1.Please indicate whether in your country there are cases of mistreatment and violence against women during reproductive health care, particularly facility-based childbirth. If so, please specify what kind of cases and describe your country's response and any good practices, including protection of human rights.

Most women in Portugal (99%) give birth in a hospital setting and home births account for only 1% of all the births. The Portuguese Association for Women´s Rights in Pregnancy and Childbirth (APDMGP) has monitored since 2014 the treatment of pregnant women in hospitals, collecting testimonials and surveys. Women's stories raise serious concerns about the treatment of pregnant women during childbirth in hospitals and suggest that there may be serious deficits in ensuring women give their full and informed consent to medical interventions during childbirth and contain reports of frequent disrespectful and abusive treatment of women by health professionals. When measuring human rights of all women during pregnancy and birth, our governmental instances generally tend to mention the low percentage of perinatal and maternal mortality rates, even though the maternal mortality rate has been showing a slow but consistent increase in the past 10 years: https://www.pordata.pt/Portugal/Taxa+de+mortalidade+materna-619

There is, however, no tentative explanations for what the causes of this worrying increase may be, that puts Portugal, at the moment, on the 4th worst place amongst European countries, with a maternal mortality rate of 10,4 / 100.000.

In April 2015, APDMGP released a needs assessment online questionnaire, asking women about their birth experiences. Our survey gathered the reports of 3378 women who responded from all over the country including the two Autonomous Regions of Portugal, the Azores and Madeira. This survey found that a large number of women reported being subjected to procedures that may not always be supported by scientific evidence and may be harmful to women's physical and mental health. Worryingly, these included the Kristeller manoeuvre (fundal pressure), extensive use of episiotomy, inductions, an excessive number of caesareans, artificial rupture of the membranes, membrane sweeping for the induction of labour, forceps and vacuum extractor.

Regarding the type of delivery, 33.19% of the respondents had caesarean delivery, close to the 33% reported by the National Commission for the Reduction of Caesarean Rate (CNRTC) in 2014. In the private sector, the caesarean rate stands at 66% of all the births, an excessive number, since the WHO estimates that the necessary caesarean rates lie between 10 and 15% (WHO, 2010). Only 66.81% of babies were born vaginally.

Just about half of the women reported that they achieved the birth they wanted, while about 43% of the respondents said they did not. In the written comments to this question, some of the women who reported not having had the birth they wanted associated this with the loss of

control over the process, meeting similar findings in the literature on this subject (Gibbins, J., Thompson, A.M., 2001; Waldenstöm, U., 2004).

A significant number of women report insufficient information given to them regarding their options, and the advantages and/or consequences for various possibilities, such as induction, caesarean section, home birth or others.

Regarding the position each woman chose to give birth during the second stage of labour (the pushing phase), our results show that about 76.96% of pregnant women were satisfied with the position chosen (or proposed to them). However, 23.03% reveal dissatisfaction with the chosen positioning. In the written comments accompanying this question, a significant number of women reported being coerced into adopting the supine position (lying down).

As far as the interventions and procedures that took place in vaginal births are concerned, the epidural is the most common procedure, reaching 78.33%, followed by episiotomy with 72.73%. In 57.59% of deliveries, artificial oxytocin was used and about half of pregnant women are subjected to artificial rupture of the membranes (manually breaking the waters). The membrane sweeping (manually separating the membranes of the amniotic sac surrounding the baby from the cervix in a vaginal examination) was reported by 48.91% of participants. The enema was reported by 30.61% of all women and shaving of pubic hair was made to 16.65% of women. About 40,13% of babies were born with instrumented delivery, using the ventouse (vacuum extractor) (29.72%) or forceps (10.41%).

This data reveals highly medicalized births, even in women with straightforward pregnancies, raising questions about the need for the interventions practiced, as they go against the recommendations from the WHO. With regard to episiotomy, for example, the WHO has withdrawn its recommendation of 10%-15%, and now it is simply “not recommended”, whereas Portugal has one of the highest rates in Europe (73%).

With regards to other interventions, women´s comments in the text box for this question also include the use of misoprostol, "mucous plug removed by hand" or "vaginal examinations done during labour by many different people." Through these comments in the text boxes, many women also reported having experienced the Kristeller maneuver, that involves applying heavy pressure on a pregnant woman’s abdomen supposedly with the purpose of speeding up the delivery, a procedure consensually condemned by the scientific community and deemed “extinct” in medical dictionaries, such as Segen’s Medical Dictionary.

The survey results reveal that although the vast majority of women felt heard, safe, cared for and supported during their delivery, many faced forms of persuasion, manipulation and coercion from health professionals and a lack of respect for their birth preferences and wishes. This highlights how mistreatment in childbirth is generally naturalized and how it may be consensually accepted by professionals and by women.

The experiences described above raise serious concerns regarding respect for women’s human rights during childbirth in Portugal. Often women may suffer physical and mental trauma and harm as a result of such practices and their autonomy and decision-making capacity is heavily undermined.

2.Please specify if full and informed consent is administered for any type of reproductive health care and if these include childbirth care;

According to our survey, around half of the women enquired stated that they gave their consent to interventions that have arisen during delivery. However, 43% of women say they were not consulted on the measures to which they were subjected. Many women reported that they were only informed as procedures were being done, or after the fact, if at all.

Besides our survey, the complaints that reach us almost every day from women all over the country raise concerns as to whether health professionals are sometimes failing to adhere to the principle of full and informed consent when caring for pregnant women. Many women reported that interventions were sometimes carried out contrary to their wishes. APDMGP's survey found that in 43% percent of cases women believed they were not provided with sufficient information to meet informed consent requirements, which questions the compliance with the articles 5. and 9. of the Convention on Human Rights and Biomedicine, and the Portuguese law itself.

Most hospitals have pre-signed forms that are presented to women as a means of "pre-approving" all the medical interventions that will be done to them throughout the course of their delivery. These forms, as well as most exams and hospital interventions, are mentioned as being mandatory, and according to women´s accounts, with no room for questioning, discussion or negotiation of any kind. Our organization has been made aware of accounts where migrant and foreign women who did not speak Portuguese were made to sign the same forms, without being provided with a translator, or even allowed to take the forms home to have them translated, or ponder whether or not they intended to sign.

Birth Plans, through which many women attempt to communicate their consent and refusal regarding their labour and birth, is still widely viewed with suspicion, made fun of or refused by hospital institutions, more often than not. Only two hospitals in Portugal openly accept, discuss and promote this document. Our Organization has been made aware of two hospitals that have had internal staff meetings where health professionals were advised to discourage birth plans from women.

One of the main obstacles to informed consent and refusal in Portugal is the fact that most health professionals do not understand the extent of their legal responsibility as far as their practice is concerned. They largely believe they will be held responsible for women´s choices regarding her birth preferences if something were to go wrong.

By contrast, Portuguese law is quite clear on all patients´ rights to information, informed consent, informed refusal, and respect for their individual choices:

- Articles 2nd,3rd and 7th of the 15/2014 Law (Patients´ Rights)
- Articles 19th, 20th, 23rd, 24th, 25th, 26th CDOM (Medical Deontology)
- Articles 38th and 157th CP (Penal Code)
- Articles 8th and 9th of the Oviedo Convention.

The Portuguese health care system is still designed to make women and their health professional believe that hospital protocols are above the law.

3.Please specify whether there are accountability mechanisms in place within the health facilities to ensure redress for victims of mistreatment and violence, including filing complaints, financial compensation, acknowledgement of wrongdoing and guarantees of non-repetition. Please indicate whether the ombudsperson is mandated to address such human rights violations;

Legally speaking, "obstetric violence" is a non-existent phenomenon in Portugal. The legal cases in which obstetric violence occurs do not reveal the extent of violence in childbirth and are judged to be cases of mere medical negligence when in fact we are faced with distinct realities, although cases exist where the borderline of the distinction between these two phenomena may be difficult to ascertain.

The sexual and reproductive rights of women in pregnancy, childbirth and the postpartum period are protected in Portugal by the Law 15/2014, which grants, in particular, the right to a birth partner, the right to choose or to decide, the right to timely and appropriate care, the right to a humane and respected birth, the right to information and informed consent, the right to privacy and confidentiality, and the right to accountability.

Despite the explicit consecration of the sexual and reproductive rights of women in pregnancy, childbirth and the postpartum period in health care, there is still a general lack of awareness about this issue by the civil society in general and by health professionals, who often dismiss women´s rights.

Of the rights listed, the right that is most affected by maternal and child health care is the right to autonomy, referring to women's decision-making capacity.

In Portugal, only the most serious situations of obstetric violence are punished by law using generic legal types such as:

a) Offense to physical integrity - simple (article 143 of the Criminal Code)/negligent (Article 148 of the Penal Code);
b) Arbitrary medical and surgical interventions - Article 156 of the Penal Code;
c) Refusal of care - Article 284 of the Penal Code;
d) Mistreatment - Article 152 A of the Penal Code;
e) Female Genital Mutilation - Article 144 A of the Penal Code;
f) Violation of privacy/privacy - Article 192 of the Penal Code;
g) Violation of medical secrecy - article 195 of the Penal Code;
h) Injury - Article 181 of the Penal Code;
i) Threat - Article 153 of the Penal Code;
j) Coercion - Article 154 of the Penal Code;

Although obstetric violence is silenced and normalized in society, the truth is that political decision makers have already noticed this scourge in Portuguese hospitals. A good example of this are several legislative initiatives that were approved in December 2018 (Bill 555/xiii, Bill 872/xiii, Bill 1034/xiii, Bill 562/xiii), with the objective of strengthening the rights of pregnant/labouring and postpartum women, and aim to contribute to dignifying and improving maternal and child health care.

In addition to these, there is a public petition filed by a woman victim of obstetric violence, that awaits measures by the Minister of Health, petition no. 507/xiii/3ª, designated "For the end of obstetric violence in Portuguese hospitals", signed by more than 7,500 people.

We would like to point out, however, that these legislative initiatives under discussion do not explicitly recognize the existence of "obstetric violence" and lack effective sanctioning regimes, which may yet again lead to non-compliance with these rights granted to pregnant and labouring women, as there are no defined consequences for non-compliant health professionals.

Portugal does not have specific laws or mechanisms to deal with this type of situation, so women have to resort to the general rules of accountability to be financially compensated. Victims of obstetric violence face obstacles in their access to justice due to the lack of social and legal recognition of this phenomenon, as it is still widely considered to be something inherent to childbirth, and also presents difficulties in bringing forth evidence (testimonial and documentary) for the purpose of civil, criminal and disciplinary accountability of health professionals. There are very few cases of civil and criminal liability arising from situations of obstetric violence due to women's difficulties in producing evidence that their rights have been violated.

4.Does your health systems have policies that guide health responses to VAW and are these in line with WHO guidelines and standards on this issue, see: 1 | 2

There are complaint procedures in place in every facility, as well as for all the medical and nurses Associations and the Ombudsman. However, in practice, health institutions are slow and reluctant to provide women with their records, producing instead vague reports of what happened at their birth that state that “everything was done according to what was medically necessary”. There is no reference to the WHO guidelines or even the Portuguese guidelines. Women also currently have only six months to file a complaint that will allow them more answers and monetary redress, and as a result, hospitals do everything possible to delay providing them with the medical information they need to start that process.