

## **PORTUGAL**

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
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### **Section I – Implementation and dissemination of the Recommendation**

1. How would you assess the status of implementation of the Recommendation in your country?

Fully satisfactory ☐ Adequate X ☒ Insufficient ☐ Absent ☐

Please explain your reply.

The European Year of Equal Opportunities for All — 2007 was a landmark for public policies on equality and non-discrimination, including the area of sexual orientation and gender equality. In fact, its results led to a stronger political commitment in fighting discrimination against LGBT community. Portugal does not have an Equality Body competent to address discrimination on grounds of sexual orientation exclusively, but the Commission for Citizenship and Gender Equality included the area of sexual orientation and gender identity in its Mission. The NGO section of Consultative Council of this Commission included, for the first time, two organizations that represent the LGBT community. Also, public financing is awarded to projects of intervention in this area, implemented by the LGBT NGO. With the objective of increasing knowledge on the conditions of life and discrimination of the LGBT community in Portugal, a first study under public initiative was launched giving the key findings from the research and sets out recommendations, which were taken into account in the IV National Plan for Equality.

Legislation in Portugal recognises that all persons, regardless their sexual orientation and gender identity, are entitled to equality before the law and to equal protection of the law without any discrimination whether or not the enjoyment of another right is also affected. The law prohibits any discrimination and guarantees to all persons equal and effective protection against any such discrimination.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?

a. X ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please explain and, if appropriate, provide examples of any such measures found:

Over the past years, efforts were made to eliminate remnants of discrimination from the national legislation. For example, Article 13º of the Constitution explicitly mentions sexual orientation; since 2001 de facto unions are possible to same-sex couples; as of 2010 marriage equality exists; in 2011 transgender persons were allowed to have their new identity legally recognised, with the sole requirement of a diagnosis' report of gender identity disorder.

Are there measures in place to redress any such discrimination?

a. X ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

Article 20º of the Constitution states that everyone can “access to the law and the courts in order to defend those of his rights and interests that are protected by law”. Furthermore, Article 483º nº1 of the Civil Code states that any unlawful infringement of rights results in the obligation to redress the victim for any damages caused.

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?
- a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

If appropriate, please provide examples of measures adopted or in preparation.

With regard to the implementation of measures and a comprehensive strategy, it should be stated the approval of the IV National Plan for Equality - gender, citizenship and non-discrimination (2011-2013), whose coordinator is the Commission for Citizenship and Gender Equality (CIG), and that includes a strategic area dedicated to issues of sexual orientation and gender identity, composed of a set of measures to consolidate public policies promoting equality and tackling discrimination of LGBT people, to raise-awareness of the general population to non-discrimination and empower civil society organisations representative of LGBT people.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?
- a. ☐ b. ☐ c. ☐ d. ☐ e. X ☐

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

- a. ☐ b. ☐ c. ☐ d. ☐ e. X ☐

Article 7 nº 1 Law 67/98, of 26 October, Law on the Protection of Personal Data, forbids the processing of personal data concerning philosophical or political convictions, membership of political parties or trade unions, religion, private life and racial or ethnic origin, as well as data on health and sexual orientation.

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

- a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

There are no specific data identifying hate crime.

Please indicate the measures and, if appropriate, provide examples of good practices:

The criminal law contains provisions making it a criminal offence to incite hatred, violence or discrimination on grounds of sexual orientation (hate speech) as well as the law to considers homophobic intent as an aggravating factor in common crime (hate crime).  
Criminal Code of the Portuguese Republic Excerpts from Criminal Code (Law No. 59/2007 on 4 September 2007, Twenty-third amendment to the Penal Code, approved Decree-Law No. 400/82 of 23 September 2007)

Aggravating circumstances: Murder

**Article 132**

Qualified murder

1. When death is produced under circumstances that reveal a special censurability or perversity, the agent shall be punished with imprisonment from 12 to 25 years.

2. The following circumstances reveal the special censurability or perversity that is referred to in the previous paragraph, namely, the fact that the agent:

(...)

(f) is determined by racial, religious or political hatred or colour, ethnic or national origin, motivated hatred or is motivated by the sex or the sexual orientation of the victim;

(...)

**Article 145**

Assault qualified

1. If the offenses provided for in Articles 143 or 144 (SIMPLE ASSAULT Or SERIOUS ASSAULT) are produced in circumstances that present a special agent's reprehensibility or perversity, this is punishable with the penalty for their crime increased by one third in its minimum and maximum.

2. The circumstances described in paragraph 2 of Article 132 are likely to reveal the special agent's reprehensibility or perversity, among others.

**Hate speech**

**Article 240**

Racial, religious or sexual discrimination

1 - Who:

a) Found or constitute the organization or activities organised propaganda which incite to discrimination, hatred or violence against a person or group of persons because of their race, colour, ethnic or national origin, religion, sex or sexual orientation, or that encourage

b) Participate in the organization or in the activities referred to in the preceding paragraph or to provide assistance, including the financing;

shall be punished with imprisonment from 1 to 8 years.

2 - Whoever in a public meeting, in writing intended for dissemination, or by any means of media:

a) Incites violence against an individual or group of individuals because of race, colour, ethnic or national origin or religion, sex or sexual orientation or

b) Defames or slanders an individual or group of individuals because of race, color, ethnic or national origin or religion, sex or sexual orientation, particularly through the denial of war crimes or against peace and humanity;

c) Threaten a person or a group of persons because of their race, colour, ethnic or national origin, religion, sex or sexual orientation

with intent to incite to racial, religious or sexual discrimination or to encourage, shall be punished with imprisonment from 6 months to 5 years.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

The same as for any other kind of victims of these crimes.

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There are no specific measures concerning this kind of crimes: article 13º of the Constitution prohibits discrimination on the grounds of ancestry, sex, race, language, country of origin, religion, political or ideological convictions, education, economic situation, social condition or sexual orientation. Article 26(1) refers to the right to protection against any form of discrimination and forbids any form of discrimination.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

Discriminations on the ground of sexual orientation and gender identity are forbidden by Portuguese law, so one can say that probably there won't be many obstacles in the implementation of the Recommendation.

7. Has the Recommendation, including its Appendix, been translated in all your national languages?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

The Recommendation has been published in Portuguese and widely disseminated. In fact, the publication will be distributed through Libraries Net to all national libraries and the Commission for Citizenship and Gender Equality will disseminate through all relevant stakeholders (Ministries, Parliament, NGO, trade unions, public in general, etc.).

## Section II – Implementation of the specific provisions in the Appendix

### I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

No information available. Crime investigation quality is supposed to be the same to every kind of crimes.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In Portugal, the Penal Code establishes aggravating circumstances motivated by discrimination on grounds of sex or sexual orientation. See question number 4 (Articles 132.º and 145.º of the Portuguese Penal Code)

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Specific measures intended to victims and witnesses of sexual orientation or gender identity related are not known. Nevertheless, it should be said that they get the same treatment as for any other kind of crimes, regardless the sex orientation or gender identity.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

No information available.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Under article 24 nº 2, of the Order 12786/2009, 29<sup>th</sup> May, any person arrested should be treated with humanity and respect for human dignity, without any discrimination, including on grounds of nationality, social status, political beliefs, religious or other.

14. Have appropriate measures been taken to combat all forms of “hate speech” against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Portuguese Penal Code has recently been amended and Article 240 covers discrimination based on every ground. Paragraph 1 of this article makes it an offence to establish organizations or engage

in organized propaganda activities which incite or encourage discrimination on grounds of race, colour, ethnic origin or nationality, religion, sex or sexual orientation.

Paragraph 2 of Article 240 punishes anyone who in a public meeting, or in a paper intended for dissemination, or by any other means of social communication, provokes acts of violence against an individual or group of individuals on grounds of their race, colour, ethnic origin or nationality, religion, gender or sexual orientation with the intention of inciting or encouraging racial or religious discrimination. Paragraph 2 also punishes anyone who in a public meeting, or in a paper intended for dissemination, or by any other means of social communication, defames or insults an individual or group of individuals on grounds of their race, colour, ethnic origin or nationality, religion, sex or sexual orientation. Those who incite or encourage racial, religious or sexual discrimination will be subject to imprisonment of between six months and five years.

Public authorities are supposed to know and accomplish the law but there is no information on specific measures intended to raise awareness of public authorities on this subject.

## **II. Freedom of association**

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

Article 46 (Freedom of association) of the Constitution of the Portuguese Republic enshrines the right to freedom of association:

1. Citizens have the right to form associations freely and without the requirement for any authorisation, on condition that such associations are not intended to promote violence and their purposes are not contrary to the criminal law.

2. Associations shall pursue their purposes freely and without interference from the public authorities, and may not be dissolved by the state or have their activities suspended other than in cases provided for by law and then only by judicial decision.

3. No one may be obliged to belong to an association, or be coerced to remain therein by any means.

(...)

Under the financing mechanisms for NGOs, the Portuguese State has introduced the LGBT issues as eligibility criterion for approval of projects.

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There are no specific measures, for the rules are the same applicable to any other citizen.

- 
17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The LGBT NGO's are represented in the Consultative Council of the Commission for Citizenship and Gender Equality. These NGO' are also represented in the National Commission for Human Rights.

### **III. Freedom of expression and peaceful assembly**

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

There are no limitations or exceptions regarding such freedoms in Portugal.

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The rules are the same applicable to any other peaceful demonstration.

### **IV. Right to respect for private and family life**

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Homosexuality was decriminalised in 1982 and Law nº 59/2007 repealed any references to same-sex acts or differences in the age of consent from the Criminal Code.

21. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the

performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples of exceptions to this principle, if any:

Under the Law No 22/2008, of 13 May, **National Statistical System's Law**, it is stated in the CHAPTER II - Core principles of the National Statistical System, namely in Article 4 (Statistical authority):

1 — Statistical authorities, within the scope of their activities, may require of all services or bodies, individuals and enterprises, obligatorily and free of charge, the provision of information deemed necessary to produce official statistics. They may also establish the collection of statistically relevant data, although with no bearing on the specific activity of reporting entities.

2 — The provisions of the foregoing paragraph shall prevail over possible limitations or obligations of secrecy included in special regimes; for all purposes, the use of administrative records for official statistical purposes shall be considered one of the key objectives of their collection.

**3 — The provisions of paragraph 1 shall not apply to data subject to security classification, State secret, investigation secrecy, data kept in the data centres of the Portuguese Republic information system's services, genetic or personal data on philosophical or political convictions, party or trade union membership, religious beliefs, private life and racial or ethnic origin and personal data concerning health or sex life.**

**Portuguese Law on Data Protection** (Law No. 67/98 of 26 October 1998) expressly prohibits the treatment of personal data revealing philosophical or political beliefs, political party or trade union membership, religion, privacy and racial or ethnic origin, and the processing of data concerning health or sex life, including genetic data. The processing of data relating to health and sex life, including genetic data, shall be permitted if it is necessary for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment or the management of health-care services, provided those data are processed by a health professional bound by professional secrecy or by another person also subject to an equivalent obligation of secrecy and are notified to the CNPD under article 27, and where suitable safeguards are provided. Finally, The systems must guarantee logical separation between data relating to health and sex life, including genetic data, and other personal data.

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Law nº7/2011, of 15 March, states that any Portuguese person, of legal age and not prohibited by mental disorder or disability, may have her/his legal gender identity recognised if she/he is diagnosed with gender identity disorder.



23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The right to civil marriage for same-sex couples was achieved in Portugal in 2010, so one, transgender or not, can marry a person either his/her own sex or opposite.

24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples:

The national legislation recognises registered same-sex partnerships, rights and obligations equivalent to those of heterosexual couples in a comparable situation.

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Constitutional legality and the principle of non-discrimination must be used when regulating parental responsibilities, having in mind the child's best interest. Nevertheless, the adoption of same-sex couples is not permitted by Law.

## **V. Employment**

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

i) Access to employment

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

ii) Promotion, dismissals, pay and other working conditions

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

iii) Prevention and punishment of harassment

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

In the sense that for every worker, transgender or not, has the right of intimacy of private life.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The labour code, approved by law No. 99/2003 of 27 August, instituted a unitary regime with regard to equality and non-discrimination, which was not restricted to the traditional prohibition of discrimination on grounds of sex, and includes explicitly sexual orientation (articles 22 and 23). This scheme was developed by Law No. 35/2004, of 29 July, which regulated the labour code. The current labour code, approved by law No 7/2009 of February 12, is based on the same principle (arts. 24 and 25); within the framework of the legal relationship of public employment the regime of equality and non-discrimination is also applicable to the legal contract of public employment (arts. 13 and 14 of Law No. 59/2008, 11<sup>th</sup> September 11, which approves the Regime of employment contract in Public Functions). Law 3/2011, 22 February, forbids any discrimination on the access and exercise of independent work.

**VI. Education**

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

i) Anti-discrimination training or support and teaching aids

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

ii) Information, protection and support for pupils and students

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

iii) Objective information on sexual orientation and gender identity in school curricula ?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

iv) School equality and safety policies and action plans

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The law nº 51/2012, 5 September, on the Student Statute, establishes under article 7 nº 1 (Rights of the Student) and article 10 d) (Student Duties) that student should be treated with respect and correction by any member of the educational community, and may not, under any circumstances, be discriminated against on grounds of ethnic origin, health, sex, **sexual orientation**, age, **gender identity**, economic, cultural or social status or political convictions, ideological, philosophical or religious.

Article 2 of Law 60/2009 of 6 August 2009, which establishes the rules for sex education in schools, is very important as it forbids any discriminatory behaviour on grounds of sexual orientation or any violence on grounds of sex or sexual orientation. This raises awareness among young people of non-discrimination on the basis of sexual orientation. This law was regulated by Ordinance 196-A/2010, which introduces sex education in primary and secondary schools and defines the curricula for different educational levels.

## **VII. Health**

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Under the Constitution the Right to health is guaranteed to all citizens on an equal basis (nº 1 article 64º). The IV National Plan for Equality – Gender, Citizenship and Non-discrimination 2011-2013, approved in December 2010, specifies the need to train and raise awareness among health professionals on discrimination on the grounds of sexual orientation and gender identity. Nevertheless, and with regard to medical assistance for conception, the law currently in force does not apply to same-sex partners. Assisted methods of conception are only permitted for married women or living with male partner; single women and lesbian couples are not assisted.

29. Has homosexuality been removed from the national classification of diseases?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

The surgeries as well as psychiatric or other consultations before sex reassignment are 100% subsidised by the national health service (SNS). Private health insurances do not cover the sex reassignment surgery.

## **VIII. Housing**

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?

a. X ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Under the article 65 nº 1 of the Portuguese Constitution (CRP) all Citizens have the right to adequate housing, without discrimination (under article 13º of the CRP).

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

No information available on risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in special.

### **IX. Sports**

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Law n. 5/2007, of the 16th January, Law on Physical Activity and Sports, states in its article 2 nº 1 that everyone, including regardless its sexual orientation, has the right to physical activity and sport. Under article 79 of the Portuguese Constitution, the State is responsible in relation to the exercise of citizens' rights with regard to culture and sport and also for preventing violence associated with sport.

No information available on specific measures on this subject.

### **X. Right to seek asylum**

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Under Article 2º of Law nº27/2008, which lays down the conditions and procedures for the admissibility of an asylum request or a subsidiary protection, all conditions must be met regardless person's race, religion, sex, nationality, language, political or ideological beliefs, or his/her belonging to a given social group. Although the persecution of people based on sexual orientation is not a specific criterion for obtaining asylum in Portugal, the law appears to be flexible enough with regard to the interpretation of «persecution of a particular social group».

35. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

No information available.

### **XI. National Human Rights Structures**

36. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

The national human rights structures do not explicitly address discrimination on grounds of sexual orientation and gender identity. Nevertheless, these grounds of discrimination are protected under national human rights structures, as any other ground. As mentioned above, the Commission for Citizenship and Gender Equality has included in its mandate LGBT issues.

### **XII. Discrimination on multiple grounds**

37. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

## **Section III - Follow-up**

38. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

In what concerns Portugal, the national legislation and practices set out in the Recommendation and in its Appendix are implemented or in implementation.

39. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

In our point of view, the periodic examination on the implementation of the Council of Europe recommendations is always recommendable. This concrete Recommendation should not be an exemption.

40. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

Portugal considers that this Recommendation provides the rationale for a comprehensive strategy to eliminate and fight discrimination against sexual orientation and gender entity.