THE COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

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REPORT ON THE SITUATION OF MATERNAL HEALTH AND WORK-RELATED ISSUES IN PORTUGAL

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The right to health of women through the protection, promotion and support of breastfeeding

Working women that become mothers hold a double role that is not always easy to bear. Recognizing "the great contribution of women to the welfare of the family and to the development of society […] [and] the social significance of maternity" (CEDAW Preamble) means acknowledging that it is a collective responsibility to create an **enabling environment for women to fulfil both roles of mother and worker**. Indeed, both maternity and work are means for women's empowerment and emancipation.

Women should be given the correct information as well as the legislative and institutional support to act in their children's best interest while continue working and being active in public life. To this end, **maternity protection** at work, and **adequate paid maternity leave** in particular, are critical interventions that States have the obligation to implement in order to realize the right of women to work, and at the same time the right to health of women and their children, allowing new mothers to rest, bond with their child and establish a sound breastfeeding routine. Therefore, working mothers are also entitled to healthy surroundings at their workplace, and more specifically, to breastfeeding breaks and to breastfeeding facilities.

Breastfeeding is an essential part of women's reproductive cycle: it is the third link after pregnancy and childbirth. It protects mothers' health both in the short and long term by, among others, reducing postpartum bleeding, aiding the mother's recovery after birth (synchronization of sleep patterns, enhanced self-esteem, lower rates of post-partum depression, easier return to pre-pregnancy weight), offering the mother protection from iron deficiency anaemia, delaying the return of fertility thus providing a natural method of child spacing (the Lactational Amenorrhea Method - LAM) for millions of women that do not have access to modern form of contraception, and decreasing the incidence of osteoporosis and the risk of ovarian-, breast- and other reproductive cancers later in life. For these reasons, **promoting, protecting and supporting breastfeeding is part of the State obligations** to ensure to women appropriate services in connection with the post-natal period and **realizes women's right to health**. In addition, if a woman cannot choose to breastfeed because of external conditions, she is stripped of bodily integrity and denied the opportunity to enjoy the full potential of her body for health, procreation and sexuality. The right to breastfeed does not disappear with the fact that some women may choose alternative methods of feeding their children.

Optimal breastfeeding practices as recommended by WHO global strategy for infant and young child feeding[1] (early initiation of breastfeeding within one hour after birth, exclusive breastfeeding for 6 months followed by timely, adequate, safe and appropriate complementary feeding practices, with continued breastfeeding for up to 2 years or beyond) also provide the key building block for child survival, growth and healthy development[2]. Enabling women to follow such recommendations means empowering them by giving them the opportunity and support to best care for their child.

Breastfeeding and human rights

Several international instruments make a strong case for protecting, promoting and supporting breastfeeding, and stipulate the right of every human being, man, woman and child, to optimal health, to the elimination of hunger and malnutrition, and to proper nutrition. These include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in particular art. 1 and 5 on gender discrimination on the basis of the reproduction status (pregnancy and lactation), art. 12 on women's right to health and art. 16 on marriage and family life, the International Covenant on Economic, Social and Cultural Rights (CESCR), especially art. 12 on the right to health, including sexual and reproductive health, art. 11 on the right to food and art. 6, 7 and 10 on the right to work, the Convention on the Rights of the Child (CRC), especially art. 24 on the child's right to health. Adequately interpreted, these treaties support the claim that '**breastfeeding is the right of both the mother and her child, and is essential to fulfil every child's right to adequate food and the highest attainable standard of health**'. As duty-bearers, States have the obligation to create a protective and enabling environment for women to breastfeed, through protecting, promoting and supporting breastfeeding.

[1] WHO 2002, Global Strategy on Infant and Young Child Feeding, http://www.who.int/nutrition/publications/infantfeeding/9241562218/en/index.html

[2] IBFAN, What Scientific Research Says?, http://www.ibfan.org/issue-scientific-breastfeeding.html

1) General situation concerning breastfeeding in Portugal

WHO recommends: 1) **early initiation of breastfeeding** (within an hour from birth); 2) **exclusive breastfeeding** for the first 6 months; 3) **continued breastfeeding** for 2 years or beyond, together with adequate and safe complementary foods.[3]

Despites these recommendations, globally more than half of the newborns are not breastfed within one hour from birth, less than 40% of infants under 6 months are exclusively breastfed and only a minority of women continue breastfeeding their children until the age of two.

Data on breastfeeding is based on yearly reports, which only began in January 2011. These reports are compiled by the *Observatório do Aleitamento Materno*, which is part of *Associação Mama Mater* (NGO).

General data

Number of children <1 = 96761, <2 = 96527, <5 = 103616 [4]

Year	Maternal mortality rate per hundred thousand	Infant mortality rate ‰
1990	10,3	10,9
2000	2,5	5,5
2005	2,7	3,5
2006	5,7	3,3
2007	4,9	3,4
2008	3,8	3,3
2009	7,0	3,6
2010	7,9	2,5
2011	5,2	3,1

Base de dados Contemporânea, www.pordata.pt

The main causes of death in children under 5 in Portugal are related to endocrine diseases, genetic and cromossomatic deformities and perinatal related problems[5].

Breastfeeding data	Jan-Dec 2011	Jan-Dec 2012
Initiation to breastfeeding, 1st hour:	77,60%	78,90 %
Exclusive breastfeeding at 5/6 weeks:	63,30%	65,10%
Exclusive breastfeeding at 2/3 months:	52,90%	54,50%
Exclusive breastfeeding at 3/4 months:	44,80%	50,20%
Exclusive breastfeeding at 4/5 months:	31,70%	35,30%
Exclusive breastfeeding at 5/6 months:	17,30%	22,40%
Continued breastfeeding at 6-7 months:	40,00%	41,60%
Continued breastfeeding at 12-15 months:	15,10%	N/A
Continued breastfeeding at 15-16 months:	15,10%	22,90%
Continued breastfeeding at 18-19 months:	12,60%	16,20%
Mean duration of breastfeeding; 6 months	> 6 months	> 6 months

[3] www.who.int/topics/breastfeeding/en/

[4] Instituto Nacional de Estatistica, 2011 census, www.censos.ine.pt

[5] Direcção Geral de Saúde

The data for the table above was introduced through the state health systems data base on a voluntarily basis. There is no data available for the south of the country in any of the reports.
There were 96.856 live births in 2011 and the RAM (Registo do Aleitamento Materno) study from Jan-Dec 2011 is based on only 39.130 of these births, in 2012 there were 89.841 live births but the RAM data is based on only 41.269 of these[6].

There is a significant drop in exclusive breastfeeding rates between 4 and 6 months as the recommendations to start complementary foods at this time, by health professionals, is still commonplace regardless of the World Health Organisation recommendation of exclusive breastfeeding for the first 6 months. Follow-on formulas and toddler milks are still recommended over breastmilk after 6 months by health professionals regardless of the World Health Organisation's statement from the 17th of July 2013 titled*, Information concerning the use and marketing of follow-up formula* which clearly states ***`The Organization (WHO) further maintains that as well as being unnecessary, follow-up formula is unsuitable when used as a breast-milk replacement from six months of age onwards´***. This statement is also backed up by *the European Food safety Authority, EFSA,* which states the following: ***'The use of milk-based "growing-up" formula does not bring additional value to a balanced diet in meeting the nutritional requirements of young children in the European Union'***.[7]

The data points to a steep decline in breastfeeding rates beyond six months of an infant's age.

2) Maternity protection for working women

> The main reason given by majority of working mothers for ceasing breastfeeding is their return to work following maternity leave. It is therefore necessary to make adjustments in the workload of mothers of young children so that they may find the time and energy to breastfeed. This should not be considered the mother's responsibility, but rather a collective responsibility. States should adopt and monitor an adequate policy of maternity protection in line with ILO Convention 183 (2000)[8] that facilitates six months of exclusive breastfeeding for women employed in all sectors, and facilitate workplace accommodations to feed and/or to express breastmilk.

47, 3% of the female population is currently working.

Every woman who has paid a social security tax for 6 months previous to becoming pregnant, unemployed and disabled woman who receive a social security pension are entitled to paid maternity leave. Women who have not paid social security tax (unemployed, students), can apply to the state paid maternity leave and it will be granted according to an IRS statement and additional family member earnings per capita.

[6] Registo do Aleitamento Materno, RAM, 2011, 2012 reports

[7] World Health Organisations statement, 17th of July 2013, Information concerning the use and marketing of follow-up formula

[8] ILO, C183 - Maternity Protection Convention, 2000 (No. 183)

The mother is entitled to a minimum 72 days paid leave (10.3 weeks), 30 days before delivery if desired and a mandatory 42 days after delivery. A mother's options on how she may take her maternity leave are listed in the table below.

Period of time	*Payment % of the Reference income*
• *120 days of leave* • *150 days of shared leave with father (120+30)* • *30 day extra for each twin besides the first baby*	*100%*
• *180 days of shared leave with father (150+30)*	*83%*
• *150 days leave only mother*	*80%*

There is a 2-hour daily breastfeeding break from work until the end of the babies 1st year, paid for by the employer. It is possible to extend this beyond 12 months with medical confirmation that a mother is still breastfeeding. For every twin after the first born, 1 hour is added to the initial time.[9]

3) Government efforts to encourage breastfeeding

There has never been a specific comprehensive programme put in place in Portugal for breastfeeding.

A national incentive to support breastfeeding called *Breastfeeding corners* (Cantinhos de Amamentação) has been put in place. *Breastfeeding corners* are designated areas in state run health centres and hospitals where breastfeeding mothers have access to a trained breastfeeding support person. This initiative was founded by *Associação Mama Mater* (NGO) in 2005. The trained breastfeeding support persons that give trained support to breastfeeding mothers through this initiative do this in their normal work hours, which are paid by the state health system (*Direção Geral de Saúde)*. However, due to a lack of funding, it has not been possible to monitor and maintain all of the original designated areas and many have stopped providing this service. It has not been possible to monitor the remaining areas for Code violations (these areas are used to promote infant formula brands), which have become common throughout the 'Cantinhos de Amamentação'; this is also due to a lack of funding.[10]

A coordination programme exists, which covers infant and child nutrition and health (*Programa Nacional de Saúde Infantil e Juvenil*) but a specific programme for infant and child nutrition does not exist in Portugal. *Programa Nacional de Saúde Infantil e Juvenil* covers global health from 0-18 years including nutrition. This programme is run by the ministry of health (*Ministério da Saúde*) and was founded in June 2013. In this programme breastfeeding is barely mentioned and only recommended for 6 months.[11]

[9] Social security services (http://www4.seg-social.pt/subsidio-parental). Relevant legislation: Decreto-Lei n.º 91/2009, de 9 de abril na redação dada pelo Decreto-Lei n.º 70/2010, de 16 de junho e pelo Decreto-Lei n.º 133/2012, de 27 de junho

[10] Associação Mama Mater

[11] Direção-Geral da Saúde, Programa Nacional de Saúde Infantil e Juvenil

Implementation of the International Code of Marketing of Breastmilk Substitutes

Evidence clearly shows that a great majority of women can breastfeed and will do so if they have the accurate and full information and support, as called for by the Convention on the Rights of the Child. However, **direct industry influence** through advertisements, information packs and contact with sales representatives, as well as indirect influence through the public health system, submerge women with **incorrect, partial and biased information**.

The International Code of Marketing of Breastmilk Substitutes (the International Code) has been adopted by the World Health Assembly in 1981. It is a **minimum global standard** aiming to protect appropriate infant and young child feeding by requiring States to regulate the marketing activities of enterprises producing and distributing breastmilk substitutes in order to avoid misinformation and undue pressure on parents to use such products when not strictly necessary. Even if many countries have adopted at least some provisions of the International Code in national legislation, the implementation and enforcement are suboptimal, and violations persist.

Evidence clearly shows that a great majority of women can breastfeed and will do so if they have the accurate and full information and support. However, direct industry influence through advertisements, information packs and contact with sales representatives and indirect influence through the public health system; submerge mothers with incorrect, partial and biased information that weaken women's agency in choosing how to care for their babies.

The International Code of Marketing of Breastmilk Substitutes or the *Código de Ética de Substitutos de Leite Materno, Biberões e Tetinas* which is Portugal's version of the Code which does not incorporate the whole Code, have not been enforced, encouraged or implemented at any level since its adoption in 1981.

In 2008, Portugal adopted the *Decreto-Lei 217*[12], based on the European Commission Directive 2006/141/EC of 22 December 2006 on Infant Formulae and Follow on Formulae. The EU Directive which is weaker than the International Code; this means for example that complementary food is labelled as suitable from 4 months onwards which undermines exclusive breastfeeding up to 6 months as recommended by WHO..

Therefore the Portuguese law does not meet the standards of the International Code and should be strengthened.

There is no monitoring mechanism of the Code in place beyond the work done by IBFAN Portugal, which began in June 2013.[13] Violations of the International Code of Marketing of Breastmilk Substitutes are widespread. Violations include:

- Distribution of free samples of infant formula and follow on formula through the health care system.
- Promotion of infant formula to the public in shops and pharmacies.
- Advertisement to the public and idealisation of artificial milks.

[12] Direção-Geral de Alimentação e Veterinária, www.dgv.min-agricultura.pt
[13] IBFAN Portugal, http://www.ibfanportugal.org/#!cdigo-de-tica/cn3j

- Free gifts and promotional materials are promoted directly to the mothers and in the health care facilities.
- Mothers and pregnant women are targeted directly through publicity campaigns and social media by formula companies and given misleading advice on breastfeeding and formula use through talks and free information hand-outs.

Besides, there is no monitoring of the Decreto-Lei 217 law at a national level, although there are government bodies (*Autoridade de Segurança Alimentar e Económica* (Economical and Food Safety Authority), *Direção Geral Alimentação e Veterinaria* (Food and Veterinary General Agency) and Direção Geral do Consumidor (Consumers Agency))[14] to which violations could be reported .

4) Baby-Friendly Hospital Initiative (BFHI) and training of health workers

Lack of support to for women to breastfeed by the health care system and its health care professionals further increase difficulties in adopting optimal breastfeeding practices. The Baby Friendly Hospital Initiative (BFHI), which consists in the implementation by hospitals of the 'Ten steps for successful breastfeeding', is a key initiative to "*ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period*"[15], including breastfeeding support within the health care system. However as UNICEF support to this initiative has diminished in many countries, the implementation of BFHI has significantly slowed down. Revitalization of BFHI and expanding the Initiative's application to include maternity, neonatal and child health services and community-based support for lactating women and caregivers of young children represents an appropriate action to address the challenge of adequate support.

Portugal has a Baby Friendly Hospital Initiative – *Comité Português para a Unicef/Comissão Nacional Iniciativa Hospitais Amigos dos Bebés*. 10 hospitals have been certified through this initiative, the first being in 2005.[16]

Portugal has 40 maternity wards in the entire country, 36 in general hospitals and 4 maternity hospitals.[17]

5) HIV and infant feeding

The HIV virus can be passed from mother to the infant though pregnancy, delivery and breastfeeding. The *2010 WHO Guidelines on HIV and infant feeding*[18] call on national authorities to recommend, based on the AFASS[19] assessment of their national situation, either

[14] Direção-Geral de Alimentação e Veterinária, www.dgv.min-agricultura.pt, Autoridade de Segurança Alimentar e Económica, www.asae.pt, Direção Geral do Consumidor, www.consumidor.pt
[15] CEDAW, art. 12.2
[16] http://www.unicef.pt/docs/lista-dos-Hospitais-Amigos-dos-Bebes.pdf
[17] Direção Geral da Saúde
[18] *2010 WHO Guidelines on HIV and infant feeding*: http://whqlibdoc.who.int/publications/2010/9789241599535_eng.pdf
[19] Affordable, feasible, acceptable, sustainable and safe (AFASS)

breastfeeding while providing antiretroviral medicines (ARVs) or avoidance of all breastfeeding. The Guidelines explain that these new recommendations do not remove a mother's right to decide regarding infant feeding and are fully consistent with respecting individual human rights.

Between 38 000 - 62 000 people are infected with HIV in Portugal, 11 000-19 000 of which are women. Portugal has the highest infection rate of HIV in Europe.[20]

Breastfeeding is discouraged amongst HIV positive mothers. The national health system (*Direção Geral da Saúde*) provides 12 months' worth of free infant formula through public hospitals via prescription for HIV+ mothers to minimize transmission of HIV to the infant through breastfeeding.[21]

Portugal has developed a national multisectoral strategy to respond to HIV, 2011-2015.[22]
There are no specific courses where infant feeding is addressed in regards to HIV + mothers and breastfeeding although it is generally mentioned through breastfeeding counselor courses.

6) Recommendations on breastfeeding by the Committee on the Rights of the Child

The **Convention on the Rights of the Child** has placed breastfeeding high on the human rights agenda. Article 24[23] mentions specifically the importance of breastfeeding as part of the child's right to the highest attainable standard of health. Better breastfeeding and complementary feeding practices, the right to information for mothers and parents, the protection of parents by aggressive marketing of breastmilk substitute products – through the implementation of and compliance with the International Code of Marketing of Breastmilk Substitutes (WHO/UNICEF, 1981) - as well as the need for strong and universal maternity protection are now systematically discussed during State parties reviews by the CRC Committee.

At the last review in 2014 (session 65), the CRC Committee did refer specifically to breastfeeding in its Concluding Observations. In particular, the CRC Committee expressed concerns about the **decline in exclusive breastfeeding rates** of children between the ages of four and six months, and the practice of providing complementary foods to infants from the age of four months. The CRC Committee also expressed concerns about the **aggressive marketing of formula** for infants and at inadequacies in monitoring compliance with legislation on the marketing of breast-milk substitutes.

Therefore, the CRC Committee urged Portugal to "**take action to improve the practice of exclusive breastfeeding** for the first six months, through awareness-raising measures, including campaigns, the provision of information and training to relevant officials, **particularly staff working in maternity units**,

[20] www.unaids.org/Portugal
[21] Programa Nacional de Saúde Reprodutiva, Circular Normativa nº. 23/DSR de 29/12/09 – Fornecimento de fórmula para lactentes em mães infectadas pelo vírus VIH
[22] Direção Geral da Saúde (HIV- Nº23/DSR,29-12-09)
[23] "*States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: […] (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents.*" Art 24.2 (e), CRC

and parents". The Committee also recommended Portugal to "**strengthen the monitoring of existing marketing regulations relating to breast-milk substitutes**".

By now, none of the CRC recommendations regarding breastfeeding has been implemented and there is no signal from the government that they have been taken into serious consideration.

It is however to be noted that the government is currently engaged in the World Breastfeeding Trends initiative assessment process led by IBFAN Portugal, and it should thus be encouraged to continue taking active part in it.

About the International Baby Food Action Network (IBFAN)

IBFAN is a 35-year old coalition of more than 250 not-for-profit non-governmental organizations in more than 160 developing and industrialized nations. The network works for better child health and nutrition through the protection, promotion and support of breastfeeding and the elimination of irresponsible marketing of breastmilk substitutes. IBFAN is committed to the Global Strategy on Infant and Young Child Feeding (2002) – and thus to assisting governments in implementation of the International Code of Marketing of Breastmilk Substitutes (International Code) and relevant resolutions of the World Health Assembly (WHA) to the fullest extent, and to ensuring that corporations are held accountable for Code violations. In 1998, IBFAN received the Right Livelihood Award "for its committed and effective campaigning for the rights of mothers to choose to breastfeed their babies, in the full knowledge of the health benefits of breastmilk, and free from commercial pressure and misinformation with which companies promote breastmilk substitutes".