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Gender mainstreaming and gender budgeting in the ESIF and national budgets

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Gender mainstreaming and gender budgeting in Portugal

Lina Coelho

Centre for Social Studies – University of Coimbra
(CES)

Abstract

Portugal recently undertook a significant leap forward in the promotion of gender equality. The adoption of a comprehensive strategy for the promotion of gender equality and a new legal framework for gender mainstreaming and gender budgeting creates a promising prospect. Still, the effective enforcement of the new legal provisions depends critically on an increased awareness from the stakeholders. This requires a huge effort in training and capacity development (especially for decision makers and administrative staff) as well as the development of effective operational tools (for agenda setting, scrutiny and accountability). Although ESIF are among the main financing instruments for promoting gender equality, it is currently not possible to assess their effectiveness for that matter. Future MFF long-term budget and ESIF programmes must be gender responsive. Gender budgeting should be used as a tool to ensure the strategic distribution of ESIF that guarantee equal outcomes for women and men.

1. Description of the main elements of the policy

1.1 Background and related policy context of Portugal

Although Portugal ranks below the EU average in terms of the Gender Equality Index (EIGE, 2019¹), there has been steady progress on gender equality as the country managed to improve the GEI rank from the 23th in 2005 to the 16th in 2017.

In spite of progress, Portugal has a significant potential to improve gender equality further. Above-average full-time employment rates of women come at the price of a heavy workload burden due to domestic and care responsibilities. Moreover, the gender wage gap increased steeply from 2013 to 2015, due to severe crisis that attained the country, and have not recovered to previous figures yet. Segregation in

¹ EIGE, 2019.

jobs and vocational training also keeps on high levels. And gender-based violence remains a problem.

The National Strategy for Equality and Non-Discrimination 2018-2030 – Portugal +Equal² comprises 3 action plans covering, respectively: a) equality between women and men (PNAIMH); b) violence against women and domestic violence (PNAVMVD), and c) discrimination based on sexual orientation, gender identity and sexual characteristics (PNAOIC). Another significant piece of the Strategy – the Agenda for Equality in the Labour Market and in Enterprises – emphasises the need to reinforce dialogue with the social partners in order to fight gender segregation in employment and unequal pay, and improve reconciliation of work, family and personal life.

ESIF have played an important role in the financing of the promotion of gender equality. Public investments contributed to the high coverage of childcare facilities, some of them co-financed by the European Social Fund (ESF) and the European Regional Development Fund (ERDF)³. Childcare services are provided mainly by the voluntary sector (around 75% in 2017), supported by private-public partnerships. The Operational Programme for Employment and Social Inclusion (POISE) 2014-2020, funded by ESF, provides financial and technical support for Ministries, municipalities, companies and NGO to design and implement gender equality plans, in order to: upgrade conditions for work/family reconciliation; plan desegregation (horizontal and vertical) of employment structures, eliminate discrimination in payment arrangements, and raise awareness of staff on gender issues. The most effective measures encompass training in gender issues of different strategic actors, such as the security forces and police, teachers, judges, and journalists. Preventing and combating violence against women and domestic violence have also benefited from some ESIF financing.

1.2 Gender mainstreaming and gender budgeting in Portugal

The policy for gender equality in Portugal combines gender mainstreaming with positive actions for women and other discriminated groups. In order to sustain the mainstreaming of gender equality, Law n.º 4/2018⁴ determines that projects of normative acts by the central and regional administration and draft laws submitted to Parliament must be subjected to pre-assessment of gender impact. In some cases, there may also be successive gender impact assessment.

² The document can be found in the *Diário da República* n.º 97/2018, Série I de 2018-05-21: <https://dre.pt/web/guest/pesquisa/-/search/115360036/details/maximized>

³ According to Eurostat figures, in 2017, Portugal ranked 2nd in the EU-28 in coverage of at least 30 hours for children aged less than 3 years in formal childcare (47.5%). And ranked also 2nd for the children between 3 years to compulsory school age (87.4%).

⁴ The Law n.º 4/2018 can be found in the *Diário da República*, n.º 29/2018, Série I of 2018-02-09: http://cite.gov.pt/asstscite/downloads/legislacao/Lei_4_2018.pdf

Gender budgeting was introduced through the Budget Law 2018⁵ which stipulated that government departments had to prepare a report analysing the gender impact of their sectoral policies in order to pave the way for gender budgeting. The compilation of sector reports would then give support to the presentation of a draft law to the Parliament, until the end of 2018, establishing an annual report on the implementation of gender budgeting. In July 2018, a joint decree⁶ of the Secretary of State for Citizenship and Equality and the Secretary of State for the Budget clarified the scope of application of the law by launching a pilot scheme involving 7 Ministries (Presidency and Administrative Modernization; Finance; Internal Administration; Justice; Education; Work, Solidarity and Social Security; Health) each of which should select a limited set of policy measures or actions to be submitted to gender assessment. Given the novelty of the initiative, the pilot-project was intended to serve as a basis for a progressive implementation of gender budgeting. The joint decree also clarified the structure of the overall report to be presented to Parliament by the end of 2018. A working group was appointed to develop the project, comprising representatives of the relevant Ministries. The Commission for Citizenship and Gender Equality (CIG), the main mechanism for the promotion of equality, was made responsible for the compilation and presentation of the final report, being assisted for that purpose by a technical team of the Portuguese Platform for Women's Rights (PpDM), a non-governmental organisation whose members are women's rights NGOs. This team included 2 representatives from the research community. In March 2019, CIG and PpDM published a report on the gender budgeting pilot-project (CIG/PpDM, 2019).

The report comprises 5 chapters: a) Accomplishments – the legal, institutional and procedural initiatives undertaken; b) Reality – updated analysis of the situation of women and men in the policy areas covered by the pilot scheme; c) Representation – participation of men and women in decision-making positions; d) Resources and results – policy measures analysed in the pilot action, in relation to equality between women and men, including objectives and budgeted amounts; e) Recommendations – measures and procedures required to assure a progressive, sustained and consistent development of gender budgeting in Portugal. A methodological guide, developed by PpDM to give support to the pilot scheme, was also published (PpDM, 2018). In the meantime, Budget Law 2019⁷ stated that the budgets of public services and agencies should incorporate the gender perspective, by identifying the programmes, activities or measures to submit to gender impact analysis in 2019.

⁵ Law no. 114/2017 can be found in the *Diário da República*, n.º249/2017, Série I of 2017-12-29, available at <https://dre.pt/home/-/dre/114425586/details/maximized>

⁶ Joint Decree no. 6687/2018 can be found in the *Diário da República*, n.º131/2018, Série II of 2018-07-10, available at <https://dre.pt/application/conteudo/115667984>

⁷ Law n.º 71/2018 can be found in *Diário da República* n.º 251/2018, Série I of 2018-12-31, available at <https://dre.pt/home/-/dre/117537583/details/maximized>

2. Policy debate

2.1 The way ahead in the implementation of gender mainstreaming and gender budgeting in Portugal

Portugal made a qualitative leap in terms of gender equality policy by formally engaging in gender mainstreaming and gender budgeting. The adoption of relevant legislation (Law n.º4/2018 and Budget Law provision for gender budgeting) is an essential basis for successfully implementing a step forward in this domain. Still, the effectiveness of the new legal framework requires the strengthening of resources and expertise in the public administration to carry out the required gender-based analysis.

According to OECD's exploratory 'first pass at a composite index on gender budgeting', Portugal is ranked 10th among the 17 member countries which have introduced gender budgeting (OECD, 2019). Classified as having an 'introductory gender budgeting practice' Portugal falls short of the best international practices mainly in the 'tools of implementation'^{8,9}.

Further developments in the implementation of GB in Portugal depend critically on the development of tools and procedures to increase openness and transparency in the budgetary process and the adoption of a performance budgeting system. Assessing the allocation of resources and the impacts of public policies on gender inequalities demands; i) widespread awareness on this matter among policy decision makers and administrative staff (thus requiring training and capacity development), ii) effective operational tools (for agenda setting, scrutiny and accountability), and iii) increased sector-specific gender disaggregated data.

Gender budgeting is especially demanding as it necessitates the coordinated action of two areas of public policy – Public Finance and Gender Equality – with no tradition of working together. Therefore, the credibility and success of policies in this area require sustained leadership and oversight at the highest political level at both Member States and the European Union.

3. Transferability aspects

Austria, the Czech Republic, Slovakia and Portugal all share a clear margin of progress in terms of gender equality. Portugal has made steady progress in terms of women's participation in the labour market, childcare services, parental leaves and gender equality infrastructure but maintains significant gender gaps in wages, segregation in jobs and vocational training, time use, decision-making and gender-

⁸ The 3 core elements of gender budgeting considered in the OECD composite index are "Strategic framework", "Tools of implementation" and "Enabling environment" (Downes and Nicol, 2019).

⁹ For more details on Gender Budgeting in OECD countries see: OECD, 2019, pp.105-109; OECD a, 2019, pp.101-111.

based violence. Ambitious institutional and regulatory framework improvements occurred lately but it is too early to assess the effectiveness of the measures undertaken. Notwithstanding, some of the country's practices might be inspiring for the changes required in AT, CZ and SK. Annex 1 briefly sum up the current practices in Portugal referring to:

- Gender Equality Infrastructure
- Gender Equality Strategy;
- Parental/maternity/paternity leaves; and
- Promoting gender equality between in decision making (in politics; public administration; and business and regulatory bodies).

4. Conclusions and recommendations

4.1 Gender budgeting and the use of ESIF

Gender mainstreaming should be strengthened in the EU's economic and fiscal policies, including the post-2020 strategies and the European Semester.

Gender budgeting is the application of gender mainstreaming in the budgetary processes. As such, GB is challenging, since it encompasses progressive and integrated changes in the definition, budgeting, implementation, monitoring and evaluation of policies. Successful adoption of GB thus requires:

- An appropriate governance framework;
- Adequate operational tools; and
- Strong commitment of all actors involved.

A clear-cut strategy on gender equality, at both EU and member-state levels, is an essential basis for successful GB. Strong cross-sectoral dialogue and cooperation, timelines, efficient monitoring and evaluation are needed to ensure implementation of the strategy. Advancement also requires the definition of indicators; the collection, analysis and dissemination of disaggregated data; and awareness-raising and support to all stakeholders.

ESIF are among the main financing instruments for promoting social cohesion, including gender equality. Still, EIGE recently found that less than 1% of planned ESIF budget 2014-2020 was allocated to gender-focused measures.¹⁰ Moreover, it is currently not possible to assess the effectiveness of ESIF for advances in gender equality. In order to increase transparency and accountability, future MFF long-term budget and ESIF programmes must be gender responsive. Gender budgeting should

¹⁰ EIGE, 2018.

be used as a tool to ensure the strategic distribution of ESIF that guarantee equal outcomes for women and men. Improvements can be achieved by implementing legal obligations throughout the planning and budgeting processes, with a strong commitment to gender budgeting.

Specific resources to ensure equality between women and men are also required:

- Earmarked funding is needed for support and capacity-building, departing from Article 8(2) of the European Social Fund Plus proposal currently calling on Member States to allocate an ‘appropriate amount of ESF+ resources’. Instead, funding must be streamlined and guaranteed across all headings.
- Funds and resources should be allocated to implement a pilot project on gender budgeting within the European Commission, involving staff, national experts, civil society and academia.

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Annex 1

1. Gender Equality Infrastructure

The gender machinery in Portugal comprises the Secretary of State for Citizenship and Equality (SECI), under the auspices of the Ministry of Presidency, alongside two mechanisms for the promotion of equality: the Commission for the Citizenship and Gender Equality (CIG) that has a cross-cutting mandate and is under the auspices of SECI; and the Commission for Equality in Labour and Employment (CITE), under the auspices of the Ministry of Labour, Solidarity and Social Security, that is a tripartite mechanism with social partner and governmental representatives to mediate labour conflicts and gives legal opinions in cases of gender discrimination in the workplace.

The involvement of civil society is assured by the participation of women and gender equality NGOs in a consultative body of CIG as well as in the Economic and Social Council (CES) that is the constitutional body for consultation and social concertation.

2. Gender Equality Strategy

The Strategy Portugal +EQUAL provides integration and articulation to public policies and define priority intervention areas. It includes the perspective of intersectionality by recognising the specificity of different experiences of discrimination (victims of domestic and sexual violence, racial and ethnic minorities, disabled people, LGBTI+). It also introduced effective evaluation and monitoring processes. The planning approach involved various ministerial departments, local authorities, experts on gender issues and civil society, including LGBTI and women's organisations.

3. Parental/maternity/paternity leaves

The Portuguese law considers 'parental leave' for both mothers and fathers¹¹. Parental leave can last between 120 and 180 consecutive days, but it all depends on how parents choose to take it. The law defines 4 different categories of leaves: 1. initial parental leave; 2. Initial parental leave exclusive to the mother; 3. Initial parental leave to be enjoyed by the father in case of impossibility of the mother; and 4. Parental leave exclusive to the father. Mothers are entitled to an obligatory six-week exclusive leave after childbirth (if necessary, mothers can take 30 days of leave before childbirth, upon presentation of a medical certificate). Fathers are entitled to an obligatory leave of 15 working days, 5 days following childbirth and the remaining 10 days, consecutive or not, within 30 days after childbirth. An additional leave of 10 days is not obligatory and, when taken, must occur during the mother's initial leave.

¹¹ Maternity, paternity and adoption benefits in Portugal are summed up in <https://ec.europa.eu/social/main.jsp?catId=1125&langId=en&intPagId=4733>

4. Promoting equality between women and men in decision making

4.1 Politics

In 2006, a Parity Law established a minimum of 33% persons of each sex in the lists of candidates for the National Parliament, the European Parliament, and local authorities. In February 2019, the Parliament approved changes to that law, according to the recommendation 2003(2) of the Committee of Ministers of the Council of Europe of 12 March.¹² The main changes are, respectively: a) a raise in the minimum representation threshold from 33.3% to 40%; b) extended scope of application of the law to comprise also parish councils and boards of assemblies of representatives; c) a change in the criteria for the ordering of the lists of candidates (there can be no more than two candidates of the same sex in any consecutive positions) and the regulation for substitutions in mandates (that should pass to be assured by a person of the same sex); and d) the reinforcement of sanctions in case of no compliance.

4.2 Public administration

In February 2019, the Parliament also approved a system of balanced representation between men and women in the decision-making bodies of public administration (also comprising public institutes and foundations), both at national and local levels.¹³ Balanced representation means a minimum of 40% of people of each sex. From 1 January 2020, the minimum threshold of 40% must also be observed in the lists of candidates presented for the election of the collegiate organs of government and management in the public higher education institutions and organisations or associations governed by public law. Moreover, lists of candidates for elective positions should also comply with the following rule of ordination: the first two candidates cannot be of the same sex and there can be no more than two candidates of the same sex in any consecutive positions. Non-elected decisional, supervisory, inspection and management bodies must also comply with the 40% rule. The non-compliance with the rule determines the nullity of the designation. It is previewed the law should be evaluated five years after its enforcement.

4.3 Business and regulatory bodies

There is a rule of alternation between sexes in the governmental appointments for regulatory bodies' presidencies. In 2017, the Parliament approved a law (Law No. 62/2017 of 1 August 2017) establishing balanced representation between women and men in the management and supervisory bodies of public sector companies and quoted companies. The law applies only to new mandates. From January 2018, each sex must be represented by at least 33% on boards and supervisory bodies of public sector businesses and by at least 20% in the companies listed on the stock exchange.

¹² Portal do Governo, <https://www.portugal.gov.pt/pt/gc21/comunicacao/comunicado?i=aprovadas-as-leis-da-paridade-e-da-representacao-equilibrada>

¹³ Ibidem.

The target of 33.3% in quoted companies should be attained by January 2020. The companies are also compelled to elaborate annual equality plans. The aim of plans is to achieve equal opportunities and equal treatment of women and men, and to promote the reconciliation of professional and family life, based on guidelines provided by the Commission for Equality in Labour and Employment (CITE).