

Prepared by NGOs CASO, GAT and WHRIN for submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) for 82nd Session.

SHADOW BRIEFING REPORT

Issues affecting women who use drugs in Portugal

2022

EXECUTIVE SUMMARY

This shadow briefing report describes some of the issues and inequities faced by women who use drugs in Portugal. It was prepared by Consumidores Associados Sobrevivem Organizados (CASO), Grupo de Ativistas em Tratamentos (GAT) and the Women and Harm Reduction International Network (WHRIN), drawing also on original research conducted by CASO and GAT. Focus group discussions were conducted on 5th and 6th May, 2022 with 19 women who use drugs in Porto and Lisbon.

The report includes information about institutionalized discrimination and violations of the rights of women who use drugs including those associated with gender-based violence, access to health, parental custody rights, hyper-incarceration and sexual and reproductive health rights.

Urgent steps must be taken to improve equity and access to services and safety for women who use drugs in Portugal.

We call upon the Committee to urge the Government of the Republic of Portugal to:

- ❖ Ensure that reforms and advances around gender equity become deliberately inclusive of and relevant for women who use drugs
- ❖ Take all reasonable steps to reduce discrimination and systemic violence against women who use drugs – including those living with HIV, involved in sex work and/or who are gender non-conforming, while ensuring non-discriminatory, accessible and safe reporting mechanisms, equitable access to crisis accommodation and safe guarding of parental/custodial rights.
- ❖ Building from impressive drug law reform advances, ensure that harm reduction services undergo gender mainstreaming and reflect gender sensitivity in service scope and delivery

While the decriminalized approach to drug use in Portugal has demonstrated overwhelmingly positive results, conditions for women who use drugs remain neglected.¹ Similarly, the gender inequality experience of women who use drugs has not been explored in previous Portuguese CEDAW reporting. This brief unpacks some key issues that, while not exhaustive, require long overdue, careful consideration and inclusion in CEDAW assessment processes.

Access to health (Art, 1, 2, 12)

There are many problems experienced by women who use drugs connected with unbalanced socio-cultural gendered constructs. Although these artificial roles can be challenged and changed over time, the current context means that Portuguese women do not have equitable access, participation, control or benefits. Women who use drugs have not been given a role in the development of policies and programmes affecting them, while harm reduction services designed for women are largely unavailable and inadequate.^{2,3} Women who use drugs may avoid facilities that are male-dominated or otherwise lack services attuned to their immediate needs.⁴

However global normative guidance highlights that such gender responsive services are vital^{5,6}. This inequality in access to essential, gendered harm reduction services is reflected in some available sex disaggregated data. For example, among all Portuguese people who use drugs in treatment for drug dependence, HIV prevalence is higher among women (16%) than among men (12%).⁷ Likewise, in proportion, more women than men in Portugal die from drug overdose.⁸ To

¹ Nougier, M. (2016) The Portuguese model for decriminalising drug use. Gender and drug policy: Exploring innovative approaches in drug policy and incarceration. IDPC, WOLA, Dejusticia, COM.

² General Directorate for Intervention on Addictive Behaviours and Dependencies (SICAD) (2021); Respostas à Diversidade; https://www.sicad.pt/BK/EstatisticalInvestigacao/EstudosConcluidos/Lists/SICAD_ESTUDOS/Attachments/227/SinopseRespostasDiversidade.pdf.

³ Barroso C., J., (November 9, 2016) A Articulação Entre o CRI Porto Central e as CDT: a Mais Valia de Uma Linguagem eo Lhar Comuns para o sucesso das intervenções em parceria, http://www.sicad.pt/BK/Documents/2016/encontro_descri/apresentacoes/CRI_Central_Comunica%C3%A7%C3%A3o%2015%20anos%20de%20Descriminaliza%C3%A7%C3%A3o_Joana_Barroso_Coutinho.pdf

⁴ Pompidou Group (2016). Improving the management of violence experienced by women who use psychoactive substances https://www.drugsandalcohol.ie/25383/1/Pompidou_Women_Drugs_and_Violence_en.pdf.

⁵ For example, UNODC. Addressing the specific needs of women who inject drugs. (2015) Practical Guide https://www.unodc.org/documents/hiv aids/2016/Addressing_the_specific_needs_of_women_who_inject_drugs_Practical_guide_for_service_providers_on_gender-responsive_HIV_services.pdf.

⁶ General Directorate for Intervention on Addictive Behaviours and Dependencies (SICAD) (2021) Respostas à Diversidade; https://www.sicad.pt/BK/EstatisticalInvestigacao/EstudosConcluidos/Lists/SICAD_ESTUDOS/Attachments/227/SinopseRespostasDiversidade.pdf.

⁷ General Directorate for Intervention on Addictive Behaviours and Dependencies (SICAD) (2018). Patterns of Use and Problems Related to Drug Use A Gender Analysis. https://www.sicad.pt/BK/EstatisticalInvestigacao/EstudosConcluidos/Lists/SICAD_ESTUDOS/Attachments/194/Dossier_Tematico_Genero.pdf

⁸ Ibid

augment available data for CEDAW reporting, focus group discussions were conducted in May 2022. The women involved noted a lack of provider sensitivity and specific services relevant to the needs of women.

“I don't think harm reduction thinks of women. I have seen several new services being born in this country in recent years, such as consumption rooms, which are not minimally prepared to serve women. They lack the necessary links to sexual and reproductive health care... Women are not going to feel comfortable where the clients are, where the aggressors are... We are not safe where there is a macho environment. And I think institutions are still not aware of that.”⁹

The Portuguese government is yet to adequately resource women specific harm reduction services, which amounts to discrimination against women who use drugs in accessing health services, contrary to Article 2 of the CEDAW Convention.

Discrimination and violations of the rights of women who use drugs (Art. 1, 2, 12)

While drug use has been decriminalised in Portugal, illegal, unregulated drug markets persist in often potentially violent circumstances that remain particularly dangerous for women.¹⁰ Women who use drugs experience rates of violence 5 to 24 times higher than rates experienced by women in the general population.¹¹ Harm reduction providers and other agencies working with women who use drugs often lack training or knowledge about violence which means that needs of survivors are not recognized or addressed. Reporting violence can be very discouraging as women who use drugs are frequently perceived and treated as culpable for the violence they have suffered. Those who are not capacitated to press charges or to approach law enforcement agencies are prevented from receiving the status of victim of domestic violence.¹² A woman's drug use increases the degree to which professionals attribute responsibility to her for her own

⁹CASO and GAT. Focus Group Discussions. May 2022. Porto and Lisbon.

¹⁰Pompidou Group (2016) Improving the Management of Violence Experienced by Women who Use Psychoactive Substances https://www.drugsandalcohol.ie/25383/1/Pompidou_Women_Drugs_and_Violence_en.pdf.

¹¹ Stoicescu C., Richer A., Gilbert L.. (2021) Nexus of Risk: The Co-occurring Problems of Gender-based Violence, HIV and Drug Use Among Women and Adolescent Girls. The Impact of Global Drug Policy on Women: Shifting the Needle, 49–57.

¹²Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) (2019) GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). <https://rm.coe.int/grevio-reprt-on-portugal/168091f16f>.

victimization.^{13,14} Recent focus group discussions with women who use drugs in Porto confirmed both high rates of violence and under-reporting.

“The police devalue crimes because we will be drug users, when drugs are involved, I don't tell the police because of the discrimination we are subjected to, there is even fear of being condemned”¹⁵

Portugal lacks specific responses, including housing and other support for survivors of gender-based violence who use drugs. Women who use drugs are frequently excluded from domestic violence and crisis accommodation:

“I know they exist, but when it happened to me I went to an abandoned house”

“I've tried several times. I'm trying again, with a social worker ... but she won't budge. I applied for admission to a shelter in January, I already had two doses of vaccines (Covid), I'm on a methadone program, I followed up again in the consultation (HIV) and taking medication. So far I have been told that there are no vacancies.”¹⁶

The lack of legal aid, housing and social services honed to the experience and needs of women who use drugs, combined with stigma and discrimination, means that women who use drugs rarely access assistance services following experience of violence. These conditions violate standards set by Article 2 of the CEDAW.

¹³Pompidou Group (2016). Improving the Management of Violence Experienced by Women who Use Psychoactive Substances https://www.drugsandalcohol.ie/25383/1/Pompidou_Women_Drugs_and_Violence_en.pdf

¹⁴Bennett L., Bland P. (2008). Substance Abuse and Intimate Partner Violence. VAWnet.

¹⁵CASO and GAT Focus Group Discussions. May 2022. Porto and Lisbon.

¹⁶Ibid.

Incarceration of women who use drugs (Art. 1, 2)

Portuguese women are more likely to be convicted of international trafficking¹⁷ and proportionately more women than men are actually imprisoned. 2017 data comparing men and women traffickers found that men tended to receive suspended sentences while, for the same offence, women were incarcerated.¹⁸ This trend is against the provisions of Article 2 of CEDAW. Active application of the Bangkok Rules¹⁹ would address the higher rates of incarceration of women for drug related offences.

Limited child custody and family rights (1 , 2, 16)

Pregnant women are subjected to involuntary tests and compulsory treatment.²⁰ Stigma and discrimination against pregnant women who use drugs is common in maternity and child welfare services where perceptions of women who use drugs as “bad mothers” prevail,²¹ resulting in avoidance or delay in accessing perinatal care and other parenting support as women are threatened by the loss of child custody.

“If you are a male user, they do not take your child away. If you are a consumer woman, they immediately think about having the child. So I think we have little support for a woman who is pregnant and is a drug user. I don't think that there are spaces for harm reduction and risk minimization adapted to women and women of childbearing age.”

“When I was a mother, despite having stopped using drugs when I found out I was pregnant - I was three months pregnant - I was forced to sign a declaration, which was a disclaimer, that my mother would be responsible for my child, for the fact that of me using drugs.”²²

¹⁷ General Directorate for Intervention on Addictive Behaviours and Dependencies(SICAD) (2018). Patterns of Use and Problems Related to Drug Use: A Gender Analysis. https://www.sicad.pt/BK/EstatisticalInvestigacao/EstudosConcluidos/Lists/SICAD_ESTUDOS/Attachments/194/Dossier_Tematico_Genero.pdf

¹⁸ Ibid

¹⁹ See Bangkok Rules at https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

²⁰ OHCHR (2019) Portuguese Survey - In reference to HRC resolution 42/22 requesting a study on arbitrary detention relating to drug policies. <https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Call/Country/Portugal.pdf>

²¹ Pompidou Group (2016). Improving the Management of Violence Experienced by Women who Use Psychoactive Substances https://www.drugsandalcohol.ie/25383/1/Pompidou_Women_Drugs_and_Violence_en.pdf.

²² CASO and GAT Focus Group Discussions. May 2022. Porto and Lisbon.

This situation runs against CEDAW Article 16. Drug use alone should never be the rationale for loss of child custody.

Recommendations:

Access to health:

- Provide harm reduction and related services that are confidential, voluntary, low threshold, client-centered and responsive to women's needs, as outlined in international normative guidance.
- Adjust existing harm reduction and other HIV prevention programs to enable greater uptake by women who use drugs by hiring women peer staff, providing on-site childcare support, women-specific information, education and communication resources, flexible service hours and expanding fixed-site health care to include mobile outreach services.
- Ensure meaningful involvement of women who use drugs in service design, implementation and evaluation.
- Provide sexual and reproductive health services and overdose prevention and management contextualized for and by women through harm reduction services.

Responding to gender based violence:

- Ensure all domestic violence and discrimination legislation corresponds with the realities of women who use drugs experience.
- Provide violence prevention support as well as survivor services for women who use drugs through harm reduction services.
- Provide violence reporting and justice restitution mechanisms that are safe, effective, respectful and can be easily accessed by women who use drugs.

Incarcerated women:

- Take steps to eliminate discrimination against and incarceration of women involved in low level non-violent offences (in line with the Bangkok Rules).
- Encourage and support meaningful involvement of women who use drugs in design, implementation and evaluation of policies and services impacting women who use drugs.

Child custody:

- Women who use drugs should never be separated from their children simply because they have used a substance. Drug use does not equate with bad parenting. Separation of children from their mothers has been shown to be harmful for all concerned. Where there is no evidence of physical abuse or neglect, parenting support and relief childcare would be better responses. Policy and practice must be urgently reformed accordingly.