



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

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## Committee on the Elimination of Discrimination against Women

Forty-second session

20 October-7 November 2008

### Draft concluding observations of the Committee on the Elimination of Discrimination against Women

#### Portugal

1. The Committee considered the sixth and seventh periodic reports of Portugal (CEDAW/C/PRT/6 and CEDAW/C/PRT/7) at its 864th and 865th meetings, on 3 November 2008 (see CEDAW/C/SR.864 and CEDAW/C/SR.865). The Committee's list of issues and questions is contained in CEDAW/C/PRT/Q/7 and the responses of Portugal are contained in CEDAW/C/PRT/Q/7/Add.1.

#### Introduction

2. The Committee commends the State party for the submission of its sixth and seventh periodic reports, but regrets that both reports were submitted with some delay. While noting that the reports generally followed the Committee guidelines for the preparation of periodic reports, the Committee regrets the descriptive nature of the information provided, the patchy information given on the situation of women and girls in the autonomous regions of the Azores and Madeira, and the sporadic reference to its previous concluding observations of 2002.

3. The Committee also expresses its appreciation to the State party for its written replies to the list of issues and questions raised by the pre-session working group, but notes that full replies were not given to all questions and that some questions were left unanswered. The Committee further expresses its appreciation for the oral presentation and the clarifications given in responses to the questions posed orally by the Committee, but regrets, however, that no answers were provided to some of the questions raised by the Committee and that questions were not always answered in a clear and precise manner.

4. The Committee commends the State party on its large delegation headed by the President of the Commission for Citizenship and Gender Equality, which included representatives of that Commission, the President of the Commission for Equality in Work and Employment, and representatives of various Government ministries and

offices. The Committee welcomes, in particular, the inclusion of a representative of the Azores autonomous region in the delegation. The Committee appreciates the frank, open and constructive dialogue held between the delegation and members of the Committee.

### **Positive aspects**

5. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention in April 2002.

6. The Committee welcomes the adoption of a number of legislative measures, programmes, policies and plans designed by the State party to promote the advancement of women and gender equality, including legislative amendments in the area of electoral law, tax law, penal law, reproductive rights and the social welfare system, as well as the adoption of the Third Plan for Equality: Citizenship and Gender, the Third Plan against Domestic Violence, and the First Plan against Trafficking in Human Beings.

7. The Committee welcomes the introduction, as of 2008, of women's access to refugee status determination procedures with systematic registration of their asylum claims independently from the principal male applicant of the family. It also welcomes the new asylum law that exempts asylum seekers who are minors and their family members from detention at border crossing points during the admissibility stage, which benefits in particular single parent families.

8. The Committee welcomes the implementation of a number of specific measures aimed at eliminating discrimination against women, such as the inclusion of a gender dimension in the criteria for assessing, certifying and introducing school textbooks, and the amendment of the previously male-oriented selection and admissibility criteria in relation to the various branches of security forces, and the subsequent although still small increase in the number of women admitted in those forces.

9. The Committee welcomes the ratification by the State party of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in May 2004.

### **Principal areas of concern and recommendations**

**10. While recalling the obligation of the State party to implement all the provisions of the Convention systematically and continuously, the Committee views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party. Consequently, the Committee calls on the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It also calls on the State party to submit the present concluding observations to all relevant ministries, other Government structures at all levels, the Parliament and the judiciary, in order to ensure their effective implementation.**

### **Parliament**

11. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage its national parliament in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the next reporting process of the Government under the Convention.**

### **Implementation of the Convention in the autonomous regions of the Azores and Madeira**

12. The Committee notes that under Portuguese legislation the Azores and Madeira enjoy the status of autonomous regions. Noting that the State party provided only patchy information on the situation of women and girls in these regions in the sixth and seventh periodic reports, that no reply was provided to the specific question on their situation in the written responses to the list of issues and questions raised by the pre-session working group, and that the three national plans do not automatically apply in the Azores and Madeira, the Committee is concerned that the State party may have not put in place sufficient measures and monitoring structures to ensure the full implementation of the Convention in all parts of its territory.

13. **The Committee recommends that the State party ensure that there are adequate structures and mechanisms in place to ensure effective coordination and consistent application of CEDAW in all parts of its territory. It recommends that the State party take all necessary measures to ensure the full implementation of its national strategy and policy for the advancement of women and gender equality, including in the autonomous regions of the Azores and Madeira. The Committee requests the State party to include detailed information on the implementation of the Convention in the Azores and Madeira, including through the provision of sex-disaggregated statistical data, in its next periodic report. It further calls upon the State party to ensure that representatives from the Azores and Madeira are included in the State party delegation at the time of the next constructive dialogue with the Committee.**

### **Visibility of the Convention and Optional Protocol, preparation of the report**

14. While noting that the State party has published the Convention and its Optional Protocol in Portuguese and disseminated both to various stakeholders, the Committee is concerned that the provisions in these two instruments, as well as the general recommendations of the Committee and the views adopted under the communication and inquiry procedures, are not sufficiently known across all branches of Government. It is also concerned that the communication and inquiry procedures provided by the Optional Protocol and the output of the Committee in relation to these procedures are not widely known or sufficiently utilized by women. The Committee is also concerned at the apparent lack of use of the Convention by the judiciary, and notes that it was not possible for the State party to provide information on whether there are cases in which the provisions of the Convention

had been directly invoked in courts because court statistics do not disaggregate claims according to their legal basis.

**15. The Committee requests the State party to intensify its efforts to raise awareness among women of their rights under the Convention and the communication and inquiry procedures provided by its Optional Protocol. It further requests the State party to ensure that the Convention and its Optional Protocol, as well as the Committee's general recommendations and the views adopted on individual communications and inquiries, are made an integral part of the initial and ongoing legal education and training of judges, lawyers and prosecutors.**

16. The Committee is concerned that NGOs were not consulted in the preparation of the sixth report and that not all women's rights NGOs seem to have been consulted in the preparation of the seventh report. The Committee regrets the general lack of results-oriented information in both periodic reports and, in particular, in the seventh report, which provides very limited information on the results of the initiatives described in the sixth report.

**17. The Committee calls on the State party to consult closely with all women's rights NGOs in the preparation of its next periodic report. The Committee requests the State party to provide, in its next report, more analytical and results-oriented information on the implementation of its policies, plans, programmes and other measures introduced to implement the Convention, supported by sex-disaggregated statistical data.**

#### **National machinery for the advancement of women**

18. The Committee notes the restructuring of the national machinery whereby the Commission for Citizenship and Gender Equality replaced both the Commission for Gender Equality and Women's Rights and the Mission against Domestic Violence, and has been mandated not only to promote gender equality and the advancement of women, but also to address other grounds of discrimination. While recognizing the important functions and activities of this new institution, the Committee is concerned that the issues of discrimination against women and gender equality may lose visibility under this broad mandate and receive less attention. The Committee is also concerned at what seems to be a heavy dependency of this national machinery on European Union funding sources in implementing its programmes, as it may endanger the continuity of its work and send a wrong signal about the importance of the State party's equality work for women. The Committee also regrets the lack of information provided on the national machinery for women in the Azores and Madeira.

**19. The Committee recommends that the State party take the necessary steps to ensure that the Commission for Citizenship and Gender Equality gives priority attention to the issues of discrimination against women and gender equality that cut across all other grounds for discrimination. The Committee recommends that the State party ensure that the cross-cutting nature of these issues is reflected in the authority, structure, and human and financial resources of the Commission and in all of its programmes. The Committee also requests the State party to secure sufficient and sustainable resources from the State budget for the work of the Commission in all its aspects, as well as for the relevant ministries working on gender equality.**

20. While welcoming the State party's recent approval of the "equality adviser statute", which assigns a clear mandate to gender focal points within each Ministry who are responsible for promoting gender equality, describes their function, and stipulates the creation of intra-ministerial working teams, the Committee does not have a clear picture as to whether there will be a uniform and sufficient level of authority among these advisers, and whether the relationship between the Commission for Citizenship and Gender Equality and the new advisers will go beyond an advisory function through the ministries. The Committee is also concerned that the advisory role of the Commission in relation to the creation of equality advisers by local authorities may not have sufficient impact so that such advisers will be established in each municipality.

**21. The Committee recommends that the State party ensure through its existing equality structures at the national level that gender mainstreaming procedures are consistently applied with regard to all laws, regulations and programmes in all ministries. While respecting the autonomy of the local authorities, the Committee recommends that the State party utilize all appropriate measures to ensure the institutionalization of equality advisers in all local municipalities.**

22. The Committee is concerned that owing to the changes in the composition of the NGO section in the Consultative Council of the Commission for Citizenship and Gender Equality, not all women's rights NGOs that participated under the previous structure of the national machinery are included in the new structure and that a decrease in the number of NGOs that have a special focus and training on women's rights issues may have occurred. The Committee is also concerned at the lack of information on selection criteria for NGOs to be included in the Council and that this process may not be transparent. The Committee is further concerned that the current regulations for funding non-governmental organizations that constitute a competition scheme may be detrimental to non-governmental organizations working specifically on women's right issues.

**23. The Committee recommends that the State party ensure that the structural reform of the national machinery does not restrict or negatively affect the capacity of women's organizations to continue their work and contribute to the implementation of the Convention. The Committee also recommends that the State party provide adequate and sustained funding to non-governmental organizations involved in the area of women's rights.**

#### **Temporary special measures**

24. The Committee is concerned that the State party's understanding of the concept of temporary special measures expressed in both reports is not in accordance with the Committee's interpretation of these measures as set out in its general recommendation 25, and that such measures are not systematically applied as a necessary strategy to accelerate the achievement of de facto or substantive equality between women and men in all areas of the Convention.

**25. The Committee encourages the State party to familiarize all relevant officials with the concept of temporary special measures described in article 4, paragraph 1, of the Convention and as interpreted in the Committee's general recommendation 25. The Committee recommends that the State party apply temporary special measures in various forms in areas where women are**

**underrepresented or disadvantaged and allocate additional resources where needed to accelerate the advancement of women. The Committee also recommends that the State party include in its legislation specific provisions on the application of temporary special measures that encourages their use in both the public and private sectors.**

#### **National action plans**

26. While welcoming the inclusion of timelines, process and success indicators, as well as the identification of the responsible entities and bodies in the national plans on equality, domestic violence and trafficking, the Committee is concerned that it did not receive a clear indication of the substance of these indicators and timelines in the interactive dialogue. The Committee is also concerned that the efforts made under these national plans may not be sustainable given that a large percentage of the projects are funded from sources outside the national budget.

**27. The Committee recommends that the State party report in detail on the results achieved under its national action plans in its next periodic report, as well as on obstacles that may have impeded their successful implementation. The Committee invites the State party to review its funding policy for these plans and to explore appropriate ways to anchor and sustain projects on equality of women with men in the national budget.**

#### **Stereotypes and cultural practices**

28. While welcoming the efforts taken by the State party to eradicate stereotyped attitudes regarding the characteristics and roles of women and men, in particular through the publication and distribution of didactic and substantive material on gender equality for teachers at all levels of the education system and in many teachers' training institutions, the Committee is concerned at the persistence of traditional stereotypes in the education system in the State party and that gender-related issues and these new teaching support materials are not mandatorily integrated into teacher training. The Committee is further concerned that it does not have a clear picture of the persistence of sex role stereotypes in the media and in advertisements and whether there are legal regulations that prohibit them and institutions that monitor their elimination or that can receive complaints regarding sexist elements contained in them.

**29. The Committee recommends that gender equality policies are mainstreamed in the education sector. Noting that the Convention is directly applicable in the national legal system and its article 5 (a) provides a basis for adopting legislative and other measures aimed at the elimination of gender stereotypes, the Committee recommends that gender issues and sensitivity training are made an integral, substantive and mandatory component of all teacher training at all levels. The Committee further recommends that the State party provide information on the possible existence of sex role stereotypes in the media and in advertisements and on legal and institutional measures for monitoring the elimination of such stereotypes.**

30. While welcoming the amendment to the Penal Code that criminalizes female genital mutilation, the Committee is concerned at the lack of information on the prevalence of this practice and of the impact of the new law and its interpretation.

31. **The Committee urges the State party to ensure the full implementation of legislation prohibiting female genital mutilation, including the prosecution of perpetrators, with a view to eliminating this harmful traditional practice. The Committee invites the State party to design and implement targeted prevention strategies, as well as education and awareness-raising programmes involving health-service providers, community and religious leaders and women's organizations, as well as to launch specific culturally sensitive information campaigns. The Committee requests the State party to provide, in its next periodic report, comprehensive information on the prevalence of the practice of female genital mutilation in its territory and the impact of the measures taken to eradicate this practice.**

#### **Violence against women**

32. The Committee is concerned at the continuing prevalence of violence against women and girls, including domestic violence. While welcoming the expansion of the network of shelters for women victims of violence to cover all administrative districts of the State party by the year 2010, the Committee notes with concern that sometimes these shelters may be used not only to accommodate women victims of violence, but also persons experiencing other social emergency situations. While noting the possibility of protective measures, such as electronic means of surveillance of the perpetrators subject to restraining orders and ban on their possession of firearms, the Committee is concerned that these measures seem not to be widely used by judges, and that no information on the use of such protective measures is systematically collected.

33. **The Committee urges the State party to accord priority attention to the adoption of comprehensive measures to address all forms of violence against women in accordance with its general recommendation 19. The Committee calls on the State party to ensure the full implementation of legislation on violence against women and the national plan against domestic violence, as well as the prosecution and conviction of perpetrators. The Committee also recommends that the State party disseminate information on domestic remedies available against acts of violence against women, and expand its training activities and programmes for the judiciary and public officials so as to ensure that they are sensitized to all forms of violence against women and are aware of all measures that can be taken to protect the victims. The Committee recommends that the State party ensure that a sufficient number of safe crisis centres and shelters are available to women victims of violence in all parts of the State party, staffed by expert personnel and provided with adequate financial resources for their effective functioning.**

#### **Trafficking in women**

34. While acknowledging the measures taken by the State party to combat trafficking in women and children, including the adoption of the First National Plan against Trafficking in Human Beings, the Committee is concerned at the continuing prevalence of this problem, the lack of information on the prosecution and punishment of alleged perpetrators, and the low number of places available in the one shelter provided for women victims of trafficking.

**35. The Committee urges the State party to continue to strengthen its measures to combat all forms of trafficking in women and children in line with article 6 of the Convention. In this respect, the Committee urges the State party not only to ensure the prosecution and penalization of traffickers, but also to take measures aimed at ensuring the protection and rehabilitation of women victims of trafficking, including through the establishment of additional shelters for victims.**

#### **Political participation and participation in public life**

36. The Committee welcomes the entry into force of the new Parity Law of 2006, which establishes minimum quotas of 33 per cent of each sex in electoral lists for European, national and local elections, and which will be applied to all those elections in 2009. While noting this effort to increase the number of women in elective bodies, the Committee is concerned that the new law does not apply to the Azores and Madeira. The Committee is concerned that, according to the seventh periodic report, women's representation in the Regional Legislative Assembly stands at 12 per cent in the Azores (since 2004) and 17 per cent in Madeira (since 2007).

**37. The Committee calls on the State party to ensure full implementation of the new Parity Law in the next elections in 2009. It also recommends that the State party take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25, in order to accelerate an increase in representation of women in elected and appointed bodies in the Azores and Madeira.**

#### **Economic empowerment and employment**

38. The Committee notes the efforts by the State party to promote women's entrepreneurship, but regrets that little information was provided on the type and sustainability of the enterprises launched by women, on the differences between those run by male entrepreneurs as compared to those run by female entrepreneurs, including the income levels of male and female entrepreneurs. The Committee is also concerned at the high number of women working within companies who are classified as self-employed, and the possible negative effects of this phenomenon on those women's entitlement to unemployment, pension and family benefits.

**39. The Committee requests the State party, in its next periodic report, to provide detailed and concrete information on the concerns raised regarding women's entrepreneurship, and to intensify efforts to eliminate the practice of employers to hire women as self-employed independent workers, instead of employing them as salaried workers with employment benefits.**

40. The Committee notes the various measures taken by the State party to support the participation of women in the labour market and facilitate the reconciliation of family and work life, and welcomes the adoption of Council of Ministers resolution 49/2007 requiring State-owned enterprises to adopt equality plans designed to achieve, among other issues, equality of treatment and opportunities for men and women and a balance between employment and work in the family. The Committee continues to be concerned, however, at the persistence of occupational segregation of women and men in the labour market, in particular at the fact that women's higher educational achievements do not translate into equivalent jobs and salary



levels, the fact that women make up 59.7 per cent of registered unemployed persons, and the continuing pay gap, where current figures show that the average monthly earnings of women amount to approximately 77.2 per cent of men's earnings and that at managerial level the percentage is only 70.4. The Committee notes that the Government presented its annual report on the progress of equality between men and women in work, employment and vocational training to Parliament in May 2007. Although the report has been mandatory since 2001, the Committee regrets that this was the first report submitted.

**41. The Committee recommends that the State party continue to take concrete measures to eliminate occupational segregation, both horizontal and vertical through, inter alia, education, training and retraining and effective enforcement mechanisms of the laws. The Committee also recommends that the State party develop and apply job evaluation systems based on gender-sensitive criteria and collect sex-disaggregated data regarding the type and extent of wage differentials to eliminate the practice of women receiving unequal pay for work of equal value. The Committee also recommends that the State party monitor the impact of the use of fixed-term contracts and increase incentives for employers when appropriate to counteract possible adverse consequences of fixed-term work for women, especially in regard to their job security, salary levels and pension and retirement benefits. The Committee encourages the State party to monitor adoption and effective implementation of the equality plans by the State-owned enterprises, and to consider widening the legal requirement to adopt such plans also to privately owned enterprises. The Committee further recommends that the Government promptly submit its annual report on the progress of equality between men and women in work, employment and vocational training to Parliament.**

### **Health**

42. While welcoming the new legislation relating to the voluntary interruption of pregnancy within the first 10 weeks, the Committee is concerned at the low awareness among younger women of this legislation. It is also concerned that some women may encounter difficulties in availing themselves of the new regulations given the fact that health-care personnel may decide not to perform an interruption of pregnancy on the basis of their conscience. The Committee further regrets that the extensive data provided by the State party on the health and health care of its population in its periodic reports was not disaggregated by sex. The Committee is concerned at the high HIV/AIDS prevalence among women in Portugal and the fact that a very low percentage of the population, i.e. only 13 per cent in 2005, use condoms as a contraceptive method.

**43. The Committee recommends that the State party promote sexual health education targeted at adolescent girls and boys, and ensure access to sexual health information and all services, including those directed at interruption of pregnancies, for all women and girls. The Committee also requests the State party to provide, in its next report, sex-disaggregated data on health and the provision of health care and more information and data on the prevalence of, and measures taken against, sexually transmitted diseases, including HIV/AIDS, among women.**

**Vulnerable groups of women**

44. The Committee is concerned at the feminization of poverty in the State party and notes that 57 per cent of women are beneficiaries of the non-contributory social security scheme and that 36 per cent of families receiving the guaranteed minimum income are women living alone or women supporting children. While acknowledging the benefit for women of the 2005 law on Solidarity Complement for the Elderly, the Committee is concerned, in particular, at the vulnerability of elderly rural women to poverty.

**45. The Committee recommends that the State party closely monitor the incidence of poverty among women, include specific women-oriented measures into its anti-poverty schemes and monitor their impact so as to combat poverty among women in general, and vulnerable groups of women in particular, including elderly rural women.**

46. The Committee notes the lack of information in the periodic reports on the situation of Roma women, as well as on refugee, asylum-seeking and immigrant women.

**47. The Committee requests the State party to provide, in its next periodic report, detailed information, including statistical information, on the situation and socio-economic status of Roma, refugee, asylum-seeking and immigrant women, including their access to employment and social services.**

48. The Committee is concerned at the high rate of illiteracy and the low level of formal education among rural women. It is particularly concerned that only 0.2 per cent of women farmers have formal vocational training in agriculture and only 0.3 per cent a polytechnic or university degree in this field.

**49. The Committee calls upon the State party to continue its efforts to strengthen rural women's and girls' access to education and formal vocational training and to encourage them to pursue their education after primary school. The Committee further recommends that the State party take targeted measures to ensure that women working on family farms have real possibilities to acquire formal training in farming to enhance their economic empowerment. The Committee also recommends that the State party provide concrete information on education, vocational training, employment, and self-employment opportunities of younger rural women in its next periodic report.**

**Beijing Declaration and Platform for Action**

**50. The Committee urges the State party to utilize fully, in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

**Millennium Development Goals**

**51. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

### **Ratification of treaties**

52. The Committee notes that States' adherence to the nine major international human rights instruments<sup>1</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Portugal to ratify the treaties to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, which Portugal signed in March 2007, and the International Convention for the Protection of All Persons from Enforced Disappearance, which Portugal signed in February 2007.

### **Dissemination of concluding observations**

53. The Committee requests the wide dissemination in the State party of the present concluding observations in order to make its population, in particular Government officials, politicians, parliamentarians and women's and human rights organizations, aware of the measures that have been taken to ensure de jure and de facto equality of women, as well as of the further steps that are required in this regard. It requests the State party to continue to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention and its Optional Protocol, the general recommendations of the Committee, the Beijing Declaration and Platform for Action, and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

### **Follow-up to concluding observations**

54. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 21 and 41 above. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate, for the implementation of the above recommendations.

### **Date of next report**

55. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its combined eighth and ninth periodic report in July 2013.

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance.