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I. Introductory remarks

The Portuguese Ombudsman welcomes the 79TH pre-sessional working group for the Committee on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention). The Ombudsman reinforces Portugal's longstanding commitment towards the promotion and protection of women's rights and acknowledges the national efforts so far made in laying down national laws and practices intended to eliminate all forms of discrimination against women, which are in conformity with international standards.

In this respect, it is worth remembering that Portugal has come a long way since the ratification of the Convention, in 1980. In just a little more than four decades, the role of women in Portuguese society has changed dramatically. In the 1970s, women were prohibited to exercise several professions (of becoming judges, diplomats, to hold positions in the military or in the local administration). Discrimination was visible in working conditions with women earning approximately 40% less than men. Some women were not allowed to freely marry. Husbands could prohibit wives from working outside the house and men were the exclusive holders of the parental authority over children. Women were meant to become wives, mothers and carers.

Since the 1980s the commitment of the Portuguese Republic to eliminate these various kinds of discrimination against women has produced noticeable outcomes and has deeply transformed the status, as a matter of law and fact, of women in Portugal. In any case, despite

these achievements, discrimination against women is still a reality felt at different levels, deserving of close attention and consideration by the Ombudsman.

In that regard, 2020 has been an arduous year. The pandemic of Covid-19 has carried along multiple challenges for states, institutions and civil societies in general. National human rights institutions were not an exception in this respect. The pressure on these institutions has been extremely high, with countless calls for a swift and effective response to human rights situations arising abruptly around the world. The work of the Portuguese Ombudsman in 2020 has thus been considerably affected by the current health emergency, having a considerable part of its activities focused on issues relevant under the Convention.

II. Positive achievements

In any case, considering that Portugal's Tenth Periodic Report currently under analysis covers the implementation of the Convention in general and not just in the context of the pandemic, the Portuguese Ombudsman starts by pointing out the positive outcomes accomplished in that regard.

To begin with, the Ombudsman welcomes the adoption of several pieces of legislation which aim at eliminating all forms of direct and indirect discrimination between men and women. Special mention is due to the adoption of:

- (i) Law 60/2018, of 21th August, establishing mechanisms envisaged to ensure the principle of equal pay for equal work;
- (ii) Law 100/2019, of 6th September, which by creating the status of informal carers has filled in a gap long identified in Portuguese society; and,
- (iii) Legislation on female quotas for the public administration, public companies and electoral lists, which has contributed to enhance women's participation in public life.

At the level of Government policy, the adoption of the National Strategy for Equality and Non-Discrimination 2018-2030 - anchored in three different action plans¹ - constitutes a valid

¹ That are: a) promoting equality between women and men; b) preventing and combating violence against women and domestic violence (VAWDV) - including harmful practices such as female genital mutilation (FGM) and forced

attempt at providing a systemic and holistic approach to the issue of gender equality². Moreover, for the first time, the Ministry of National Defence has endorsed a National Defence Equality Plan based on three pillars: equality, work-life balance and training. Also, the set of measures applied in recent years to address the issue of human trafficking are relevant and deserving of consideration.

At the international level, Portugal has been submitted, between 2017 and 2019, to the first evaluation under the Council of Europe so-called “Istanbul Convention”³. In this ambit, the Group of Experts on Actions against Violence against Women and Domestic Violence (GREVIO) noted in its report “*the significant commitment demonstrated by the Portuguese authorities over the years to tackle violence against women in parallel to efforts to promote equality between women and men*”⁴, with Portugal emerging as the EU country with the highest average level of awareness on preventive measures in the area of domestic violence. Nevertheless, GREVIO has put forward several recommendations, notably regarding the need to ensure (i) coordination of policies and of the multiple agencies involved in tackling violence against women, and (ii) fairness and effectiveness of the criminal justice system⁵.

Overall, these initiatives have contributed to strengthen the implementation of the Convention in the Portuguese legal order, and have begun to produce noticeable outcomes.

III. Outstanding issues

Notwithstanding the above, problems persist, with some of them having been aggravated and amplified in the context of Covid-19 pandemic.

Considering the timing and the limitations imposed on the present submission, the Portuguese Ombudsman draws attention to the following structural aspects involving pre-existing forms of discrimination of women that became particularly evident in the context of

and early marriages; e) combating discrimination on the basis of sexual orientation, gender identity and expression, and sex characteristics.

² Available at https://www.cig.gov.pt/wp-content/uploads/2018/07/Resol_Cons_Ministros_61_2018.pdf .

³ Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011.

⁴ See <https://rm.coe.int/grevio-reprt-on-portugal/168091f16f> , at 6.

⁵ See <https://rm.coe.int/ic-cp-inf-2019-3-eng/pdfa/168092019b> .

the pandemic: 1) violence against women; 2) gender inequality in household work; 3) gender gap in the labour market; and 4) women's health issues.

The OECD 2020 Report on “Women at the Core of the Fight Against Covid-19” similarly highlights that during the pandemic “[w]omen face compounding burdens: they are over-represented working in health systems, continue to do the majority of unpaid care work in households, face high risks of economic insecurity (both today and tomorrow), and face increased risks of violence, exploitation, abuse or harassment during times of crisis and quarantine. The pandemic has had and will continue to have a major impact on the health and well-being of many vulnerable groups. Women are among those most heavily affected”⁶.

1) Violence against women and domestic violence

The Portuguese Ombudsman has consistently dedicated its attention to the problem of violence against women, in particular domestic violence. Although the issue falls outside its jurisdiction, given the criminal nature of the conducts at stake, several complaints have been submitted to the Ombudsman. Considering the fragile position of the victims and the sensitivity of the cases, all such complaints are analysed by the Ombudsman Office particularly with regard to the stages upstream (by directing victims to the competent authorities) and downstream of the judicial proceedings (by following up on cases once a judicial decision is delivered)⁷.

These cases also merit the particular attention of the Ombudsman due to the associated violence often exercised over children who witness violence against women in the domestic context. Official numbers by the National Commission on the Protection of Children and the Youth (*Comissão Nacional para a Promoção de Direitos e Protecção de Crianças e Jovens*) suggest that an increasing number of children are put in this situation since recent years⁸.

⁶ See https://read.oecd-ilibrary.org/view/?ref=127_127000-awfnqj80me&title=Women-at-the-core-of-the-fight-against-COVID-19-crisis, at 1, 2.

⁷ See Annual Report of the Ombudsman of 2019, available at http://www.provedor-ius.pt/site/public/archive/doc/Relat2019_web.pdf, at 103.

⁸See <https://www.cnpdpcj.gov.pt/documents/10182/16406/Relat%C3%B3rio+Anual+de+Avalia%C3%A7%C3%A3o+da+Atividade+das+CPCJ+do+ano+de+2017/01ff3093-58bf-4570-bc95-3864309665b6>, at 57-60.

According to the National Statistics Institute (*Instituto Nacional de Estatística*), the vast majority of victims of domestic violence have consistently been women (76% in 2019)⁹. Official statistics also indicate that women are in general the main victims of crimes against sexual auto-determination/freedom and of physical injuries¹⁰. According to the 2019 Report of the Portuguese Association of Support to Victims (*Associação Portuguesa de Apoio à Vítima – APAV*)¹¹, 79% of registered crimes committed in Portugal are of domestic violence; 80% of crime victims are women; and a majority of crimes is committed in the context of intimate relationships, either involving spouses/partners (45%) or family members (aprox. 15%)¹².

In this respect, concerns have been expressed in the media and in the public opinion that during and since the lockdown the number of cases of violence against women has grown considerably, even if they have not been officially reported. Confinement has determined that women (and children) victims of violence have been locked-in with their aggressors 24h per day, without a clear possibility of escaping. In this sense, the perception so far is that lockdown measures may have contributed to conceal and disguise, behind closed doors, the harsh reality of domestic violence.

In April 2020, the police voiced such concern when noting that the number of complaints submitted in March 2020 was less 26% than in March 2019, stressing that confinement and social isolation may have determined a significant disparity between the number of complaints filed and the number of crimes actually committed¹³.

Also, following the lifting of the lockdown, in June 2020, it was clear that the pandemic had contributed to aggravating the pre-existing cases of domestic violence, with the National Support Network for the Victims of Domestic Violence (*Rede Nacional de Apoio às Vítimas de Violência Doméstica*) having received, in that period, twice the number of complaints than during the lockdown. Said Network considered the pre-existing situations of domestic

⁹See: https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0008157&contexto=bd&selTab=tab2; and https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0008156&contexto=bd&selTab=tab2.

¹⁰ https://estatisticas.justica.gov.pt/sites/siej/pt-pt/Paginas/Lesados_ofendidos_crimes_registadossexo.aspx

¹¹ Available at https://apav.pt/apav_v3/images/pdf/Estatisticas_APAV-Relatorio_Anual_2019.pdf.

¹² See https://apav.pt/apav_v3/images/pdf/Estatisticas_APAV-Relatorio_Anual_2019.pdf.

¹³ <https://www.publico.pt/2020/04/08/sociedade/noticia/covid19-queixas-gnr-violencia-domestica-aumentaram-50-marco-1911573>.

violence to have been intensified in 70% of the cases during the state of emergency. Moreover, during the pandemic, 15.919 requests for support are reported to have been registered with the Network, with the average number per week having doubled since April. Calls for assistance – both through the hotlines and email address – grew 180% in comparison with the first trimester of 2019. Also relevant is the fact that among the almost 16.000 attendances made during the pandemic, 1.167 involved women over 66 years old. These victims are generally in a more vulnerable position given their greater isolation, less income and state of dependency from their aggressors, which leaves them without any apparent living alternatives¹⁴.

The Secretary of State for Citizenship and Equality issued a Press Release on the 7th of April on the adoption by the Government, in strict articulation with the National Support Network, of a contingency plan on the prevention and combat of domestic violence¹⁵. Said plan aims at ensuring the capacity of the Network to deliver support to victims during the pandemic (notably, through the opening of new support centres, maintenance of attending and support services, adoption of contingency plans, supply of essential goods, etc.) and the dissemination of information on the social awareness of increased risks of violence during the crisis and the support services available to victims (notably, through the increase of support channels and hotlines).

Several entities have created specific links or webpages dedicated to drawing attention to the problem of domestic violence during the pandemic and the means of redress available to victims, as happened with the Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e Igualdade de Género*¹⁶); the Association for Citizenship, Entrepreneurship, Gender and Social Innovation (ACEGIS¹⁷) and the District Attorney's Office (*Ministério Público*)¹⁸.

¹⁴ See, e.g., <https://www.publico.pt/2020/06/16/sociedade/noticia/covid19-pandemia-agudizou-situacoes-violencia-domestica-ja-existentes-1920817>.

¹⁵ Available at <https://www.cig.gov.pt/portal-violencia-domestica/covid-19-seguranca-isolamento/>.

¹⁶ See, e.g., <https://www.cig.gov.pt/portal-violencia-domestica/covid-19-seguranca-isolamento/>.

¹⁷ See, e.g., <https://www.acegis.com/2020/03/covid-19-seguranca-das-vitimas-de-violencia-domestica-durante-o-isolamento/>.

¹⁸ See, e.g., <http://gabinteressesdifusos.ministeriopublico.pt/pagina/covid-19-violencia-domestica-informacao-de-seguranca-durante-o-isolamento-e-outras-medidas>.

Despite these efforts, the complaints submitted to the Ombudsman continuously show that women victims of violence are often incapable of understanding the legal remedies at their disposal. In this ambit, the Ombudsman has tried to provide clear information on the remedies available to victims and refer them to the several entities that may provide support. Also in this respect, in the context of the evaluation referred to above, GREVIO has recommended that Portugal expands the resources dedicated to prevent and combat violence against women, in order to offer equitable access to appropriate funding for all specialist support service providers, remedy existing gaps in the provision of services and guarantee equal access to support for all victims.

2) Gender inequality in household work and family support

Secondly, there seems to be a substantial consensus that the pandemic has severely affected women's lives and contributed to deepen even further the gap between men and women with regard to housework and family support¹⁹.

As it is widely noted, women continue to do the majority of unpaid work in households. Across the OECD, on average, at just over four hours per day, women systematically spend around two hours per day more on unpaid work than men, mostly dedicated to child care and but also to care for adult relatives²⁰. According to the European Institute for Gender Equality, 78,7% of women in Europe are doing cooking and/or housework, every day, and a majority of 37,5% are caring for and educating their children or grandchildren, elderly or people with disabilities, every day²¹.

The uneven distribution of the work at home between spouses/partners is equally a feature of the majority of households in Portugal²². The change of this paradigm is hardly just dependent on the adoption of legislative measures. It requires a transversal and holistic approach on gender stereotypes that aims at changing the social fabric of the community.

¹⁹ See, e.g., <https://observador.pt/2020/06/01/advogados-alertam-para-efeitos-da-pandemia-na-igualdade-de-genero/>; <https://www.publico.pt/2020/04/02/p3/cronica/vamos-falar-impactos-genero-covid19-1910118>.

²⁰ See https://read.oecd-ilibrary.org/view/?ref=127_127000-awfnqj80me&title=Women-at-the-core-of-the-fight-against-COVID-19-crisis, at 4.

²¹ See <https://eige.europa.eu/gender-equality-index/2019/domain/time>.

²² See https://ceagrants.cig.gov.pt/wp-content/uploads/2019/02/INUT_livro_digital.pdf.

In any case, it is undisputable that, by closing schools and childcare facilities and keeping families inside the houses, Covid-19 has transformed home life. Living rooms and kitchens turned into workplaces and bedrooms into classrooms. The usually invisible tasks performed by women – on childcare, housework and support to family members - became more evident, with significant costs in terms of health and well-being. In fact, not only confinement has implied the need to ensure continuous routine housework, including cooking and cleaning, which is mostly executed by women, but also most of the burden with childcare and supervision of school work or home-schooling has fallen on women²³. This also reflected at the level of support to ascendants that became deprived of several caring infrastructures, such as day centres or homes for the elderly, with women being the ones ensuring support to more isolated relatives.

In this context, it has been suggested that the vast majority of requests for social benefits under the pandemic special legislation has been submitted by women, which indicates that they have been the ones guaranteeing support to family members during and after the lockdown²⁴.

With regard to the above, it would be crucial to have accurate and segregated data (notably, by sex) on the impact of the pandemic on every aspect of people's lives. These data could provide solid basis for sound public policy decisions to be taken especially after the pandemic.

3) Gender gap in the labour market: unemployment and precariousness

The overload of women during the pandemic is feared to have inevitable consequences in their presence in the labour market. At this level, the starting point is itself worrying. Just recently, the press announced that the number of pregnant women and workers on parental leave being dismissed practically doubled between 2014 and 2019²⁵.

The uneven distribution of housework and of support to children and family members has expectably resulted in less productivity of women during this period. This for in of itself may

²³ See e.g., Report of the Education Policies Observatory (*Observatório de Políticas de Educação, Formação e Ciência*) of 8th April, available at <https://drive.google.com/file/d/1tScsI4jh1UaqxOPnsFLFCuQ-VUSczGys/view>, at 15.

²⁴ See, e.g., <https://observador.pt/opiniao/covid-19-medir-o-impacto-na-vida-das-mulheres/>.

²⁵ See <https://www.publico.pt/2020/10/03/sociedade/noticia/duplicou-numero-gravidas-trabalhadores-licenca-parentalidade-dispensados-empresas-1933825>.

affect the possibility of women keeping their jobs after the pandemic. Also, it may lead to more precarious conditions in the labour market considering the time needed to continue to ensure extra support to family life throughout the crisis. Again, the gathering of segregated data in this respect is pivotal to have a more comprehensive overview of the impact of the pandemic on women's lives and rights.

In Portugal, the media noted that, according to the National Statistics Institute, 90% of the jobs lost in March and April 2020 were positions occupied by women²⁶. Also, data indicates that almost 40% of the jobs lost belonged to young adults below 24 years old (which is in conformity with the International Labour Organization estimates, according to which 1 out of 6 young people have lost their jobs following the pandemic).

The Portuguese Bar Association has also noted that the Covid-19 pandemic has affected mostly women in the labour market, not only because they constitute the majority of health care workers but also because they continue to be generally underpaid, with no access to social benefits, and holding temporary and precarious jobs which are expected to disappear in the near future²⁷.

In this last respect, it is important to stress that the ongoing so-called “fourth industrial revolution”²⁸ may in the short term affect differently men and women. Although it is still unclear whether the opportunities of the digitalization of systems and processes may bring important opportunities for women in the labour market, it has already been noted that there is a significant risk of “*leaving women behind*”²⁹. This may be due to different kinds of reasons. At the outset, women are considered to have lower digital literacy and less access to internet technologies than men. Also, the digital revolution is dominated by forms of knowledge and industries that have been in the past controlled by men. What is more, automation is expected to be applied mostly to jobs that are traditionally performed by women, such as secretarial

²⁶ See, e.g., <https://www.tsf.pt/portugal/economia/mulheres-ocupavam-90-dos-empregos-perdidos-em-marco-e-abril-12311285.html>; See also https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_destaques&DESTAQUESdest_boui=415271451&DESTAQUESmodo=2.

²⁷ See, e.g., <https://observador.pt/2020/06/01/advogados-alertam-para-efeitos-da-pandemia-na-igualdade-de-genero/>.

²⁸ See <https://www.weforum.org/agenda/2016/01/the-fourth-industrial-revolution-what-it-means-and-how-to-respond/>.

²⁹ See <https://theconversation.com/the-fourth-industrial-revolution-risks-leaving-women-behind-121216> . See EIGE's initiative at <https://eige.europa.eu/news/gender-equality-index-2020-work-digital-world> .

work, call centres, and care-work. Hence, taking into consideration that, in the future, fourth revolution jobs will possibly be the highest paid ones, the gender gap in the labour market may be deepened even further³⁰.

In order to avoid said risk, a preventive approach is imperative, ensuring that women have access to training and further education and the time and conditions to benefit from them. In this respect, available data is still worrisome, having the Global Gender Gap Report 2020 noted that although *“progress has been made to achieve gender parity, more has to be done to equip new generations, especially in developing countries, with the skills to succeed in tomorrow’s reality. In this respect, increasing formal education attainment is necessary but not sufficient to provide young men and women graduating from every level of education with the type of skills demanded by the job market in the Fourth Industrial Revolution era. Here, skills gaps remain — in terms of demand versus both supply and gender”*³¹.

4) Women’s health

Lastly, the pandemic may have impacted unequally the health of men and women. This can be illustrated at least at three different levels³².

Firstly, as a consequence of confinement, the challenge of reconciling teleworking with household work, child care, home-schooling or support to distance learning has been said to have led to exhaustion and breakdowns³³.

Secondly, women constitute the majority of the work-force in the health sector, having endured the burden of having to work more hours and be more exposed to the transmission of the virus.

Thirdly, women faced challenges with regard to reproductive rights. In this respect, during the state of emergency, several complaints were submitted to the Portuguese Ombudsman by pregnant women claiming the right to have a companion of their choice during delivery, the

³⁰ In this respect, the Bank of Portugal has concluded recently that wage discrimination has not been mitigated over the past 26 years in Portugal. See <https://www.jornaldenegocios.pt/economia/emprego/detalhe/discriminacao-salarial-das-mulheres-portuguesas-nao-se-atenuou-nos-ultimos-26-anos> .

³¹ See http://www3.weforum.org/docs/WEF_GGGR_2020.pdf , at 14 and Chapter 2.

³² See also Report by the *Comisión Interamericana de Mujeres* available at <https://www.oas.org/es/cim/docs/ArgumentarioCOVID19-ES.pdf> .

³³ See, e.g., <https://expresso.pt/coronavirus/2020-05-10-A-fatura-da-covid-19-esta-a-pesar-mais-nos-ombros-das-mulheres> .

right to stay with the new-born and the right to breastfeed. These complaints led the Ombudsman to issue a general recommendation to the Executive in order to ensure the minimum possible restrictions to pregnant women when giving birth³⁴.

Also in this regard, although outside the context of the pandemic, it is worth stressing that the Ombudsman participated, in 2019, in a questionnaire executed by the *Federación Iberoamericana de Ombudsman* on women's reproductive rights³⁵. In the ambit of said questionnaire, worrying conclusions were reached. In particular, the high number of caesarean sections and instrumental deliveries, particularly in the private sector, as well as the significant number episiotomies was therein underlined. What is more, the general unawareness of women's rights in the context of delivery was a disquieting conclusion in that respect.

IV. Final remarks

With concern to the above, and as a final note, the Portuguese Ombudsman would like to draw attention to the recent launching by the Public Foundation for Science and Technology of the bid "Gender Research 4 COVID 19", in the total amount of €500.000, designed to support new studies on the impact of the pandemic on gender issues. The initiative is due to stimulate research works on the constrains posed by gender relationships at the individual, family, economic and sanitary levels, in order to provide support to the implementation of strategies to fight gender gap and violence against women. The project covers three research lines: (i) gender and labour market; (ii) day-to-day life, stereotypes and gender roles; and (iii) violence against women and domestic violence. These three dimensions correspond also to the main issues raised in the present statement.

To close up, the Portuguese Ombudsman would like to stress its ongoing commitment to keep working closely with national authorities and civil society, as well as international and regional organizations, to better promote and protect women's rights, especially in face of the new challenges posed by the Covid-19 pandemic. Also for that matter, the Ombudsman does not request that the information contained in this submission is to remain confidential.

³⁴ Recommendation no. 2/A/2020 available at http://www.provedor-jus.pt/site/public/archive/doc/Recomendacao_2_A_2020.pdf.

³⁵ Available at [http://www.provedor-jus.pt/site/public/archive/doc/FIO - direitos reprodutivos - violencia obstetrica.pdf](http://www.provedor-jus.pt/site/public/archive/doc/FIO_-_direitos_reprodutivos_-_violencia_obstetrica.pdf).