

**RELATÓRIOS APRESENTADOS POR PORTUGAL AOS ÓRGÃOS DE CONTROLO DA APLICAÇÃO
DOS TRATADOS DAS NAÇÕES UNIDAS EM MATÉRIA DE DIREITOS HUMANOS***

**CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST
WOMEN**

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF
THE CONVENTION**

SECOND PERIODIC REPORTS OF STATES PARTIES, ADDENDUM

PORTUGAL

INTRODUCTION

The first report of Portugal submitted for consideration by the Fifth Session of the Committee in March 1986 was composed of the following documents:

- Document CEDAW/C/S/Add.21, report prepared in 1982 and submitted to the Committee for consideration in 1983;
- Document CEDAW/C/S/Add.21/Corr.1, containing the translated legislative texts together with other items of information, mainly statistical, on the status of women in Portugal;
- Document CEDAW/C/S/Add.21/Amend.1, containing supplementary information and an update of the report submitted in 1983.

In addition, the representatives of Portugal who had presented the report to the Committee submitted a booklet in English on the status of women in Portugal, relating to 1985.

The second report which we are now submitting therefore refers to the legal or "de facto" changes in the application of the Convention since 1986.

PART I. 1. SOCIAL, ECONOMIC, POLITICAL AND LEGAL FRAMEWORK

(a) General

The first report submitted by Portugal was compiled, we recall, before the approval of the guidelines, as a result of which we provided information on our legal system, but did not include in the report information directly concerning the social, economic and political framework.

Nevertheless, all the information considered pertinent to the subject was given verbally by the Portuguese representatives when they presented the document at the fifth session of the Committee and was supplemented by the booklet on the status of women in Portugal circulated during the meetings.

To this second report we attach the English version of the booklet "Portugal - Status of Women, 1988", which contains general information on Portugal, more especially with regard to the geopolitical, demographic, economic, legal and political situation, which we consider there would be no point in reproducing here.

(b) Integration into the European Community

We believe, however, that we should stress the importance of Portugal's integration into the-European Community since 1986, which has had repercussions on our legal system and has strengthened the commitments of our country stemming from ratification of the Convention in the sense that the Community Directives regarding equal employment and social security overlap with some areas envisaged in the Convention and impose upon Portugal the same obligations.

(c) National machinery

Portugal possesses two types of government "machinery" that are specifically responsible for the elimination of discrimination and for promotion of equal opportunity:

The Commission on the Status of Women, which is attached to the Prime Minister's Office and is of a consultative nature, and the Commission for Equality in Work and Employment (CITE), which is attached to the Ministry of Employment and Social Security.

The Commission on the Status of Women, which was officially set up in 1977, has to its credit a long list of activities in favour of equality and against discrimination. It has a Consultative Council, on which sit representatives of government departments and women's organizations who jointly carry out important activities from the standpoint of deliberation, public information and the claim for rights in connection with specific problems involved in the promotion of equality between men and women.

(d) Means used

The means used to promote women and to guarantee them the exercise of their rights, as far as the Commission on the Status of Women is concerned, consists basically of activities backing up legislation, public information in the media, and, directly for the benefit of women, research, seminars, collaboration with other institutions, and so on.

Over the last three years the Commission on the Status of Women believes that it has entered a new stage of activity in the sense that it has come to realize that above all its duty is to make, first, the population and, second, the Government, i.e. the different government departments, more aware of the importance of problems of equality between the sexes, which involves not only women, but society as a whole and which conditions harmonious and humanistic development.

(e) Invocation of the Convention before the courts

We should recall, for this has already been stated in the first report that ratification of the Convention means that it is today part of the internal Portuguese legislation and may therefore be invoked directly before the courts, by virtue of article 8 of the Constitution of the Republic of Portugal.

2. FIRST ARTICLES OF THE CONVENTION

The articles of the Convention which make up the first part of it are of a general nature.

In that connection we should recall that in July 1986 Portugal took a stand on the reservations made by several countries which had ratified the Convention in respect of the application of certain provisions.

Our opinion was that reservations relating to non-acceptance of the basic obligations of the Convention should be considered inadmissible.

Portugal was one of the first countries to ratify the Convention and did so without reservations, accepting not only the basic obligations (since they were in accord with its legal system), but also the strategies advocated by the Convention.

Article 1 gives a definition of discrimination which is compatible with our constitutional principles on that point.

See attached booklet "Portugal- Status of Women, 1988".

Articles 2 and 3 concern the general lines that States should follow in applying that principle.

With regard to these articles we have little to add to what was stated in the first report, except that we would like to point out two new aspects:

(a) The first article of Law 30/87 of 7 July, a new law governing military service, lays down that the defence of the fatherland is the duty and the right of all Portuguese and that citizens between 18 and 38 years of age are subject to military service.

Article 42 stipulates that female citizens may do military service on a voluntary basis according to the normal system or according to other modes of recruitment to be defined by specific legislation, which must respect the constitutional principles governing promotion of the equality of citizens, the social function of maternity and the specific nature of the military duties discharged.

(b) As far as constitutional provisions on equality between men and women are concerned, the Constitution is at this moment being reviewed and we can state that the drafts proposed by the different political parties do not jeopardize the principle of non-discrimination as a function of sex or

those principles which stipulate equality between men and women in different areas such as the family, employment, political and social roles, etc.

Some parties are even putting forward proposals for making the principle of equality more of a reality and suggesting that non-discrimination as a function of civil status should be explicitly put down in writing, a fact which would have positive results for the status of women and for equality.

The non-governmental organizations which are members of the Consultative Council of the Commission on the Status of Women held a seminar for the celebration of 8 March 1988 on "Constitutional Review and Women", the conclusions of which call on political parties to introduce some amendments into the text of the Constitution that would improve it in terms of the principle of equality between men and women.

With regard to article 4 of the Convention, we have stated in the first report that it does not run counter to the Portuguese legal system, since some of the constitutional provisions make it quite clear that the aim to be achieved is actual equality between men and women and not just official equality. This "de facto" equality calls for positive or remedial measures for women such as provided for in article 4 of the Convention.

Since the last report, lawyers have been looking into the matter of constitutional obstacles to the application of temporary special measures of benefit to women and have concluded that for States such as Portugal which have ratified the Convention without reservations regarding article 4, and the ratification of which automatically incorporates the Convention into internal law, article 4 of the Convention acts as a standard interpreting the general principle of non-discrimination against sex.

Discussions and seminars on this point have been held at the initiative of the Commission on the Status of Women with a view to introducing clarity.

The conclusions of the seminar held by the women's organizations on "Constitutional Review and Women" contained a point advocating the introduction into the text of article 13 of the Constitution of an interpretative precept equivalent to article 4 of the Convention.

At the time of this report we do not yet know the result of this initiative, since the review is still in progress.

Article 5 of the Convention contains a general provision aimed at modifying the social and cultural patterns of conduct of men and women.

There has been continued activity for the purpose set forth in article 5, which we will describe in connection with the various parts of the Convention dealing with political, economic and social rights.

We can say for a start that these activities are largely a matter of making the political, cultural, economic and social agencies of society as well as the population at large more aware of the problem, and are reflected in the form of projects, seminars, symposia, publications and so forth. Such action, on the initiative of the Commission on the Status of Women, is put into practice with the collaboration of other governmental bodies or women's organizations and often with the backing of the United Nations organizations, such as UNESCO and the United Nations Fund for Population Activities (UNFPA), or the European Community.

We observe a certain change in mentality and believe that slow and gradual headway is being made among the younger generation.

PART II. POLITICAL RIGHTS

The second part of the Convention concerns the elimination of discrimination in the sphere of political rights - articles 7, 8 and 9.

A. PRESENT SITUATION

Since the submission of the first report, the situation in Portugal has not changed very much as regards the presence of women in the elected bodies. In the Assembly of the Republic the percentage of women has continued to be about 7 per cent for the last few years.

- Among 53 posts in the Government, we count four women;
- A woman stood as candidate for the presidential elections of 1986;

- A woman was elected Vice-President of the Assembly of the Republic for the first time in 1987;
- For the first time women are joining consumers' associations, cultural groups, social solidarity associations and co-operatives, etc.;
- Over the last three years several new women's organizations have been formed: Women's Action, Association of Women Lawyers, Association of Women Farmers, Association of Socialist Women, and League for the Rights of Women.

B. ACTION TAKEN IN THIS AREA

(a) Permanent activities, projects and research:

- Women and politics (research and publication);
- Women and political power (pilot project subsidized by UNESCO and carried out among two groups of non-political women from different socio-cultural backgrounds, and analysed by research workers linked with sociology and political science and by women in politics).

(b) Seminars, information campaigns, publications

- Participation by women in politics (seminar);
- Women and power (seminar followed by publication);
- Making locally elected representatives aware of problems of equality between men and women;
- Campaign in the press and among political parties for greater participation by women in the electoral registers;
- Circulation of brochures.

C. NEW LAW

The Assembly of the Republic has passed a law recognizing the rights of women's associations.

PART III. ECONOMIC AND SOCIAL RIGHTS (ARTICLES 10, 11, 12, 13 AND 14)

1. ARTICLE 10 - EDUCATION

A. PRESENT SITUATION

(a) Over the last three years the educational level of women has improved. Nevertheless, most of the illiterate are still women belonging to the highest age groups of the population.

The percentage of girls and boys at different levels of education is almost the same and in the case of higher education the number of women is greater than that of men: 57.4 per cent of the students admitted to the universities and other higher educational establishments (year 1984/1985).

(b) Despite egalitarian laws, joint curricula and the co-educational system, equality of education is not yet a reality in practice.

Different cultural factors continue to condition the behaviour of teachers as well as the way in which boys and girls visualize their future and their role in social life. School education and vocational training of girls and women is geared for the most part to the traditional female outlets, although over the last few years women have had a broader range of options at their disposal.

B. ACTION TAKEN IN THIS AREA

Since the first report submitted by Portugal, the Commission on the Status of Women has stepped up its activities in the area considered as a basis for eliminating discrimination against women.

(a) Permanent activity, projects, research and collaboration

- The project "Change of attitude": continuation of the project begun in 1979 and designed to make teachers more aware of non-sexist teaching (collaboration with the Ministry of Education);
- Action to create greater awareness and to provide information: "More girls in the technical professions", 1988-1989 (in collaboration with the Institute of Employment and Vocational Training);
- Women in higher education (research);
- The project "Women and the new technologies 1987-1989" - training of girls in audio-visual techniques, video production and work with microcomputers; Commission on the Status of Women and the Faculty of Sciences of Lisbon, Department of Educational Sciences, support from the European Social Fund;
- The project "New technologies, new challenges": pilot project for the development of written and audio-visual material for making girls more aware and attracting them to the new technologies at secondary school (implemented by the Ministry of Education in collaboration with the Commission on the Status of Women). (Initiated in 1987, continued in 1988 and placed on a broader basis in 1989);
- Project "Education for equality", a project for training teachers in non-sexist education (Setúbal Higher School of Education in collaboration with the Commission on the Status of Women, 1988-1989);
- Conclusion of an integrated development project financed by UNFPA for health education, literacy, and family planning in two depressed areas of the Lisbon region;
- Integrated project for training migrant Portuguese women in the countries of the European Community, including a module on equal opportunity (implemented by the Institute for Emigration Support with the backing of other organizations, among them the Commission on the Status of Women);
- Signature of a new protocol between the Commission on the Status of Women and the Ministry of Education on carrying out action for equal opportunity between boys and girls in education (1988);
- Creation of the Commission set up in December 1988 for the promotion of human rights and equality in education.

(b) Seminars, public information and publications

- Women, higher education, scientific research and new technologies (seminar and publication), 1986. (Commission on the Status of Women with the support of UNESCO);
- Equal opportunity in education and vocational training (seminar), 1988. (Commission on the Status of Women with the support of the European Communities);
- Women, cultural identity and national defence (seminar), 1989, held by the Commission on the Status of Women jointly with the Institute of National Defence;
- "Activities for non-sexist education", suggestions for pre-primary education, 1989 (publication);
- Idem for primary education (publication);
- Sexism in teaching material - how to identify and combat it (publication).

C. NEW LAWS

- Outline law governing the educational system: article 4 stipulates the guidance and training of teachers for non-sexist education.

2. ARTICLE 11 - EMPLOYMENT

A. PRESENT SITUATION

Despite revitalization of the economy in Portugal, the status of women on the labour market has not made any great improvement over the last few years.

The situation is described in the attached booklet. Comparing the present situation with that of 1984, we see that:

- The percentage of active women among the population has risen from 40 per cent to 41.4 per cent, and their employment rate has gone from 38.6 per cent to 39.3 per cent. However, most of the people out of work are still women - 60.3 per cent of the total number of unemployed. This principle is in agreement with article 4 of the Convention.
- The stability of women's work contracts shows a lower figure than for men and women are the bulk of short-term employees.

B. ACTION TAKEN IN THIS AREA

(a) Permanent activity, projects and research

- Research on marginal employment of women;
- Research on the impact on women of budgetary and employment policies;
- Research into the effect of a single market (EEC) on female employment - now under way;
- Two vocational training projects for women in the cottage industry in the north of Portugal under the management of enterprises (1986), Commission on the Status of Women with support from the European Social Fund;
- Pilot project for vocational training of women in men's occupations (woodworking, plumbing, etc.), carried out by the Institute of Employment and Vocational Training;
- Survey of the attitude of young people in face of new technologies (pilot activity, Ministry of Education and Commission on the Status of Women).

(b) Seminars, public information and publications

- Information on the use of the European Social Fund for women's vocational training projects (seminar, November 1986, held by the Commission on the Status of Women);
- Information on local employment initiatives and women; setting up of enterprises for women (seminar, November 1988, Institute for Employment and Vocational Training, Commission for Equality in Work and Employment, Commission on the Status of Women);
- "Jobs for women", seminar organized by the women's NGOs and the Consultative Council of the Commission on the Status of Women, April 1987;
- "Sexual harassment and women", organized by the same NGOs, May 1989.

C. NEW LAWS

- Decree Law 426/88 of 18 November introduces for the civil service the same equality in work and employment as has been in force since 1979 in the private sector of the economy (Decree Law 392/79 of 20 September).
- This law reintroduces a provision already existing in the 1979 law: "not considered as discriminatory are measures of a temporary nature that show preference as a function of sex imposed by the need to correct 'de facto' inequality as well as measures aimed at protecting maternity considered of social value".
- Decree Law 165/85 of 6 May on training in co-operation, includes several positive activities benefiting women.
- Ministerial decision 46/86 of 4 June, which regulates a provision of Decree Law 445/80 of 4 October and facilitates local initiatives for employment benefiting women.
- Ministerial decision 19/87 of 19 February on finances for establishing independent activities (of indirect benefit to women).

3. Article 12 - Health

4. Article 13 - Economic and social life

5. Article 14 - Rural women

A. PRESENT SITUATION

- 54.2 per cent of the farm labourers are women.
- 27.4 per cent of the active women work in the primary sector.
- Status of farm labourers: wage-earners, farm managers, family helpers, assistant workers and co-operatives.
- 71 per cent of women working in agriculture are independent, without wage-earners in their service; 17 per cent are unpaid family helpers; 11 per cent are wage-earners, and 0.3 per cent are independent with employees in their service.

B. ACTION TAKEN IN THE AREA

(a) Permanent activity, projects and research

The Association of Women Farmers, which was set up in 1987, is engaged in permanent activity to promote rural women.

(b) Seminars, public information and publications

- In January 1987, the Commission on the Status of Women, with the support of the European Community, organized a large European seminar in Portugal to promote women farmers (it was at the end of this seminar that the Association of Women Farmers was set up).
- Portugal took part in the European Campaign for the Rural World (1987-1988), which included a symposium of women in the rural environment.

C. NEW LAWS

- As legislation promulgated by the State of benefit to the status of women agricultural workers, we would point out the law permitting the formation of companies between husband and wife and the law governing compulsory registration of "assisting spouses of farmers" under the general social security scheme as independent women workers (Decree Law 401/86 of 2 December).
- Until 31 December 1986 agricultural workers were subject to a special social security scheme.
- Starting from 1 January 1987, all workers in agriculture were integrated into the general social security scheme for wage-earners and independent workers.
- The social security scheme for independent farmers has been brought into line with the European Community's directive 86/613/EEC, which stipulates equal opportunity for independent male and female workers, including women farmers.

PART IV

CIVIL RIGHTS

(ARTICLES 15 AND 16)

A. PRESENT SITUATION

On this subject we have nothing to add to the first report.

The rights described in this part of the Convention are guaranteed by the Portuguese Constitution and laws and in this area the laws are applied in practice each time that the administrative authorities and judiciary are called upon to take action: marriage, divorce, registration of civil status, property and management of goods.

As far as the everyday life of families is concerned, sharing of family responsibility on an equal plane has not yet become the rule although a certain change of attitude in this respect is to be noted in the younger generation.

B. ACTION TAKEN IN THIS AREA

Action intended to increase awareness, provide information and carry out research work is conducted by the Commission on the Status of Women with regard to violence within the family, more especially against women:

Preparation of a series of television spotlights, booklets, posters and folders on the subject of equal opportunity and on developments in the role of men and women and on different forms of violence against women.

FACTORS AND DIFFICULTIES AFFECTING THE DEGREE TO WHICH THE CONVENTION CAN BE IMPLEMENTED

The principal factors affecting the extent to which the Convention can be implemented are economic and cultural in nature, as we have pointed out in our first report, and make themselves felt, first and foremost, in education and employment.

Elimination of discrimination against women cannot wait for a change in attitude, which will take time, but implies taking specific and temporary measures for the benefit of women right now.

Elimination of discrimination against women further depends on effective protection of maternity either in the mother-baby health component or in the protection of rights of the working mother, or else through the formation of infrastructures for protecting childhood and family life. The obstacles to be overcome are therefore not only cultural and economic, but also social and political.

CONCLUSIONS

The Convention on the Elimination of All Forms of Discrimination against Women is one of the United Nations conventions and agreements relating to the protection of human rights. The Convention we are examining is not confined to conferring rights, but also imposes duties on the States which ratify it.

Hence ratification implies for the Governments of those States the existence of the political will to engage in action conducive to the implementation of the Convention.

The programme of the Government which emerged from the elections of 1987 has not included a global and intersectoral plan for equality between men and women, but devotes a section to the status of women and announces its intentions with regard to eliminating existing discrimination and enhancing participation by women in social life. Also announced is the intention to launch specific activities for vocational training and support for initial employment and to create the conditions necessary for women to exercise their rights in respect of maternity and work.

However, the Government of Portugal is responsible for the implementation of the European Community's Second Programme of Action (1986-1990) for equality of opportunity. In this programme the attention of Governments is drawn to the necessity for a multiple global policy and the need is stressed for promoting specific action to improve application of the existing provisions relating to education, vocational training, employment, social welfare and so forth.

Portugal is also called on to apply the strategies approved at Nairobi.

Thus we have the instruments necessary for developing activities conducive to carrying out the agreement entered into by ratification of the Convention.

It remains to continue the activities undertaken and to pursue a political commitment, stronger every day, to these issues, which must be reflected in a global and multidisciplinary programme and in enhancement of the powers of the machinery responsible for building up equality.