



## **Quality in Gender+ Equality Policies**

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## **Issue Histories Portugal: Series of Timelines of Policy Debates**

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## 1. Review of Equality Policies and Responsible Institutional Structures

### 1.1 History of equality law and policy

#### Before 1995

The military coup of April 25, 1974 marked the end of 41 years (1933-1974) of dictatorship in Portugal and led to the implementation of democracy. Only after this moment did women and men start having the same rights according to the Portuguese law.

One important step is the abolition of restrictions for electoral voting. Universal suffrage is established and the right to vote is extended to all [adults](#), without distinction as to [sex](#), [race](#), [religion](#), economic, or [social status](#) (Law Decree 621-A/74 of 15 November). The revolutionary year of 1974 was also prolific in other gender equality achievements, namely the opening of careers to women in public administration (Law Decree 251/74 of 12 June); in diplomacy (DL nº 308/74, of 6 July); and in the magistracy (Law Decree 492/74 of 27 September).

Women's International Year, in 1975, was also a time in which several actions were conducted to generate awareness regarding women's discrimination and concerns, and some of those were followed by policy proposals to public officials.

Another important event in the evolution of gender equality law is the revision of the Civil Code in 1977. Namely, establishing that a woman does not have an inferior or dependent legal status to men, but is considered as an equal (Law Decree 496/77 of 25 November). Finally, in 1979, equal opportunity law is established to guarantee women's equal access to work and employment (Law Decree 392/79 of 20 September).

With the advent of democratization in 1976, the drafting of the Constitution was initiated. The first free elections (on the 25<sup>th</sup> April 1975) elected the Constituent Assembly, i.e., the deputies in charge of the new Portuguese Constitution. They concluded their work on the 2<sup>nd</sup> of April 1976 and the Constitution started being effective on the 25<sup>th</sup> April 1976. In the history of equality law and policy this Constitution represents a crucial step towards the achievement of gender equality rights.

In article 13, the principle of equality is established: (1) All citizens have the same social dignity and are equal before the law; and (2) No one is privileged, favored, injured, deprived of any right, or exempt from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, or social condition.

Another main event in the history of equality law is the ratification in 1980 of the Convention on the Elimination of All Forms of Discrimination against Women. A ratification that was possible probably due to the conjunction of political and social change occurring in Portugal at that time. In fact, Portugal was one of the first State Members of the United Nations to ratify the treaty and it did so with no restrictions or reservations.

A few years later, the Criminal Code was also under revision and important changes were introduced, namely in regards to the criminalization of domestic violence within the couple and towards children (Law Decree 400/82 of September).

In 1984, the Law for Protection of Maternity and Paternity was also established (Law 4/84 of 5 April), and still in that year, abortion was decriminalized after a long struggle by the women's movement. The new abortion law was very restrictive and decriminalized abortion only in three circumstances (Law nº6/84, May 11). Even within these restrictions, the law still lacks effective implementation.

In 1986, Portugal entered the European Community, which meant that the country had to incorporate the *acquis communautaire* on gender equality into its national legislation.

In regards to military service one major change occurred in 1991. Law Decree 777/91 of 8 August rectified by the Rectification Declaration 245/91, of 31 October, allowed women to apply, under the same conditions as men, for military service in the Air Force, but only in certain categories and specialties. In 1992, the Law Decree 163/92 of 13 March, allowed women to apply under the same conditions as men, for military service in the navy. But within the Air force and the Navy several institutional career restrictions still apply.

Concerning women's associative life, in 1988, the Law 95/88 of 17 August, guaranteed the rights of women's associations and established the participation rights of women, thus aiming at eliminating all forms of discrimination, while promoting equality between women and men. Later on, in 1997, the Law 10/97 of 12 May, reinforced the rights of women's associations. In 1998, Law Decree 246/98 of 11 August, ruled on the exercise of the rights of women's associations, namely the process of recognition of its generic representation, the forms of technical and financial support, and their registry.

In advertising some advances were also made in 1990 with the Law Decree 330/90, of 23 October, which approved the new Advertising Code. The new Code forbids all publicity that contains elements of gender discrimination. It states that any advertising that is "counter to human dignity" and that "may contain any discrimination in virtue of race or sex" is forbidden. The Consumer's Institute is in charge of collecting these complaints, starting criminal processes and imposing fines on perpetrators. Still, this procedure is very slow, and many times surpasses the legal periods in which intervention is allowed. The Commission for Equality and for the Rights of Women<sup>1</sup> has presented numerous complaints, denouncing advertisements against the dignity of women.

In 1994, the Council of Ministers resolution (32/94) of 17 May, established the necessary actions and measures for the promotion and accomplishment of equal opportunity and of participation of Portuguese women in all domains of life: economic, social, political and labour. This is the first time that gender equality law is framed in a broader way and as part of a global process that involves several domains of social life (economic, political, etc.).

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<sup>1</sup> The Commission for Equality and for the Rights of Women was created in 1991 (Law Decree 166/91, of 9 May) and is the national mechanism for gender equality, replacing the previous Commission for the Feminine Condition, which was created in 1977.

## **QUING Period: 1995 – 2007**

The principle of equality is a fundamental principle since the Constitution of the Portuguese Republic of 1976, but subsequent revisions reinforced some aspects of this principle. The revision of 1997 is particularly important with regards to creating important conditions for progress on matters concerning equal opportunity and discrimination. In article 9 of the Constitution - *Fundamental tasks of the State*; a new paragraph (h) was added to this article, establishing: "To promote equality between men and women". This inclusion was a very important step, because it alluded to the State being obliged to *promote change*, instead of simply ensuring the right to change. Likewise, Article 26 - *Other personal rights*, was also altered and important dispositions were introduced in the final part of paragraph 1, namely establishing the right to legal protection against any form of discrimination: "Everyone shall possess the right to a personal identity... and to legal protection against any form of discrimination". Another major legal change was on Article 109 - *Political participation by citizens of the Republic*. In this article, the "direct and active participation of citizens in political life", was changed to refer expressly to "men and women". That is, "The direct and active participation of men and women in political life constitutes a condition and a fundamental instrument of consolidation of the democratic system and the law must promote equality in the exercise of the civic and political rights and non-discrimination in terms of gender regarding access to public positions". This was a stepping stone since it introduced the state's responsibility to promote equality in the political realm as a way to consolidate democratic principles. This legal change also potentially enables the state to advance special measures of positive discrimination to ensure women's political participation and access to public office.

The Resolution 49/97 of 24 March 1997 of the Council of Ministers approved the Global Plan for Equal Opportunities, which gathers a set of political measures in diversified areas, introducing a mainstreaming perspective to equality. The Plan was intended to modify the framework of equality law and policies in Portugal and it was the first initiative of the government to promote exclusively equal opportunities in all sectors of policy-making.

The Dispatch number 3455/97 of the Minister of Equipment, Planning and the Administration of the Territory, determined that within the new orientation of current structural funds, the search for measures and for the implementation of projects that contribute to real equal opportunities is the object of primary focus. Thus, it stipulates that the operational program managers of the European Union Support Board II and the European Union initiatives for 1994-1999 must include, in the annual performance report, a part on the impact of the respective measures on the equality of opportunities.

Another important piece of legislation in 1997 is Law 105/97 of 13 September, which proposes that all public and private institutions should guarantee the equality of treatment related to work and employment. This law includes a definition of "indirect discrimination".

In 1998, an important plan of action is drafted through the Resolution number 59/98 of the Council of Ministers, of 6 May. The National Employment Plan (Plano Nacional de Emprego) includes new instruments to promote equal opportunity between men and women both in the workplace and in professional training.

In 1999, Law 128/99 of 20 August led to a significant legal change, providing women's associations represented in the consulting council of CIDM the legal status of 'social partner' with the right to be represented in the social and economic council. In an interview, Dina Canço from CIDM stated "the ONG section of CIDM. Not only evaluates the plans and provides reports of the activities of the CIDM/CIG, it collaborates with the Commission in reflecting and debating about the main issues facing the field of equality, and they also communicate the concerns of women's organizations. Therefore, it functions as a civil society "antenna" within the CIDM/CIG:"

The Decree 15/2002 of 8 March of the President of Republic was an important marker given that it ratified the Convention Against All Forms of Women's Discrimination, adopted in New York on October 6, 1999. Following this ratification, several other resolutions were approved, including the Resolution 184/2003 of the Council of Ministers, which approved the II National Plan for Equality, and the Resolution 82/2007 of the Council of Ministers approving the III National Plan for Equality.

Regarding how the Equality Plans are organized and set up, Dina Canço<sup>2</sup> argued that the III National Equality Plan (III PNI), which was recently approved and published, had the first draft presented by the CIDM, and was later reformulated and transformed into a proposal. Following that there was a process of public consultation in which the proposal was in the Government portal, with an invitation for people to contribute. After that it went to the Council of Ministers and was approved. In terms of how the Equality Plans are put into action, the main entity responsible to coordinate the execution of such plans is the CIG (Commission for Citizenship and Gender Equality), in dialogue with all the Ministries. In terms of how these Plans are evaluated, the CIDM conducts its own internal evaluation and other institutions can also participate on it, one example is the Centre of Social Studies.

Most of these Plans are the result of the transposition of the most recent EU Equality directives. Other examples of EU equality directives that led to some controversy were the Racial Equality Directive 2000/43/EC, Directive 2000/78/EC, Directive 2004/113/EC, and Directive 2002/73/EC, sometimes due to these not being fully transposed into national law.

## 1.2 Main governmental structures

The main governmental structure dealing with gender equality in Portugal is the Commission for Citizenship and Gender Equality (Comissão para a Cidadania e Igualdade de Género - CIG, <http://www.cidm.pt/>) approved by Law Decree 164/2007 of 3 May. Due to a recent restructuring in the State's central administration, this commission replaced the former [Commission for the Equality and the Rights of Women](#) (Comissão para a Igualdade e Direitos das Mulheres – CIDM). This new commission will have all the previous responsibilities of CIDM and the promotion of education for citizenship. It will also include a structure to promote the eradication of gender violence and it took over some of

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<sup>2</sup> CIDM's administrative, interviewed by email in July 2007.

the responsibilities concerning gender equality at work previously held by CITE (Commission for Equality in Labour and Employment).

This Commission (CIG) is attached to the Presidency of the Council of Ministers and at the moment is supervised by the State Secretary of the Presidency of the Council of Ministers (Secretaria de Estado da Presidência do Conselho de Ministros). The Commission has the following fundamental and permanent objectives: to ensure that women and men enjoy the same opportunities, rights, and dignity; to achieve effective joint responsibility for women and men at all levels of family, professional, social, cultural, economic and political life; and to promote the recognition in society of maternity and paternity as social functions and to assume the responsibilities that come from that.

CIDM, as the important governmental structure for gender equality before this recent restructuring, was created in 1991<sup>3</sup>. It took the place of the Commission for the Feminine Condition (Comissão da Condição Feminina), which was set up in 1977<sup>4</sup>, though it had already been in operation since 1973.

The CIDM's life-cycle can be divided in three phases. The first one is between the end of the 1970's and 1985, when the Commission was mainly focused on getting to know the real situation of women in Portugal and on influencing changes in the legislation in order to eliminate all forms of discrimination against women. It was at this stage that CITE was created, in 1979 (see below) and that Portugal ratified the CEDAW in 1980.

The second phase, is circa 1985 to 1995, and started with the Portuguese integration in the EEC (1986). Although the national legislative frame was already in agreement with the European Community recommendations, it gained a new momentum. This was a turning point from the previous perspective of 'non-discrimination' to the view of 'equal opportunity'. With the integration into the European Community there was an opening to new EEC sponsored projects, namely in the area of professional training. Still at this stage there was a change also in focus, since equality issues were seen less as a matter of social justice – inequality is unfair, but much more as a question of democracy and human rights. This new development follows the direction of the European Council, which in 1989 proposes a new term – the concept of democratic parity, which found its influence at CIDM. The third phase spans from 1995 up to until now. Throughout this phase new concepts appear, namely the concept of gender mainstreaming and women's empowerment. The CIDM became more sectorial in the way they developed their projects, which are now integrated in specific areas of work and intervention, such as domestic violence and women's trafficking.

The other main governmental mechanism for equality is the Commission for Equality in Labour and Employment (Comissão para a Igualdade no Trabalho e no Emprego – CITE, <http://www.cite.gov.pt/>), which concentrates on equality at work and in employment. Its main responsibilities are the promotion, in the private and the public sectors, of equality and non-discrimination between women and men in labour, in

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<sup>3</sup> By the Decree Law n.º 166/91, from the 9<sup>th</sup> of May.

<sup>4</sup> By the Decree Law n.º 485/77, from the 17<sup>th</sup> of November. The initiative to create this Commission came from Maria de Lourdes Pintassilgo, in 1975, who was then Ministry of Social Affairs. Before 1975 she was already responsible for the working groups that anticipated this Commission.

employment and in vocational training. The CITE is also invested in the protection of maternity and paternity leave and in the reconciliation of work and family life. The CITE is part of the Ministry of Social Security and Labor (Ministério do Trabalho e da Segurança Social) and it is supervised by the State Secretary of the Labour and Professional Training (Secretaria de Estado do Emprego e da Formação Profissional).

This governmental structure was created in 1979 and it forges contact with institutional bodies at a national level, particularly with the Institute for Employment and Vocational Training, the Inspectorate General of Labour, the Directorate General on Working Conditions, the Department of Studies and Planning, the Institute for Innovation in Training and the Coordinating Commission of the European Social Fund. It also establishes contacts with other institutions such as the Economic and Social Council, the Commission for Equality and Women's Rights, research centers and associations, particularly in the professional sphere, such as those responsible for human resources.

### **Within the Government**

Within the Government the (gender) equality machinery consists of three units within ministries. The first one is the State Secretary of the Presidency of the Council of Ministers (Secretaria de Estado da Presidência do Conselho de Ministros<sup>5</sup>), which responds to the Presidency of Ministry (Ministério da Presidência). This State Secretary, besides supervising the CIDM, is also the entity responsible for the control of public policies on gender equalities.

Another Ministry somehow involved in gender equality is the Ministry for Labour and Social Security (Ministério do Trabalho). More precisely the State Secretary of the Labour and Professional Training (Secretaria de Estado do Emprego e da Formação Profissional), which supervises most of the activities of the CITE.

Finally, there is the High Commissary for Immigration and Intercultural dialogue (Alto Comissariado para a Imigração e Diálogo Intercultural, [www.acidi.gov.pt](http://www.acidi.gov.pt)). This interdepartmental structure reports directly to the Prime Minister and is part of the Office of the Prime Minister. It is a support and consulting structure for the government on immigration and ethnic minorities. Its mission is to promote the integration of immigrants and ethnic minorities in the Portuguese society. It ensures the participation and cooperation of representative associations of immigration, social partners, and social institutions in the definition of social integration policies, while designing strategies to fight exclusion. It also tries to ensure the correct implementation of legal tools in the prevention and prohibition of discrimination based on race, colour, nationality, or ethnicity.

The gender equality structures have been changing quite a bit since 1995. For example, in 1996 the High Commissary for the Matters relating to the Promotion of Equality and Family (Decree Law 3-B/96 of 26 January) was created. It constituted an

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[http://www.portugal.gov.pt/Portal/PT/Governos/Governos\\_Constitucionais/GC17/Composicao/Perfil/JorgeLacaoCosta.htm](http://www.portugal.gov.pt/Portal/PT/Governos/Governos_Constitucionais/GC17/Composicao/Perfil/JorgeLacaoCosta.htm)

important structure within the government in the coordination of initiatives in the field of gender equality. This High Commissary was responsible for making decisions in a defined field of competence, such as helping poor children; or supervising CIDM – The Commission for Equality and Women’s Rights (currently supervised by the Council of Ministries). Due to the first Global Plan for Equal Opportunities (1997- 2000) its role and functions have been extended, so its main objectives were basically to contribute to the effective gender equality in a society where men and women would have the same dignity, rights and equal opportunities.

Following the October 1999 elections and until October 2000, Portugal had a Minister for Equality, under the Presidency of the Council of Ministers. She was in charge of CIDM, CITE and ACIME. This political machinery does not exist today.

In July 2001 a cabinet reshuffle led to the creation of the post of State Secretary for Equality, placed under the control of the Vice Prime Minister. Its aim was to promote equality between women and men. Both Commissions (CIDM and CITE) were placed under its control.

### **Within the National Parliament**

At the moment, there is mainly one structure related to gender equality within the National Parliament: the Subcommittee for Equal Opportunities<sup>6</sup> ([Subcomissão Para a Igualdade de Oportunidades](#)), which belongs to the Commission for Constitutional Issues, Rights, Freedoms and Guarantees ([Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias](#)). It is composed of eight parliamentary members, one of which is its President. Its responsibilities are to eradicate discrimination and to introduce transversal equality in two main areas: equal opportunities between men and women and disabled people.

Within the previously mentioned Subcommittee, there is a Working Group – Campaign to Fight Domestic Violence (Grupo de Trabalho - Campanha de Combate à Violência Doméstica), which is composed of nine Members of Parliament, one of which is its coordinator. Its main responsibilities are the prevention of domestic violence.

Created in 1995, the Parliamentary Commission for Parity, Equal Opportunities and Family was a very important structure in charge of ensuring gender equality, since it was the body within the legislative assembly where women’s concerns could be voiced. This commission replaced a sub-committee on women’s questions that existed previously within the Commission on Constitutional Affairs. It approved legislative initiatives on equal opportunities between men and women, and it was said to have a very important pedagogical role, since it had the ability to change opinions concerning gender issues. Its main objectives were to analyze law-making processes towards equal opportunities and to

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[http://www.parlamento.pt/comissoes/Comissao.aspx?Tipo=0&Categoria=1&ID\\_Comissao=1&ID\\_SubComissao=103](http://www.parlamento.pt/comissoes/Comissao.aspx?Tipo=0&Categoria=1&ID_Comissao=1&ID_SubComissao=103)

promote gender equality and parity democracy. Nevertheless, the practical impact of this commission's participation was very limited in the law-making process.

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## 2. Non-employment

### 2.1 Introduction

Within non-employment in Portugal five sub-issues were considered:

1. Reconciliation of work and family life
2. Care work and informal work
3. Equal Pay/gender pay gap
4. Tax-benefit policies
5. Access to the labour market

These five sub-issues have nonetheless different levels of salience in the Portuguese civil society. Reconciliation of work and family is definitely the most important gender related topic within this issue. Followed by the gender pay gap; care work and informal work; access to the labour market and finally tax-benefit policies. In general, none of these sub-issues is very much debated in Portugal. Compared with the other two issues, namely *intimate-citizenship* and *gendered violence*, this is definitely the less debated one. This finding is rather surprising if we consider that employment related topics are among the most debated topics in Portugal, though not from a gendered perspective. The institutionalisation of equal opportunities between women and men in the labour market and in employment in Portugal was enacted thanks to the 1979 legislation (Law Decree 392/79, of September) and with the integration of the country into the European Union (Ferreira, 1998). This last issue reflects the fact that Portugal has been clearly dependent on European Commission initiatives concerning this subject. Considering this, legal initiatives have maintained a low profile in responding to European Commission directives and it was basically after the integration of Portugal into the EEC, and following the development of the Second Action program of 1986-1990, that more relevant initiatives started taking place (Ferreira, 1998).

Irrespective of the intensity of the debate, **reconciliation of work and family life** in Portugal is an issue in itself, in the sense that it is objectively and deeply marked by gender inequality. Portugal has one of the highest female employment's rate in Europe and simultaneously is one of the European countries where the domestic tasks are the least shared between men and women (Ferreira 1998c; Torres 2005; among many others). This resistance to change is probably related to the fact that until twenty years ago, Portuguese society was regulated by a legal stipulation that domestic work was a woman's obligation (Ferreira n.d.). In legislative terms, the topic of reconciliation has been tackled only through maternity and paternity rights. The first law on this topic appeared in 1984 and it has experienced several changes since then. Among other things, throughout the years, the number of maternity license days has been extended and the possibility for the father to use the licence days was introduced. In contrast to what happens in other European countries, part-time jobs are unusual among Portuguese women (André, 1996). Flexibility of working times due to parenthood, although covered in legislative terms since

2000 (Law Decree 70/2000), is also not common at all in Portugal<sup>7</sup>. Besides laws, the reconciliation topic has been present in every national initiative concerning employment, namely National Plans for Employment, National Plans for Inclusion, but also in the National Plans for Equality and Government Programs.

Another **gender** inequality topic within employment in Portugal is **equal pay**. The salary ratio between men and women has shown a tendency, although slight, to widen<sup>8</sup>. That is true mainly for the private sector<sup>9</sup>. This fact is particularly alarming because some studies showed that more than one-quarter of the Portuguese women depend entirely on their partners' salary, mainly those who have low educational levels (Coelho, 2006). Given that gender equal pay is considered a basic principle at the European level (since Rome Treaty, in 1957), Portugal could not avoid facing it. In legislative terms, the inclusion of this principle actually anticipates the EU integration, since has been included in the Portuguese Constitution (art<sup>o</sup> 59, n 1) since its approval in 1976. In 1999, Law 118/99 started considering the violation of the principle of equal remuneration for equal work (or work of equal value) a "very serious offence".

Some kinds of **informal** (or semi-formal) **jobs** persist in Portugal, and women are overrepresented in many of them. Three very important examples are domestic service, familial agriculture, and domicile work. Despite the fact that there is a high percentage of domestic workers in Portugal<sup>10</sup>, the actual legislation on domestic service is from 1992 (Law Decree 235/92 of 24 October). Furthermore, although there is a special regime for domestic service within the social security, many of these women are not in the system, since their bosses refuse to pay their contribution. The situation tends to be worse in the case of immigrant women (Sanches, 02-11-2005).

Concerning familial agriculture, it is not possible to estimate precisely the number of unpaid workers in family companies in Portugal. According to the economist Margarida Lopes, this low paid feminist labor plays a huge role in agriculture (Cal, 1998). There is no legislation on this kind of work and many of these workers do not pay social security, since their income is not high enough for that. Home working is relatively common in Portugal in some industrial sectors, namely, textile, clothes and shoe-wear. While the first attempt to define domicile work in legal terms occurred in 1991 (Law Decree 440/91), "(...) when it comes to practise what we can realise is that most of the companies which employ home workers apply little of this legislation"<sup>11</sup>.

Concerning **tax-benefit policies**, policies oriented to fight poverty were considered: Minimum Guaranteed Income (introduced in 1996)<sup>12</sup>, and later called Social Integration Income, and Solidarity Complement for the Elderly (in 2005). "In Portugal there

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<sup>7</sup> On the 8th of July 2007, we interviewed the expert in gender questions concerning employment, Virgínia Ferreira. She told us that flexibility of working times only happens in an informal way, by agreement between both parties; therefore, only in small companies.

<sup>8</sup> <http://www.lxxl.pt/babel/biblioteca/women.html>

<sup>9</sup> Information provided by Virgínia Ferreira.

<sup>10</sup> "According to the 1991 Census, 19% of working women are domestic workers or *conciérges* (...)" <http://www.lxxl.pt/babel/biblioteca/women.html>

<sup>11</sup> EQUAL Project's "Trabalho no domicílio/medidas e estratégias de intervenção" Rationale, <https://webgate.ec.europa.eu/equal/jsp/dpComplete.jsp?cip=PT&national=2001-261>

<sup>12</sup> Law 13/2003 of 21 May revoked the Minimum Guaranteed Income and created the Social Integration Income.

is a clear feminization of poverty, which is even stronger among the elderly. (...) Among over 65 years old people, 31% women and 28% men are still vulnerable to fall under the poverty line. In fact, 53% of the people receiving the Social Integration Income in December 2006” (Canço, no prelo); and 80 % of the people receiving the Solidarity Complement for the Elderly in March 2006, were women (Lusa, 04.03.2006).

Within **access to the labour market** particular attention is given to immigrants. After many years of being a country with a strong emigrant chain, Portugal started in the last few years to be an immigrant country. Most of the people come from African Portuguese speaking countries (Cabo Verde, Angola, Guiné-Bissau, etc), Brazil and Eastern European countries. A major arena for immigrants’ integration in the Portuguese society is their access to the labour market. This is particularly hard for women (Sanches, 02-11-2005).

## 2.2 Actors

The actors in the issue non-employment within the Portuguese society tend to be either governmental mechanisms (mainly for the sub-issues reconciliation of work and family life, gender pay gap and access to the labour market) or trade unions (mainly for gender pay gap and care work and informal work). We could not find any actor who pronounced on the sub-issue tax-benefit policies from a gendered perspective. In general, there are not many actors involved in non-employment, as the debate around this issue from a women’s perspective is practically absent in Portugal. The same could be said concerning the debate on employment.

The main actor on the non-employment issue in Portugal is the governmental mechanism Commission for Equality in Labour and Employment (Comissão para a Igualdade no Trabalho e no Emprego – CITE). This commission has been very concerned about reconciliation of work and family and also about the gender pay gap and has developed some instruments towards both. The [Commission for the Equality and the Rights of Women](#) (Comissão para a Igualdade e Direitos das Mulheres – CIDM) has also produced some documents on reconciliation. More information on both these commissions can be found in the introduction to this report. For the sub-issue access to the labour market The High Commissary for Immigration and Intercultural dialogue (Alto Comissariado para a Imigração e Diálogo Intercultural - ACIDI)<sup>13</sup> is a very important actor. Reporting directly to the Prime Minister and being part of the Office of the Prime Minister, this institution is a support and a consulting structure of the government, in matters relating to immigration and ethnic minorities.

The two national labor unions, namely the Confederação Geral dos Trabalhadores Portugueses - Intersindical Nacional (CGTP-IN) and the União Geral dos Trabalhadores (UGT) have also been playing an important role. Both labor unions have a women’s commission. The former has a more formal structure called Commission for Equality between Women and Men (Comissão para a Igualdade entre Mulheres e Homens), with

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<sup>13</sup> <http://www.acime.gov.pt/>

its own website,<sup>14</sup> which has produced some documents on gender inequality not only on employment. The latter follows the recommendations of the European Confederation of Trade Unions (Ferreira 2002: 141), which implies a certain concern with gender equality.

In Portugal, the gender pay gap is particularly common in certain industrial areas, such as the shoe industry (Ferreira 2002: 128; Avante's articles<sup>15</sup>). In this industry there are two clear workers' categories; A and B. Category B comprises the lower salaries, as well as the activities traditionally developed by women (Ferreira 2002: 128; Avante's article)<sup>16</sup>. Therefore, some shoe production labor unions (Sindicatos do Calçado) have been denouncing that problem and fighting for a more balanced salary between both genders. We could not find any document produced by these trade unions.

Shoe production, labor unions and others, such as for instance, the Sindicato dos Trabalhadores da Indústria dos Bordados, Tapeçaria e Textéis da Madeira have been denouncing the lack of regulations on working conditions and rights associated with domicile work<sup>17</sup>. Again in this case, we could not find any documents produced by the trade unions.

Domestic service is covered by two trade unions in Portugal: *Sindicato dos Trabalhadores dos Serviços de Portaria, Vigilância, Limpeza e Atividades Similares* (STAD) and *Sindicato Livre dos Trabalhadores de Serviços de Limpeza, Portaria, Vigilância, Manutenção, Beneficência, Doméstico e Afins* (SLEDA). The first one is connected to CGTP and the second one to UGT. Although they support domestic workers, neither produces many documents fighting for these workers' rights<sup>18</sup>. In fact, we could get only one document from STAD (see timelines, 2007).

The role of trade unions in non-employment confirms what had been concluded in some previous academic studies: trade unions in Portugal tend to marginalize concerns about gender equity (André 1996; Ferreira 2002).

In Portugal there are some women's professional associations, namely entrepreneurs (Associação Nacional das Empresárias – ANE; Associação Portuguesa de Mulheres Empresárias – APME<sup>19</sup>) and farmers (Associação das Mulheres Agricultoras Portuguesas – AMAP<sup>20</sup> and Associação das Mulheres Agricultoras e Rurais Portuguesas – MARP<sup>21</sup>). All these associations are more providers than lobbying associations. They all aim to help, train and inform their members on their rights and on how to succeed in their jobs (mainly in the case of the entrepreneurs). MARP is the only one which also seems to fight for women's rights at a political level. However, also in this case, all the documents

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<sup>14</sup> <http://www.cgtp.pt/cimh/index.htm>

<sup>15</sup> Calçado quer emprego” and “Calçado em debate” (check references).

<sup>16</sup> “Calçado em debate” (check references).

<sup>17</sup> This information was obtained through the interview with Virgínia Ferreira and through two websites: Avante's article from 15 June 2000 (<http://www.pcp.pt/avante/20000615/385c2.html>) and EQUAL Project's “Trabalho no domicílio/medidas e estratégias de intervenção” Rationale.

<sup>18</sup> We contacted both of them and they told us that.

<sup>19</sup> There is another very small one, called *Federação de Mulheres Empresárias e Profissionais de Portugal* (FMEPP) but we could not find its correct contacts on the internet and we were told (by APME) that it is a very small and inactive association.

<sup>20</sup> Which belongs to the *Confederação dos Agricultores de Portugal* (CAP).

<sup>21</sup> Which belongs to the *Confederação Nacional da Agricultura* (CNA).

produced are signed by the Confederação dos Agricultores de Portugal (CAP) to which it belongs and they are never particularly gendered orientated<sup>22</sup> (see Timelines, 2005).

From the more general women's rights associations, only the *Plataforma para os Direitos das Mulheres* [Platform for Women's Rights] has written something on *non-employment* (see Timelines, 2006 and 2007). Although this is a recent NGO (created at the end of 2004), it has an important role in lobbying and exerting political pressure through assessments, communications and petitions. Furthermore, it is the Portuguese representative in the European Women's Lobby.

## 2.3 Timelines

### Before 1995

#### 2. Care Work and Informal work

##### 2.1 Domestic Service

The actual legislation on domestic service is from 1992 (Law Decree 235/92 of 24 October<sup>23</sup>) which substituted the previous one from 1980 (Law Decree 508/80 of 21 October). The latter constituted the first attempt to regulate domestic service contracts in Portugal. Among other things, it regulated the right to paid holidays (21 days) and the minimum age allowed (16 years old). Therefore, in legal terms, domestic service stopped being 'non-employment' in 1980. However, in practical terms, the situation was, and continues to be, different. For an overview of the demands done by STAD, (see Timelines, 2007).

Law Decree 235/92 was an attempt to move the domestic regime towards the general regime. Among other things, the Law Decree 235/92 regulated the maximum number of working hours (44 per week) and the Christmas and holiday subsidies.

##### 2.2 Domicile work / homeworking

The first attempt to define domicile work in legal terms occurred in 1991, through the Law Decree 440/91 of 14 November. "The law defines Houseworking [home working] as the one performed without any juridical subordination, taking place at the worker's house or even when the worker buys the raw materials and delivers the finished product always in a situation of economic dependency to the employer. (...)The Studies made in this area also show that there is an obvious feminisation of the domicile work, and this is thus, one of its essential and permanent characteristics. It is possible to realise that these women-workers

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<sup>22</sup> We contacted all these associations personally in order to get this information.

<sup>23</sup> The Law 12/1992 of 16 July allowed the Government to revise the contract of domestic work.

have most of the time a low economic standard of living and suffer from lack of professional ways out. (...)”<sup>24</sup>.

### Primary Sources:

- Law 12/92 of 16 July, Autoriza o Governo a rever o regime legal do contrato do serviço doméstico [Authorizes the Government to review the legal system of domestic service contract], 2 pages, <http://www.dre.pt/pdf1sdip/1992/07/162a00/33323333.PDF> (E-text).
- Law Decree 235/92 of 24 October, Estabelece o regime jurídico das relações de trabalho emergentes do contrato de serviço doméstico [Establishment of the work relations in domestic service], 6 pages, <http://www.dre.pt/pdf1sdip/1992/10/246a00/49464951.PDF> (E-text).
- Law Decree 440/91 of 14 November, Estabelece o regime jurídico do trabalho no domicílio, [Establishes the legal framework of housework], 5 pages, <http://www.dre.pt/pdf1sdip/1991/11/262a00/58225826.PDF> (E-text).

## 1995

### 1. Reconciliation of work and family life

According to the revision of the Constitution of the Portuguese Republic which took place in 1997, “all workers are entitled to the organisation of work in keeping with human dignity and personal self-fulfilment while reconciling the needs of vocational activity and family life” (artº 59, n 2). Since 1982, both motherhood and parenthood started being considered as pre-eminent social values by the Constitution (art. 68º, n 2). The same idea was reinforced by the Law 4/84 of 5 April which regulated for the first time the legal framework of the protection of maternity and paternity rights in Portugal. In 1995, Law 17/95 of 9 June introduced many important changes to the previous law. Among them, are the extension of the maternity leave from 90 to 98 days (art. 9º, n 1) and the possibility for the father to use the licence, as a paternity license, instead of the mother, but for that to occur both parents have to agree (art. 10º, n 2).

Previous Government Programmes had already mentioned the equal opportunities between men and women as a goal to reach, namely the one presented by the [XII Constitutional](#) Government (1991-1995). The XIII Constitutional Government (1995-1999) Program however, refers to equality between men and women connected with the necessity to support family. The rationale for this connection is explained in the Programme: “the almost absence of a support mechanism for the family leads to an overload of work for women, which consequently increases gender inequalities”. The Program presents many initiatives that the government intends to undertake concerning family support, namely the introduction of the Minimum Guaranteed Income (see year

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<sup>24</sup> EQUAL Project’s “Trabalho no domicílio/medidas e estratégias de intervenção” Rationale, <https://webgate.ec.europa.eu/equal/jsp/dpComplete.jsp?cip=PT&national=2001-261>

1996).

### Primary Sources:

- Constituição da República Portuguesa [Constitution of the Portuguese Republic], Cap. II Direitos e deveres sociais [Chap. II Social Rights and Duties], art. 68º Paternidade e maternidade [art. 68º Maternity and paternity], pages not countable, [http://www.portugal.gov.pt/Portal/PT/Portugal/Sistema\\_Politico/Constituicao/constituicao\\_p07.htm](http://www.portugal.gov.pt/Portal/PT/Portugal/Sistema_Politico/Constituicao/constituicao_p07.htm) (E-text).
- Law 4/84 of 5 April, Protecção da maternidade e paternidade [Protection of maternity and paternity], 5 pages, <http://www.dre.pt/pdf1sdip/1984/04/08100/11491153.PDF> (E-text).
- Law 17/95 of 9 June, Altera a Lei n.º 4/84, de 5 de Abril (Protecção da maternidade e da paternidade) [Changes Law 4/84 of 5 April (Protection of maternity and paternity)], 3 pages, <http://www.dre.pt/pdf1sdip/1995/06/134a00/37543756.PDF> (E-text).<sup>25</sup>
- Program, 2005 – 1999, Programa do XIII Governo Constitucional [XIII Constitutional Government Program], section IV “Políticas Sociais”, point 1 “Solidariedade e Segurança Social”, sub-point 1.2 “Apoiar a Família e favorecer a Igualdade entre mulheres e homens”, pages not countable, [http://www.portugal.gov.pt/Portal/PT/Governos/Governos\\_Constitucionais/GC13/Programa/](http://www.portugal.gov.pt/Portal/PT/Governos/Governos_Constitucionais/GC13/Programa/) (E-text).

## 1996

### 4. Tax-benefit Policies

The Constitution of the Portuguese Republic guarantees to everyone the right to social security (art. 63º). Therefore, in the framework of welfare law, the Portuguese government created this year the Minimum Guaranteed Income (Rendimento Mínimo Garantido) (Law 19-A/96 of 29 June). This measure ensures its holders not only a minimum income but also inclusion in a program of social integration in order to allow the progressive integration of those holders and their families in society. The criteria for Minimum Guaranteed Income holders are the following, extremely poor underage people or adults that have under their supervision underage economic dependents within their family. This measure affects, among others, underage and adult pregnant women. Although this measure is not in its origin directly gendered oriented, it is in its effects since there is a feminization of poverty in Portugal.

This measure was proposed by the party in Government, Socialist Party (Law Proposal [25/VII](#)), but also by the Communist Party, although the latter’s proposal was

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<sup>25</sup> After this year, the Law 4/84 of 5 April “Protection of maternity and paternity leave” was changed a few more times: Law 102/97 of 13 September, Law 18/98, of 28 April; Law 142/99, of 31 August and Law Decree 70/2000 of 4 May and finally with the Labour Code’s approval in 2003.

slightly different (Law Project 6/VII/1). There was (and there continues to be) a hot debate within the Portuguese society on the Minimum Guaranteed Income. However, this debate was not at all gendered oriented.

#### **Primary Sources:**

- Constitution of the Portuguese Republic, art. 63<sup>o</sup>
- Law 19-A/96 of 29 June, Cria o rendimento mínimo garantido, instituindo uma prestação do regime não contributivo da segurança social e um programa de inserção social, 4 pages, <http://www.dre.pt/pdf1sdip/1996/06/149a01/00020005.PDF> (E-text).
- Parliamentary debate, 1996-05-10, DAR I Série nº 68, Reunião Plenária de 9 de Maio de 1996 [Plenary Session of 9<sup>th</sup> May 1996] (concerning future Law 19-A/96), 24 pages (from the 14<sup>th</sup>).

### **1997**

#### 1. Reconciliation of work and family life

Resolution 49/97 of 6 March 1997 approved the first Global Plan for Equal Opportunities. Its fourth objective was the “Reconciliation of private and professional life”.

#### 5. Access to the labour market

Law nº105/97 of 13 September proposes that all public and private institutions should guarantee the equality of treatment related to work and employment. This law includes the definition of “indirect discrimination” (art 2<sup>o</sup>). Particularly interesting for “non-employment” is article 3<sup>o</sup>, according to which it is indicative of discriminatory practice when there is a considerable gap between the percentage of workers of one sex in the service of an employer and the percentage of workers of that sex in the industry in question. Furthermore, all public and private institutions should keep for five years the records of all recruitment (art 6<sup>o</sup>).

#### **Primary Sources:**

- Law nº105/97 of 13 September, Garante o direito à igualdade de tratamento no trabalho e no emprego [XXXX], 2 pages, <http://www.dre.pt/pdf1sdip/1997/09/212a00/49214922.PDF> (E-text).
- Parliamentary debate 1996-06-14, DAR I Série nº 82, Reunião Plenária de 12 de Junho de 1996 [Plenary Session of 12<sup>th</sup> June 1996] (concerning future Law 105/97, 10 pages (from 14<sup>th</sup> to the 24<sup>th</sup>).
- Plano Global para a Igualdade de Oportunidades 1997 [Global Plan for Equal Oportunities], Objecto 4. Conciliação da Vida Privada e Profissional [Objective 4. Reconciliation of Private and Professional Life], 1 page, (from 11th to 12th).

## 1998

### 1. Reconciliation of work and family life

The first National Plan for Employment (Plano Nacional de Emprego) was approved by the Resolution 59/98 of 6 May of the Council of Ministers. The Plan is the result of a compromise assumed by the EU Member-states at the Special Employment Summit (which took place in Strasburg, in November 1997) to fight against unemployment and to promote employment. The Plan follows four pillars which were proposed at the European level, one of these being reinforcing equal opportunity policies. Within this pillar, reconciliation of work and family was one of the topics in focus. In this, the government assumes as a priority, for instance, the introduction in the social and cultural organization of the companies of the idea that the reconciliation of work and family is a worker's right and duty. It also presents some instruments such as the transposition of the EU directive concerning parental leave.

Law 18/98, of 28 April introduces an increase in the number of days of maternity leave to 120.

#### **Primary Sources:**

- Resolution 59/98 of 6 May of the Council of Ministers, Aprova o Plano Nacional de Emprego para o corrente ano [Approves the National Plan for Employment], 20 pages in total (from which 3 refer to equal opportunities; 2050 to 2053), <http://www.dre.pt/pdf1sdip/1998/05/104B00/20352054.PDF> (E-text).
- Law 18/98, of 28 April, Alargamento da protecção à maternidade e paternidade (altera a Lei n.º 4/84, de 5 de Abril, alterada pela Lei n.º 17/95, de 9 de Junho) [Broadening of maternity and paternity], 1 page, <http://www.dre.pt/pdf1sdip/1998/04/098A00/18881888.PDF> (E-text).
- Parliamentary debate 1997-11-28, [DAR I Série n.º 019](#), Reunião Plenária de 28 de Novembro de 1997 [Plenary Session of 28<sup>th</sup> November 1997] (concerning future Law 18/98), 8 pages (from 14<sup>th</sup> to the 22<sup>th</sup>).

## 1999

### 3. Equal Pay/gender pay gap

The principle of equal pay for equal work for all workers (regardless of age, sex, race, nationality, place of origin, religion or political or ideological convictions) has been stated in the Portuguese Constitution (artº 59, n 1) since its approval in 1976. Furthermore, Law Decree 329/79 ensures equal income, between workers from both sexes, for the same or equivalent job in the same employer entity (art. 9, n 1).

Despite that, a gender pay gap persists in the Portuguese society. Some actors have been fighting against it; the governmental institution CITE has probably been the

most important one. In fact, it has been developing some important measures to fight against the gender pay gap. The prize mentioned below (under “reconciliation”) is one example, since one of its goals is to contribute to the decrease of the gender gap in the average monthly salary.

Law 118/99 of 11 August “amends a number of articles in other laws and legislative decrees [Law Decree 329/79 of 20 September and Law Decree 426/88 of 18 November] in order to develop and strengthen the general regime of labour offences. The law classifies labour offences as different types ranging from 'light breach' to 'very serious offence'. In particular, the law classified the violation of the principle of equal remuneration for equal work (or work of equal value) as a very serious offence”<sup>26</sup>.

### 1. Reconciliation of work and family life

The prize “Equality is Quality” (Igualdade é Qualidade), which was instituted in 1999/2000, its awarded by CITE (Comissão para a Igualdade no Trabalho e no Emprego) to companies and institutions that succeed and are exemplary in ensuring equal opportunities to women and men. The award is one of the instruments proposed by the National Plan for Employment from 1998 to fight against discrimination and to promote equality between men and women within employment and the reconciliation between work and family.

Law 142/99 constitutes the fourth reform to Law 4/84, concerning protection of maternity and paternity leave. One of the major changes was the introduction of a paid paternity leave of five days during the first month after the birth of the child. This is probably related to the obligation to transpose the European Directive 96/34/EC on parental leave.

The XIV Constitutional Government (1999-2002) Program dedicated considerable attention to the topic “equal opportunities” in the area of work. Many important initiatives were suggested which aim to have an impact on the reconciliation between work and family and to reducing discrimination. Particularly innovative within the national context is the idea of developing economic evaluation studies of unpaid domestic work.

### **Primary Sources:**

- Law Decree 392/79 of 20 September, Garante às mulheres a igualdade com os homens em oportunidades e tratamento no trabalho e no emprego [Guarantees equal treatment to men and women at work], 4 pages, <http://www.dre.pt/pdf1sdip/1979/09/21800/24662469.PDF> (E-text).
- Law 118/99 of 11 August, Desenvolve e concretiza o regime geral das contra-ordenações laborais, através da tipificação e classificação das contra-ordenações correspondentes à violação dos diplomas reguladores do regime geral dos contratos de trabalho, 8 pages, <http://www.dre.pt/pdf1sdip/1999/08/186A00/52245231.PDF> (E-text).

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<http://www.ilo.org/public/english/employment/gems/eeo/law/portugal/act5.htm>

- Parliamentary debate 1999-04-23, DAR I Série nº 75, Reunião Plenária de 22 de Abril de 1999 [Plenary Session of 22<sup>th</sup> April 1999] (concerning future Law 118/99), 7 p (from 26<sup>th</sup> to the 33<sup>th</sup>).
- Program, 1999 – 2002, Programa do XIII Governo Constitucional [XIV Constitutional Government], 2<sup>nd</sup> chapter “Duas grandes apostas transversais: A sociedade da informação e do conhecimento e a igualdade de oportunidades”, section B) “Equal Opportunities”, pages not countable, [http://www.portugal.gov.pt/Portal/PT/Governos/Governos\\_Constitucionais/GC14/Programa/](http://www.portugal.gov.pt/Portal/PT/Governos/Governos_Constitucionais/GC14/Programa/) (E-text).
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- Parliamentary debate 1999-05-13, [DAR I Série n.º 084](#), Reunião Plenária de 13 de Maio de 1999 [Plenary Session of 13<sup>th</sup> May 1999] (concerning future Law 142/99), 9 pages (from 26<sup>th</sup> to the 35<sup>th</sup>).

### **Secondary Sources:**

- Expresso newspaper article, 30 December 1999, Os desafios da paternidade [The challenges of paternity], 3 pages, <http://primeirasedicoes.expresso.clix.pt/ed1418/e081.asp> (E-text).
- Regulamento do Prémio “Igualdade é Qualidade” [Regulation for the prize “Equality is Quality”], by CITE, pages not countable, [http://www.cite.gov.pt/Iguald\\_Qualid/Regulamento.htm](http://www.cite.gov.pt/Iguald_Qualid/Regulamento.htm) (E-text).

## **2000**

### 1. Reconciliation of work and family life

Law Decree 70/2000 of 4 May introduced a new important change in the Protection of maternity and paternity law (Law 4/84): the possibility of having part-time or flexible working time (art 19) for parents of one or more children under 12 years old.

### 5. Access to the labour market

Law Decree 111/2000 of 4 July regulates the Law 134/1999 of 28 August. The latter aims to prevent and forbid discrimination based on race, nationality or ethnic origin. Decree Law 111/2000 defines many forms of discrimination, including mention of direct or indirect references to racial discrimination factors in job advertisements.

### Primary Sources:

- Law Decree 70/2000 of 4 May, Altera a Lei n.º 4/84, de 5 de Abril, sobre a protecção da maternidade e paternidade, e procede à sua republicação rectificada [protection of maternity and paternity], 7 pages, <http://www.dre.pt/pdf1sdip/2000/05/103A00/18251831.PDF> (E-text).
- Law Decree 111/2000 of 4 July, Regulamenta a Lei n.º 134/99, de 28 de Agosto, no tocante à prevenção e à proibição das discriminações no exercício de direitos por motivos baseados na raça, cor, nacionalidade ou origem étnica [prevention and prohibition of discrimination based on race, color, nationality, and ethnicity], 3 pages, <http://www.dre.pt/pdf1sdip/2000/07/152A00/28852887.PDF> (E-text).

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- Position, 2000, Posição sobre o Projecto de Lei nº 265/VIII do PSD “Reforça as medidas de protecção em matéria de maternidade e paternidade” [Reinforces measures of protection of maternity and paternity], by União Geral de Trabalhadores (UGT) [General Worker’s Union], 4 pages.
- Program, May 2000, Os valores sindicais num mundo em mudança [Union values in a changing world], by União Geral de Trabalhadores (UGT) [General Worker’s Union], 240 pages (pages 37 to 39: gender pay gap; 52 precarious job; 88: pensions; 96-97: equal opportunities, namely reconciliation).

## 2001

### 1. Reconciliation of work and family life & 3. Equal Pay/gender pay gap

The Resolution 91/2001 of 6 August of the Council of Ministers approves the National Plan for Inclusion – PNAI – (2001-2003) (Plano Nacional para a Inclusão). This Plan establishes the importance of reconciliation between work and family life and the establishment of equal opportunities for men and women in economic and civic participation, as well as family life.

Law 9/2001, of 21 May strengthened the mechanisms of inspection and punishment of gender based discriminatory labour practices, which had been implemented in the Law 118/99 of 11 August.

Law 10/2001, of 21 May institutes an annual report about equality of opportunities between women and men that, among other aspects, focuses on reconciliation and the gender pay gap (see Timelines, 2005).

### Primary Sources:

- Law 9/2001 of 21 May, Reforça os mecanismos de fiscalização e punição de práticas laborais discriminatórias em função do sexo [reinforces the control and punishment on discriminatory labour practices], 2 pages, <http://www.dre.pt/pdf1sdip/2001/05/117A00/29442945.PDF> (E-text).

- Parliamentary debate 2000-12-09, [DAR I Série n.º 28](#), Reunião Plenária de 7 de Dezembro de 2000 [Plenary Session of 7<sup>th</sup> December 2000] (concerning future Law 9/2001), 5 pages (from 26<sup>th</sup> to the 31<sup>st</sup>).
- Law 10/2001 of 21 May, Institui um relatório anual sobre a igualdade de oportunidades entre homens e mulheres [report on equal opportunities between men and women], 1 page, <http://www.dre.pt/pdf1sdip/2001/05/117A00/29452945.PDF> (E-text).
- Parliamentary debate 2000-12-22, [DAR I Série n.º 33](#), Reunião Plenária de 21 de Dezembro de 2000 [Plenary Session of 21<sup>st</sup> December 2000] (concerning future Law 10/2001), 10 pages (from 28<sup>th</sup> to the 38<sup>th</sup>).
- Resolution 91/2001 of 6 August of the Council of Ministers, Aprova o Plano Nacional de Acção para a Inclusão [Approves the National Plan for Inclusion] (which includes Plano Nacional para a Inclusão – PNAI 2001 - 2003 [National Plan for Inclusion]), 49 pages in total, <http://www.dre.pt/pdf1sdip/2001/08/181B00/48004848.PDF> (E-text).

## 2002

### 1. Reconciliation of work and family life & 5. Access to the labour market

Resolution 137/2002 of 30 November of the Council of Ministers approved the revision of the National Plan for Employment (Plano Nacional de Emprego). This Plan keeps the strategy of having a transversal concern with the equality of opportunities between men and women. Its aim is to reach a balanced participation of both genders in professional and family lives, by improving women’s participation in employment, and men’s participation in family life. This Plan follows the four pillars already referred to in 1998, being the fourth pillar “Equal Opportunities”. Within this pillar, some European directives are considered, namely “Fighting gender inequalities” in many areas such as salary and “reconciliation of work and family”<sup>27</sup>.

#### **Primary Sources:**

- Resolution 137/2002 of 30 November of the Council of Ministers, Aprova a revisão anual, para 2002, do Plano Nacional de Emprego (which includes the National Plan for Employment 2002), 49 pages (from which 4 refer to equal opportunities: 7510 to 7514), <http://www.dre.pt/pdf1sdip/2002/11/277B00/74687516.PDF> (E-text).

#### **Secondary Sources:**

- Projecto EQUAL “Trabalho no domicílio/medidas e estratégias de intervenção” Racional [EQUAL Project “Domicile Work/measures and intervention strategies”], started in 2002,

<sup>27</sup> Since 1998, an annual National Plan for Employment has been produced. It is difficult to select from all these Plans those that were particularly gendered; therefore, we mentioned only those about which we could find something written concerning gender.

pages

not

countable,

[https://webgate.ec.europa.eu/equal/jsp/dpComplete.jsp?cip=PT&national=2001-261#national\\_partner\\_26881268812002001184](https://webgate.ec.europa.eu/equal/jsp/dpComplete.jsp?cip=PT&national=2001-261#national_partner_26881268812002001184) (E-text).

## 2003

### 1. Reconciliation of work and family life

The Law 99/2003, of 27 August approved the Labour Code which compiled all the laws approved until this moment on labour issues and introduced some changes. One of which consists of the fact that the father is **obliged** to use his paternity leave of five days during the first month after the birth of child (which was only a right since 1999).

Resolution 184/2003 of the Council of Ministers approved the II National Plan for Equality (2003-2006). The measures proposed by the Plan follow four main areas, one of which is “Professional activity and family life”.

### 1. Reconciliation of work and family life & 2. Equal Pay/gender pay gap & 5. Access to the labour market

In the new National Plan for Employment 2003-2006 (Plano Nacional de Emprego), approved by the Resolution 185/2003 of 3 December of the Council of Ministers, the government assumes as its goal for 2010 that the index of employed women increase and be above 60%. The Plan assumes gender equality as transversal.

### 5. Access to the labour market

In 2003 the new National Action Plan for Inclusion – PNAI – (2003-2006) (Plano Nacional de Acção para a Inclusão) is approved, by the Resolution 192/2003 of 23 December of the Council of Ministers. “This Plan assumes the inclusion of all people as the major goal, mainly the most vulnerable ones. It states that the best way to reach that objective is by promoting their access to the labour market, to resources, to rights, to goods and services, promoting equal opportunities for all and social participation”<sup>28</sup>.

### **Primary Sources:**

- Law 13/2003 of 21 May, Revoga o rendimento mínimo garantido previsto na Lei n.º 19-A/96, de 29 de Junho, e cria o rendimento social de inserção, 6 pages, <http://www.dre.pt/pdf1sdip/2003/05/117A00/31473152.PDF> (E-text).
- Parliamentary debate 2002-06-15, [DAR I Série n.º 020](#), Reunião Plenária de 14 de Junho de 2002 [Plenary Session of 14<sup>th</sup> June 2002] (concerning future Law 13/2003), 30 pages (from 3<sup>rd</sup> to the 30<sup>th</sup>).

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[http://www.dgert.msst.gov.pt/Conteudos%20de%20ambito%20geral/Igualdade/igualdade1\\_planos.htm](http://www.dgert.msst.gov.pt/Conteudos%20de%20ambito%20geral/Igualdade/igualdade1_planos.htm) (accessed on the 13th July 2007).

- Law 99/2003 of 27 August, Aprova o Código do Trabalho, 99 pages, <http://www.dre.pt/pdf1sdip/2003/08/197A00/55585656.PDF> (E-text).
- Parliamentary debate 2003-01-16, [DAR I Série n.º 074](#), Reunião Plenária de 15 de Janeiro de 2003 [Plenary Session of 15<sup>th</sup> June 2003] (concerning future Law 99/2003), 48 p (from 10<sup>th</sup> to the 58<sup>th</sup>).
- Resolution 185/2003 of 3 December of the Council of Ministers, Aprova a revisão anual do Plano Nacional de Emprego para 2003 (which includes the National Plan for Employment), 52 pages in total, <http://www.dre.pt/pdf1sdip/2003/12/279B00/81288179.PDF> (E-text).
- Resolution 192/2003 of 23 December of the Council of Ministers, Aprova o Plano Nacional de Acção para a Inclusão para 2003-2005 (which includes the National Action Plan for Inclusion), 87 pages in total, <http://www.dre.pt/pdf1sdip/2003/12/295B00/85768662.PDF> (E-text).
- II Plano Nacional para a Igualdade 2003 – 2006 [II National Plan for Equality], Cap. 1 Actividade Profissional e Vida Profissional [Chap. 1 Professional Activity and Family Life], 10 pages (from 15<sup>th</sup> to 25<sup>th</sup>).

#### **Secondary Sources:**

- Expresso newspaper article, 18 January 2003, PS condiciona apoio ao Código do Trabalho [PS conditions the support on the Labour Code], 1 page, <http://semanal.expresso.clix.pt/1caderno/pais.asp?edition=1577&articleid=ES82641> (E-text).
- Expresso newspaper article, 12 April 2003, Código do Trabalho em dúvida [Doubts concerning the Labour Code], 1 page, <http://semanal.expresso.clix.pt/1caderno/pais.asp?edition=1589&articleid=ES90922> (E-text).

## **2004**

### 2. Care Work and Informal work

Until 2004, the minimum salary allowed by domestic workers was smaller than the general regime minimum salary. Only after the Law Decree 19/2004 of 20 January was the minimum salary set at the same rate for all workers.

#### **Primary Sources:**

- Law Decree 19/2004 of 20 January, Actualiza os valores do salário mínimo nacional para 2004 [Updates the values of the minimum salary], 2 pages, <http://www.dre.pt/pdf1sdip/2004/01/016A00/03600361.PDF> (E-text).

## 2005

### 4. Tax-benefit Policies

In 2003, PSD Government had succeeded to revoke the Minimum Guaranteed Income imposed by the Socialist Party (through the Law 19-A/96, of 29 June) and to create the Social Integration Income (Law 13/2003 of 21 May – see Timelines 2003 for sources). In 2005, with PS again in Government, Law 45/2005 of 29 July is approved introducing some changes to the 2003 Law. Those changes comprise an increase in the number of people covered by this measure, to include people under 18 years old, if with children or pregnant.

Also this year, a similar measure was introduced (through Law Decree 232/2005) to supplement the extremely low elder pensions. It is called the Solidarity Complement for the Elderly (Complemento Solidário para Idosos - CSI). Similar to the Social Integration Income, this measure is not in its origin directly gendered oriented, but it has a clear impact on older women.

### 1. Reconciliation of work and family life & 2. Equal Pay/gender pay gap

Following Law 10/2001, in 2005 a report about equality of opportunities between women and men concerning employment was produced by CITE. It identifies gender equal pay and the division of reproductive tasks as a major inequality.

### 5. Access to labour market

The Resolution 183/2005 of 28 November of the Council of Ministers approved the National Action Program for Development and Employment 2005-2008 (Programa Nacional de Acção para o Crescimento e o Emprego). Here the equality opportunity topic assumes a transversal perspective (Canço, no prelo).

### **Primary Sources:**

- Law 45/2005 of 29 July, Primeira alteração à Lei n.º 13/2003, de 21 de Maio, que revoga o rendimento mínimo garantido, previsto na Lei n.º 19-A/96, de 29 de Junho, e cria o rendimento social de inserção, 3 pages, <http://www.dre.pt/pdf1sdip/2005/08/165A00/50665068.PDF> (E-text).
- Parliamentary debate 2005-06-04, [DAR I Série n.º 028](#), Reunião Plenária de 3 de Junho de 2005 [Plenary Session of 3<sup>rd</sup> June 2005] (concerning future Law 45/2005), 11 p (from 1143<sup>rd</sup> to the 1154<sup>th</sup>).
- Resolution 183/2005 of 28 November of the Council of Ministers, Aprova o Programa Nacional de Acção para o Crescimento e o Emprego 2005-2008, 28 pages, <http://www.dre.pt/pdf1sdip/2005/11/228B00/68216848.PDF> (E-text).

- Law Decree 232/2005 of 29 December, Cria o complemento solidário para idosos [Creates a subsidy for the elderly], 5 pages, <http://www.dre.pt/pdf1sdip/2005/12/249A00/73197323.PDF> (E-text).
- Relatório Anual sobre o Progresso da Igualdade de Oportunidades entre Mulheres e Homens, no Trabalho, no Emprego e na Formação Profissional [Annual Report on Equal Opportunity between men and Women in Work and Training], by CITE, 116 pages, [http://www.cite.gov.pt/cite/destaques/CITE-Relatorio\\_Anual\\_2005.pdf](http://www.cite.gov.pt/cite/destaques/CITE-Relatorio_Anual_2005.pdf) (E-text).

### **Secondary Sources:**

- Action Plan, 15 April 2005, by Comissão para a Igualdade entre Mulheres e Homens da CGTP [Commission for the Equality between Women and Men from CGTP], <http://www.cgtp.pt/cimh/4conferencia/planoacao.htm> (E-text).
- Protest letter, 15 April 2005, by Comissão para a Igualdade entre Mulheres e Homens da CGTP [Commission for the Equality between Women and Men from CGTP], pages not countable, <http://www.cgtp.pt/cimh/4conferencia/carta4conf.htm> (E-text).
- Press Release, 5 August 2005, Governo ameaça com aumentos brutais nas prestações mensais dos agricultores para a segurança social [Government threatens huge increase on contributions by agricultural workers], by Confederação Nacional da Agricultura (CAN) [National Agricultural Confederation], 2 pages (paper format only).

## **2006**

### 4. Tax-benefit Policies & 1. Reconciliation of work and family life

Resolution 166/2006 approved the National Action Plan for Inclusion (PNAI, 2006-2008). Amongst other things, this Plan aims to guarantee that the social integration policies take a gender perspective into consideration and that the social solutions have *de facto* impact on equality opportunities, namely gender. Amongst its objectives, there is the promotion of the fight against poverty and of the conditions which allow the reconciliation between work and family life” (Canço, no prelo).

### **Primary Sources:**

- Resolution 166/2006 of 15 December of the Council of Ministers, Aprova o Plano Nacional de Acção para a Inclusão (PNAI) para o período de 2006-2008 (which includes the National Action Plan for Inclusion), 54 pages, <http://www.dre.pt/pdf1sdip/2006/12/24000/84038456.PDF> (E-text).

### **Secondary Sources:**

- Resolução, 22 February 2006, Crescimento preocupante do desemprego exige medidas urgentes [Huge increase on unemployment leads to urgent measures], by União Geral de Trabalhadores (UGT), 4 pages.

- Convocatória, 6 March 2006, UGT visita fábrica Janz [UGT visits Janz factory], by União Geral de Trabalhadores (UGT) [General union of Workers], 1 page.
- Resolução, 8 March 2006, Promover a Igualdade de Oportunidades – Lutar contra as Discriminações [The Fight Against Discriminations], by União Geral de Trabalhadores (UGT), 4 pages.
- Expresso newspaper article, 29 March 2006, Plano para a Inclusão já está em marcha [National Plan for Inclusion is already going on], 1 page, <http://semanal.expresso.clix.pt/1caderno/pais.asp?edition=1748&articleid=ES218270> (E-text).
- Boletim Igualdade nº 2 Abril/Maio 2006 by Commission for the Equality between Women and Men from CGTP (CIMH-CGTP), 4 pages, <http://www.cgtp.pt/cimh/imagens/20060113bi2.pdf> (E-text).
- Publication, October 2006, A conciliação só diz respeito às mulheres? [Is reconciliation just about women?], by Plataforma para os Direitos das Mulheres [Platform for Women's Rights], 6 pages.

## 2007

### 1. Reconciliation of work and family life

Resolution 82/2007 of 22 June of the Council of Ministers approved the III National Plan for Equality. It includes a chapter on “Economic independence and reconciliation of work, family and personal life”.

### 5. Access to the labour market

The Resolution 63-A/2007 of 3 May of the Council of Ministers approved the Plan for the Integration of Immigrants (Plano para a Integração dos Imigrantes). This Plan institutes some measures to improve immigrants' access to formal employment. This is done mostly through specific training of Employment Center workers regarding how to integrate immigrants into employment and reinforce control over employers that illegally use immigrant workers. The Plan refers also specifically to immigrant women and argues the necessity for promoting employment and entrepreneurship of immigrant women, namely through education and professional training.

### **Primary Sources:**

- Resolution 63-A/2007 of 3 May of the Council of Ministers, Aprova o Plano para a Integração dos Imigrantes [Approves the Plan for the Integration of Immigrants] (which includes the Plan for the Integration of Immigrants), 22 pages, <http://www.dre.pt/pdf1sdip/2007/05/08501/00020023.PDF> (E-text).

- III Plano Nacional para a Igualdade: Cidadania e Género 2007 – 2010 [III National Plan for Equality: Citizenship and Gender], Cap. 2 Perspectiva de género nos domínios prioritários da política [Chap. 2 Gender Perspective in politics priority issues], 2.2 Independência Económica e Conciliação entre a vida profissional, familiar e pessoal [Economic independence and reconciliation of work, family and personal life], 5 pages (from 19th to 23th).

**Secondary Sources:**

- Programa de Comemorações, 7 March 2007, Dia Internacional das Mulheres - 8 de Março [Women's International Day Celebration], by União Geral de Trabalhadores (UGT), 4 pages, [https://pdimail.ucm.es/attach/comunicado\\_07\\_03\\_2007.pdf?sid=&mbox=INBOX&charset=escaped\\_unicode&uid=1060&number=21&filename=comunicado\\_07\\_03\\_2007.pdf](https://pdimail.ucm.es/attach/comunicado_07_03_2007.pdf?sid=&mbox=INBOX&charset=escaped_unicode&uid=1060&number=21&filename=comunicado_07_03_2007.pdf) (E-text).
- Position, March 2007, Reacção do FNGIS ao PNAI 2006-2008, by Fórum Não Governamental para a Inclusão Social [Non-Governmental Fórum for Inclusion], 7 pages, [http://www.apmj.org/Docs/FNGIS\\_Folha%20Informativa%20nº%201.pdf](http://www.apmj.org/Docs/FNGIS_Folha%20Informativa%20nº%201.pdf) (E-text).
- Petition, May 2007, Campanha “Quem cuida?” [Campaign “Who cares?”], originally by [European Women's Lobby](#), translated into Portuguese by Plataforma para os Direitos das Mulheres [Platform for Women's Rights], 1 page.
- Appeal, May 2007, Convocação para a Greve Geral 30 de Maio [Appeal to the General Stryke], by Sindicato dos Trabalhadores de Serviços de Portaria, Vigilância, Limpeza, Domésticas e Actividades Diversas (STAD), 1 page, [http://www.cqtp.pt/grevegeral/images/stories/grevegeral/adesoes/stad\\_porteiros\\_adesaopdf](http://www.cqtp.pt/grevegeral/images/stories/grevegeral/adesoes/stad_porteiros_adesaopdf) (E-text).
- Expresso newspaper article, 30 June 2007, Agenda da Excelência [The Agenda of Excellence], 2 pages, <http://semanal.expresso.clix.pt/2caderno/opiniaop.asp?edition=1735&articleid=ES207780> (E-text).

### 3. Intimate citizenship

#### 3.1 Introduction

Within intimate citizenship in Portugal three sub-issues were considered:

1. Divorce, separation, marriage
2. Civil partnerships and gay marriage, discrimination on the basis of sexual orientation
3. Reproductive rights, including abortion, reproductive assistance

By order of importance, the hottest topic in the Portuguese society is by far reproductive rights, followed by civil partnerships, gay marriage and discrimination on the basis of sexual orientation, and lastly divorce, separation and marriage.

Within **reproductive rights, abortion** is the gender related issue that has had the most impact on mobilizing Portuguese civil society. The debate on abortion started with the implementation of democracy in 1974 and became continually more intense. The first legislation on the topic appeared in 1984 (Law 6/84 of 11 May) allowing abortion in three specific circumstances. Minor changes to the law took place in 1995 (Law Decree 48/95 of 15 March) and in 1997 (Law 90/97, of 30 July). The first real attempt to legalize abortion was in 1998, when the socialist Party organized a referendum on the topic. Both the insufficient turnout and the fact that the majority of electors voted against abortion hindered the possibility of change to the law. This referendum was however important in creating a debate within the Portuguese public opinion. In 2007, a new referendum made the change in the law possible (Law 16/2007 of 17 April). This last referendum reflected an interesting dynamic within civil society in Portugal: both sides of the debate generated citizen organizing. A similar phenomenon had happened in 1998 but in smaller proportions. Currently, the Portuguese legislation allows a voluntary interruption of the pregnancy in the first 10 weeks of pregnancy, if carried out at the woman's request in a registered clinic. However, since the law is very recent, it is difficult to assess its implementation (see time line, 2007).

The European Report for Health and Sexual and Reproductive Rights (2002) of the European Parliament recommends that abortion should be legalized, safe, and accessible to all women. The Women's Democratic Movement<sup>29</sup> (MDM) used this Directive to pressure deputies at the Parliament for abortion legalization until the first 12 weeks of pregnancy.

In terms of contraception rights, these have not been the target of much political debate or opposition in Portuguese society (Ferreira 1998:175).

These rights were recognized in the 1976 Portuguese Constitution. Before 1995, the only legal framework for sexual education and family planning in Portugal was the Law 3/84 of 24 March that attributes the State the function of promoting the spreading of family

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<sup>29</sup>

<http://www.mdmulheres.com/direitos.html>

planning methods, in order to protect the family (art. 1º, n2). In 1997 there was an important change on this subject with the revision of the Constitution of the Portuguese Republic because it became more clear that the State had the duty of guaranteeing (while respecting individual freedom) the right to family planning, promoting information, and access to methods of contraception (art. 67º, n 2 d). Also, in 1999 the Law 120/99 of 11 August reinforced the need for reproductive health rights. Among other things, this law emphasized importance of introducing sexual education in schools (art. 2º) and the promotion of campaigns on sexually transmitted diseases (art. 3º). In 2001 emergency contraception is regulated by the Law 12/2001 of 29 May. This law states that emergency contraception methods are available free in medical institutions or paid for in pharmacies, without the need for the prescription.

Finally, with the Resolution 57/2002, of 17 October (The reality of abortion in Portugal), the Parliament decided to evaluate the efficacy and the fulfilment of the documents approved on sexual education and family planning. They analyzed the state of family planning at the level of the institutions involved and in many other areas connected with abortion.

Assisted Reproduction is not hotly debated in Portuguese society. The Law 3/84 of 24 March established that the State should promote and provide all individuals with the study and treatment for sterility situations (art. 9º, n1) and defended that it is the State's duty to deepen the study and the practice of artificial insemination as a form of overcoming infertility. However, only after the 1997 Constitutional revision, was it included for the first time in the Constitution. It was the State's responsibility to legalize assisted reproduction, to assure the dignity of human life. In 2006, the Law 32/2006 of 26 July regulates the use of techniques of assisted reproduction, such as artificial insemination or fertilization in vitro (art. 1º and 2º). However, the beneficiaries of these techniques are only married or cohabiting couples (for at least two years) from different sexes. By excluding same-sex couples from its regulations, this law has been the target of debate and criticism from several LGBT movements and associations.

After reproductive rights, **discrimination on the basis of sexual orientation** (including gay marriage) is the second most debated issue in Portuguese society.

Concerning the legal protection of cohabiting partners and their access to social benefits, 1999 was a very important year on this issue. With the Law Decree 135/99 of 28 August, cohabiting partners' rights were extended. Regulations established not only the entitlement of cohabiting spouses to survivor's pensions, the funeral allowance, and a family caring benefit (approved in 1994), but it also established the right of cohabiting couples to adoption, entitled them to be taxed jointly, and gave the surviving partner more rights to the joint home in the event of death (if cohabiting for more than two years). Same-sex unions were set aside from this discussion. Nevertheless, after the approval of the above mentioned Law Decree an important debate was generated. The new law proposals by the young socialists and the other left wing parties eventually led to the approval, by a narrow margin, of a new law on the legal protection of the same-sex unions in 2001. The law 7/2001, of 11 May establishes rights which are similar to those established for heterosexual cohabiting partners, but it still excludes the right to adoption.

As noted above, divorce, separation and marriage is the least debated issue in Portuguese society. Regarding the legal framework on **marriage**, a new system more concerned with gender equality emerged with the implementation of democracy in 1974 and the constitution of 1976. Contrasting with the *Estado Novo* model that had the husband as the head of family and the wife as subordinate home-maker, with democracy a different view is taken on marriage: an egalitarian married couple with the same rights and duties and the right to establish different types of partnership ties and living arrangements (Law Decree 496/77, of 25 November).

The revision on family law made after 1974 was also very important in **divorce**. It annulled the previous agreement made between the Vatican during the *Estado Novo* on the impossibility of divorce for couples married in the Church, by introducing divorce by mutual consent<sup>30</sup> for couples married for at least three years. In 1998, the Law 47/98 of 10 August changed to allow divorce at mutual consent at any time. Very recently, on 17<sup>th</sup> of May 2007, there was a parliamentary debate on divorce law. The Left Block (BE) made a law proposal that seeks to legalize divorce by request of either the husband or the wife. At the present time, an application for divorce by mutual consent requires that particular grounds have not been violated; if the applicant has brought about any of these causes, s/he cannot request a divorce by mutual consent. The BE proposed to change this requirement, but their law proposal was rejected.

Concerning the custody of children after divorce or separation, parenthood regulations have also moved in the direction of gender equality, particularly after 1974. The previous Civil Code of 1966 gave parental authority to both parents but distinguished between the father's special authority (article 1881), in his capacity as "head of the family", and the mother's authority. From 1974 onwards, legal amendments concerning custody for children after divorce or separation equalized the legal position of mothers and fathers in relation to the child. The year 1995 (Law Decree 84/95 of 15 August) introduced some changes in the Civil Code concerning the principle of parental responsibility after divorce: parents can now opt for shared custody, not only for sole custody. This law also establishes greater recognition of the interests of the child, namely the child's interest in maintaining a close relationship with a non-custodial parent.

### 3.2 Actors

Abortion, as the most debated issue in the Portuguese society, is the one with the most impact in terms of mobilizing civil society. That is the reason why so many actors are present in this topic, not only transversal actors that appear in most of the reproductive rights debates, but also actors that emerge only in the abortion debate. Actually, some movements of citizens organised specifically to support the debate and the political campaign within the 1998 and the 2007 abortion referendums.

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<sup>30</sup> Law Decree 261/75, of 27 November.

Abortion was first an issue of concern of women's organizations and one that later was selected by the Portuguese Communist Party (PCP), which defended legalization in their Electoral Programme of 1983. Since that moment, this party kept fighting for the decriminalization of the voluntary termination of pregnancy. The only other party which has also been an active actor in this debate is the right-wing Center Social Democrats (CDS). This party has always been clearly against abortion and since the 1984 law they have made reference to their opposition in their Electoral Programs. The two biggest parties (PS – Socialist Party and PSD- Social Democrat Party) have avoided defending a very clear position on this matter due to the heterogeneity of opinions within each of them and a catch-all party strategy (Prata 2007). However, the Socialist Party has, since the 1984 law, supported abortion policy-reform, which is in great part due to the intra-party pressures by both the Socialist Youth (Juventude Socialista<sup>31</sup>) and their Women's Committee. The Left Block (Bloco de Esquerda) has always supported the abortion liberalization since its creation in 1999.

Regarding this issue, other main actors were transversally involved in the political debate. These include women's organizations, which have been at the forefront of claiming for abortion rights since the 1970s. Some examples of those organizations are UMAR (União de Mulheres Alternativa e Resposta), MLM (Movimento de Liberação de Mulheres, Women's Liberation Movement), MDM (Movimento Democrático de Mulheres, Women's Democratic Movement), CNAC (National Campaign for Abortion and Contraception, Campanha Nacional para o Aborto e Contraceção), MCALG (Movement for Free and Subsidized Abortion, Movimento pela Contraceção e Aborto Livre e Gratuito) (Tavares 2003) and APF (Associação para o Planeamento da Família, Portuguese Family Planning Association). Other Portuguese NGO's like "Não te Prives" ("Don't deprive yourself"), "Acção Jovem para a Paz" (Youth Action for Peace), and Clube Safo (Safo Club) also fought<sup>32</sup> for the liberalization of abortion but in specific moments, like the initiative with Women on Waves (see more in timelines, year 2004).

Also involved transversally in the opposition to abortion reform were center-right organizations, Catholic interest groups, and the Church's hierarchy. Other organizations include the Ethics National Council for Sciences of Life (CNECV- Conselho Nacional de Ética para as Ciências da Vida) and the Family and Society Association (Associação Família e Sociedade ). These organizations had a very clear position against the liberalization of abortion, which is visible through its issue-assessments, press releases and notes on the subject (see timelines year 1997, 2005 and 2007).

Many movements within civil society emerged during the 1998 and the 2007 abortion referendums. More information about these movements and the parties involved can be found in the timelines (years 1998 and 2007).

Within the contraception issue, the Portuguese Family Planning Association (APF), affiliated with the International Planned Parenthood Federation, had an important role in demanding contraception rights. The CIDM and women's organizations, as the ones mentioned above related to abortion, also participated in the debate on these rights in the 1970s and contributed to their implementation (Vicente and Sousa 1983; Gomes 1987;

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<sup>31</sup> <http://www.juventudesocialista.org/>

<sup>32</sup> Movimento Liberação das Mulheres.

Almeida et al. 2004). This subject also concerned the Family and Society Association (Associação Família e Sociedade) that has developed training activities within civil society (see timelines, year 2005).

Although reproductive assistance is not the target of an important debate in Portugal, some actors were concerned about this subject. Among them we can find the Ethics National Council for Sciences of Life (CNECV), which produced a Law Proposal Project and an assessment concerning assisted reproduction (see timelines, years 1997 and 2004), and the Association of the Catholic Portuguese Doctors (Associação dos Médicos Católicos Portugueses, see timelines, year 2003). Other organizations stated their opinion on this topic, such as the Portuguese Society of Reproductive Medicine (Sociedade Portuguesa de Medicina de Reprodução) that made a contribution to a legislation proposal in the areas of Biology and Medicine applied to Human reproduction (see timelines, year 2003); ILGA Portugal, which questioned the constitutionality of the Law that regulates reproductive assistance accusing it of being discriminatory by excluding lesbian women (timelines, year 2006), and the movement “United for a cause” (Movimento Unidas por uma Causa) which organised a petition to support infertile women (timelines, year 2006).

As the second hottest debate in Portugal, the issue gay marriage and discrimination on the basis of sexual orientation has significantly mobilized the Portuguese civil society.

The Socialist Youth (JS) together with the other left wing parties, the Left Block and the Communist Party, were very important regarding the rights of same-sex cohabiting partners. Thanks to their law proposals, the law 7/2001 of 11 May establishes rights which are similar to those established for heterosexual cohabiting partners, but it still excludes the right to adoption (see more timelines, year 2001). The main actors in this struggle include ILGA Portugal; “Não Te Prives”: Grupo de Defesa dos Direitos Sexuais (“Don’t Deprive Yourself: Defense Group of Sexual Rights); Panteras Rosa (Pink Panthers) and Clube Safo (Safo Club). These associations have been very active in lobbying and exerting political pressure regarding discrimination on the basis of sexual orientation and civil gay marriage. Nevertheless, concerning the latter issue, the Socialist Party has already stated that it is not a priority topic for the next few years (see more in timelines, years 2006 and 2007).

Another important topic of discussion that has concerned not only the associations mentioned above but also the Socialist Youth in the last two years has been the law on assisted reproduction (Law 32/2006 of 26 July). According to this law, the beneficiaries of the techniques on assisted reproduction are only to be available to married or cohabiting (for at least two years) couples from different sexes. By excluding same-sex unions, this law is discriminatory and the target of criticism (See more timelines, year 2006).

There are many more associations regarding this issue but since they are not so visible within civil society we only mention them here: @t. - Associação para o Estudo e Defesa dos Direitos à Identidade de Género (Association for the study and promotion of gender equality rights); GTH - Grupo de Trabalho Homossexual (Homosexual Workgroup), rede ex aequo (ex aequo net); Nós - Movimento Universitário Para a

Liberdade Sexual (We – University Movement for Sexual Freedom); Grupo Lilás (Lilac Group); Opus Gay; gayteenportugal; GTH-PSR and Grupo Oeste Gay (West Gay Group).

Since the issue of divorce, separation and marriage is the least debated issue in Portugal, it was more difficult to find actors regarding this subject. Nevertheless, the Left Block (Bloco de Esquerda) must be emphasised due to the 17th May 2007 parliamentary debate based on its new divorce law proposal. So far, an application for divorce by mutual consent requires that particular grounds have not been violated; if the applicant has brought about any of these causes, s/he cannot request a divorce by mutual consent. The Left Block law proposal seeks to legalize divorce by request of either the husband or the wife but it was rejected.

Pais para Sempre [Parents Forever] is another actor that deserves mention since it is an association that defends the rights of divorced or separated parents, and children. Due to this fact, they are very active in producing reports and petitions on this topic (See more timelines, year 2001).

### **3.3 Timelines**

#### **Before 1995**

##### 3. Reproductive rights, including abortion, reproductive assistance

Until 1995, the Law 3/84 of 24 March and the Directive 52/85, of 26 January<sup>33</sup> used to be the only legal framework for sexual education and family planning in Portugal. The Law 3/84 attributes to the State the function of promoting the spreading of family planning methods, in order to protect the family (art. 1º, n2). The same law also establishes that the State should promote and provide all individuals with the study and treatment for sterility situations (art. 9º, n1). Furthermore, it defends that it is the State's duty to deepen the study and the practice of artificial insemination as a form of overcoming infertility.

The Law 6/84 of 11 May decriminalized abortion in very strict circumstances. From that moment on, it started being allowed only when performed by a doctor or under his/her supervision, in a health institution, with the pregnant woman's consent, in a few circumstances: in cases of risk of death or irreversible injury for the pregnant woman; in cases where the unborn child would suffer a serious illness or congenital malformation; or in case of rape. Several women's organizations and left-wing parties were involved in demanding for abortion decriminalization and contribute to create pressure in the government and raising support of the issue within public opinion.

##### 1. Divorce, separation, marriage

The legal system that emerged with the 1976 constitution and the revised family law of 1977 (Law Decree 496/77, of 25 November) is built upon the idea of an egalitarian married couple and the right to establish different types of conjugal ties and living arrangements.

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<sup>33</sup> This Directive regulates the consultations of family planning and Centres for Youth Attendance (Regulamento das consultas de planeamento familiar e Centros de Atendimento para Jovens).

Marriage is only allowed between persons of a different sex<sup>34</sup> over age 18 (with possible exceptions over age 16), and husbands and wives have the same rights and duties (Wall, 2007).

#### **Primary Sources:**

- Law Decree 496/77 of 25 November, Introduz alterações ao Código Civil [Introduces changes to the Civil Code], 50 pages, <http://www.dre.pt/pdf1sdip/1977/11/27301/00010050.PDF> (E-text).
- Law 3/84 of 24 March, Educação Sexual e Planeamento Familiar [Sexual Education and Family Planning], 3 pages, <http://www.dre.pt/pdf1sdip/1984/03/07100/09810983.PDF> (E-text).
- Law 6/84 of 11 May, Exclusão de ilicitude em alguns casos de interrupção voluntária da gravidez [Partial decriminalization of some cases of abortion], 2 pages, <http://www.dre.pt/pdf1sdip/1984/05/10900/15181519.PDF> (E-text).

## **1995**

### 3. Reproductive rights, including abortion, reproductive assistance

Law Decree 48/95 of 15 March approved a revised version of the Criminal Code, namely in what concerns abortion. In practical terms, the cases in which abortion was allowed were kept more or less the same as in Law 6/84. The biggest difference between the laws lay in the kind of language used; there is a less accusatory tone in the later one compared to the earlier one. A major difference can also be found in the allowance of abortion in cases of rape. While the 1984 law required a criminal prosecution of the rape, in the one from 1995 only serious indications that a crime against freedom and sexual autonomy had taken place were demanded. These amendments were mostly symbolic and did not lead to a significant increase in the liberalization of abortion laws.

### 1. Divorce, separation, marriage

In 1995, Law Decree 163/95 of 13 July eased divorce regulations further by introducing changes in the procedure for divorce in mutual consent. For couples with no children (or cases where paternal responsibility has been decided), divorce by mutual consent is performed by the civil authorities, outside of court (Wall, 2007).

The Law Decree 84/95 of 15 August introduced some changes in the civil code concerning the principle of parental responsibility after divorce: parents may now opt for shared custody, not only for sole custody. The new law also establishes greater recognition of the interests of the child, namely the child's interest in maintaining a close relationship with a non-custodial parent.

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<sup>34</sup> Article 1577 of the revised civil code (1977).

**Primary Sources:**

- Law Decree 48/95 of 15 March, Aprova o Código Penal [Approves the Criminal Code], 67 pages, <http://www.dre.pt/pdf1sdip/1995/03/063a00/13501416.PDF> (E-text).
- Law Decree 163/95 of 13 July, Altera o Código Civil [Changes the Civil Code], 3 pages, <http://www.dre.pt/pdf1sdip/1995/07/160a00/44314433.PDF> (E-text).
- Law Decree 84/95 of 15 August, Altera o Código Civil, permitindo a opção dos pais pelo exercício comum do poder paternal [Joint Paternal Power], 2 pages, <http://www.dre.pt/pdf1sdip/1995/08/201a00/54675468.PDF> (E-text).

**1997****3. Reproductive rights, including abortion, reproductive assistance**

After the 1997 revision of the Constitution of the Portuguese Republic it became more clear that the State has the duty of guaranteeing (while respecting individual freedom) the right to family planning, and promoting information and access to methods of contraception (art. 67º, n 2 d). Furthermore, it was for the first time included in the Constitution that it is also State responsibility to legalize assisted reproduction, to assure the dignity of human life.

The Law 90/97 of 30 July revises the articles concerning abortion in the Criminal Code. This time the main difference, comparing with the Law Decree 48/95, concerns the time limit for an abortion within the few situations in which it is allowed. In cases of a crime against freedom and sexual will, voluntary termination of the pregnancy is allowed in the first 16 weeks (previously it was 12) (art. 142º, n 1 d). In cases where the unborn child would suffer a serious illness or congenital malformation, 24 weeks is the limit (previously it was 16 weeks) and, a newly added clause, if the fetus is considered nonviable there is no time limit (art. 142º, n1 c).

**Primary Sources:**

- Constituição da República Portuguesa [Constitution of the Portuguese Republic], Cap.II Direitos e Deveres Sociais [Cap.II Social Rights and Duties], art. 67º Segurança e Solidariedade Social [art. 67º Security and Social Solidarity], pages not countable, [http://www.portugal.gov.pt/Portal/PT/Portugal/Sistema\\_Politico/Constituicao/constituicao\\_p07.htm](http://www.portugal.gov.pt/Portal/PT/Portugal/Sistema_Politico/Constituicao/constituicao_p07.htm) (E-text).
- Plano Global para a Igualdade de Oportunidades 1997 [Global Plan for Equal Opportunities], Objecto 5. Protecção Social da Família e da Maternidade [Objective 5. Social Protection of the Family and of Maternity], 1 page, (from 12th to 13th).

- Law 90/97 of 30 July, Altera os prazos de exclusão nos casos de interrupção voluntária da gravidez [Changes the time limit for allowing voluntary interruption of pregnancy], 2 pages, <http://www.dre.pt/pdf1sdip/1997/07/174a00/39303931.PDF> (E-text).

### Secondary Sources:

- [Assessment, January 1997, Relatório- Parecer 19/CNECV/97 sobre os Projectos Lei relativos á interrupção voluntária da gravidez \[Assesment 19/CNECV/97 on the Law Projects concerning voluntary termination of pregnancy\] by Conselho Nacional de Ética para as Ciências da Vida \[Ethic National Council for Sciences of Life\], 15 pages, \[http://www.cneqv.gov.pt/NR/rdonlyres/3D733FE4-5BE0-4CCA-99E2-466211CE2D20/0/P019\\\_IVG.pdf\]\(http://www.cneqv.gov.pt/NR/rdonlyres/3D733FE4-5BE0-4CCA-99E2-466211CE2D20/0/P019\_IVG.pdf\) \(E-text\).](http://www.cneqv.gov.pt/NR/rdonlyres/3D733FE4-5BE0-4CCA-99E2-466211CE2D20/0/P019_IVG.pdf)
- Report, July 1997, Relatório 23/CNECV/97 sobre o Projecto de Proposta de Lei relativa à procriação medicamente assistida [Law Proposal Project concerning the assisted reproduction] by Conselho Nacional de Ética para as Ciências da Vida [Ethic National Council for Sciences of Life], 38 pages, [http://www.cneqv.gov.pt/NR/rdonlyres/EC466B95-6DBE-47F9-AD2F-4B8E917DB448/0/P023\\_PMA.pdf](http://www.cneqv.gov.pt/NR/rdonlyres/EC466B95-6DBE-47F9-AD2F-4B8E917DB448/0/P023_PMA.pdf) (E-text).
- Express newspaper article, 15 November 1997, Igreja dividida: Bispo do Porto admite referendo sobre o aborto [Divided Church: Oporto bishop admits referendum on abortion], 2 pages, <http://primeirasedicoes.expresso.clix.pt/ed1307/pu12.asp> (E-text).

## 1998

### 3. Reproductive rights, including abortion, reproductive assistance

The abortion referendum of 28th of June of 1998 was the first national referendum that took place in Portugal. In this referendum, the Portuguese were asked whether they agreed with the proposal that a woman could decide to voluntarily terminate the pregnancy during the first 10 weeks. The Communist Party and the right-wing Center Social Democrat Party were the only parties to have a clear position in the debate, “Yes” and “No” respectively. As expected, the two biggest parties, the Socialist Party and the Social Democrat Party, avoided defending a clear position.

Nevertheless, in this event specific movements<sup>35</sup> were created to support the “Yes” vote and the “No” positions. Within the “Yes” position a strong movement emerged called “Sim pela Tolerância”. Supporting the “No” vote, the most important movements were “Plataforma Solidariedade e Vida”; “Juntos pela Vida”; “Aborto a pedido? Não” and “Vida Norte”.

The main results of this referendum were a very high abstention (68%), and among those who participated, 50% of the people voted “No”. Therefore, no changes were made to the law.

<sup>35</sup>

[http://www.cne.pt/dl/participantes\\_ref280698.pdf](http://www.cne.pt/dl/participantes_ref280698.pdf)

### 1. Divorce, separation, marriage

The revision of family law after 1974 introduced divorce by mutual consent<sup>36</sup> for couples married for at least three years. In 1998, the Law 47/98 of 10 August changed divorce to be allowed by mutual consent “at any time” (Wall, 2007).

#### **Primary Sources:**

- Law 47/98 of 10 August, Divórcio por mútuo consentimento e divórcio litigioso [Divorce on mutual consent and litigious divorce], 1 page, <http://www.dre.pt/pdf1sdip/1998/08/183A00/38543854.PDF> (E-text).
- Parliamentary debate 1998-06-12, [DAR I Série n.º 080](#), Reunião Plenária de 9 de Junho de 1998 [Plenary Session of 9<sup>th</sup> June 1998] (concerning future Law 47/98), 7 pages (from 24<sup>rd</sup> to the 31<sup>st</sup>).
- Law 9/98 of 18 February, Autoriza o governo a alterar o regime jurídico de adopção [Authorizes the government to change the judicial framework of adoption], 2 pages, <http://www.dre.pt/pdf1sdip/1998/02/041A00/06220623.PDF> (E-text).
- Parliamentary debate 1997-10-03, [DAR I Série n.º 111](#), Reunião Plenária de 2 de Outubro de 1997 [Plenary Session of 2<sup>nd</sup> October 1997] (concerning future Law 9/98), 9 pages (from 19<sup>rd</sup> to the 28<sup>st</sup>).

#### **Secondary Sources:**

- Expresso newspaper article, 30 May 1998, Líderes em campanha no referendo do aborto [Leaders in campaign for the abortion referendum], 3 pages, <http://primeirasedicoes.expresso.clix.pt/ed1335/p51.asp> (E-text).
- Expresso newspaper article, 9 May 1998, Alternativa Democrática nasce no referendo do aborto [Democratic Alternative is born in the abortion referendum], 1 page, <http://primeirasedicoes.expresso.clix.pt/ed1332/pu16.asp> (E-text).

### **1999**

### 3. Reproductive rights, including abortion, reproductive assistance

The Law 120/99 of 11 August reinforced the guarantee to reproductive health rights. Among other things, it defends the introduction of sexual education in schools (art. 2º) and the promotion of campaigns on sexually transmitted diseases (art. 3º). This law was regulated by the Law Decree 259/2000 of 17 October.

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<sup>36</sup> Law Decree 261/75, of 27 November.

## 2. Civil partnerships and gay marriage, discrimination on the basis of sexual orientation

In 1999, the rights concerning cohabiting partners were extended. The Law 135/99 of 28 August attributed to different sex cohabiting couples the right to adopt and to be taxed jointly. Furthermore it gave the surviving partner more rights to the joint home in the event of death.

### **Primary Sources:**

- Law 59/99, of 30 June, Altera o artigo 1906.º do Código Civil (exercício do poder paternal em caso de divórcio, separação judicial de pessoas e bens, declaração de nulidade ou anulação do casamento), 1 page, <http://www.dre.pt/pdf1sdip/1999/06/150A00/40014001.PDF> (E-text).
- Law 120/99 of 11 August, Reforça as garantias do direito à saúde reprodutiva [Reinforce the guarantee to reproductive health rights], 3 pages, <http://www.dre.pt/pdf1sdip/1999/08/186A00/52325234.PDF> (E-text).
- Parliamentary debate 1999-03-11, [DAR I Série n.º 057](#), Reunião Plenária de 2 de Outubro de 1997 [Plenary Session of 2<sup>nd</sup> October 1997] (concerning future Law 120/99), 14 pages (from 31<sup>rd</sup> to the 45<sup>st</sup>).
- Law Decree 259/2000 of 17 October, Regulamenta a Lei n.º 120/99, de 11 de Agosto (reforça as garantias do direito à saúde reprodutiva), fixando condições de promoção da educação sexual e de acesso dos jovens a cuidados de saúde no âmbito da sexualidade e do planeamento familiar, 3 pages, <http://www.dre.pt/pdf1sdip/2000/10/240A00/57845786.PDF> (E-text).
- Law 135/99 of 28 August, Adota medidas de protecção da união de facto, 3 pages, <http://www.dre.pt/pdf1sdip/1999/08/201A00/59475949.PDF> (E-text).
- Parliamentary debate 1999-03-04, [DAR I Série n.º 054](#), Reunião Plenária de 4 de Março de 1999 [Plenary Session of 4th March 1999] (concerning future Law 135/99), 28 pages (from 15th to the 43th).

### **Secondary Sources:**

- Position, 1999, Posições sobre o Projecto de Lei do PCP - Reforça as garantias do direito à saúde reprodutiva [Positions on PCP's Law Project - Reinforce the guarantee to reproductive health rights], 7 pages, <http://www.juntospelavida.org/dirrepr.html> (E-text).

## **2001**

### 3. Reproductive rights, including abortion, reproductive assistance

The Law 12/2001 of 29 May regulates emergency contraception, which consists of a contraceptive pill to be taken by the woman up to 72 hours after the unprotected sexual

relation. Furthermore, the same law states that emergency contraception methods are available for free in medical institutions or paid for in pharmacies, without a prescription being compulsory.

## 2. Civil partnerships and gay marriage, discrimination on the basis of sexual orientation

The law 7/2001 of 11 May regulates the cohabitation for more than two years of two persons, independently of their sex. Although this Law establishes the same rights both for different and same sex partnerships, it excludes the latter the right to adopt.

### **Primary Sources:**

- Law 12/2001 of 29 May, Contraceção de emergência [Emergency contraception], 1 page, <http://www.dre.pt/pdf1sdip/2001/05/124A00/31483148.PDF> (E-text).
- Parliamentary debate 2000-10-14, [DAR I Série n.º 011](#), Reunião Plenária de 13 de Outubro de 2000 [Plenary Session of 13<sup>th</sup> October 2000] (concerning future Law 12/2001), 17 pages (from 18<sup>rd</sup> to the 35<sup>st</sup>).
- Law 7/2001 of 11 May, Adota medidas de protecção das uniões de facto [Measures to protect cohabitation couples], 2 pages, <http://www.dre.pt/pdf1sdip/2001/05/109A00/27972798.PDF> (E-text).
- Parliamentary debate 2001-02-15, [DAR I Série n.º 049](#), Reunião Plenária de 14 de Fevereiro de 2001 [Plenary Session of 14<sup>th</sup> February 2001] (concerning future Law 7/2001), 18 pages (from 28<sup>rd</sup> to the 46<sup>st</sup>).

### **Secondary Sources:**

- Statement, April 2001, De que falamos quando falamos de contraceção de emergência... [What are we talking about when we talk about emergency contraception...] by Associação para o Planeamento da Família [Portuguese Family Planning Association], 2 pages, [http://www.apf.pt/dis\\_pos/comunicado1.htm](http://www.apf.pt/dis_pos/comunicado1.htm) (E-text).
- Petition, October 2001, Solicitam que sejam alterados alguns diplomas legais, designadamente, o Código Civil, a Organização Tutelar de Menores e a Lei de Protecção da Maternidade e da Paternidade [Protection of Maternity and Paternity] by Pais para Sempre [Parents Forever], pages not countable, [http://www3.parlamento.pt/plc/Peticao.aspx?Pet\\_ID=11179](http://www3.parlamento.pt/plc/Peticao.aspx?Pet_ID=11179) (E-text).
- Petition, September 2001, Petição à Assembleia Geral das Nações Unidas em sessão especial a favor da infância by Pais para Sempre [Parents Forever], pages not countable, <http://www.paisparasempre.org/arquivo/ONUUSE2001.html> (E-text).

## 2002

### 3. Reproductive rights, including abortion, reproductive assistance

In the Resolution 57/2002, of 17 October (The reality of abortion in Portugal), the Parliament decided to evaluate the efficacy and the fulfilment of the documents approved on sexual education and family planning. The Parliament decided also to analyse the state of family planning, from the institutions involved in that and many other areas connected with abortion.

#### **Primary Sources:**

- Resolution 57/2002 of 17 October of the Council of Ministers, A realidade do aborto em Portugal [The reality of abortion in Portugal], 30 pages, [http://www.eb1-recovelas.rcts.pt/02\\_03/leg/min.pdf](http://www.eb1-recovelas.rcts.pt/02_03/leg/min.pdf) ( E-text).
- Resolution of 6 June 2002 on sexual and reproductive health and rights. European Parliament CWR (2001/2128 (INI).

#### **Secondary Sources:**

- Press Release, May 2002, Situação Portuguesa [The Portuguese Situation] by Ilga Portugal, 10 pages, [http://www.ilga-portugal.pt/glb/situacao\\_portuguesa.htm](http://www.ilga-portugal.pt/glb/situacao_portuguesa.htm) (E-text).

## 2003

#### **Primary Sources:**

- II Plano Nacional para a Igualdade 2003 – 2006 [II National Plan for Equality], Cap. 2 Educação, Formação e Informações [Chap. 2 Education, Training and Informations], 2.2 Saúde Reprodutiva e sexual [Reproductive and Sexual Health], 3 pages (from 30th to 33th).

#### **Secondary Sources:**

- Contribute, September 2003, Contributo para uma proposta de legislação para as áreas da Biologia e da Medicina aplicadas à Reprodução Humana [Contribute for a legislation proposal in the areas of Biology and Medicine applied to Human reproduction] by Sociedade Portuguesa de Medicina de Reprodução [The Portuguese Society of Reproductive Medicine], 28 pages, [http://www.referendo-pma.org/portugal/pareceres/lei\\_rma.pdf](http://www.referendo-pma.org/portugal/pareceres/lei_rma.pdf) (E-text).
- Position, March 2003, Posição sobre Reprodução Assistida [Position on Assisted Reproduction], by Associação dos Médicos Católicos Portugueses [Association of the Catholic Portuguese Doctors], 4 pages, <http://www.referendo-pma.org/campanha/pma.htm> (E-text).

- Position, July 2003, Tomada de Posição do Provedor da justiça sobre o casamento de pessoas do mesmo sexo [Position on same sex-marriage], 16 pages, <http://www.ilga-portugal.pt/glb/lei20030727.htm> (E-text).
- Press Release, October 2003, Supremo Tribunal de Justiça incentiva a discriminação em função da orientação sexual [Incentives to non-discrimination based on sexual orientation] by Ilga Portugal, 2 pages, <http://www.ilga-portugal.pt/glb/lei20031027.htm> (E-text).
- Público newspaper article, 1 September 2003, Código Penal insiste na discriminação de homossexuais [Penal Code insists in gay discrimination], 2 pages, <http://www.ilga-portugal.pt/glb/lei20030916.htm> (E-text).

## 2004

### 3. Reproductive rights, including abortion, reproductive assistance

A campaign was organized in Portugal which was the result of collaboration between Women on Waves and Portuguese organizations: Não te Prives, Youth Action for Peace, Clube Safo, and UMAR. This campaign consisted in abortions being performed free of charge to Portuguese on the Women on Waves ship without the risk of prosecution for the women involved. The government reacted and did not allow the ship to arrive in Lisbon (in national waters), which led to an overwhelming press coverage, increasing the political salience of the issue. From August 23<sup>rd</sup> onwards, we have collected more than 700 newspaper articles, and there was also continuous TV coverage on all channels, both public and commercial.<sup>37</sup>

### **Secondary Sources:**

- Assessment, July 2004, Relatório Parecer 44/CNECV/04 Procriação Medicamente Assistida [Assessment 44/CNECV/04 on Assisted Reproduction], by Conselho Nacional de Ética para as Ciências da Vida [Ethic National Council for the Science of Life], 8 pages, [http://www.cnecv.gov.pt/NR/rdonlyres/44BF91C6-4A80-41FD-A177-3AE0D00E3AEB/0/P044\\_ParecerPMA.pdf](http://www.cnecv.gov.pt/NR/rdonlyres/44BF91C6-4A80-41FD-A177-3AE0D00E3AEB/0/P044_ParecerPMA.pdf) (E-text).
- Proposal, February 2004, Propostas da APF no contexto dos debates sobre a despenalização do aborto e a saúde sexual e reproductiva [Proposals of PFPA about the decriminalization of abortion and sexual and reproductive health] by Associação para o Planeamento da Família [Portuguese Family Planning Association], 2 pages, [http://www.apf.pt/dis\\_pos/comunicado\\_aborto.htm](http://www.apf.pt/dis_pos/comunicado_aborto.htm) (E-text).

<sup>37</sup>

<http://www.womenonwaves.org/set-1020.269-en.html>

## 2005

### Secondary Sources:

- Petition, April 2005, Petição Nº 17/X/1, Solicitam a tomada de medidas adequadas, por parte da A.R., para que a pílula abortiva RU486 seja comercializada e distribuída em Portugal por prescrição médica e a partir dos serviços públicos de saúde, e para que a despenalização do aborto, quando realizado a pedido da mulher, nas primeiras 10 a 12 semanas by Mulheres Online [Women Online], 2 pages, <http://www3.parlamento.pt/plc/docs/doc.pdf?Path=6148523063446f764c3246795a5868774d5339305a5868306279316d61573568624339594c314246564445334c566774526935775a47593d&Fich=PET17-X-F.pdf> (E-text).
- Press Release, April 2005, Comunicado sobre as alterações à lei sobre a interrupção voluntária da gravidez e referendo [Official Notice concerning the changes in the abortion law and referendum] by Associação Família e Sociedade [Family and Society Association], 3 pages.
- Press Release, 2005, Comunicado sobre Educação Sexual [Official Notice on Sexual Education] by Associação Família e Sociedade [Family and Society Association], 2 pages.

## 2006

### 3. Reproductive rights, including abortion, reproductive assistance

The Law 32/2006 of 26 July regulates the use of techniques of assisted reproduction, such as artificial insemination or fertilization *in vitro* (art. 1º and 2º). The beneficiaries of these techniques are married couples or co-habiting (for at least two years) couples, as long as the partners are from different sexes. By excluding same-sex couples from its regulations, this law has been the target of debate and criticism from several LGBT movements and associations, like ILGA Portugal and Panteras Rosas [Pink Panthers].

### Primary Sources:

- Law 32/2006 of 26 July, Procriação medicamente assistida [Assisted reproduction], 6 pages, <http://www.dre.pt/pdf1sdip/2006/07/14300/52455250.PDF> (E-text).
- Parliamentary debate 2005-10-22, [DAR I Série n.º 058](#), Reunião Plenária de 21 de Outubro de 2005 [Plenary Session of 21<sup>st</sup> October 2005] (concerning future Law 32/2006), 16 pages (from 2641<sup>st</sup> to the 2657<sup>th</sup>).

### Secondary Sources:

- Manifesto, January 2006, Manifesto a favor de um Referendo sobre a Procriação Medicamente Assistida [Manifesto for a Referendum on Medical Assisted Reproduction], 4 pages, <http://www.referendo-pma.org/campanha/manifesto.pdf> (E-text).

- Diário digital newspaper article, 15 February 2006, JS não propõe adopção por gays [Socialist Youth doesn't propose adoption by gay people], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=150206Z> (E-text).
- Diário de Notícias newspaper article, 16 May 2006, Deputados Socialistas “vetam” mulheres sós, [Socialist MP's veto Lonely Women], 2 pages, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=160506A> (E-text).
- Jornal de Notícias newspaper article, 18 May 2006, BE quer Souto Moura a explicar discriminação [Left Block wants Souto Moura to explain discrimination], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=180506B> (E-text).
- Diário digital newspaper article, 24 May 2006, Ilga Portugal questiona a constitucionalidade da lei que regula PMA [Ilga Portugal questions the constutinality of the Law that regulates assisted reproduction], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=240506B> (E-text).
- Público newspaper article, 25 May 2006, JS diz que lei da Reprodução Medicamente Assistida é discriminatória [Socialist Youth says that assisted reproduction law is discriminatory], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=250506B> (E-text).
- O Primeiro de Janeiro newspaper article, 17 May 2006, Grupo manifesta receios de discriminação na lei de Procriação Medicamente Assistida [Group fears discrimination in the assisted reproduction law], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=170506A> (E-text).
- Portugal Diário newspaper article, 25 May 2006, Procriação assistida: lei faz discriminação imbecil [Assisted Reproduction: Law makes stupid discrimination], 2 pages, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=250506A> (E-text).
- Público newspaper article, 23 June 2006, ILGA Portugal pede a Cavaco Silva fiscalização do decreto sobre procriação medicamente assistida [Ilga Portugal asks Cavaco Silva for fiscalization on the Law Decree about reproductive assistance], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=230606A> (E-text).
- Diário de Notícias newspaper article, 13 October 2006, Partido do Governo adia novos direitos gay para depois de 2009 [Government Party postpones new gay rights to 2009], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=131006A> (E-text).

- Portugal Diário newspaper article, 13 October 2006, Juventude Socialista desafia presidente do Partido [Socialist Youth challenges the party's president], 1 page, <http://www.casamentocivil.org/casamentocivil/news.asp?uid=131006B> (E-text).
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## 2007

### 3. Reproductive rights, including abortion, reproductive assistance

The Socialist leadership has not always favoured the liberalization of abortion laws and has avoided a clear position on the subject. However, in 2007 with a new leadership coming to power, the commitment for abortion policy reform led them to promote the last referendum on 11th February. Once again, the Portuguese were asked whether they agreed if a woman could decide to voluntary termination of the pregnancy during the first 10 weeks.

The incredible mobilization of civil society towards this referendum was even more significant than in 1998. Movements<sup>38</sup> of citizens organised towards this debate to defend the “Yes” or the “No” position and played an important role in lobbying and exerting political pressure in this referendum. On the “Yes” side, movements emerged such as “Movimento Cidadania e Responsabilidade pelo Sim”<sup>39</sup>; “Em Movimento Pelo Sim”; “Interrupção voluntária da gravidez - A Mulher decide”; “A Sociedade respeita, o Estado garante”<sup>40</sup>; “Movimento Voto Sim”; “Jovens pelo Sim”; “Médicos pela Escolha”<sup>41</sup>; and

<sup>38</sup> <http://www.cne.pt/index.cfm?sec=0306000000&EleicaoID=49&Eleicao2ID=0> .

<sup>39</sup> <http://cidadaniapelosim.blogspot.com/>

<sup>40</sup> <http://www.emmovimentopelosim.org/>

<sup>41</sup> <http://www.medicospelaescolha.pt/>

“Plataforma para os Direitos das Mulheres” [Platform for Women’s Rights]. On the “No” side, the most important movements created were “Plataforma “Não Obrigada”<sup>42</sup>; “Norte pela Vida”; “Minho com Vida”; “Vida, Sempre”; “Escolhe a Vida”; “Mais Aborto Não”; “Liberalização do Aborto Não”; “Algarve pela vida”; “Juntos pela Vida”; “Aborto a pedido? Não!”; “Guard’a vida”; “Alentejo Pelo Não”; “Diz Que Não”; and “Diz Não à Discriminação”.

Although the percentage of participation was below 50 % (43.57%), because 59 % of the people who participated voted “yes” the majority government decided to pass the law.

The Socialist party’s commitment to policy change was significant even after the low turnout for the referendum, which does not make the referendum legally binding. The Socialist prime-minister reassured that the referendum will bring about liberalization in the abortion law.

The Law 16/2007 of 17 April brought about a new revision to the Criminal Code (art. 142<sup>o</sup>) which decriminalized the voluntary interruption of the pregnancy in the first 10 weeks of pregnancy if carried out at the woman's request in a registered clinic.

Due to the fact that the law is very recent, there is debate concerning its implementation.

#### 1. Divorce, separation, marriage

There was a recent parliamentary debate on the divorce law (the 17th May 2007). The Bloco de Esquerda party (Left Block) made a law proposal that seeks to legalize divorce by request of either the husband or the wife. At the present time, an application for divorce by one spouse against another requires that particular grounds have been violated; if the applicant has brought about any of these causes, s/he cannot request a divorce. The BE proposed to change this requirement, but their law proposal was rejected. The Socialist Party (PS), the Social Democrat Party (PSD) and the Center Social Democrats (CDS) voted against this law proposal.

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## 4. Gendered Violence

### 4.1 Introduction

Within Gendered Violence in Portugal three sub-issues were considered:

1. Domestic violence and violence in partnerships
2. Trafficking, prostitution
3. Sexual harassment<sup>43</sup>

None of these three sub-issues have been vastly debated in Portuguese society. By order of importance the sub-issue of domestic violence is the one mostly addressed by civil society and research, and also several laws have been set in place to fight the issue. This sub-issue is followed by trafficking, prostitution, and by sexual harassment.

**Domestic violence and violence in partnerships** were introduced in the political agenda mostly through the work of a few social movement organizations and by the signing of international treaties. Although articles 153, 158, and 200 of the Penal Code are not exclusively on domestic violence they can be implemented within this area. But only in the 1980's did the issue begin to be addressed as a social problem (Dias 2004).

The first main piece of legislation on domestic violence is Law 61/91 of 1991, which provides protection for women who are victims of violence. The political debate on domestic violence had started following the emergence of women's organizations after the democratization period in the mid-1970s, but only in 1991 was there legislation directly tackling the topic, to provide women who are victims of violence with some kind of protection (Law 61/91 of 13 August). In that same year, a new law decree was approved, which provided any victims of violent crime accountable for a state financial compensation (Law Decree 423/91 of 30 October).

The major domestic violence debate emerges in the public arena at the end of the 1990's. Four different legal measures were adopted. Under Law 11/98 of 24 January, the forensic system was reorganized and domestic violence complaints could now be lodged with the coroner's services. Incest was not an offence as such. However, where rape and sexual assault were concerned, the fact that these acts were perpetrated by an ascendant, an adoptive parent, or a relative of the first or second degree (direct ascendant or collateral) was an aggravating circumstance. The police also seem to be more responsive to cases of sexual abuse of children. Telephone help lines have been set up and the number of cases of this type brought before youth courts are increasing.

The other main legal measure to appear at the end of the 1990's on domestic violence was the Resolution 31/99 of 25 March. This law establishes a national support network, a system of compensation for victims of domestic violence, an SOS telephone line, and awareness campaigns on violence to be disseminated throughout the media.

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<sup>43</sup> We excluded "stalking" from the title of the sub-issue because it's not an issue at all in Portugal.

This Resolution 31/99 was also a benchmark in regards that it established the victims' right to get a restraining order against the perpetrator.

The Resolution by the Council of Minister 55/99 created, for the first time, a National Plan Against Domestic Violence.<sup>44</sup> Another legal measure was Law 129/99 20 August, in which the state provides women with financial support when they are trapped in an economically deprived situation (Canço, 2007).

A year later, the Law 7/2000 of 27 May made the ill-treatment of a spouse a public crime. Therefore, not only the victim but anyone who had knowledge of such violence could lodge a complaint and follow the proceedings. This also obliged the police to follow up reports of domestic violence. The change gives the police and the courts more leverage to prosecute such cases and removes from the victim some of the burden of bringing charges.

The Parliament has also mandated the creation of domestic violence units in the police, and of a new domestic violence category in the Attorney-General's report on crime. Under the law, perpetrators of domestic violence may be barred from contact with their victims, and in extreme cases, the police can order the immediate expulsion of a perpetrator from the victim's home. The law also calls for the development of new programs to teach anger management to perpetrators and to assist victims with the professional development necessary to live independent lives. These general policies have provided women's organizations with some satisfaction and they have concentrated their effort to bring the issue to the political governmental agenda and to provide immediate service-provision. Overall, since the 2000's the political debate on domestic violence has been gaining momentum.

Concerning **trafficking and prostitution** there is no specific legislation dealing with the trafficking in human beings. The Penal Code contains a few provisions that may serve as a legal ground for the prosecution of traffickers, and criminal legislation addresses the punishment of crimes of trafficking in human beings for sexual purposes. Most of the policy debate around trafficking and prostitution has been determined by this lack of specific legislation addressing this sub-issue. It is mostly through several NGO's and supra-national political bodies that the issue has been inserted in the political debates.

Because of the loopholes and shortcomings in the overall legal framework governing these matters, new legislation is currently under preparation and discussion: first, the Council of Ministers has recently approved a bill to be submitted to the National Parliament, which foresees the punishment of those who assist not only the entry and residence in Portugal, but also the transit of illegal migrants; second, two other bills currently under consideration by the Parliament further amend the Criminal Code and foresee new measures for the protection of victims. Also, on 25 June 2002, the establishment of a National Immigration Plan, which included amendments to the current legal framework, was announced by the government.

Portugal ratified on 16 May, 2005, with no reservation, the Convention for the Suppression of the Trafficking of People and of the Exploitation of Prostitution

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<sup>44</sup> [http://www.mulheres-ps20.ipp.pt/Violencia\\_Domest\\_Relatorio.htm](http://www.mulheres-ps20.ipp.pt/Violencia_Domest_Relatorio.htm).

(Convenção para a Supressão do Tráfego de Pessoas e da Exploração da Prostituição de Outrem) of the Council of Europe Convention on Action against Trafficking in Human Beings.

Concerning prostitution, in Portugal there is no specific law forbidding it. In 2001, the Penal Code was modified by Law 99/2001 of 25 August, to enforce punishment for exploitation of prostitution, most specifically child prostitution. The law punishes the one who forces a child into prostitution and includes punishment mechanisms for trafficking of human beings.

Street prostitutes can be prosecuted under offences against public morality, but such prosecutions are rare. Many local administrations practice a policy of toleration, provided there is no public disturbance or offence against public morality.

Other administrations pursue repressive policies which may push prostitution, drug use, and homosexuality underground or, at least, to confine them specific geographical areas, trying to hide their public visibility.

There have been instances when the police have been forced to intervene by pressure from citizens, or residents who regard prostitution as a public problem in their neighbourhood. Public opinion towards prostitution is ambiguous, with different attitudes towards female and male prostitution. While the former is tolerated and regarded almost as a 'necessary evil', the latter is less accepted and much more hidden.

Recently the political debate has been conducted mostly by civil society organizations, which have had an important role in bringing visibility to the prostitution issue, particularly the violence against prostitutes.

There have some debates in the last few years about the need to legalize brothels, have sanitary control over prostitutes, and increase their protection and regulation. Most of these debates have not produced any legislative proposals, but have given some degree of visibility to the issue of prostitutes' marginalization, stigmatization, and victimization.

In terms of the prostitution population, it is difficult to estimate the number of people working in the sex industry. Some sex-workers do not regard themselves as prostitutes, while other workers go underground and are controlled by organized networks of prostitution. Occasionally, there are reports in the media about the trafficking of young people to other countries, or even doing sex-work inside of Portugal.

In Portugal, there is female, male, and child prostitution. There is more tolerance, more acknowledgement and more resources set in place for female prostitution than for the other two types.

Regarding **sexual harassment**, the policy debate on the issue has gained some momentum in the last few years; prior to this it had been inserted into the political agenda largely through employment policies. Sexual harassment is covered in the Penal Code as a sex crime. However, the legal definition of the term 'sexual harassment' is unclear and it can only be considered a crime if perpetrated by a superior and in the workplace. The penalties are two to three years imprisonment.

The Labour Code (*Código do Trabalho*) stipulates that harassment of a job applicant or female employee constitutes discrimination. Harassment is taken to mean all unsolicited conduct when applying for a job or during the job, work, or vocational training.

Sexual harassment occurs when there is an offence against personal dignity or an intimidating, hostile, degrading, humiliating, or destabilizing work environment.

Harassment is also considered to be all unsolicited conduct of a sexual nature, whether verbal, non-verbal, or physical, with the effects described above. The Labour Code also requires employers to ensure good working conditions, both from a physical and moral point of view. The issue has rarely been debated in the Parliament.

The Penal Code stipulates that anyone who abuses their authority, arising out of a hierarchical or strong economic position, or a position of employment subordination, in such a way as to use orders or threats to force another person to undergo any relevant sexual act (with them or with another person), shall be punished by up to two years of imprisonment.

In the event of harassment the employee must contact their trade union representative or the respective Workers' Commission, file a complaint with the Commission for Equality in Labour and Employment (*Comissão para a Igualdade no Trabalho e no Emprego - CITE*), or refer to the Legal Information Service of the Commission on the Equality and Rights of Women (*Comissão para a Igualdade e para os Direitos das Mulheres - CIDM*) for useful information.

## 4.2 Actors

Domestic violence and violence in partnerships have been issues of concern first and foremost within the main women's state agency, the Commission for the Equality and the Rights of Women (CIDM). The CIDM also provides information and juridical consulting regarding domestic violence.<sup>45</sup> The free telephone helpline 'Green Line' gives both information and support for women victims of domestic violence.

The Ministry of Internal Affairs (Ministério da Administração Interna) was also the main entity to develop a set of initiatives under the Program INOVAR in 1997.<sup>46</sup>

There are other several non-governmental organizations that give support to women victims of violence. Namely, the Association of Women against Violence (*Associação de Mulheres contra a Violência*), which gives psychological and juridical support to the victims of rape<sup>47</sup>; and the Association of Victim Support (*Associação de Apoio à Vitima –APAV*), which provides legal and psychological support, shelter, and emergency financial support to victims of violence.<sup>48</sup> This organization has 16 centres in Portugal. The Project INOVAR works in close collaboration with the CIDM and the *Associação de Mulheres contra a Violência* (Association of Women Against Violence) in support of victims of domestic violence. In Portugal there are 55 centres that provide counselling for women (distributed among 14 provinces) and two in Açores and Madeira, and there are 33 temporary shelters for women victims of domestic violence and their

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<sup>45</sup> <http://www.cidm.pt/>

<sup>46</sup> *Violência Doméstica – Primeiro Relatório Nacional*, Ministério da Administração Interna, GNR, PSP, Coimbra 8/3/1999.

<sup>47</sup> <http://www.amcv.org.pt/>

<sup>48</sup> <http://www.apav.pt/>

children<sup>49</sup> (Açores, Coimbra, Évora) and shelters for homeless young unmarried mothers (three in Lisbon), managed by private or religious entities. A shelter was also created in Lisbon by an official initiative set in action by the Global Plan that is being operated by the Association of Women against Violence.<sup>50</sup>

Other main actors involved in raising awareness regarding domestic violence as a crime are *Estrutura de Missão Contra a Vilência Doméstica*<sup>51</sup>, (Mission Against Domestic Violence), *Fundação da Juventude*<sup>52</sup> (Youth Foundation), which both have been involved in providing consulting services on domestic violence, legal information, and a hotline. Also often involved in demonstrations and the general struggle against domestic violence are the *União de Mulheres Alternativa e Resposta* (UMAR)<sup>53</sup> and the *Movimento Democrático de Mulheres* (Women's Democratic Movement).

Most of the impact of the EU and supranational political or civil society bodies is in terms of either recommendations, signing of conventions, or International Resolutions. Some influential international policies were the Domestic Violence European Parliamentary Report (16/09/97) on the zero tolerance regarding violence against women and the 1993 Declaration for Elimination of Violence Against Women.<sup>54</sup>

Most of the actors that have been involved in sub-issue of trafficking and prostitution are NGO's that target specific groups of people in order to socially rehabilitate them; at the same time they pressure authorities for more legal reform within this sub-issue. One main organization is the *O Ninho* (The Nest) which is a civil society organization invested in suggesting concrete measures to public officials with regard to the disappearance of prostitution as a social problem.<sup>55</sup> It occupies a unique positioning within the trafficking and prostitution debate because this organization considers prostitution as violence against women and the exploitation of women. This organization has also concentrated on support and the reintegration of women prostitutes.

Unions have also been proactive in denouncing how prostitution has been normalized, particularly the *Sindicato dos Trabalhadores das Empresas do Grupo da Caixa Geral de Depósitos* (Workers' Union) which was involved in a petition expressing disapproval of the normalization of "sex tourism" during the World Cup in Germany in 2006<sup>56</sup> sent to the UEFA Committee.

The *Bloco de Esquerda*, a small left-wing party has also included human trafficking and sexual exploitation as one of their main areas of concern.<sup>57</sup>

In terms of women's organizations, the *Movimento Democrático de Mulheres* (Women's Democratic Movement) has been involved throughout the years in this debate and in the last few years they have highlighted how immigrant women have been the main victims of this reality (intersectionality).<sup>58</sup>

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49 <http://www.plataformamulheres.org.pt>.

50 Dia Internacional da Mulher, 8 de Março de 1998, INOVAR/MAI.

51 <http://www.emcvienciadomestica.com/html/index.asp>

52 <http://www.fjuventude.pt/programas/sites/violencia/>

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55 <http://www.oninho.pt/PDF/Informacao.pdf>

56 <http://www.stec.pt/backend/templates/user/files/71.peticao.pdf>.

57 <http://www.be-global.org/global/9/esquerda09.pdf>.

58 <http://www.mdmulheres.com/violenciasexual.html>.

At the state level, there is the Health Regional Administration which promoted the “*Projecto Auto-Estima*” (Self-Esteem Project) and had an important role in providing prostitutes with support and information on HIV.<sup>59</sup>

One of the main international bodies to be influential within this issue is the United Nations High Commission for Human Rights (UNHCR). This Commission on Human Rights adopted decision 2004/110, by which it decided to appoint, for a three-year period, a Special Rapporteur on trafficking in persons, especially women and children, to focus on the human rights aspects of the victims of trafficking in persons.<sup>60</sup>

In relation to sexual harassment, the main actor involved in dealing with this issue has been the *Comissão para a Igualdade no Trabalho e no Emprego* (Equality Commission for Work and Employment) who have provided not only legal information, but have been involved in taking sexual harassment cases to court and providing legal advice to victims of sexual harassment.<sup>61</sup> But the CIDM and the Plataforma Portuguesa para os Direitos das Mulheres have also been involved in raising awareness, mostly with regard to the level of sexual harassment at the workplace.<sup>62</sup>

Most international [conventions](#) have not specifically addressed sexual harassment, but many fundamental human rights and international law principles have been applied to prohibit sexually harassment. At the UN level, conferences and committees have treated sexual harassment as a form of sex discrimination prohibited under U.N. conventions. This sub-issue is mostly addressed as a violation of human dignity, and a violation of health and safety rights guaranteed to workers under International Labour Organization treaties.

One of the main reports on this topic is the United Nations General Assembly adopted the [Declaration on the Elimination of Violence Against Women](#) (DEVAW). This landmark document was the result of efforts of the U.N. Commission on the Status of Women and the U.N. Economic and Social Council to address violence against women. In this report they provide several recommendations to be implemented by each state. Namely, states should work to prevent and investigate such acts. In addition, states should develop comprehensive legal, political, administrative, and cultural programs to prevent violence against women. States should provide training to law enforcement officials and collect statistics about the incidence of acts of violence against women.<sup>63</sup> Some of the gender training in Portugal in this area makes reference to such international [conventions](#).

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<sup>59</sup> [http://www.arsnorte.min-saude.pt/projecto\\_autoestima.htm](http://www.arsnorte.min-saude.pt/projecto_autoestima.htm)

<sup>60</sup> <http://www.ohchr.org/english/issues/trafficking/>

<sup>61</sup> [http://www.cite.gov.pt/cite/Conceitnorm/conceitos04\\_01.htm](http://www.cite.gov.pt/cite/Conceitnorm/conceitos04_01.htm)

<sup>62</sup>

[http://www.plataformamulheres.org.pt/index.php?option=com\\_content&task=view&id=56&Itemid=9](http://www.plataformamulheres.org.pt/index.php?option=com_content&task=view&id=56&Itemid=9)

<sup>5</sup>

<sup>63</sup> <http://www.stopvaw.org/>

## 4.3 Timelines

### Before 1995

#### 1. Domestic violence and violence in partnerships

In the Portuguese constitution, Article 25 Direito à Integridade Pessoal (Right to Personal Integrity, establishes (1) The moral and physical integrity of the person is inviolable; and (2) No one may be subjected to torture or to cruel, degrading, or inhumane treatment or punishment.

In the revision of the Penal Code in 1983, the article 153 introduces punishment for physical abuse between married people and against underage and dependents.

In 1991, Law 61/91 of 3 August guarantees adequate protection to women who are victimized by violence. The objective of the law is to reinforce mechanisms of legal protection to all women victims of crimes of violence. Namely, the following: (a) The establishment of a prevention and support system for women victims of crimes of violence; (b) The institution of an emergency telephone counselling department for women who are victims of crimes of violence; (c) The creation of a special section in the criminal police departments for direct assistance to victims; (d) An incentive regime for the creation and functioning of women's associations for the protection of victims of crimes of violence; (e) A system of warranties to stop the violence and to make reparations for all damages incurred.

The protection system established by the law is applied when a crime results from a discriminatory attitude towards women and in cases of sexual crimes, the mistreatment of a spouse, as well as kidnapping, sequestration and bodily offences. Beyond the measures already covered, these measures of support and prevention are also considered: (a) The elaboration of a Guide for Women Victims of Violence; (b) Support for the creation of study and investigation centres about women and to the private and cooperative editorial activities in the field of the rights of women; (c) The creation of centres for counselling, shelter and support of women victims of violence; (d) The gradual institution of special sections in the criminal police departments for direct assistance to victims, with competence to deal with complaints of these crimes.

Since 1994, the Commission for the Equality and the Rights of Women (CIDM) has provided training to police officers and sergeants in the Public Security Police (PSP) and in the National Republican Guard (GNR) schools regarding the issue of violence against women.

#### 2. Trafficking, prostitution

Prostitution was legal in Portugal until 31/12/1994. Women working in prostitution had to be registered and the houses where prostitution took place were controlled by specific regulations. In order to keep their prostitute's license, women were submitted to periodic medical exams for venereal diseases.

Non-registered women found in brothels or in public places were arrested. The Law 44579/62 of 19/09/62, forbids the practice of prostitution from the 1/1/63 and listed

punishments and sanctions against women exercising prostitution, as well as against those facilitating, promoting or exploiting prostitution. For 20 years prostitutes were liable to prosecution and could be placed under arrest. This law was partially revoked by the actual Portuguese Penal Code (1/1/83): the practice of prostitution is not punished; only its exploitation and/or the facilitating of it are penalized (articles 215 and 217).

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- Article 152, Penal Code, Abuse and Infracton of Security [Maus tratos e Infracção de regras de segurança], [http://www.mulheres-ps20.ipp.pt/Legisl\\_Violencia\\_Domest.htm](http://www.mulheres-ps20.ipp.pt/Legisl_Violencia_Domest.htm) (E-text).
- Law 61/91 of 13 August, Guarantees adequate protection to women who are victimized by violence [Garante protecção adequada às mulheres vítimas de violência], 3 pages, <http://www.dre.pt/pdf1sdip/1991/08/185a00/41004102.PDF>, [http://www.mulheres-ps20.ipp.pt/Legisl\\_Violencia\\_Domest.htm](http://www.mulheres-ps20.ipp.pt/Legisl_Violencia_Domest.htm) (E-text).
- Law Decree 423/91 of 30 October establishes the judicial protection programs to the victim of violent crimes [Estabelece o regime jurídico de protecção às vítimas de crimes violentos], 6 pages, <http://www.dre.pt/pdf1sdip/1991/10/250a00/55765581.PDF> (E-text).

## **1995**

### **1. Domestic violence and violence in partnerships**

In 1995, under the review of the Penal Code, through Law Decree 48/95, of 15 March, altered by Law 90/97 of 30 July, the sentences for crimes of mistreatment of a spouse, or of a person who lives in an analogous situation (article 152), were increased as were the sentences for the crimes of rape (article 164).

With the changes introduced through law decree number 48/95 of 15 March 1995, which preceded the revision of the Penal Code, an increase in the sentences applicable for crimes related to sexual exploitation and violence was introduced. For example, the crime of mistreatment or violence against youngsters, the disabled or the spouse was now punishable by a prison sentence of from 1 to 5 years (previously the sentence was for 6 months to 3 years), the sentence for rape, which was from 2 to 8 years, is now 3 to 10 years.

## 2. Trafficking, prostitution

In 1995, under the review of the Penal Code, through Law Decree 48/95, of 15 March, increased the sentences for pimping (article 170). The sentence for pimping is now from 6 months to 5 years (previously the punishment was up to 2 years in prison and a fine). Prostitution is not an illegal activity in Portugal, the law only punishes the exploitation of the prostitution of another person.

The prosecution of trafficking is dealt with by the *Law Decree 325/95* of 2 December, which sets out the legal framework to prevent and combat money laundering.

### **Primary Sources:**

- Law Decree 48/95, of 15 March, altered by Law 90/97 of 30 July, the sentences for crimes of mistreatment of a spouse, or of a person who lives in an analogous situation (article 152) were increased as were the sentences for the crimes of rape (article 164). Law Decree 48/95, of 15 March, increased the sentences for pimping, 67 pages, (article 170), <http://www.dre.pt/pdf1sdip/1995/03/063a00/13501416.PDF> (E-text).
- Law Decree 325/95 of 23 December prosecutes trafficking through preventing and combating money laundering, <http://www.dre.pt/pdf1sdip/1995/12/278a00/75107514.PDF> (E-text).

### **Secondary Sources:**

- In 1995, the Commission for the Equality and the Rights of Women (CIDM) promoted the development of a study about violence against women in the family, “The characterization of the social representations and violence practices towards women” [A caracterização das representações sociais e as práticas violentas contra a Mulher], which was carried out by the *Centro de Estudos de Sociologia da Universidade Nova de Lisboa* (Centre of Sociology Studies of the Universidade Nova of Lisbon) coordinated by Professor Nelson Lourenço.

## **1997**

### 1. Domestic violence and violence in partnerships

In 1997, within the Global Plan for Equal Opportunities, several measures to prevent and combat violence against women were put forward and/or adopted. The report on the Global Plan was released in March 1998 and it provided enlightenment on the measures accomplished in this area: (a) Several radio and television advertisements were made on themes related to women and equal opportunity; (b) A guide and a brochure on the rights of women victims of violence were prepared. These will be reproduced after the reviewing of the Penal Code; (c) A shelter is being created for women victims of mistreatment and their children; and (d) By a decision of the Ministry of Justice, a toll free number was created — a Green Line for information for women victims of violence, operated by the Commission for Equality and for the Rights of Women.

1998

### 1. Domestic violence and violence in partnerships

In 1998, the Penal Code was again reviewed in terms of Law 65/98 of 2 September, and some important changes concerning the situation of women victims of violence were introduced: Article 152 (2) considers and punishes the crime of mistreatment of a spouse or a person who lives in an analogous situation. In spite of the criminal procedure, which depends on the victim pressing charges, after this review, it is now possible for the Department of Justice to start the criminal process if it is in the victim's interest and if there is no objection from the offended before the accusation is made.

Law 59/98 of 25 August created the provision for imposing coercive seclusion measures against an aggressor, in order to keep that person away from a family residence when a danger of continuing criminal activity may exist. This provision was included in the Penal Code when it was reviewed in 1998.

After the approval of the Global Plan, the Ministry of Internal Affairs (*Ministério da Administração Interna*) developed several projects integrated under the Project INOVAR (innovate). INOVAR was a project concerning the protection of victims of violence, namely women that were victims of domestic violence. Project INOVAR (innovate) carried out several awareness and training activities with the Public Security Police (*Policia de Segurança Publica*) and with the National Republican Guard (*Guarda Nacional Republicana*). These measures included: (a) A specialized service by female police officers was put into practice, whenever possible, in order to facilitate communication; (b) A brochure for immediate aid to victims of domestic violence was produced, and in 1998 was in its experimental phase of distribution. The objective was to allow women to reflect on their own situation and to adopt self-defense and protection

Measures and; (c) A manual of procedures was produced to be distributed to the law and security enforcement units, as a way to standardize behaviour and procedures inside police stations when charges or complaints of domestic violence are registered.

On 8 March 1998, the Ministry of Internal Affairs determined that the Public Security Police and the National Republican Guard should start to register the complaints and charges on domestic violence, autonomously; this created the first national indicator on domestic violence.

The Ministry of Internal Affairs produced a video, which was shown to all professionals in the Public Security Police and of the National Republican Guard, on the theme of protection and support to victims of violence, namely women victims of domestic violence and rape.

### 2. Trafficking, prostitution

Article 87 of the Law Decree 244/98 foresees the possibility of exempting those foreigners who cooperate in the investigations from the visa requirement to obtain a residence permit. Thus, victims of trafficking can obtain a residence permit if they co-operate with the justice system without fear of being deported back to their country of origin.

### 3. Sexual harassment

In 1998, the Penal Code was again reviewed in terms of Law 65/98 of 2 September, Articles 163, number 2, and 164, number 2, covering situations of sexual harassment at work (both sexual coercion and rape), are considered a crime under the new review, which was not part of the prior Penal Code.

#### **Primary Sources:**

- Law 65/98 of 2 September, Article 152 (2). Maus tratos e Infraccao às regras de segurança [Physical abuse]. 7 pages (3<sup>rd</sup> page) <http://www.dre.pt/pdf1sdip/1998/09/202A00/45724578.PDF> (E-text).
- Parliamentary debate of 13 March, Reunião Plenária de 12 de Março de 1998 [Plenary Session of 12<sup>th</sup> March 1998], 20 p (from 15<sup>st</sup> to the 25<sup>th</sup> and to the 27<sup>th</sup> to the 37<sup>th</sup>), <http://debates.parlamento.pt/diary.aspx?cid=r3.dar&num=048&leg=l07&ses=sl3> (E-text).
- Law 59/98 of 25 August created the provision for imposing coercive seclusion. measures against an aggressor, 109 pages, <http://www.dre.pt/pdf1sdip/1998/08/195A00/42364344.PDF> (E-text).
- Parliamentary debate of 21 May, Reunião Plenária de 20 de Maio de 1998 [Plenary Session of 20<sup>th</sup> May 1998], 32 p (from 24<sup>st</sup> to the 56<sup>th</sup>), <http://debates.parlamento.pt/diary.aspx?cid=r3.dar&num=071&leg=l07&ses=sl3> (E-text).
- Law 65/98 of 2 September, Articles 163, number 2, and 164, number 2, covered situations of sexual harassment at work (both sexual coercion and rape) as a crime under the new review, 7 pages (from 2<sup>nd</sup> to 4<sup>th</sup>), <http://www.dre.pt/pdf1sdip/1998/09/202A00/45724578.PDF> (E-text).
- Article 87 of the Law Decree 244/98 of August 8, foresees the possibility of exempting those foreigners who cooperate in the investigations from the visa requirement [Dispensa do visto de residencia], 20 pages (page 11<sup>th</sup>), <http://www.dre.pt/pdf1sdip/1998/08/182A00/38323851.PDF> (E-text).

## **1999**

### 1. Domestic violence and violence in partnerships

Resolution 55/99 of 15 July of the Council of Ministers approving a National Plan Against Domestic Violence. This Plan includes three main goals: (1) to create awareness and prevent domestic violence; (2) intervene to protect victims of domestic violence; (3) research and study domestic violence. This Plan spans three years, for each year an annual report is proposed.

Law 107/99 de 3 August established the general framework for the public network of shelters for women victims of domestic violence. It also determines that it is the

responsibility of the State, through the government, to assure the creation, functioning and maintenance of this public network of resources.

Law 129/99 of 20 August approving the applicable legal framework to advance indemnity by the State for victims of marital violence.

Law 136/99, changes for the first time the Law Decree 423/91 of 30 October, to protect victims of violent crimes.

The Parliamentary Resolution (RAR) 31/99 of 14 April regulates legislation that guarantees the protection for women victims of violence. It establishes (a) the creation of a national network of shelters for women victims of abuse, for support, counselling, shelter, and legal advice; (b) the creation and distribution in all of the national territory of a domestic violence guide that includes practical information for women in such situations (as well as legal information); (c) establishment of a special law that allows the State to provide indemnity to victims of domestic violence; (d) creation within the police force of a specialized unit that provides direct support to victimized women and works in partnership with medical institutions attended by victims (e) creation of a 24 hours SOS phone service for victims; and (f) developing campaigns to raise public awareness through the media, with the intent to stigmatize the crime not the victim.

Law 93/99 of 14 July, governs the application of measures to protect witnesses during criminal proceedings. It establishes a special system for the protection of particularly vulnerable witnesses, thus ensuring that victims are not obliged to appear in court.

The Association of Victim Support (*Associação de Apoio à Vitima –APAV*) organized several projects in 1999 to create awareness and knowledge about violence and its victims. Some examples are:

1. The Project TITONO includes a manual about the elderly as victims of violence and was part of several initiatives by the National Commission for the Elderly International Year taking place in 1999.
2. The Project ALCIPE targets the treatment of women that are victims of domestic or sexual violence by the different authorities. This project includes a manual of “good practices” that different professionals should follow to deal directly or indirectly with victims of violence. This project was co-financed by the European Commission under the DAPHNE Program – *Fight Against the Violence towards Women and Children*.

## 2. Trafficking, prostitution

The Act 93/99 of 14 July 1999 ensures the protection to witnesses in judicial proceedings involving cases of trafficking in human beings. Its provisions apply to victims and witnesses.

The protection of victims as such is addressed in the Act 61/91 of 31 August 1991, which contains general measures aimed at the protection of women victims of violence. Although it does not target women victims of trafficking specifically, the Act 107/99 of 3 August 1999 has some relevance insofar as it mentions specific measures such as the establishment of a national network of support centres /shelters for women victims of violence.

### Primary Sources:

- Resolution 31/99 of 14 April, Regulation of the legislation that guarantees protection of women victims of violence [Regulamentação da legislação que garante a protecção às mulheres vítimas de violência], 1 page, <http://www.dre.pt/pdf1sdip/1999/04/087A00/19881988.PDF> (E-text).
- Resolution 55/99 of 15 July of the Council of Ministers approving a National Plan Against Domestic Violence [Plano Nacional Contra a Violencia Domestica], 3 pages, <http://www.dre.pt/pdf1sdip/1999/06/137B00/34263428.PDF> (E-text).
- Law 107/99 de 3 August established the general framework for the public network of shelters for women victims of domestic violence [Criação da rede pública de casas de apoio a mulheres vítimas de violência] 1 page, <http://www.dre.pt/pdf1sdip/1999/08/179A00/49944994.PDF> (E-text).
- Parliamentary debate 19 March, Reunião Plenária de 18 de Março de 1999 [Plenary Session of 18<sup>th</sup> March 1999], 13 p (from 38<sup>th</sup> to the 51<sup>th</sup>), <http://debates.parlamento.pt/diary.aspx?cid=r3.dar&num=061&leg=l07&ses=sl4> (E-text).
- Law 129/99 of 20 August approving the applicable legal framework to advance indemnity by the State for victims of marital violence [Aprova o regime aplicável ao adiantamento pelo Estado da indemnização devida às vítimas de violência conjugal], 2 pages, <http://www.dre.pt/pdf1sdip/1999/08/194A00/55365537.PDF> (E-text).
- Parliamentary debate of 13 May, Reunião Plenária de 12 de Maio de 1999 [Plenary Session of 12<sup>th</sup> May 1999], 5 p (from 35<sup>th</sup> to the 40<sup>th</sup>), <http://debates.parlamento.pt/diary.aspx?cid=r3.dar&num=084&leg=l07&ses=sl4> (E-text).
- Law 136/99 of 28 August, further protects victims of violent crimes [Primeira alteração ao Decreto-Lei 423/91, de 30 de Outubro, que aprovou o regime jurídico de protecção às vítimas de crimes violentos], 1 page, <http://www.dre.pt/pdf1sdip/1999/08/201A00/59495949.PDF> (E-text).
- Parliamentary debate of 6 May, Reunião Plenária de 5 de Maio de 1999 [Plenary Session of 5<sup>th</sup> May 1999], 5 pages (from 19<sup>th</sup> to the 24<sup>th</sup>), <http://debates.parlamento.pt/diary.aspx?cid=r3.dar&num=081&leg=l07&ses=sl4> (E-text).
- Parliamentary Resolution (RAR) 31/99 of 14 April regulates legislation that guarantees the protection for women victims of violence [Regulamentação da legislação que garante a protecção às mulheres vítimas de violência], 1 page, <http://www.dre.pt/pdf1sdip/1999/04/087A00/19881988.PDF> (E-text).

- Law 93/99 of 14 July ensures the protection to witnesses in judicial proceedings involving cases of trafficking in human beings [Regula a aplicação de medidas para protecção de testemunhas em processo penal], 6 pages, <http://www.dre.pt/pdf1sdip/1999/07/162A00/43864391.PDF> (E-text).

- Act 107/99 of 3 August 1999 establishes a national network of support centres /shelters for women victims of violence [Criação da rede pública de casas de apoio a mulheres vítimas de violência], 1 page, <http://www.dre.pt/pdf1sdip/1999/08/179A00/49944994.PDF> (E-text).

### **Secondary Sources:**

- Report, 8 March 1999, Violência Doméstica – Primeiro Relatório Nacional [Domestic Violence: First International Report], Ministério da Administração Interna, GNR, PSP, Coimbra.

- Público newspaper article, 3 March 1999, p.4. The Bloco de Esquerda proposed in the Parliament that the Criminal Code would assure that a perpetrator of violence would be prosecuted even without the victim's complaint.

- Manual Titono for treatment in dealing with elderly victims of violence [Manual Titono – Para o Atendimento de Pessoas Idosas Vítimas de Crime] [http://www.apav.pt/pdf/titono\\_compreender.pdf](http://www.apav.pt/pdf/titono_compreender.pdf) (E-text).

- Manual Alcipe for treatment in dealing with women victims of violence [Manual Alcipe – Para o Atendimento de Mulheres Vítimas de Violencia], [http://www.apav.pt/pdf/alcipe\\_compreender.pdf](http://www.apav.pt/pdf/alcipe_compreender.pdf) (E-text).

## **2000**

### 1. Domestic violence and violence in partnerships

The Law 7/2000 of 27 May reinforces measures to protect the victims of violence. Physical abuse (maus tratos) between partners started being seen as a public matter, which anyone (e.g. neighbours) could denounce or make a complaint to the police. Civil servants become obliged to denounce it.

Parliamentary Resolution 16/2000, ratifies the European Convention Regarding the Indemnity of Violent Offences, open to ratification by the European Member states since 24 November, 1983.

Law Decree 323/2000, regulates Law 107/99 of 3 August, and establishes the general network for shelters for women victims of domestic violence.

The Association of Victim Support (*Associação de Apoio à Vítima –APAV*) organized the Project SOPHIA which applies the directives of the adequate treatment of women victims of domestic and sexual violence, as defined by the Manual ALCIPE of 1999, to the technical personnel at APAV dealing with women victims.

### Primary Sources:

- Law 7/2000, reinforces measures to protect the victims of violence [reforça as medidas de protecção a pessoas vítimas de violência], 1 page, <http://www.dre.pt/pdf1sdip/2000/05/123A00/24582458.PDF> (E-text).
- Parliamentary debate 14 January, Reunião Plenária de 13 de Janeiro de 2000 [Plenary Session of 13<sup>th</sup> January 2000], 7 pages (from 17<sup>th</sup> to the 24<sup>th</sup>). It is connected to the law 7/2000, <http://debates.parlamento.pt/diary.aspx?cid=r3.dar&num=026&leg=l08&ses=sl1> (E-text).
- Parliamentary Resolution 16/2000 of 6 March, ratifies the European Convention Regarding the Indemnity of Violent Offences [Aprova, para ratificação, a Convenção Europeia Relativa à Indemnização de Vítimas de Infracções Violentas, aberta à assinatura em Estrasburgo em 24 de Novembro de 1983], 8 pages, <http://www.dre.pt/pdf1sdip/2000/03/055A00/07720779.PDF> (E-text).
- Law Decree 323/2000 of 19 September regulates Law 107/99 of 3 August, and establishes the general network for shelters for women victim of domestic violence [Regulamenta a Lei n.º 107/99, de 3 de Agosto, que estabelece o quadro geral da rede pública de casas de apoio às mulheres vítimas de violência], 3 pages, <http://www.dre.pt/pdf1sdip/2000/12/291A00/73757377.PDF> (E-text).

### Secondary Sources:

- Project SOPHIA, regarding the training of technical personnel at APAV on the treatment of women victims of domestic violence, <http://www.apav.pt/proj.html> (E-text).

## 2001

### 2. Trafficking, prostitution

Article 169 of the Portuguese Criminal Code, amended by the Act 99/2001 of 25 August 2001, criminalized trafficking in human beings for sexual exploitation. Whoever by means of violence, serious threat, deception, fraud, or by the abuse of a position of particular vulnerability, recruits, transports, transfers, harbors, receives a person or creates the conditions for the practice, by a certain person, in a foreign country, of prostitution, shall be sentenced to a term of two- to eight-years imprisonment. The 2001 amendments have broadened the scope of Article 169 by including other forms of sexual exploitation.

Sexual exploitation of children is addressed separately in *Article 176 of the Criminal Code* (also revised by Act 99/2001), according to which all those who recruit, transport, provide accommodation or receive a child under 16 years old, or make arrangement for the child to get into prostitution or the sex industry in general in a foreign country, are sentenced to a term of 1 to 8 years imprisonment. Likewise, the 2001 amendments have widened the scope of this provision; the use of violence, threat, fraud

or deception, may be considered as aggravating circumstances resulting in imprisonment terms of 2 to 10 years. Other aggravating circumstances include the victim being under 14 years of age or the perpetrator acting professionally or with the intent of making profits. It also puts penalties from 1 to 8 years imprisonment for sexual exploitation of children under 16 years of age (the 2001 amendments have toughened former penalties).

Trafficking in human beings for purposes other than sexual exploitation are addressed in other provisions of the penal code, in particular those applying to the criminalization of slavery and slave trade (*Article 159*), which provide for 5 to 15 years imprisonment.

APAV continues to be a major player in implementing projects co-financed by the European Commission. Some examples are:

Project CORE – Consists of a Manual that deals with the adequate treatment of child victims of sexual violence. It suggests “good practices” for professionals dealing with these victims. This project was co-financed by the European Commission under the Program STOP II – Fight and Prevent Human Trafficking and other forms of sexual exploitation.

#### **Primary Sources:**

- Article 169 of Penal Code amended by the Act 99/2001 of 25 August which criminalized trafficking in human beings for sexual exploitation, 2 pages.
- *Article 176 of Penal Code*, amended by Act 99/2001 of 25 August 2001 [addresses sexual exploitation of children].
- *Article 159 of Penal Code*, deals with trafficking in human beings for purposes other than sexual exploitation, in particular the criminalization of slavery and slave trade.
- Act 99/2001 of 25 August 2001, has criminalized trafficking in human beings for sexual exploitation, <http://www.dre.pt/pdf1sdip/2001/08/197A00/54505451.PDF> (E-text).

#### **Secondary Sources:**

- Manual CORE for treatment of children victims of violence [Manual CORE – Para o Atendimento de Crianças Víctimas de Violência Sexual], [http://www.apav.pt/pdf/core\\_compreender.pdf](http://www.apav.pt/pdf/core_compreender.pdf) (E-text).

## **2002**

### 1. Domestic violence and violence in partnerships

The Association of Victim Support (*Associação de Apoio à Víctima* –APAV) was responsible for a report about the state of domestic violence in Portugal in 2002. This report (PENELOPE) was part of an overall project that also included reports on other Southern European countries, such as Spain, France, Italy, and Greece. This project was

co-financed by the European Commission under the DAPHNE Program – *Fight Against the Violence towards Women and Children*.

## 2. Trafficking, prostitution

The Act 5/2002 of 11 January 2002 describes specific measures for combating organized and economic crime, particularly with regard to the gathering of evidence in relation to several crimes, including the crime of trafficking in children.

The Act 10/2002 of 11 February 2002 extended the scope of *Law Decree 325/95* of 2 December 1995, to the crimes of trafficking in human beings.

### **Primary Sources:**

- Law 10/2002 of 11 February 2002 extended the scope of a previous Law Decree to the crimes of trafficking in human beings [Aperfeiçoa as disposições legais destinadas a prevenir e punir o branqueamento de capitais provenientes de actividades criminosas], 2 pages, <http://www.dre.pt/pdf1sdip/2002/02/035A00/10781079.PDF> (E-text).
- Law 5/2002 of 11 January 2002 describes specific measures for combating organized and economic crime, including the crime of trafficking in children [Estabelece medidas de combate à criminalidade organizada e económico-financeira], 4 pages, <http://www.dre.pt/pdf1sdip/2002/01/009A00/02040207.PDF> (E-text).

### **Secondary Sources:**

- Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council.
- Penelope Report on Domestic Violence in Southern Europe [Relatorio Penelope sobre Violencia Domestica no Sul da Europa], [http://www.apav.pt/pdf/relatorio\\_penelope.pdf](http://www.apav.pt/pdf/relatorio_penelope.pdf) (E-text).

## **2003**

### 1. Domestic violence and violence in partnerships

[Resolution 88/2003 of 13 June 2003, approves the Second National Plan against Domestic Violence \(2003-2006\)](#). The main goal of this Plan is to intervene in the struggle against violence towards women in the domestic space.

### **Primary Sources:**

- Resolution 88/2003 of 13 June 2003, approves the Second National Plan against Domestic Violence (2003-2006) [Aprova o II Plano Nacional contra a Violência Doméstica], 6 pages, <http://www.dre.pt/pdf1sdip/2003/07/154B00/38663871.PDF> (E-text).

- Law 99/2003 of 27 August of the Labour Code assures the right to privacy in the workplace, and that the worker has the right to decide what information regarding his/her personal life s/he wants to give, 9 pages (from 558<sup>th</sup> to 685<sup>th</sup>), <http://www.dre.pt/pdf1sdip/2003/08/197A00/55585656.PDF> (E-text).

#### **Secondary Sources:**

- Expresso newspaper article, 29 March 2003, Quinze Discutem Violencia Domestica, 2 pages, <http://primeirasedicoes.expresso.clix.pt/ed1435/i021.asp> (E-text).

### **2004**

#### 1. Domestic violence and violence in partnerships

The government approves a Family Plan called “100 compromises for a Family Policy”. Within this general Plan is included the II National Plan To Fight Domestic Violence (Resolution 88/2003 of 13 June 2003, approves the Second National Plan against Domestic Violence (2003-2006).

#### **Primary Sources:**

- [Resolution 50/2004 of 13 April](http://www.dre.pt/pdf1sdip/2004/04/087B00/22422248.PDF), Council of Ministers approved “100 compromises for a Family Policy.” [Aprova o plano «100 compromissos para uma política da família»], 7 pages, <http://www.dre.pt/pdf1sdip/2004/04/087B00/22422248.PDF> (E-text).

### **2005**

#### 1. Domestic violence and violence in partnerships

In the Governmental Global Plan put forward this year (2005-2009), there are several references to the need of CIDM to implement the II PNI in the fight against domestic violence. The Government mentions the position on domestic violence to be one of prevention and promotion of a culture of equality and citizenship. It also regulates the public network of shelters, defining multiple strategies of dealing with the issue. The government mentions domestic violence as a Human Rights violation.

In this year, the already existing Structure of Mission Against Domestic Violence [Estrutura de Missão contra a Violência Doméstica], comes under the tutelage of the government equality agency and the Ministry of Work.

#### 2. Trafficking, prostitution

On 16 May, in Warsaw, Portugal was one of fourteen Council of Europe member States to sign the Convention on action against trafficking in human beings.

#### **Primary Sources:**

- Law 52/2005 of 31 August, Approves the Governmental Global Plan for 2005-2009 [Aprova as Grandes Opções do Plano para 2005-2009], 99 pages, <http://www.dre.pt/pdf1sdip/2005/08/167A00/51865284.PDF> (E-text).

- [Resolution 104/2005 of 27 June of the Council of Ministers, Structure of Mission Against Domestic Violence \[Estrutura de Missão contra a Violência Doméstica\], 4 pages, <http://www.dre.pt/pdf1sdip/2005/06/121B00/39933996.PDF> \(E-text\).](http://www.dre.pt/pdf1sdip/2005/06/121B00/39933996.PDF)
- [Resolution 21/2005 of 28 January, Presidency of the Council of Ministers approved the Report on the II National Plan Against Domestic Violence and creates a structure of mission called “Estrutura de Missão contra a Violência Doméstica” \(2007-2010\) \[Structure of Mission Against Domestic Violence\], 11 pages, <http://www.dre.pt/pdf1sdip/2005/01/020B00/07060716.PDF> \(E-text\).](http://www.dre.pt/pdf1sdip/2005/01/020B00/07060716.PDF)

## 2007

### 1. Domestic violence and violence in partnerships

The Parliament promotes an action called “All united in the fight against domestic violence”, which was a campaign set up by the European Council (Conselho da Europa) regarding violence. This campaign is designed to evaluate the legal framework applied to the perpetrators and the victims of violence, according also to the recommendation of “good practices” by non-governmental organizations. It is also about allowing victims of violence to acknowledge their rights and to appeal to the Portuguese people regarding the collective responsibility in preventing and monitoring domestic violence.

The III National Plan to Fight Domestic Violence covers “the creation of a system of incentives for rent subsidies”. The III Plan re-evaluates the need for immediate financial support of women victims of violence.

The Women’s Democratic Movement (*Movimento Democrático de Mulheres*) are developing a project called “Participate and Share Equality” in which they target domestic violence, mainly amongst young couples. This project is financed by the European Social Fund and the Portuguese State.<sup>64</sup>

The Commission for Citizenship and Gender Equality (Comissão para a Cidadania e Igualdade do Género) and the UMAR (União de Mulheres Alternativa e Resposta), estimated, using news reports on domestic victimization, that between November 2005 and November 2006, 39 women had died due to domestic violence and 43 were seriously injured.

In this year, a common court absolves a woman victim of domestic violence after killing her abusive husband. The judge reinforces the idea that domestic violence is a “public crime” not a “semi-public crime” as it had been in the past.

### 2. Trafficking, prostitution

The Resolution 63-A/2007 of 3 May of the Council of Ministers approved the Plan of Integration for Immigrants. This Plan reinforces the legal protection and support to victims, including children. It creates juridical and institutional mechanisms that have more efficacy

<sup>64</sup> <http://www.mdmulheres.com/ppi.html>.

in providing support to the victims. It intends to create a status of “victim of trafficking”, both for cases of sexual and labour exploitation. It also reinforces the notion of partnership working between the police force, NGO’s, courts, and others.

The Plan also establishes the creation of a Center for Support of Victims of Trafficking to provide legal, socio-psychological, and medical counselling as well as supporting their well-being. It also establishes an Observatory for Human Trafficking (Observatório do Tráfico de Seres) and more efficient investigation and police strategies in order to create the necessary conditions for denouncing trafficking.

In the Resolution 81/2007 of 22 June, the trafficking of human beings is compared to the trafficking of weapons and drugs in terms of its economic consequences. This resolution approves the I National Plan to Fight Human Trafficking and creates the Commission for Citizenship and Equality [Comissão para a Cidadania e Igualdade de Género (CIG)] as the main entity responsible for coordinating the Plan.

### 3. Sexual harassment

The III National Plan for Equality mentions the need to fight and prevent sexual harassment at work, in sports, and gendered violence in the public and private spaces.

#### **Primary Sources:**

- Resolution 82/2007 [of 22 June, the Presidency of the](#) Council of Ministers approved the III National Plan for Equality – Citizenship and Gender [Aprova o III Plano Nacional para a Igualdade - Cidadania e género (2007-2010) ], 39 pages (from 13<sup>th</sup> to 33<sup>th</sup> ), <http://www.dre.pt/pdf1sdip/2007/06/11900/39493987.PDF> (E-text).
- Parliamentary Resolution 17/2007 of 26 April, On the initiative “Parliaments Unite to Fight Against Domestic Violence” [Sobre a iniciativa «Parlamentos unidos para combater a violência doméstica contra as mulheres» ], 1 page, <http://www.dre.pt/pdf1sdip/2007/04/08100/25702570.PDF> (E-text).
- Resolution 63-A/2007 of 3 May, Council of Ministers approved the Plan of Integration for Immigrants [Plano para a Integração dos Imigrantes], 22 pages, [http://www.acime.gov.pt/docs/ACIDI/PII\\_DR.pdf](http://www.acime.gov.pt/docs/ACIDI/PII_DR.pdf) (E-text).
- [Resolution 82/2007 of 22 June, Presidency of the](#) Council of Ministers approved the Plan Against Domestic Violence (2007-2010) [Aprova o III Plano Nacional contra a Violência Doméstica], 16 pages, <http://www.dre.pt/pdf1sdip/2007/06/11900/39874002.PDF> (E-text).
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**Secondary Sources:**

- Público newspaper article, 31 May 2007, Tribunal absolve mulher que matou o marido devido a maus tratos [Court absolves woman that killed the husband due to abuse], 1 page.
- Público newspaper article, 6 June 2007, Todos os meses ha tres mulheres assassinadas pelos maridos [Every month three women die killed by their husbands], 1 page.
- Público newspaper article, 20 July 2007, Plano Nacional contra a violencia domestica preve que as vitimas tenham apoios para arrendar casa [National Plan Against Domestic Violence allows for women to get rent subsidies], 1 page.

## **5. Conclusions**

### **5.1 Relative importance of topics in the subissues**

Overall, Portugal does not have much political discussion about the nature of gender+ equality policies and their relationship to policies for other inequalities.

#### **Non-Employment**

With regard to the issue of non-employment there are different levels of salience in the Portuguese civil society regarding the different topics. It is largely reconciliation of work and family that shape the non-employment discourse, followed by the gender pay gap; care work and informal work; access to the labour market and finally tax-benefit policies. Compared to the other two issues - intimate citizenship and gendered violence, non-employment is definitely the least debated politically, but its political agenda revolves mostly around the institutionalization of equal opportunities between women and men in the labor market, and the reconciliation of work and family life. With the high participation of Portuguese women in the labor force, reconciliation of work and family life has become almost an issue in itself, and one in which gender equality is more commonly articulated in discourse.

#### **Intimate Citizenship**

The salience of the intimate citizenship issue in civil society and political discourse has been mostly due to a long-standing hot debate regarding the abortion topic. The other topics by order of importance are: civil partnerships, gay marriage and discrimination on the basis of sexual orientation. The subissue of least concern is divorce, separation and marriage. Abortion and discrimination on the basis of sexual orientation (including gay marriage) are the two most debated sub-issues in Portuguese society in regards to gender equality.

#### **Gender-based Violence**

Concern with domestic violence, prostitution and trafficking, and sexual harassment has existed in Portugal, but none of these topics have been vastly debated in Portuguese society. By order of importance the sub-issue of domestic violence is the one mostly addressed by civil society and research, and several laws have been set in place to fight the issue. This sub-issue is followed by trafficking, prostitution, and by sexual harassment. The domestic violence and the prostitution and trafficking sub-issues have been introduced to the political agenda mostly due to the influence of international organizations and treaties and due to the role of women's associations, which have contributed to increase the salience of each issue. Sexual harassment is the least debated and has been confined more to a workers issue rather than being a gender issue.

## 5.2 Major shifts in general gender+ equality policies

The democratic change in 1974 and the inclusion in the EU were major turning points in the Portuguese gender+equality policies. In particular, inclusion in the EU was a major source of progressive pressure for gender equality policies within the national government during the QUING years.

Portugal's gender regime is characterised by some progressive tendencies of signing equality conventions and treaties, but without much civil society debate or effective implementation, making it hard to assess major shifts in debates.

In the Portuguese context, governmental changes such as Social Democrats alternating in power with the Socialists do not seem to bring major shifts in gender+equality policies, with the exception of the abortion topic. The divide in Portugal seems to be more along party lines, with some left-wing political parties and workers' unions taking the initiative in increasing the visibility of the sub-issues. These parties tend to work together with the different civil society organizations and the major gender and equality agencies (CIDM, CITE) to exert pressure for specific implementation or regulations.

Some major shifts in gender+equality policies are nonetheless traceable to revisions in the Constitution, Civil, Criminal, and Labour Codes.

### Non-Employment

With regard to the reconciliation of professional and family life, which is the hottest topic, the institutionalisation of equal opportunities between women and men in the labour market and in employment in Portugal was enacted through legislation in 1979 (Law Decree 392/79) and with the integration of the country into the European Union. This last issue reflects the fact that Portugal has been clearly dependent on European Commission initiatives concerning this subject. Considering this, legal initiatives have maintained a low profile in responding to European Commission directives and it was basically after the integration of Portugal into the EEC, and following the development of the Second Action program of 1986-1990, that more relevant initiatives started happening. Recently, increasing concern with the access of immigrants to the labour market and employment has become apparent.

### Intimate Citizenship

The first legislation on the abortion topic appeared in 1984 (Law 6/84 of 11 May) allowing abortion in three specific circumstances, although the law lacked effective implementation. Minor changes to the law took place in 1995 (Law Decree 48/95 of 15 March) and in 1997 (Law 90/97, of 30 July), but these were mainly cosmetic. Only after the 2007 referendum is it expected that some effective policy change will occur.

Concerning the legal protection of cohabiting partners and their access to social benefits, 1999 was a very important year, with the Law Decree 135/99 of 28 August assuring that cohabiting partners' rights were extended.

Regarding the legal framework on marriage and divorce, a new system more concerned with gender equality emerged with the implementation of democracy in 1974 and the

constitution of 1976. In 1998, the Law 47/98 of 10 August changed to allow divorce with mutual consent at any time.

#### Gender-based Violence

There has been legislation, plans and resources across many of the specific topics in gender-based violence, even though it is not treated by the government as a unified policy field. In fact, sexual harassment is seen mostly as part of the labour/employment field and rarely debated as gender-based violence. The major policy shifts in the topics prostitution and domestic violence have occurred in the 1990s, with increasing attention to the rights of the victim to protection and financial support, as well as “good practices” in gender training of the personnel dealing with these victims.

### 5.3 The role of civil society and other political actors

In trying to assess the role of civil society on discourse and policy-making on each issue, we found that there is a gap in the literature regarding the influence and impact of civil society organizations on the issues. Therefore, we devised several strategies to locate actors and their influence on each specific topic, which was somewhat challenging. The first strategy was to look at newspaper articles on each topic and on specific dates (coinciding with the approval of important legislation), in order to have a better understanding of the debate. Second, we analyzed the websites of all the NGO's that are part of the consulting council of the CIDM to evaluate their position or concerns within a specific topic. Third, we contacted all of these NGO's to provide us with documents that would help us trace back their initiatives in the last few years. Finally, we interviewed two experts on gender+equality policies: Virgínia Ferreira (a well-known academic that has devoted most of her research to gender and employment) and Dina Canço (a well-known member of CIDM).

Different actors have stepped forward on each topic. The two equality governmental agencies- the CIDM and the CITE- were important political voices from the “inside”. They are mentioned here due to their articulation with several NGO's and technical personnel (police officers, judges, etc).

Regarding non-employment, the two main national labor unions (Confederação Geral dos Trabalhadores Portugueses - Intersindical Nacional (CGTP-IN) and the União Geral dos Trabalhadores (UGT)), as well as the **Plataforma para os Direitos das Mulheres** [Platform for Women's Rights] (the Portuguese representative in the European Women's Lobby), have played an important role.

Regarding intimate citizenship, the centrality of the abortion debate in civil society has meant that several women's organizations and right-wing groups have participated in the debate. In regard to the second hottest debate, the issue gay marriage and discrimination, the main actors within this struggle were ILGA Portugal; “Não Te Prives”: Grupo de Defesa dos Direitos Sexuais (“Don't Deprive Yourself: Defense Group of Sexual Rights); Panteras Rosa (Pink Panthers) and Clube Safo (Safo Club).

Finally, on gendered violence several non-governmental organizations have given support to women victims of violence. Namely, the Association of Women against Violence (*Associação de Mulheres contra a Violência*), the Association of Victim Support (*Associação de Apoio à Vitima –APAV*), Mission Against Domestic Violence (*Estrutura de Missão Contra a Vilência Doméstica*), and the Foundation for Youth (*Fundação da Juventude*). The issue of prostitution and trafficking has led other sets of NGO's to become interested in increasing the political salience of the issue. These are the *O Ninho* (The Nest), the *Movimento Democrático de Mulheres* (Women's Democratic Movement), and the "*Projecto Auto-Estima*" (Self-Esteem Project) among others.

#### **5.4 The impact of the EU and other international bodies**

Portugal has followed most of the EU and international bodies' directives through a high number of national reports, action plans, etc. This commonly happens through amendments to general laws or resolutions, or within the equality governmental agencies. Rarely do these specific regulations lead to a general debate; they are mostly integrated with the pressure on national governments to implement directives, and are typically added to the general law. Cooperation with international NGOs in the preparation of the reports is rather weak. However, international human rights and equality conventions and treaties seem to be commonly ratified.

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