



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of
Discrimination against Women**

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This was a very important change, since it obliged the State to promote change, instead of simply ensuring the right to change.

Article 26 — Other personal rights

7. This article was changed and important dispositions were introduced, namely the final part of paragraph 1, which consecrates the right to legal protection against any form of discrimination:

“To all known rights to personal identity, personality development ... and to legal protection against all forms of discrimination”.

Article 109 — Political participation by citizens of the Republic

8. This article which had referred the “direct and active participation of citizens in political life”, was changed to refer expressly to “men and women”:

“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”.

On the other hand, the law has the specific responsibility to promote equality in this field, while enabling to advance on the adoption of special measures with a positive character.

2. Institutional diplomas

9. Law Decree number 166/91, of 9 May 1991, created the Commission for Equality and for the Rights of Women, which is the national mechanism for equality, taking the place of the Commission for the Feminine Condition, created in 1977.

10. The Commission for the Equality and for the Rights of Women has the following fundamental and permanent objectives:

(a) To ensure that women and men enjoy the same opportunities, rights and dignity;

(b) To achieve effective joint responsibility for women and men at all levels of family, professional, social, cultural, economic and political life;

(c) To contribute so that society recognizes maternity and paternity as social functions and assumes the responsibilities that come from that.

11. Law Decree number 3-B/96 of 26 January 1996 instituted the High Commissioner for Equality and Family. In the preamble of the decree it is stated that in the government programme, the correction of the inequalities between women and men deserves particular attention, for the equality stated in the Constitution and in the law is not, itself, enough to ensure equality of opportunity or a more equitable apportionment of employment opportunities, and of political, economic and social power. The right to equality, therefore, demands a set of compensation actions, destined to correct serious needs. The task of the High Commissioner is to:

(a) Contribute to the effective equality of women and men at both social and family levels, proposing compensating policies destined to eliminate discrimination;

(b) Promote the family institution, dinamizing a family policy, considering the specific situation of its members;

(c) Contribute so that all citizens enjoy the same dignity and equal opportunities and rights by promoting initiatives that have the intention of gradually eliminating discrimination;

(d) Counsel on the situation of children, promoting the coordination of the intervention of the proper public entities and accompanying the action of the non-governmental organizations as well as supporting the formulation and execution of policies regarding the problems of children.

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14. Resolution number 59/98 of the Council of Ministers of 6 May approved the *Plano Nacional de Emprego* (National Employment Plan), which included new instruments for the promotion of equal opportunity between men and women to employment in the workplace and to professional training.

3. Non-normative instruments

15. Resolution 32/94 of the Council of Ministers of 17 May 1994 established the necessary actions and measures for the promotion and accomplishment of equal opportunity and of the participation of Portuguese women in all domains of life: economic, social, political and labour (annex I).

16. In 1995 the Parliamentary Commission for Parity, Equal Opportunity and Family was established.

17. 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 mainstreaming a perspective of equality.

18. Dispatch number 3455/97 of the Minister of Equipment, Planning and the Administration of the Territory determined that in the ambit of the new orientations of the current structural funds, the search for measures and the implementation of projects that aim at contributing to real equal opportunities is the object of primary focus, stipulating that the operational programme 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.

4. Specific areas

Military service

19. In 1987, Law number 30/87 of 7 July approved the principles that govern military service, ruling that all Portuguese citizens must perform such service. Women were released from this obligation, and given the option of serving on a voluntary basis on patterns that were to be defined later on.

20. The constitutional review of 1989 considered the country's defence a right and a fundamental duty of all citizens (article 276 — *Defesa da Pátria, serviço militar e serviço cívico* (Country's Defence, military service,

civic service)). This text was maintained on the following revision (1992 and 1997).

21. With the adoption of a constitutional measure that forbids all forms of discrimination in terms of gender (exemption of any duty and depriving of any right) women's access to the superior military academies, as well as to all the branches of the armed forces, slowly began to open. In spite of all this, only the army allows women to apply to any of its modalities in all of the army's weaponry and services. There were Portuguese women soldiers in the Bosnia peace mission.

22. In 1991, governmental decree number 777/91, of 8 August, rectified by the Rectification Declaration number 245/91, of 31 October, allowed women to apply, under the same conditions as men, for military service in the Air Force in certain categories and specialities.

23. In 1991, governmental decree number 163/91, of 11 November, which was altered by governmental decree number 238/96, of 4 July, allowed women to apply, under the same conditions as men, for military service in the army.

24. In 1992, governmental decree number 163/92 of 13 March (revoked by governmental decree number 232/93, of 4 July), allowed women to apply, under the same conditions as men, for military service in the navy. In 1996, governmental decree number 238/96, of 4 July, determined that female citizens can apply for service in any of the army's modalities, in all of its weaponry divisions and services, under the same conditions as men.

Advertising

25. As was noted in the second report, in 1990, law decree number 330/90, of 23 October, was published, approving the new Advertising Code. It forbids advertising which "is counter to human dignity" and that "may contain any discrimination in virtue of race or sex". Some changes were later on introduced (law decree number 6/95 of 17 July) that are irrelevant to this report. The Consumer's Institute collects complaints and starts criminal processes, imposing fines on infractors. Still this procedure is very slow, and many times surpasses the legal periods allowed to intervene. The Commission for Equality and for the Rights of Women has presented numerous participations, denouncing advertisements that act against the dignity of women.

Violence against women

(6.7 per cent in 1998) and, contradicting the tendency of the other forms of violence, seems to be diminishing compared to previous years.

“It is also noted that the ‘family house’ is, of all places, the one place where violence occurs the most and is most spoken of — 43 per cent of the violence occurs there, followed by public places (34 per cent) and at the workplace (16 per cent). As to the characterization of the aggressors, one can verify they are mostly male and when the aggression takes place in the home, the aggressor is usually the husband/companion of the victim.”

33. 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. They will be reproduced after the reviewing of the Penal Code;

(c) A shelter is being created for women victims of mistreatment and their children;

(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 Commission9(y)14.54(s o)-13..5(m)-15.ctilCeiss4.4(the 6(ua13(8(f)12.enN0i2(l)0.)17(m)12.22(a)1Rio)-111.2()-2.enNC

medical services (article 41), with the immediate collection of evidence of crimes, the consequent reinforcement of forensic medical expertise and the effectiveness of the criminal investigation.

41. There is no official data or any other data about the female genital mutilation. This practice is not listed as a crime in the Portuguese Penal Code. There are many articles that condemn offences to the physical integrity of the individual, namely article 144, which provides that a person who offends the body or the health of another person by (a) depriving that person of an important organ or member, or disfiguring a person seriously and permanently, (b) depriving or affecting that person's ability to work, intellectual ability or procreative capacity, or the ability of a person to use their body, senses or language, is punishable by a sentence of 2 to 10 years.

42. Article 146, which refers to the offence as an offence to physical integrity, legislates an increase of one third on the minimum and maximum limits of the applicable sentences in cases of such offences if they are carried out under censurable circumstances or under circumstances that reveal perversity in the aggressor. The penal law regulates in detail the circumstances under which interventions and medical and surgical treatments can be considered as crimes.

43. Incest is not considered a crime under Portuguese law. In terms of the law, it warrants an increased sentence (a third of the minimum and maximum limits) under the terms of article 177 (1) (a). If the victim is underage, incest can also lead to the loss of parental power (article 179).

44. In Portugal there are some non-governmental organizations that give support to women victims of violence:

(a) *Associação de Mulheres contra a Violência* (Association of Women against Violence) — gives psychological and juridical support to the victims of rape;

(b) *Associação de Apoio à Vitima* (Association of Victim Support) — gives legal and psychological support, as well as shelter and emergency financial support to victims of violence. It has 11 centres in Portugal.

violence and of the feminization of poverty, to which more visibility and attention will increasingly be given.

Another area in which evolution is unsatisfactory is the sharing of power and women's access to decision-making positions, namely in political life, where women face particular difficulties.

Relatively to programmes and answers at the institutional level, no enhanced progress can be noted in institutional mechanisms, its power and competencies. There is, nevertheless, an idea, which is growing, that the question of women's equality and progress is a global question and a question for society and that it requires global answers, encompassing not only the improvement of the status and the situation of women, but a global improvement in society as a whole, in a perspective of increasing social justice and democracy, in its essential facet of equal democracy for all.

61. Putting the future and the necessary changes in perspective, the same report recommended the elaboration and execution of a "Global Plan for

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75. In the sphere of maternity and paternity protection, the revised law of 1995, beyond other aspects that will be referred later on, gave couples who had children the right to decide together which of them would stay with the child during the period of leave after the first 14 days of the birth of a child, assuming, for the first time, paternity leave as a real alternative.

76. Positive measures present in the ambit of the Global Plan for Equality and the National Employment Plan can also be found under article 11, as well as in the list of positive actions.

77. On the other hand, something else that can still be considered as a positive action is contained in the dispatch number 3455/97 referred to above, of the Minister of Equipment Planning and Territory Administration relative to the new orientation of the

85. Other measures contained in the Global Plan for Equality and Opportunity in issues of conciliation of private and professional life are referred to under article 11.

86. Within the scope of the National Employment Plan, its fourth pillar refers to equal opportunity with

104. In this same perspective, particular reference should be made to a symbolic initiative that took place in 1994. The initiative was the "Equalitarian Parliament", a two-day event in the National Parliament, and within the context of the European Campaign for the European Parliaments elections, that gathered female and male deputies of the current legislature and of the prior one, in equal numbers, and discussed this matter in terms of citizenship and democratic

115. The *Lei de Bases do Sistema Educativo* (law of the basis of the educational system), law number 46/86 of 14 October, considers in sub-paragraph (j) of article 13 that the education system is organized in a way that ensures equal opportunity to both genders, namely through practices of co-education and school and professional orientation, and sensitizes, to that end, a set of measures as part of the educational process.

116. The *Plano Global para a Igualdade de Oportunidades* (global plan for equal opportunity), bearing in mind the assumed responsibilities relative to the Platform of Action of the Fourth World Conference on Women, contemplates diverse measures relative to equal opportunity for girls and women, boys and men, to education; namely concerning the inclusion of themes related to the equality of opportunity in the school's curriculum, as well as in courses of teachers training and of trainers working in the training employment market, concerning which should be noted:

Objective 1 — To integrate the principle of equal opportunity for women in the training and employment market.

importance of the historical contribution of women to Portuguese culture

Point 4 — To ensure that, in school programmes, due attention is given to the complementary task of both genders in society and in the family so that discrimination, namely the traditional attribution of tasks between men and women, is overcome

Point 5 — To include units on sexual education in the school teaching programme, within the ambit of health education programmes

Point 6 — To supply non-stereotyped options of courses and professional careers, offering young students, from the ninth compulsory grade, orientation and information on all the medium and superior courses, as well as their possible professional outcomes, and promoting short-term internships in enterprises and organisms of the central, regional and local administration

Point 7 — To promote the entrance of young women and men into cultural and technological areas, encouraging their participation in programmes of experimental education

Point 8 — To include the inter-disciplinarian domain of the social relations between the sexes in the programmes for the sponsoring of scientific and technological investigation

1. Factual situations

117. In the last few years the situation of girls and women has evolved in a very positive way in terms of education. The guarantee to access to all levels of education in Portugal has been accompanied by high levels of scholastic success for women. The level and the diversified choices in medium- and superior-education courses reveal female achievements that are higher than ever before. The following rates of participation by gender and educational level are here presented (the data refers to 1994/1995):

<i>Education level</i>	<i>Women</i>	<i>Men</i>
Basic	88.0	84.7
Secondary	64.1	55.5
Secondary (technical-professional)	57.5	50.5

Oportunidades (counsel for equal opportunity). This individual, created by law decree number 166/91 of 1 May, establishes the objectives and competencies of the Commission for Equality and the Rights of Women, and has the task of promoting and putting into practice the integration of equality in all policies, programmes and measures of her/his Ministry. The measures for Counsellors for Equality constitute the *Secção Interministerial do Conselho Consultivo*, the Inter-ministerial session of the Consulting Council of the Commission, whose president is also the President of the Commission.

2. Political measures

122. There is an entire set of measures to promote equality between women and men in terms of education which has been adopted by different entities.

123. The subject of personal and social development was created (Law Decree number 286/89 on 29 August), for basic and secondary education, and puts into practice, in a specific way, the subjects listed in paragraph 2 of article 47 of the *Lei de Bases do*

through the attribution of prizes, the elaboration of

142. Article 58, on the right to work, was also altered, entrusting to the State the task of promoting equality of opportunity in choosing profession or type of work and conditions of work, which cannot be closed or limited to one sex, of free access to any position, work or professional category.

143. Article 59, referred to above, was also altered, to stipulate that the employing organization must allow, in conditions of dignity, not only personal realization, but

(d) Application of the principle of equal opportunity as a criteria for the selection of professional training projects to be jointly financed by the European Social Fund;

(e) Adoption of measures that include the principles of equality in the ambit of the second *Quadro Europeu de Apoio* (European Board of Support): financial support to the enterprises that guarantee the participation of women in non-traditional fields; merit prizes to enterprises that develop programmes that contribute in an exemplary manner to equality of opportunities; and bonuses for training scholarships to be granted to workers who have children or grown-ups in their care and have to entrust them to others in order to be able to attend training programmes.

156. Resolution 59/98 of 6 May of the Council of Ministers approved the *Plano Nacional de Emprego* (National Employment Plan). The Plan rests on four pillars: I - employability, II - entrepreneurial spirit, III - adaptability and IV - equal opportunity. To achieve the objective of promoting, on a horizontal and integrated perspective, equality among men and women in measures and actions, in work, employment and at the professional training level, the measures for affirmative action must be considered implicit in the first three pillars referred to above. Thus, in the ambit of pillar IV, on equal opportunity, aiming at fighting discrimination between men and women, and considering the reconciliation of professional and

women in the work place constitute just case for the revision of the labour contract by the offended party.

2. Social security

158. Law decree number 307/97 of 11 November consecrated the application of the principle of equal treatment between men and women in the area of social

employee's whole salary as established in law decree number 194/96 of 16 October.

168. Law number 17/95, also consecrates specific measures relative to night work for pregnant and breastfeeding women. Pregnant workers are to be released from night work for 112 days before and after birth, out of which at least half must be taken before the presumed date of birth. Women can also be released from working at night during pregnancy and breastfeeding, if a doctor's medical statement is presented considering the woman's health, the state of the unborn baby or the child's health.

169. During the period of leave from night shift, a compatible daytime working schedule must be assigned to the pregnant woman, breastfeeding woman, or, whenever that is not possible, they must be given leave from work, with no loss of rights and subsidy as set out in law decrees number 333/95 and 194/96.

170. Still in regard to these matters, administrative rules number 197/96 and 198/96 of 4 July are worth mentioning. They regulate the minimum health and security obligations in drilling or mining industries, whether above or underground, establishing specific rulings ensuring periods of rest for pregnant and breastfeeding women under adequate conditions.

Article 11 (2)

171. National legislation forbids the discharging of employees without good cause. The discharge of an employee for reasons that contradict the principle of equal treatment between men and women, which is
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and paternity consecrated by law number 4/84, and, with the revision of law number 17/95, extended the duration of maternity leave to 120 consecutive days, 90 of which are to be enjoyed after the birth. The new law allows an extension of 30 days for each twin after the first, in cases of multiple birth.

180. This same law introduced changes to parental leave, which can now be extended up to 3 years in cases of the birth of a third child, and is taken into account in the calculation of the retirement pension — *pensão de reforma*, for invalidity or old age. With this law, employers were also entrusted with the duty of finding solutions for professional training for workers returning from parental leave.

181. The law will be put into practice in a progressive way, in phases, extending the license to 110 days between the period of 1 January and 31 December 1999, and going up to 120 days starting January 2000.

182. Law decree number 333/95 of 23 December provided for the adaptation of the social security regime to the new changes, among which it is worth mentioning the creation of a subsidy for the specific risks for pregnant, breastfeeding and parturient women resulting from exposition to agents, processes, working conditions and night time labour that may present health risks to the worker or child, as well as of a subsidy for assistance to the beneficiary's sick or handicapped offspring.

189. In addition to the numerous formative and informative materials, which were not published, the project was involved in the creation of a new collection of the Commission, called "*Bem me Quer*", devoted to the publishing of studies and informative, sensitization and educational materials to support the professional re-insertion of women to improve their professional status and to build their careers. This is a specialized collection on areas of professional training, employment and equal opportunity.

190. Thus far, five titles, product of field work experience, have been published. A video was also produced, "*Espaços de Informação Mulheres*" (Women Information Spaces), to sensitize public and private entities that are potential supporters for the profession re-insertion of women and for these structures existing at a more decentralized level.

191. In 1996/1997, the Commission for the Equality and the Rights of Women promoted a project, *Trampolim*, also integrated in the European Community's "*T1 the4(p)-97T.4(pw12(u)-9s)1.7(m)-12(o)-9.3.5(W)75.6(o)-14.6(m(e)-8e)-8.1(o(m(e)*

articulation with the Commission, as well as in cooperation with social and economical agents at the council's level, namely employment centres and enterprises for equal opportunity.

(f) Join the activities of the net to the European net of projects aimed at promoting equal opportunity between women and men in the labour market, which

the 8^a *Conferência dos Ministros do Desporto do Conselho da Europa* (Eighth Conference of Sports Ministers of the European Union) in Lisbon in 1995.

206. Portugal has also actively cooperated with the European Union on this issue, having organized a seminar on the contribution of sports to a democratic society (Lisbon 1996), at which the subject of the participation of women in sports was covered.

207. At the non-governmental level, the first initiative organized in Portugal on the issue was the congress on “Women and Sport”, organized in November 1996, in Lisbon, by the Women’s Democratic Movement (NGO) and the sports department of the *Câmara Municipal de Lisboa* (Lisbon’s City Hall), with the participation of the European Women’s Support Group).

208. This congress approved the Brighton Declaration and produced a proclamation directed to the Government, the sports organizations (Sports federations, Olympic Committee and Confederation), the women’s non-governmental organizations and the universities calling for the creation of an autonomous and structured organization. After the congress, the *Associação Portuguesa a Mulher e o Desporto* (Portuguese Association Woman and Sport) was established on 6 February 1998. The Association has the objective of promoting equality and the participation of women in sports at every level, function and area of competence.

Article 14

209. Although the agricultural sector of the Portuguese economy has been declining relative to the overall economy, women working in that sector still constitute an important part of the total feminine work force (15.8 percent in 1997) and a highly significant portion of the agricultural work force (53.4 per cent in 1997). As for their status, 81.2 per cent are self-employed workers with no employees, 8 per cent work for a family member, 9.5 per cent are employees and 1.1 per cent are self-employed with personnel in their service.

210. The legislative measures assumed during the period under review were the following:

(a) Law decree number 339/90 of 30 October, created the *Empresa Familiar Agrícola Reconhecida* (Recognized Family Agriculture Enterprise), legalized the concept of “family labour” in agriculture, and

recognized the rights of those relatives who, in spite of not only contributing their manual labour or cooperating in administrative chores, also work in the management of production, and who, up to that date, were unprotected;

(b) Legal dispatch 53/97, established the application of a measure on training and education, which granted priority to candidatures that advance the objectives of the equal opportunity policy, namely the promotion of the access of women to new areas of professional activity;

(c) Dispatch number 10 271/97, which approved the rules of application of the measure, obliged the training entities to apply the law on non-discrimination between women and men in labour and in the work place, also stipulated that financial support would be provided based on the fulfilment of the principle of equal rights;

These two measures contribute to the development of technical and social competencies, promoting greater participation of women in the rural and agricultural processes and to the elimination of discrimination against women.

211. Administrative rule number 195/98 regulates the aids to substitution services it concedes these aids to assuring the creation of conditions that allow temporary substitution of the elements of agricultural activities, the entrepreneur, the spouse and permanent workers, namely in cases of disease, accident, maternity, professional training and vacation.

212. The *Associação das Mulheres Agricultoras Portuguesas* (Portuguese Women’s Agriculturist Association), a non-governmental organization, continues to promote women in the agricultural sector through the following activities:

(a) “*Rosa e Acácio*” a project to prevent

