



PERMANENT MISSION OF PORTUGAL
GENEVA

DH – 248/2014

The Permanent Mission of Portugal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, further to its Note n° 248, dated 31 July 2014, has the honour to enclose herewith the revised version of the replies of the Portuguese authorities to the Questionnaire on the non-discrimination and equality in family and cultural life.

The Permanent Mission of Portugal avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 31 July 2014

Office of the High Commissioner for Human Rights
To the attention of the Equality, Non-Discrimination and Participation Unit
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QUESTIONNAIRE

“NON - DISCRIMINATION AND EQUALITY IN FAMILY AND CULTURAL LIFE”

PORTUGAL’S REPLY

General

1. What status/hierarchy does your Constitution give to international human rights treaties versus domestic law?

Please explain.

Pursuant to article 8 of the Portuguese Constitution, “[...] the rules and principles of [...] international law shall be an integral part of Portuguese law” and the “[...] rules provided for in international conventions duly ratified or approved shall [...] apply in municipal law as long as they remain internationally binding with respect to the Portuguese State.”

Most Portuguese legal literature holds that the Constitution has established a system whereby international law is fully incorporated into domestic law and considers that the status of treaty law, which is that of ordinary international law, is below the Constitution but above ordinary legislation. Accordingly, once ratified by Portugal and published in the Official Gazette, international treaties and agreements, and thus the rights established by them, apply directly and are directly binding on all public or private bodies (Art. 18 CPR).

2. Has your State ratified international human rights treaties with reservations to provisions dealing with equality in family life?

Yes () No (X)

Portugal has signed and ratified, without reservations the International Covenant on Civil and Political Rights and its Optional Protocols; the International Covenant on Economic, Civil and Cultural Rights and its Optional Protocol; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the Convention on the Rights of the Child and all its Optional Protocols; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Convention for the Protection of All Persons from Enforced Disappearance.

If yes, are there plans to withdraw these reservations?

Yes () No ()

Please explain.

3. Are the principles of non-discrimination on the basis of sex/gender and equality between men and women established in the Constitution of your State?

Yes (X) No ()

If yes, please provide references, describe how they are defined (name the specific articles) and whether they cover family and cultural life.

Constitution: 1976, with the successive amendments.

Excerpt from the fundamental rights catalogue of the Constitution

Article 13 - Right to Equality, reinforces the equality principle and contains a reference to non-discrimination on the basis of sex.

Article 9 now identifies promoting equality between women and men as one of the State's fundamental responsibilities and explicitly authorizes the adoption of positive action measures. It recognizes the right of every person, in the framework of the Rights, Liberties and Guarantees, to legal protection against all forms of discrimination (article 26-1), recognizes the right for all workers, of either sex, in the framework of their fundamental rights, to organize their work so as to reconcile their professional and family life (article 59-1-b). Its article 109 on the political participation of citizens, states that "the direct and active participation of men and women in political life constitutes the condition and the fundamental instrument to consolidate the democratic system, in line with the law promoting equality in the exercise of civic and political rights and non-discrimination on the grounds of sex in access to political posts."

With respect to family life, article 36, number 3 says that husband and wife have equal rights and duties regarding civil and political capacity, as well as the care and education of their children.

4. Are there any specific anti-discrimination or gender equality laws in your State?

Yes (X) No ()

If yes, please provide references and briefly describe the content of this law(s), in particular whether it covers family and cultural life.

1996 - Decree-Law No. 3-B/96, of 26 January, creating the High Commissioner for the Promotion of Equality and Family.

1997 - Council of Ministers Resolution No. 49/97, of 24 March, approving the *First Global Equality Plan*.

- Law No. 90/97, of 30 July, extending periods for non-criminal voluntary interruption of pregnancy.

1998 - For the first time in Portugal, two referendums were held: one on the abortion's decriminalization and another on regionalization, with the "No" vote winning in both cases.

- Law No. 18/98, of 28 April, made certain amendments to Law No. 4/84 of 5 April, extending maternity leave to 110 days up to 31 December 1999, and to 120 days thereafter.

1999 - Council of Ministers Resolution No. 55/99, of 15 June, approving the *National Plan against Domestic Violence*.

- Law No. 107/99, of 3 August, which establishes the general framework of the shelters for women victims of violence public network, making the State responsible, through the Government, for their creation, settlement, management and maintenance.
- Law No. 174/99, of 21 September, which approves the military service Law, not establishing any differences between “citizens of the female sex and of the male sex”.
- Decree- Law No. 474-A/99, of 8 November, approving the Organic Law of the XIV Constitutional Government, which creates a Minister of Equality, in the Presidency of the Council of Ministers, who “shall exercise the powers that may be delegated by the Council of Ministers or by the Prime Minister”. The same Decree- Law abolishes the High Commissioner for the Promotion of Equality and Family.
- 2000** - As a result of the change in the government’s structure, introduced by Decree- Law No. 267-A/2000, of 20 October, the Minister of Equality post was abolished.
- 2001** - By Decree of the President of the Republic No. 34-F/2001, of 4 July, a Secretary of State for Equality was appointed. As a result of the government’s structure change in 2002, the Presidency of the Council of Ministers ceases to include the Secretary of State for Equality.
- 2002** - Decree of the President of the Republic No. 15/2002, of 8 March, ratifying the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women, adopted in New York on 6 October 1999, is approved for ratification by Parliament Resolution No. 17/2002, on 20 December 2001, published on 8 March 2002.
- 2003** - Council of Ministers Resolution No. 88/2003, of 7 July, approving the Second National Plan against Domestic Violence.
- Council of Ministers Resolution No. 184/2003, of 25 November, approving the Second National Plan for Equality.
- 2004** - Constitutional Law No. 1/2004, of 24 July, makes the sixth revision of the Constitution. The amendments to the text include the possibility of transposing, into Portuguese Law, treaties provisions governing the European Union as well as rules issued by its institutions, provided certain conditions are observed; the reference to sexual orientation in the principle of equality’s legal provision; and the insertion of the State’s responsibility in the promotion of work and family life reconciliation.
- 2006** - Council of Ministers Resolution No. 64/2006, of 18 May, making the second amendment to Council of Ministers Resolution No. 82/2005, of 15 April, which approved the 14th Constitutional Government’s Council of Ministers’ Rules of Procedure (rectified by Declaration of Rectification No. 31/2006, of 12 June).
- Accordingly, bills submitted for the Council of Ministers’ consideration must be accompanied by an explanatory memorandum on its gender impact assessment, when the subject’s nature has implications for gender equality; it further states that in legal documents the specification of gender should be neutralized or minimized by employing inclusive or neutral forms, namely by using non-specific terms or invariable pronouns.
- Organic Law No. 3/2006, of 21 August, the Parity Law, establishing that the candidates’ lists for Parliament, the European Parliament and the local authorities shall ensure a minimum representation of 33% of persons of each sex.
- 2007** - European Year of Equal Opportunities for All. The mission structure for the implementation of the year was coordinated by the Commission for Equality and Women’s Rights (now Commission for Citizenship and Gender Equality) President.
- Law No. 5/2007, of 16 January (Law on Physical Activity and Sports), stating that everyone, regardless of their sex, has the right to physical activity and sport and that the practice of sport shall contribute to the promotion of balanced and non-discriminatory situations between women and men.

- Law No. 16/2007, of 17 April, which decriminalizes the voluntary interruption of pregnancy if carried out at the woman's decision in the first ten weeks of pregnancy.
- Decree- Law No. 164/2007, of 3 May, approving the Commission for Citizenship and Gender Equality (Comissão para a Cidadania e a Igualdade de Género - CIG) organic structure, whose mission is to guarantee the implementation of public policies in connection with citizenship and the promotion and protection of gender equality (see chapter "Commission for Citizenship and Gender Equality").
- Council of Ministers Resolution No. 81/2007, of 22 June, approving the First National Plan against Trafficking in Human Beings (2007-2010).
- Council of Ministers Resolution No. 82/2007, of 22 June, approving the Third National Plan for Equality – Citizenship and Gender (2007-2010).
- Council of Ministers Resolution No. 83/2007, of 22 June, approving the Third National Plan against Domestic Violence (2007-2010).
- Council of Ministers Resolution No. 86/2007, of 3 July, approving the National Strategic Reference Framework (NSRF) for 2007-2013. This is a strategic document that frames the implementation in Portugal of economic, social and territorial development policies through the structural and cohesion funds associated with the European Union's cohesion policy. The basic aim of its Priority Axis 7 – "Gender Equality" – is to spread a culture of equality through gender mainstreaming strategies in education and training, equal opportunities in access to and participation in the labour market, reconciliation of work and family life, prevention of gender violence and promotion of efficient public policy instruments to promote gender equality and empowerment of relevant stakeholders to pursue them.
- 2008** - Council of Ministers Resolution No. 70/2008, of 22 April, approving strategic guidelines for the state enterprise sector. Its intent is to "design and implement human resource policies aimed at valuing the individual, strengthening motivation and stimulating an increase in employee productivity in a context of balance and strict control of associated costs, compatible with the size and the company's economic and financial situation, and to design and implement plans to promote equal treatment and opportunities for men and women, eliminate discrimination and reconcile personal, family and work life."
- Council of Ministers Resolution No. 161/2008, of 22 October, which adopts cross-over gender mainstreaming measures in the Public Administration and approves the status of equality advisers and members of the interdepartmental teams for equality.
- Law No. 61/2008, of 31 October, stating that divorce may be by mutual consent or without the consent of one of the spouses.
- 2009** - By Decree of the President of the Republic No. 105/2009, of 31 October, a Secretary of State for Equality was appointed.
- Law No. 112/2009, of 16 September, establishing the legal framework for preventing domestic violence and protecting and assisting its victims.
- Law No. 7/2009, of 12 February, which revises the Labour Code and in general terms presents the legal framework for the protection of parenthood.
- Law No. 60/2009, of 6 August, which establishes the framework for sex education at schools. This law is monitored every year and the reports are sent to the National Parliament.
- 2010** - Law No. 26/2010, of 30 August, amending the Code on Criminal Proceedings (among other measures, it alters the concept of violent crime so as to include the crime of domestic violence).
- Law No. 9/2010, of 31 May, allowing civil marriage between persons of the same sex.
- Resolution of the Council of Ministers n.º 94/2010, 29th November, which approves the II National Action Plan against Trafficking in Human Beings (2011-2013).

- Resolution of the Council of Ministers n.º 100/2010, 17th December, which approves the Fourth National Plan against Domestic Violence (2010-2013).
- 2011** - Resolution of the Council of Ministers n.º 5/2011, 18th January, which approves the Fourth National Plan for Equality - Gender, Citizenship and Non Discrimination (2011-2013). Law No. 7/2011, of 15 March, Gender Identity Law, establishing that the procedure for changing the sex and forename entry in the births, marriage and deaths registry.
- By Decree of the President of the Republic No. 54-D/2011, 1st Supplement of 28 June, a Secretary of State of Parliamentary Affairs and Equality was appointed.
- Ms. Assunção Esteves was elected as President of the National Assembly of the XII Legislature, with 186 votes, 41 blank ballots and 1 null ballot. It is the first woman to hold the position of President of the Assembly of the Republic, the second figure of the Portuguese State (Official Journal of the National Assembly No. 2 of 22 June).
- 2012** - Regulamentary Decree No. 1/2012, of 6 January, approves the internal reorganization of the Commission for Citizenship and Gender Equality, which aims to ensure the implementation of public policies in the field of citizenship and the promotion of equality between women and men, in particular by promoting actions aimed at the civic awareness regarding the identification of situations of discrimination and of forms to eliminate them.
- Council of Ministers Resolution No. 19/2012, of 8th March, aims to increase the representation of women in decision-making positions in State-Owned companies, particularly on boards and supervisory bodies, and states that the companies should adopt Equality Plans. Also, the Resolution recommended that private companies should approve equality plans. The State-owned enterprise sector companies must report, every six months, to the member of the Government responsible for gender equality on the result of the measures implemented. Regarding private sector companies, and although the Resolution only recommends the adoption of plans for equality and self-regulation measures, it is also the government's intention to monitor improvements in women's representation in their supervisory and executive boards.
- By Decree of the President of the Republic No. 153-A/2012, of 12 October, Joana Marques Vidal was appointed Attorney General. She became the first woman to lead the Attorney General's office.
- Active measures of employment gave increased financial support (60% of the monthly remuneration of the worker) to the recruitment of women with low qualifications (*Medida Estímulo* 2012, Order 45/2012, 13th February).
- 2013** – Resolution of the Council of Ministers 13/2013, 8th March, which establishes measures to ensure and promote equality of opportunity and results between women and men in the labour market, in particular towards the elimination of wage differences, promoting conciliation between professional and personal and family life, encouraging the deepening of corporate social responsibility, the elimination of segregation in the labour market and other discriminations;
- *Medida Estímulo* 2013, Order 106/2013, 14th March: this new measure increased financial support (60% of the monthly remuneration of the employee) for hiring low-skilled women and workers from the less represented sex in sectors of activity gender stereotyped. This measure also provides a more favorable regime for the unemployed responsible for single parent family.
- Similar measures were also approved for combating specifically seasonality problems in Algarve region.
- Victims of domestic violence have priority at the Institute of Employment and Vocational Training, in particular with regard to registration, participation in technical assistance and integration in active employment measures aimed to facilitating access to the labor market and to employment, training and job offers.

- Amendments to the Penal Code, namely article 152° (domestic violence) extension of the type of crime of domestic violence, which will now also cover dating relationships, although without cohabitation and article 240.° (Racial, religious or Sexual discrimination) introduction in a) of paragraph 1 and a), b) and c) of paragraph 2 of the criminalization of discrimination based on gender identity.
- Resolution of the Council of Ministers no. 101/2013, 31st December, which approves the III National Action Plan to Prevent and Combat Trafficking in Human Beings 2014-2017 (III PNPCTSH).
- Resolution of the Council of Ministers no. 102/2013, 31st December, which approves the V National Plan to Prevent and Combat Domestic and Gender-based Violence 2014-2017 (V PNPCVDG). This includes the III Program of Action for Prevention and Elimination of FGM (2014-2017).
- Resolution of the Council of Ministers no. 103/2013, 31st December, which approves the V National Plan for Gender Equality, Citizenship and Non Discrimination 2014-2017 (V PNI).
- 2014** - Recent legislation has integrated unemployed victims of domestic violence in specific programs for employment (Orders 20-A/2014 and 20-B/2014, 30th January).
- On the 7 March , was published another Resolution of the Council of Ministers that adopts several measures for the promotion of equal pay between men and women and the elimination of wage discrimination based on sex. This Resolution provides that the state companies promote, every three years, a report on the male and female wages in order to take concrete measures to be included in the respective plans for gender equality. It is intended also to deliver to companies an electronic tool that allows, from the insertion of data on workers, evaluate the gender pay gap and identify concrete situations of wage differences between women and men which cannot be explained by objective factors. Another measure consists of leading the discussion about the report on wage differences by branch of activity, produced last year, among the social partners.

5. Have there been any recent legal reforms in your State to guarantee non-discrimination and equality between men and women in family and cultural life?

Yes () No (X)

If yes, please explain and provide examples.

6. Are there any customary, religious law or common law principles/provisions that discriminate against women in family and cultural life?

Yes () No (X)

If yes, please explain and provide examples.

7. Are there any good practices that you can share regarding the elimination of sex discrimination in family and cultural life in your State?

If yes, please explain and provide examples.

8. What actions have been taken by your State to eradicate negative gender stereotypes, including in the media?
Please provide examples.

Portugal is strongly committed to the elimination of traditional stereotypes in the education system. The Ministry of Education and Science (MEC) organized two national competitions entitled “Our School free from Violence” and “Thinking the affections, living in equality”, which dealt with the impact of gender stereotypes in relationships. Awareness-raising campaigns were also organized in schools aiming at combating violence in relationships, eliminating gender stereotypes, and deconstructing assumptions about new masculinities, involving students and teachers, the education system and youth associations.

The Commission for Citizenship and Gender Equality published 4 Guides for education on “Gender and Citizenship”, one guide for teachers of pre-school (ages 3 to 6) and 3 Guides for teachers of basic education (1st grade to 9th grade). These Guides were drafted by experts on gender and education and validated by the Ministry of Education and Science (MEC). The Guides include some key subjects such as Body, Health, Information and Communication Technologies (ICT), Leadership and Vocational Choices and propose activities to mainstream gender issues in several school projects such as health, sexual and reproductive health education, security (including internet security), and non-violent relationships. Results and reports showed that these Guides helped teachers, highlighting the usefulness of training and follow-up actions for the implementation. The implementation of the Guides project, which was a pilot experience, received a positive evaluation, and is currently being expanded.

In the 2010/2011 academic year, 6 professional training actions were organized by MEC, in collaboration with CIG, encompassing 84 teachers, 71 women and 13 men. In the 2011/2012 academic year, training sessions on combating stereotypes and awareness raising on the importance of gender mainstreaming in the sexual education were also organized: by MEC, covering 2,196 teachers (1845 women and 351 men); and jointly by MEC and CIG, covering 59 teachers (55 women and 4 men).

In legal terms, subparagraph (d) of paragraph 2 of article 7 of the Advertising Code stipulates the prohibition of all advertising containing any discrimination with regard to race, language, territory of origin, religion or sex. The responsibility for ensuring this prohibition lies within the Directorate General for the Consumer and the regulatory authority for the media.

9. Are tribunals upholding the principles of equality and non-discrimination in matters relating to family and cultural life?

Yes (X) No ()

If yes, please provide any relevant case-law/jurisprudence.

10. Are there any other mechanisms to monitor draft legislation, specific provisions in draft legislation or reverse decisions discriminating against women in family or cultural life?

Yes (X) No ()

If yes, please provide any relevant examples.

Council of Ministers Resolution No. 64/2006, of 18 May, making the second amendment to Council of Ministers Resolution No. 82/2005, of 15 April, which approved the 14th Constitutional Government's Council of Ministers' Rules of Procedure (rectified by Declaration of Rectification No. 31/2006, of 12 June). Accordingly, legislation submitted for the Council of Ministers' consideration must be accompanied by an explanatory memorandum on its gender impact assessment, when the subject's nature has implications for gender equality; it further states that in legal documents the specification of gender should be neutralized or minimized by employing inclusive or neutral forms, namely by using non-specific terms or invariable pronouns.

Family Life - Equality within marriage

11. Is there a legal designation of head of household?

Yes () No (X)

If yes, is the head of household the male member of the family? What rights or obligations are attributed to the head of household?

12. Do women have the same rights as men in your State in relation to:

(YES) The minimum age for marriage – if the age of marriage is different for men and women, please provide information

(YES) The right to enter into marriage

(YES) The freedom to choose a spouse and to express consent

13. With permission or authorization from parents/guardians/courts, at what minimum age can men and women marry in your State? What enforcement measures are provided by law in this regard?

The Portuguese Civil Code (article 1612) sets the minimum age for minors to marry with authorization from parents is 16 years old. Furthermore, article 1061 states being under the age of 16 is an absolute impediment to getting married.

14. Is there a reference to dowry in the legislation of your State, for example, in marriage contracts or in traditional practice?

Yes () No (x)

If yes, please explain.

15. Are forced marriages prohibited in your formal and customary laws?

Yes (x) No ()

If yes, please provide any relevant references.

The Portuguese Civil Code (articles 1634 to 1638) states that any kind of coercion into getting married constitutes grounds for annulment of the marriage.

16. Are forced marriages or arranged marriages practiced in your State?

Yes () No (X)

If yes, please explain.

17. Is polygamy illegal in your State?

Yes (X) No ()

Article 1601 of the Portuguese Civil Code prohibits polygamy.

If no, is it legal for both men and women?

18. Is the registration of marriage compulsory in the following cases?

(X) civil marriage
(X) religious marriage

19. Are same sex-marriages allowed in your State?

Yes (X) No ()

If yes, please provide references.

Law nº9/2010 legalized same-sex marriages.

http://www.igualdade.gov.pt/IMAGES/STORIES/DOCUMENTOS/LEGISLACAO/LEGISLACAO/DISCRIMANAO/LEI_9_2010.PDF

20. Are same-sex relations criminalized in your State?

Yes () No (X)

If yes, please provide references.

21. Is equality guaranteed between husband and wife in law and practice with respect to:

(X) The right to choose a family name
Civil Code article 1677
(X) The right to choose a profession and occupation
Constitution, articles 47 and 58 nr. 2b)
(X) The right to choose the place of residence
Civil Code article 1673 nr. 1

- (X) The right to have and retain one's nationality
- (X) The freedom of movement (including the right to travel abroad)

Please provide references.

See above

22. Do both spouses have the same rights in law and practice with respect to:

- (X) ownership of property and land
- (X) management and administration of property and land
- (X) enjoyment and disposition of property and land

Please provide references.

Article 1678 of the Portuguese Civil Code lists the rights that each spouse has in regard to their own property and land. These dispositions make no distinction between the rights of the wife and the ones of the husband.

23. Are women who get married subjected to any form of male guardianship?

Yes () No (X)

If yes, what are the specific conditions of this guardianship and what kind of restrictions does it impose on women?

24. Do parents have same rights and responsibilities regarding to:

- (X) Deciding the number and spacing of children
- (X) Guardianship, wardship and trusteeship
Constitution, article 36, number 3)
- (X) Adoption of children
Articles 1979 and following of the Portuguese Civil Code on adoption
- (X) Care of children
Article 1878 of the Portuguese Civil Code: both parents
- (X) Education of children
Article 1885 of Portuguese Civil Code: both parents)
- (X) Alimony
Article 1676, 1884 of Portuguese Civil Code

Article 1671 of the Portuguese Civil Code consists of a general rule which states that marriage is based on the equality of rights and obligations of both spouses and that the direction of the family belongs to both spouses, who shall come to a mutual agreement on the orientation of their life together, bearing in mind the well being of the family.

Please provide references.

See above

25. Are de facto unions recognized in law in your state?

Yes (X) No ()

If yes, please explain in which law(s) and how this is defined.

The Portuguese Civil Code, in its article 2020, defines de facto unions as cohabitation between two people who are not married, for a minimum period of two years in the same living conditions as a married couple.

26. Do men and women have the same legal rights with respect to dissolution of marriage?

Yes No

If yes, please explain in which law(s) and how this is defined.

Article 1773 of the Portuguese Civil Code establishes that the dissolution of marriage may be requested to the court by only one of the spouses against the other, and makes no distinction between husband and wife.

27. Do men and women have the same rights in law and practice when a marriage or union ends in terms of:

- Equal share of the marital property and land
- Custody of children
- Remarriage

Please provide any references.

28. Is it contemplated in the legislation of your State that, in the event of a divorce, women should remain in the family or common household?

Yes No

If yes, please explain in which law(s) and how this is defined.

29. Are legal provisions guaranteeing non-financial contributions, including care of children, the sick and elderly in the family, taken into account in the division of marital property upon divorce?

Yes No

If yes, please provide references.

In case of divorce, the spouses' property is divided. First, the spouses' personal property is separated. Following this, compensation and debts are paid. Finally, each spouse receives one half of the common property. The rule of equal shares is mandatory, which means that any agreement providing otherwise will be null and void (Art. 1730 CC).

If the spouses do not reach an agreement on the division of their common property, the property will be divided by the court. If the spouses agree on the division of their common property, it will be performed in the presence of a civil law notary or at the Civil Registry. If the value of

the assets that a spouse has received through the division of property exceeds the share that he/she is entitled to, the spouses can agree on a compensation made in kind or in the form of a payment. In this case, the amount of the compensation payment will be calculated by the civil law notary, according to the value of the assets, the debts, and the share of each spouse in the community property. If the spouses cannot reach an agreement, the court will decide on the compensation.

30. Are rights of widow(er)s the same for women and men in terms of:

- (X) Custody of children
- (X) Property and land distribution
- (X) Remarriage
- (X) Freedom to choose residence

Please provide references.

31. Do women have access to legal aid in relation to family matters?

Yes (X) No ()

If yes, please explain.

Article 20 of the Constitution of the Portuguese Republic establishes that all persons shall have effective access to justice and to courts, in order to defend their legally protected rights and interests. Justice cannot be denied on the basis of financial constraints. Thus, the legal framework on access to justice and to courts is enshrined in Law 34/2004, of 29 July, comprising legal information and legal protection which covers the modalities of legal advice and legal aid.

Legal protection is granted for specific issues or enforceable judicial causes in case the person fails to have financial means and his or her rights are directly harmed or threatened.

Nationals and EU citizens, as well as stateless persons with valid EU residence permit, that demonstrate insufficient financial means, are entitled to legal protection.

The legal framework on legal aid aims at facilitating and assisting citizens in their access to courts, so as to ensure that nobody is denied the right to either enforce or defend their rights in a court of law due to economic insufficiencies or by reason of their social or cultural status.

Legal aid shall be granted regardless of the applicant's procedural position and of legal aid already having been granted to the counterparty.

Recognition as a person before the law is automatically acquired upon complete birth of a living child (Article 66 of the Portuguese Civil Code), in accordance, inter alia, with Article 26 (1) of the Portuguese Constitution, which guarantees the rights to personal identity, to the development of personality, to civil capacity, to citizenship [...] and to legal protection against any form of discrimination.

tasks, women spend, on average, 4:41 hours doing domestic work. Similarly, the average percentage of time allocated to childcare is of only 5 minutes for men and 19 minutes a day for women. The disparity between men and women in terms of hours of paid and unpaid work was at the time, and is still, very large. The 1999 time-survey also indicated that men did more hours of paid work than women (roughly one hour more, as men on average work 9 hours and women 8 hours) but women did more hours of unpaid work. Taking into consideration both paid and unpaid work, this survey indicated that the female working day in the employed population was roughly one and a half hours longer than the male one.

36. Do men and women in the family have the same rights, in law and practice, with regards to inheritance (including equal rank in the succession)?

Yes (X) No ()

If yes, please explain. In addition, is there evidence of waiver of inheritance rights by women?

Article 9 of the Constitution has a list of the Portuguese State's fundamental tasks. According to paragraph h), the State has the duty of promoting equality between men and women. Furthermore, article 13 establishes the principle of equality and contains a reference to non-discrimination on the basis of gender.

Article 26 is a warrantee for legal protection to all against any kind of discrimination. (please see answer qs. 3)

37. Does family education in your State include a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of the children?

Yes (X) No ()

If yes, please provide any references.

Portugal considers that education plays an important role within the promotion of citizenship and human rights and has developed, during the last two decades, substantial efforts in the area of education for citizenship, through a crosscutting approach that covers, *inter alia*, intercultural education, human rights education, education for peace, development education, gender equality education, financial education, road safety education, media education, European dimension of education, entrepreneurship education, etc. Sexual education is part of health education in the curriculum and is implemented in projects developed by schools, from pre-school education to the end of secondary education.

The Labour Code approved by Law No. 7/2009 of 12th February introduced several changes regarding maternity, paternity and parental leave, promoting the possibility to share the leave between the mother and the father and also increasing the length of parental leave for the fathers.

The mother and father have the right to a leave of 120 to 150 consecutive days following the child's birth, which the mother and father can share as they wish. The wages are replaced by

social security subsidies that vary with the length and conditions of the leave (between 83% and 100% of the wage received).

38. If equality is guaranteed in law and practice, does this apply in all different types of families?

Yes (X) No ()

If yes, please provide any references.

Violence within the family and marriage

39. Are there any of the following traditional practices in your State ?

- (X) Female Genital Mutilation
- () Honour Killings
- () Son Preference
- () Dowry Deaths
- () Polygamy
- () Prohibition of work or travel without the permission of a guardian
- () Other

If yes, is there legislation prohibiting such practices in your State?

Female Genital Mutilation is punishable under Article 144 of the Criminal Code, as a serious offence against a person's physic or psychic integrity. This legal provision includes mutilation which permanently affects sexual and reproductive health of victims

Please provide any information on other actions taken to eradicate these practices.

The National Programmes of Action for the Prevention and Elimination of FGM (currently, in its third edition) have always focused on a preventive approach to raise awareness and inform populations at risk on the multiple consequences of this harmful traditional practice, deconstructing myths underpin this phenomenon.

The implementation of the Second Program of Action, which ended in December 2013, was evaluated by an external and independent team. It was considered very positive (implementation rate: 86,6%).

Another priority line of action has been the involvement of the communities, sensitizing them to the need to abandon FGM in a permanent manner, avoiding situations of marginalization and social exclusion.

The working group responsible for the implementation of the Third FGM Programme (2014 – 2017) has been enhanced by the inclusion of representatives of the communities at risk: three immigrant associations, representing the communities where FGM is practiced, have joined the working group.

The National Commission for the Protection of Children and Youngsters at Risk is also part of the working group.

The Commission for Citizenship and Gender Equality created a Prize that aims to support immigrant associations to develop awareness-raising and prevention projects on FGM in their communities.

Two projects ran during the year 2013 in risk areas at the Lisbon district.

The Third FGM Programme (2014-2017) also contains a measure that aims to involve in a more substantial form religious leaders in the fight against FGM.

40. Is/are there any anti-domestic violence legislation/regulations in your State?

Yes (X) No ()

If yes, please provide any references.

Law 112/2009 on 16th September intends to prevent and repress domestic violence and to support and promote the autonomy and empowerment of the victims. Also known as the Domestic Violence Law, it seeks to provide a more adequate capacity of response by unifying the laws on this matter and also to address the need to ensure adequate and timely prosecution and conviction of perpetrators. The Law also includes innovative provisions strengthening the protection of the victim and ensuring prosecution and conviction of perpetrators, as well as in the definition of domestic violence, which also includes same-sex relationships.

http://www.igualdade.gov.pt/IMAGES/STORIES/DOCUMENTOS/LEGISLACAO/LEGISLACAO/VIOLENCIA_DOMESTICA/LEI_112_2009.PDF

Other legal acts, such as the Legislative Administrative Rule 220-A/2010 on Teleassistance and Electronic surveillance, the Legislative Administrative Rule 229-A/2010 which approved the forms granting the status of victim of domestic violence and Decision 6810/2010, which sets the minimum qualification standards required for technicians working with victims, are also important steps in the reinforcement of the legislative framework.

We would also like to highlight a relevant development concerning the authorization of residence for the purpose of family reunification in the legal framework of entry, permanence, exit and removal of foreigners into and out of national territory. According to Law 29/2012, of 9 August, which amended Law 23/2007, also known as Law of Foreigners, one of the exceptions for granting an autonomous residence permit to family members of a holder of a residence permit before the expiration of the normal time limit is if the individual is “indicted by prosecutors for committing the crime of domestic violence”. Previously, this exception was based on the “conviction for the crime of domestic violence.”

The National Action Plans against Domestic/Gender-Based Violence (currently in its 5th edition 2014-2017) have always focused on a preventive approach to raise awareness and inform persons at risk.

41. Does your State have a legal definition of discrimination which covers gender-based violence or violence against women, which includes domestic violence?

Yes (X) No ()

See answer qs. 3 and 40.

42. Does your State have a national policy to eliminate gender-based violence or violence against women, including domestic violence?

Yes (X) No ()

The National Action Plans against Domestic/Gender-Based Violence (currently in its 5th edition 2014-2017).

43. Is marital rape considered a crime in the legislation of your State?

Yes (X) No ()

The Portuguese Criminal Code, in its article 152 on domestic violence, includes sexual offenses to the spouse in number 1a).

http://bdjur.almedina.net/citem.php?field=item_id&value=1172736

44. Is adultery considered a crime in the legislation of your State?

Yes () No (X)

If yes, is it equally punished for men and women?

Please provide any references and further explanation.

45. Are there any public campaigns in your State to raise awareness that violence against women and girls is a human rights violation?

Yes (X) No ()

If yes, do they attempt to change the attitudes of men?

Portugal has made significant efforts to prevent violence against women through the implementation of several measures, many of them established by National Plans against Domestic and Gender-based Violence, such as:

- Annual information campaigns for specific target groups, to conduct information and awareness raising programs on domestic and gender-based violence. Through video clips, radio spots, press, posters and internet, campaigns are instrumental tools to raise awareness and promote social change;

(Note: The survey on Violence against Women carried out by Fundamental Rights Agency, published in March 2014, found that, in Portugal, 70 % of the women asked have recently seen or heard awareness-raising campaigns. The EU average is 50 %).

- Development and dissemination of informative and educational materials addressed to educating community;

- Training of professionals involved in the area of domestic violence, in particular judges, security forces and health professionals;

- Extension of the teleassistance system, by increasing of available electronic surveillance devices and dissemination of information about this means of protection in training actions addressed to judges and prosecutors.

The Fifth National Action Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017), recently approved in December 2013, also establishes other preventive measures, such as:

- Intensifying the role of municipalities in preventing domestic and gender-based violence;
- Promoting of equality, to eliminate gender stereotypes and empower women and girls, particularly directed to the education community, especially addressing the issues of bullying, violence through the new information and communication technologies and teen dating violence;
- Strengthening programs to prevent re-offending through intervention with offenders, namely through a program for offenders of domestic violence, which aims to promote domestic violence awareness and assumption of responsibility for the violent conduct and the use of alternative strategies to reduce re-offending.

45. What measures have been taken in your State to raise awareness among law enforcement officials regarding violence against women and girls, including domestic violence?

Please explain and provide examples.

The Centre for Judicial Studies (CEJ) which provides the initial and ongoing training for all magistrates (judges and public prosecutors) has been promoting a proactive approach to domestic violence and raising this issue among legal operators. A specific training initiative on “violence against persons: domestic violence, violence against children, disabled and elders and in school environment” took place in February and March 2009. Other training sessions took place following the changes of the Criminal Code. In the CEJ magazine (addressed to magistrates, but also to law enforcement officials) several articles have been published on the phenomenon of domestic violence.

Several training sessions were organized for the Security Forces (GNR and PSP). In 2010, the Ministry of Internal Administration, in partnership with CIG, organized 14 training sessions on domestic violence. The Public Security Police (PSP), in partnership with other public and private organizations, held training sessions for its agents on sexual and domestic violence against women and endowed its police stations with special rooms for the care and support to victims of violence.

47. Are there special law enforcement units to respond to complaints of violence against women and girls, including domestic violence?

Yes (X) No ()

If yes, do these include female law enforcement officers?

Within the National Republican Guard (GNR), Investigation and Victim Support Centres and specific Investigation and Inquiry Teams were created. Training for members of these Centres and Teams was updated taking into account recent legislative changes. In 2011, in partnership with CIG, the GNR organized two training sessions on policies for the protection of domestic violence through the new *Teleassistance* tool.

48. Please provide information on the incidents/complaints of domestic violence, sexual assault including rape, and child abuse against women and girls in your State.

Between 2009 and 2013, crimes of domestic violence reported to the police were 30 543 in 2009; 31 235 in 2010; 28 980 in 2011; 26 678 in 2012; and 27 318 in the 2013.

49. Are there shelters or safe houses for women and girls who are victims of gender-based violence, including domestic violence in your State?

Yes (X) No ()

If yes, are these available to women and girls living in rural and remote areas?

A National Network of Domestic Violence Centres was set up in 2005 to provide an integrated response to cases of domestic violence and to enhance existing resources. National coverage was achieved in January 2009 (18 districts) and currently there are 36 shelters with a total capacity for accommodation for approximately 619 women victims of domestic violence and their children. Portugal has also been working on minimum standards for victims' support. Since 2010, 3.124 women victims of domestic violence have been supported by the Domestic Violence Centres and around 5200 women and children were hosted in the Shelters' Network.

Participation in cultural life

50. Are men and women equally entitled in law and practice to interpret cultural traditions, values and practices in your State?

Yes (X) No ()

If yes, please describe and provide examples.

51. Are there restrictive dress codes for women which do not apply to men?

Yes () No (X)

If yes, please describe and provide examples.

52. Are women in the country allowed to be a member and fully participate in cultural and scientific institutions in your State?

Yes (X) No ()

If yes, please describe and provide examples.

53. Are women entitled in law and practice, independently of their marital status, to decide freely whether or not to participate in certain cultural events, traditions and practices in your State?

Yes (X) No ()

If yes, please describe and provide examples.

54. Are there any specific actions to recognize and value the contributions of women to culture in your State?

Yes (X) No ()

If yes, please describe and provide examples.

Portugal has the annual prize entitled “Women Creators of Culture”. The first edition was in April 2013.

55. Do you have data regarding the participation of women in arts, science, sports and in the proportion of public funding allocated to women in these activities?

Yes (X) No ()

If yes, please provide information.

Data from the 2010 Survey on the *National Science and Technology Potential* (IPCTN10) show that the female to male researchers ratio varies among the sectors: 59.7% of women and 40.3% of men work in the state sector; 49.6% of women and 50.4% of men work in higher education; 45.6% of women and 54.4% of men work in not-for-profit private institutions; and only 28.1% of women, when compared to 71.9% of men, work in the corporate sector.

The researchers’ breakdown (full time equivalent), according to subject area and sex, was as follows:

Subject area	Total researchers	Female researchers	Female participation rate (%)
Exact Sciences	8,296.7	2,792.2	33.7
Natural Sciences	5,085.9	3,127.2	61.5
Engineering Sciences and Technology	13,078.8	3,449.7	26.4

Medical and Health Sciences	5,078.6	3,126.1	61.6
Agrarian Sciences	1,348.3	779.7	57.8
Social Sciences	8,626.7	4,916.5	57.0
Humanities	4,904.9	2,530.2	51.6
Total	46,255.9	20,721.6	44.8

Source: Ministry of Education and Science. General Directorate of Education and Science Statistics. *IPCTN10 – Survey on the National Science and Technology Potential 2010*.

This shows a predominance of women in the *Medical Sciences, Natural Sciences, Agrarian Sciences* and *Social and Human Sciences*, but in the *Engineering Sciences and Technology* (which account for the largest contingent of researchers of both sexes) women are the minority (only 27.3%). Concerning Sport, in 2012 there were 453.333 male and 144.619 female sport agents Sports agents (athletes, coaches, referees or judges and leaders) in the Sport Federations. In 2012, based on the Labour Force Survey, the cultural and creative sector employed 78.6 thousand individuals. From those, 53.1% were men, 62.1% were aged between 25 and 44 years old, and 37.8% had completed a tertiary level of education. It is not possible to inform about the proportion of public funding allocated to women in these activities.

56. Has your State developed any temporary special measures to enhance the participation of women in arts, science, sports and any other cultural activity?

Yes () No (X)

If yes, please provide specific examples of these temporary special measures.

57. Are women allowed and encouraged by your State to participate in all sports?

Yes (X) No ()

If yes, please describe and provide examples.

Women and men are equally allowed and encouraged by your State to participate in all sports. Moreover, in the Fifth National Action Plan for gender equality (2014-17), measure 30 aims “To promote balanced and non-discriminatory participation of women and men in the various sports traditionally practiced by the other sex.”

58. Is any special dress code provided in the legal regulations for all women exercising sports in your State?

Yes () No (X)

If yes, please describe and provide examples.

59. Are there any differences in your State in conditions for women's access, to museums, parks, theaters, sports stadiums and other facilities where culture, sports and science are disseminated in comparison with men?

Yes () No (X)

If yes, please explain and provide examples.

60. Is your State promoting the participation of women in the arts?

Yes (X) No ()

If yes, please explain and provide examples.

61. Have there been any cases in your State in last decade of women artists prosecuted for the performance of art, allegedly violating public authority or morals?

Yes () No (X)

If yes, please describe.