

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 42<sup>ND</sup> SESSION PORTUGAL, 6<sup>TH</sup> AND 7<sup>TH</sup> REPORTS 3 NOVEMBER 2008

Key facts .....	1
Information submitted to the Committee .....	1
State report.....	1
List of issues.....	2
NGO information.....	2
Themes and issues.....	3
National machinery for the advancement of women .....	3
Domestic violence .....	4
Human trafficking.....	4
Inequality in the labour market .....	4
Political participation and temporary special measures.....	5
Conclusions and next steps .....	6

### Key facts<sup>1</sup>

Ratification	Reservations	Party to Optional Protocol?	Other core treaties ratified
1980	None	Yes	ICERD, ICCPR, ICESCR, CAT, CRC, CMW

### Information submitted to the Committee

#### State report

Portugal submitted its 6<sup>th</sup> and 7<sup>th</sup> reports to the Committee on the Elimination of All Forms of Discrimination against Women (the Committee) on 3 November 2008.<sup>2</sup> Portugal last appeared before the Committee in

<sup>1</sup> The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at [www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx](http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx).

<sup>2</sup> CEDAW/C/PRT/7, available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

January 2002.<sup>3</sup> The 6<sup>th</sup> report was submitted with delay and covered developments up to 2003. Portugal provided the 7<sup>th</sup> updated report covering the period from 2004 to 2007.

Portugal's 7<sup>th</sup> report illustrates the State's compliance with each article of the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention). To highlight the national policy on gender mainstreaming, the report describes Government mechanisms targeting gender equality<sup>4</sup> and includes an impact assessment of the respective mechanisms. Sex-disaggregated data on employment and education is included, while data on health is not sex-disaggregated. The 7<sup>th</sup> periodic report also lists challenges faced in implementing the 2<sup>nd</sup> National Plan for Equality and the 2<sup>nd</sup> National Plan against Domestic Violence. Among the challenges listed are insufficient political will and financing, lack of sex-disaggregated data, and gender sensitivity. Notwithstanding, the overall report is only mildly self-critical. The State report does not treat these obstacles in detail and does not propose recommendations to surmount them in the subsequent 3<sup>rd</sup> National Plan for Equality – Citizenship and Gender 2007-2010 and the 3<sup>rd</sup> National Plan against Domestic Violence 2007-2010.

### List of issues

After having studied the report, on 6 March 2008 the Committee provided its list of issues to the State.<sup>5</sup> The list of issues focused on those areas where Portugal appears to face particular challenges in giving domestic effect to the Covenant. The Committee sought further clarification on State policies on violence against women, political participation, trafficking and prostitution, employment, and reconciliation of family life. Particular attention was also paid to changes in Portugal's institutional framework for gender equality. The Committee questioned the rationale for merging the former Commission for Gender Equality and Women's Rights with the Mission against Domestic Violence into the new Commission for Citizenship and Gender Equality (CIG). Regarding inequalities in the labour market, the Committee requested detailed information on the impact of the vocational training programmes, the authorities which can examine gender discrimination cases, and measures in place to address vertical segregation, the pay gap, and higher women's unemployment rates. The Committee also commented on the omission from the State report of information on the situation of women in the autonomous regions of Azores and Madeira.

While the State submitted its written response on time, it was incomplete. The written response did not provide answers to questions regarding court cases invoking the Convention, the high illiteracy rates of rural women, the status of Roma women, and on the status of women in the autonomous regions of Madeira and Azores.

### NGO information

The Portuguese Platform for Women's Rights (Plataforma Portuguesa Para os Direitos das Mulheres), a non-governmental organisation (NGO) and the Global Initiative to End All Corporal Punishment of Children, a coalition of NGOs, submitted **written reports** to the Committee.<sup>6</sup>

The report by Portuguese Platform for Women's Rights acknowledges advances made by the Government in promoting women's rights such as the adoption of legalisation decriminalising abortion in 2007 and the adoption of the constitutional provision allowing for the Convention to be invoked in national courts. At the same time, the report comments the lack of visibility of the Convention in Portugal and is very critical regarding several areas of implementation. The report's main criticism of the Government is the inefficient function of the national women's institution. According to the report, the reassignment of women's issues to the CIG dilutes the visibility of women's rights and the expertise devoted to gender policy. The NGO report

---

<sup>3</sup> All documents related to this session area available at [www2.ohchr.org/english/bodies/cedaw/cedaws26.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws26.htm).

<sup>4</sup> The report describes governmental mechanisms such as the Commission for Citizenship and Gender Equality (CIG), Commission for Equality in Work and Employment, the 2<sup>nd</sup> and 3<sup>rd</sup> National Plans for Equality, the 2<sup>nd</sup> and 3<sup>rd</sup> National Plans against Domestic Violence, and the 1<sup>st</sup> National Plan against Trafficking of Human Beings.

<sup>5</sup> CEDAW/C/PRT/Q/7, available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

<sup>6</sup> The NGO reports are available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

further criticises the ambiguous division of competencies within the new mechanism, and discusses the need to provide gender equality training for civil servants working in the new Commission. The report also addresses the problem of gender violence, particularly lack of a budgetary allocation within the State Budget for implementing the National Plan against Domestic Violence.

At the beginning of the session, the Portuguese Platform for Women's Rights gave an **oral presentation** reiterating the issues raised in its report.

## Themes and issues

The delegation of Portugal was led by Ms Elza Pais, President of the CIG. She was supported by a large delegation consisting of Ms Fatima Duarte, President of the Commission for Equality in Labour and Employment and Ms Maria Helena Viveiros, President of the Mechanism for Equality of the Autonomous Region of Azores, along with representatives of various other ministries.<sup>7</sup>

While Portugal's delegation consisted of 18 representatives of the Government, its size did not make up for its apparent lack of expertise. The delegation was not represented by heads of ministries and did not include parliamentarians. It consisted of low to mid-level bureaucrats, with 13 of 18 delegates having no specified titles and merely listed as 'representatives' of the relevant departments. While the head of delegation was able to answer many of the Committee's questions, the Committee seemed frustrated by the general answers provided by other members of the delegation. During its dialogue with the Committee, the delegation was somewhat defensive when pressed on certain issues such as health, qualifying the situation of women in Portugal as not being worse than that of women in other European States.

In her opening remarks, Ms Pais acknowledged Portugal's delay in honouring its reporting obligations. She further updated the Committee on developments since Portugal's last review in 2002. She expressed the Government's political will to address issues of gender equality by describing the mandates of the two national mechanisms dedicated to the promotion of gender equality.<sup>8</sup> Ms Pais further emphasised progress made in gender mainstreaming with the passage of legislation for prosecuting human traffickers, the decriminalisation of abortion and further plans to deal with gender inequality in the workplace, women's vulnerability to poverty, and female genital mutilation.

## National machinery for the advancement of women

The Committee expressed concern about the reorganisation of national women's institutions. Particularly, Committee member Ms Violeta Neubauer expressed concern that the CIG is charged with an overly broad mandate with insufficient attention paid to issues of discrimination against women. The delegation assured the Committee that the restructuring is meant to ensure greater promotion of gender equality. However, the delegation did not clarify how the restructuring will affect and benefit existing gender policy programmes. Regarding alleged exclusion of certain NGOs from participation in this mechanism, the delegation explained that this was only due to the failure of these NGOs to submit timely reports, but otherwise all NGOs are eligible to apply for funding and to participate as observers.

---

<sup>7</sup> Other delegates included: Mr Francisco Xavier Esteves, Permanent Representative of Portugal in Geneva; Ms Joana Melo Antunes, Office of the Secretary of State of the Presidency of the Council of Ministries; Ms Ana Brito Maneira, Ministry of Foreign Affairs; Ms Manuela Marinho, Mr Manuel Albano, Ms Isabel Romao, Ms Diana Canco, Ms Teresa Alvarez, Ms Joana Vieira da Silva of the Commission for Citizenship and Gender Equality; Ms Goncalo Moita of the High Commissioner for Immigration and Intercultural Dialogue; Ms Carina Quaresma of the Ministry of Internal Affairs; Ms Eduarda Saraiva of the Strategy and Planning Office of the Ministry of Labour and Social Security; Ms Teresa Ventura, Director-General of Health of the Ministry of Health; Ms Manuela Augusto, Ministry of Education; Ms Cristina Estorinho of the Social Security Institute. The delegation list is available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

<sup>8</sup> The two national plans are Commission for Citizenship and Gender Equality (CIG) and the Commission for Equality in Work and Employment (CITE).

Committee member Ms Hanna Beate Schöpp-Schilling persisted in questioning the delegation regarding European Union (EU) funding for gender equality programmes, specifically how such funding compares to Portugal's own gender policy allocations. The delegation explained that Portugal applies seven levels of funding for gender equality initiatives. The three million Euros of EU funding is earmarked for underdeveloped peripheral regions. Therefore, the Government takes this into consideration when making budgetary allocations between more populous centres and rural areas.

In its concluding observations,<sup>9</sup> the Committee criticises the ambiguous role of the restructured Commission and its questionable authority to affect gender policy. The Committee encourages the Government to ensure that gender mainstreaming procedures are consistently applied and institutionalised through laws, regulations, and ministry programmes.

### **Domestic violence**

The Committee engaged the delegation in an extensive discussion over Portugal's efforts to address violence against women. Committee members Ms Silivia Pimentel, Ms Yoko Hayashi, and Ms Ferdous Ara Begum questioned the delegation about victim's access to shelters. The delegation reassured the Committee of the Government's political will to address the issue of violence against women, and cited the building of 35 crisis centres over the past two years as an example of this. While the Committee commended the delegation for this development, members expressed concern over the non-specialisation of such shelters, as they are open not only to victims of violence but also to persons experiencing other social emergency situations. Regarding measures to protect victims, the delegation also discussed special surveillance initiatives against perpetrators, to ensure that victims do not have to flee their homes.

In its concluding observations, the Committee urges the State to monitor the application of such protective measures systematically, since judges do not seem to be applying them. Further, the Committee invokes its General Recommendation 19 to call on the Government to ensure full implementation of legislation on violence against women and its National Plan against Domestic Violence. The Committee reemphasises the importance of further sensitising law enforcement officers and judges. In 2007,<sup>10</sup> the Committee against Torture also expressed its concern about the high rates of domestic violence against women and children and the number of deaths among women due to such violence.

### **Human trafficking**

Committee member Ms Neubauer questioned the delegation on lack of statistical data regarding human trafficking cases, number of prosecutions, and number of women granted temporary residency status. The delegation did not directly answer this question, but referred to a recent study that identified Brazil, Mozambique, Romania, and Nigeria as the most common countries of origin for trafficked women in Portugal.

While the Committee acknowledged the measures taken by the State to combat trafficking with the First National Plan against Trafficking, it criticised the lack of information on the prosecution of cases and the continued prevalence of the phenomenon. In its concluding observations, the Committee emphasises the importance of not only ensuring prosecution of traffickers but also ensuring availability of rehabilitation and services for victims.

### **Inequality in the labour market**

The Committee paid considerable attention to the issue of gender equality in the labour sphere. Committee member Ms Pramila Patten questioned the delegation on the high prevalence of vertical segregation of the labour market and efforts to monitor discrimination cases. The delegation was not able to describe a complaint mechanism for gender discrimination cases.

---

<sup>9</sup> CEDAW/C/PRT/CO/7, available at [www2.ohchr.org/english/bodies/cedaw/cedaws42.htm](http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm).

<sup>10</sup> CAT/C/Port/CO/4, available at [www2.ohchr.org/english/bodies/cat/cats39.htm](http://www2.ohchr.org/english/bodies/cat/cats39.htm).

Ms Hayashi emphasised importance of Government efforts to promote reconciliation between work and private life, while Ms Françoise Gaspard questioned the delegation over the high proportion of women employed in part-time positions and noted the reduced retirement benefits associated with such positions. Ms Schöpp-Schilling further questioned the delegation on the Government-administered social security schemes and agricultural retirement plans, and whether the Government applies a gender-sensitive approach in creating them. The delegation responded by discussing non-gender specific social security measures for children and the elderly and the Migrant Reintegration Plan. A member of the delegation also discussed plans to prioritise paternal leave in order to reconcile family and professional roles.

In its concluding observations, the Committee is critical of the delegation for not providing thorough information on the gender-specific aspects of questions posed on social benefits. The Committee provides detailed recommendations to improve gender equality in the labour market. The Committee urges the State to continue to take concrete measures to eliminate occupational segregation through education, training, and effective law enforcement mechanisms. Further, the final recommendations encourage the State to apply a job-evaluation system based on gender-sensitive criteria and collect sex-disaggregated data on wage differentials. The Committee also recommends the State to encourage employers to counteract possible adverse consequences of fixed-term work for women, particularly in overcoming the problem of such employees lacking employment benefits.

### **Political participation and temporary special measures**

The Committee commended the delegation on the passage of the 2006 *Parity Law* which establishes a minimum quota of 33 percent of each sex to be included in the electoral lists. Notwithstanding, the Committee encouraged the delegation to implement further measures to increase female participation in the Government. Members of the delegation were not receptive to the idea of temporary special measures, citing egalitarianism and insisting that access must be maintained through competition.

In its concluding observations, the Committee notes that the State's understanding of special measures as not being in accordance with the Committee's General Recommendation 25, and urges State officials to familiarise themselves with the relevant article in the Convention.<sup>11</sup> Additionally, the Committee encourages the State to apply such special temporary measures in areas where women are most underrepresented and disadvantaged.

### **Other issues**

Regarding access to **healthcare**, Committee member Ms Pimentel questioned the delegation on the high rates of HIV-infection and the low condom use. Ms Pimentel also raised the issue of doctors as 'conscientiousness observers' impeding women's access to abortions. Ms Begum questioned the delegation on sexual education and public awareness campaigns. The Committee was not fully satisfied with the delegation's answers, and in its concluding observations recommends that the State promote access to sexual information and services to all. For the next periodic report, the Committee also requests more extensive sex-disaggregated data on health.

On **education**, Ms Schöpp-Schilling was impressed with the programmes targeted at breaking gender stereotypes. Nevertheless, she pressed the delegation on why such programmes and anti-discrimination curriculum are not mandatory. The delegation informed the Committee that it strives not to impose such policy but rather to promote an informal and non-institutionalised network of gender experts and grass-roots movements.

The Committee also engaged the delegation in discussion on issues of gender stereotyping, the condition of rural and Roma women, and the implementation of the Convention in the territories of Azores and Madeira.

---

<sup>11</sup> Article 4(1).

## Conclusions and next steps

In its concluding observations, the Committee requests that before its next review in 2013, the Portuguese Government submit information on steps taken to implement the Committee's recommendations contained in paragraphs 21 and 41. Specifically, the Committee requests that the State submit information on efforts to mainstream gender procedures and institutionalise equality advisers in local municipalities, and on concrete measures taken to eliminate occupational segregation, within two years. The Committee also requests that the Government submit sex-disaggregated data on wage differentials.

The Committee invites the State to submit its combined 8<sup>th</sup> and 9<sup>th</sup> periodic report in July 2013.

*Last revised and updated: 12 December 2008.*

## **TREATY BODY MONITOR STAFF**

**Eléonore Dziurzynski**, Communications Officer, Geneva

**Gareth Sweeney**, Deputy Manager, Geneva

**Katrine Thomasen**, Manager International Programme, Geneva

**Michael Ineichen**, Human Rights Officer, Geneva

**Michelle Evans**, Representative to the UN, New York

**Paul Dziatkowicz**, Human Rights Officer, Geneva

**Vanessa Jackson**, Human Rights Officer, New York

**Yuri Saito**, Fellow, Geneva

## **AUTHOR OF THE PORTUGAL REPORT**

**Antonina Vikhrest**, Intern

## **ABOUT THE PUBLICATION**

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at [www.ishr.ch](http://www.ishr.ch).

## **COMMENTS AND FURTHER INFORMATION**

We would welcome your feedback on this publication so please send any comments and suggestions to [information@ishr.ch](mailto:information@ishr.ch). You can check the latest Treaty Body Monitor reports published on [www.ishr.ch](http://www.ishr.ch).

## **COPYRIGHT, DISTRIBUTION AND USE**

Copyright © 2008 International Service for Human Rights

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.

ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

## **DISCLAIMER**

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify [information@ishr.ch](mailto:information@ishr.ch).