new infections and reduce the proportion of new diagnosis. Also, stigma and discrimination are still a reality faced by persons living with HIV.

In addition, the COVID-19 pandemic brought other challenges that still need to be quantified. However, there is already some evidence of the reduction on HIV testing uptake, and some loss of follow-up and retention in care of persons living with HIV. There was also a disruption in new HIV cases notification and monitoring national system.

1. <https://dre.pt/dre/legislacao-consolidada/lei/2000-34545875> [↑](#footnote-ref-1)
2. <http://repositorio.insa.pt/bitstream/10400.18/7243/1/DGS-INSA-RelatVIHSIDA-2020.pdf> (page 50). [↑](#footnote-ref-2)
3. <https://dre.pt/dre/legislacao-consolidada/decreto-aprovacao-constituicao/1976-34520775-50453575> [↑](#footnote-ref-3)
4. <https://dre.pt/dre/legislacao-consolidada/lei/2010-34476675> [↑](#footnote-ref-4)
5. <https://www.seg-social.pt/documents/10152/14446012/Lei_n_2_2016_02_29/03993dc3-75ca-4872-aea4-5262271bf521> [↑](#footnote-ref-5)
6. <https://dre.pt/dre/legislacao-consolidada/lei/2018-115935378> [↑](#footnote-ref-6)
7. <https://www.stigmaindex.org/about-the-stigma-index/the-people-living-with-hiv-stigma-index-2-0/> [↑](#footnote-ref-7)
8. <https://cad.vih.pt> [↑](#footnote-ref-8)
9. <https://www.dgs.pt/normas-orientacoes-e-informacoes/normas-e-circulares-normativas/norma-n-0092016-de-19092016.aspx> [↑](#footnote-ref-9)
10. <https://files.dre.pt/1s/2021/11/22400/0000400008.pdf> [↑](#footnote-ref-10)
11. <https://dre.pt/dre/detalhe/despacho/3863-b-2020-130835082> [↑](#footnote-ref-11)