

Europeanization in Portugal:
Women's Rights and Domestic Violence

Ana Rita Perna

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Orientador:

Doutor Luís Nuno Valdez Faria Rodrigues, Professor Catedrático

ISCTE – Instituto Universitário de Lisboa

Coorientadora:

Doutora Inês Marques Ribeiro, Assistente Convidada

ISCTE - Instituto Universitário de Lisboa

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To F,
For always having my back

Abstract

The purpose of this dissertation is to identify the processes of Europeanization in Portugal regarding women's rights and domestic violence, from 1974 to 2019. Radaelli's (2000, 2003, 2006) concept of Europeanization, and document analysis and statistical data analysis were the research methods chosen in order to understand if and how European Union membership had any influence in portuguese women's rights. This research suggests that both domestic violence and women's rights in Portugal were influenced by the European Union following the Beijing (1995) and Istanbul Conventions (2011).

Keywords: Europeanization, Portugal, Women's Rights, Domestic Violence, Feminism

Resumo

O objectivo desta dissertação é identificar os processos de Europeização em Portugal relativamente aos direitos das mulheres e à violência doméstica, desde 1974 até 2019. O conceito de Europeização de Radaelli (2000, 2003, 2006), análise de documentos e de estatísticas foram os métodos escolhidos para perceber como e se a pertença à União Europeia teve alguma influência nos direitos das mulheres portuguesas e na violência doméstica. Esta pesquisa revelou que Portugal foi influenciado nesses tópicos depois da convenção de Beijing em 1995 e da convenção de Istambul em 2011.

Palavras-chave: Europeização, Portugal, Direitos das Mulheres, Violência Doméstica, Feminismo

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Acronyms

APAV – Associação Portuguesa de Apoio à Vítima

CEDAW – Convention of Elimination of Discrimination Against Women

COE- Council of Europe

EAVA – European Added Value Assessment

EC – European Commission

EEC – European Economic Community

EIGE – European Institute for Gender Equality

EP- European Parliament

EPRS- European Parliamentary Research Service

EU- European Union

FRA- European Union Agency for Fundamental Rights

GREVIO - Group of Experts on Action against Violence against Women and Domestic Violence

TFEU – Treaty on the Functioning European Union

UN- United Nations

USA – United States of America

INTRODUCTION

The main goal of this dissertation is to study the impact of the European Union (EU) membership on portuguese women's rights. With this objective in mind, Europeanization is used as analytical approach in order to understand how Portugal reacts to the several EU requirements and inputs on the topic. Additionally, the intention would be to focus on the issue of domestic violence, as according to the statistics of the Portuguese Association of Victim Support (Associação Portuguesa de Apoio à Vítima - APAV) and the European Institute for Gender Equality (EIGE), it is widespread throughout Europe, and it affects women from every background, ethnicity, and religion. Violence towards women is a violation of fundamental human rights, as well as being an obstacle to the enjoyment of a safe citizenship. In order to analyze the influence of the EU in Portugal trough this perspective and theoretical framework, the first step will be to conceptualize Europeanization, and identify a suitable definition for my analysis, as the concept has suffered a few changes over time. I hope to fill a gap in the academic debate on this topic in Portugal, as women's rights and domestic violence are not often seen through this lens, especially when in comparison to other member states or with the European Union itself. Additionally, as women's rights have not always been seen as a priority - and in many places of the world it is still a taboo subject - it is crucial to discuss such a topic in order to demystify it.

Worldwide, and to this day, there are several documented cases of women and girls who are married as children and trafficked into forced labor and sex slavery (Human Rights Watch: 2019). Additionally, women often have no access to education, political participation, and in some cases, they are trapped in conflicts where rape is used as a weapon of war (ibid). As a concept, women's rights evolved towards gender equality and the recognition of their importance has been accepted, as after many years, feminist activists were able to put these

issues in the national and international agendas. In fact, according to Montoya (2009: 336), whose work is central in this dissertation, before the 1990s, the international community played a minimal role in promoting policies to combat violence against women. Even though sexual assault and domestic violence were not the primary focus of most movements, these were important issues raised by Western European feminists, particularly in the 1980s (ibid).

Nowadays, feminism represents a complex set of ideologies and theories, which, at its core, seeks to achieve equal social, political, and economic rights for women and men. It refers to a diverse variety of beliefs, ideas, movements, and agendas for action (Lewis, 2018). One of the most common theories used to explain feminism is the Wave Theory, which became a way to describe and distinguish between different eras and generations of feminism (Grady, 2018). Even though a lot of work continues to be done on the topic worldwide, according to the Director of EIGE, gender equality is moving at a 'snail's pace'.¹ Also, Portugal is below the European average on the Gender Equality Index. Nonetheless, it is an interesting case study as women went from having barely any rights to, when it comes to violence, being the 4th member state with a higher degree of gender equality.

This dissertation will start with this introductory chapter, where I have briefly identified and explained the topic and outline the overall dissertation. Afterwards, in a subchapter dedicated to the methodology, I will identify the research question that will guide my analysis, explain the motives behind the theoretical framework (Europeanization) and the case study (Portugal) selected, as well as for the time frame applied. The first chapter consists of a conceptualization of Europeanization, as it is crucial to understand its development as a concept and the current state of the art in terms of academic debate. In order to do so, it was necessary to do an extensive literature review and analyze some of most influential works on

¹ <https://eige.europa.eu/news/gender-equality-index-2017-progress-snails-pace>

the subject. Additionally, this chapter also includes a section on Europeanization in Portugal and how the EU has influenced it.

The second chapter focuses on outlining the EU's role in fighting for women's rights and against domestic violence, by explaining the most important conventions, initiatives, and programs developed in order to tackle these issues. The third chapter consists of my analysis of the Europeanization of women's rights and domestic violence in Portugal. Firstly, a summarized version of the main battles of the feminist movement throughout the years will be presented in order to map out and provide a description of the social and political context in Portugal throughout the selected time frame for analysis. Secondly, outlining the chronological changes in portuguese law regarding the EU's work gives an insight on the portuguese compliance to the EU's requirements and inputs; and lastly, we will focus on the portuguese adherence to EU policy. Lastly, also in the third chapter, I will briefly analyse relevant statistical data to allow for a comparison between Portugal and other member states, and the EU itself, on gender equality. Additionally, it will allow for a discussion on the treatment and consideration regarding the data.

Finally, in my conclusion I will breakdown my findings from primary sources on Europeanization and my findings from the statistical analysis. Furthermore, I will expose any difficulty I had throughout the process of writing this dissertation and, if possible, briefly discuss and propose what can be improved in order to help Portugal balance the gender scale.

Methodology

Europeanization will be used as an analytical tool in order to study the impact of EU membership in Portuguese women's rights. Using Portugal as a case study, due to its small

territory and economy, and an overall Europhile political inclination, the expectation is for Portugal to absorb the EU's requirements and inputs without showing inertia or retrenchment (Radaelli, 2003: 48) When it comes to women's rights and domestic violence, the EU has shown some recent policy developments, so the dynamics with Portugal are expected to be top-down. (Radaelli, 2006: 61)

When using Europeanization as an analytical tool, it is necessary to choose a conceptualization that would consider all possibilities for adaptation. Therefore, the concept of Europeanization as a set of processes of construction, diffusion, and institutionalization of formal and informal rules, procedures, policy paradigms, style, “ways of making things” and shared beliefs and norms, which are first defined and consolidated in the making of EU decisions and then incorporated within logic of domestic discourse, identities, political structures and public policies (Radaelli, 2000: 4) seemed to be the most appropriate. Radaelli's conceptualization of Europeanization is a clear and useful analytical tool which offers a straightforward explanation for the influence that Europe can have on its member states, while acknowledging that actors can learn from outside actors other than the EU, since they are dynamic and not static. In an era when globalization and the worldwide spread of information are a constant, these also need to be considered when studying Europeanization.

The research timeframe starts with the revolution of carnations in 1974 and ends in the year of the writing of this dissertation (2019). This time period includes Portugal's democratization and European Integration, the prioritization of human rights by the EU, and landmark conventions, such as the Beijing Convention, in 1995, and the Istanbul Convention, in 2011. The process of Europeanization focuses mainly on domestic change and, in order to understand the portuguese advancements in women's rights and domestic violence in relation to the EU's work, one must analyze a number of primary sources released by the United Nations (UN) and the EU, as well as portuguese law on these topics. However, secondary

sources on Europeanization, women's rights, domestic violence, and the feminist movement were consulted as well. Therefore, using document analysis was a necessary tool to gather and systematize information. Additionally, statistical reports both from EU institutions and APAV were analyzed: comparing and discussing the data and conclusions was also found necessary. Establishing a direct link between any domestic changes and EU's influence will be a difficult task, as it is unlikely for Europeanization to be easily discernible in Portuguese discourse or law, especially because a lot of changes in Portuguese Civil Rights occurred before Portugal joined the European Economic Community (EEC).

The main research question that will guide this dissertation is: *To what extent can we identify Europeanization in Portuguese discourse, policies, actions, and institutions regarding women's rights and domestic violence, in the period from 1974 to 2019?* In order to answer this question, I will consider: the importance given to the EU's work by the Portuguese Government; the latter's compliance with EU requirements and inputs; and lastly, the adherence to EU Policy and its transposition into Portuguese law regarding women's rights and domestic violence. If any domestic change is identified due to Europeanization, it will be discussed in light of Radaelli's (2003) four-fold approach, which covers most outcome possibilities and includes the following degrees: absorption, transformation, inertia, and retrenchment, which I will discuss in more detail in the subsequent chapter.

CHAPTER 1 - Europeanization

Several authors like Featherstone (2003) and Borzel (2003) are amongst those who have studied the process of Europeanization, as it has been attributed different meanings throughout history. Featherstone (2003: 5) identifies four meanings associated to this term: adaptation of policy and policy processes, a process of institutional adaptation, a matter of cultural diffusion, and a historical process, and he explains what each category refers to and in which circumstances the term was used. Europeanization is usually referred to as the study of the “domestic adaptation to the pressures emanating directly or indirectly from EU membership” (ibid: 7). This can be then studied from a variety of different levels and perspectives, which will be explored throughout this chapter - the EU, the member states, or third-party levels -, and also the effect it can have on actors, institutions, and policies (ibid). Therefore, when referring to Europeanization in the context of the present dissertation, we are speaking about the two first categories mentioned above, as these will be the ones providing the best understanding of norms relating to domestic violence from the EU and national level, in this case Portugal.

The EEC was founded in 1957 with the Treaty of Rome with the goal of establishing a common European market. At that time, only six countries belonged to this community - France, Italy, Western Germany, Belgium, the Netherlands, and Luxembourg. With time, other countries joined the organization, and currently there are 28 countries belonging to the EU. Being part of the EU provides its member states with greater opportunities to be relevant in the global sphere. In order to belong to the EU, accession candidates need to meet several requirements, i.e., conditions for membership, from the start, also known as the 'Copenhagen Criteria', as defined by the 1993 European Council in Copenhagen. These criteria include having stable institutions guaranteeing democracy, the rule of law, human rights and respect

for and protection of minorities; a functioning market economy and the capacity to cope with competition and market forces in the EU; as well as the ability to carry out the obligations of EU membership.² In addition, consent is required on behalf of EU institutions, other member states, and citizens.

Meeting all the points mentioned can sometimes be a difficult task. Some countries like the western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, Macedonia, and Serbia) have additional conditions which are related to regional cooperation and ‘good’ relations with neighbouring countries (Montoya and Agustin, 2013: 552). The above mentioned rules are then divided into 35 different policy fields, which are negotiated separately. Throughout the negotiations, which can take years, the European Commission (EC) monitors the countries’ progress in applying EU legislation and meeting any other requirements.

From the late 1950s, academic literature on the integration of member states and the effects of membership in the context of the European Integration Project focused essentially on two different approaches: the neo-functionalist and the liberal intergovernmentalist (Major, 2005: 176,179). The neofunctionalists defended that regional integration would only occur when supranational institutions were relied upon by the societal actors, in order to fulfill the demands made by the institutions. According to Hass (1958: xiv- xv) and Stone Sweet and Sandholtz (1998: 6), integration would happen “quasi-automatically” once the institutions gained power. In other words, increase their authority and legitimacy. On the other hand, intergovernmentalists stated that the European Communities' politics were a prolongation of national level politics, since each member state saw this community according to their own interests (Moravcsik, 1991:25). The two European integration theories would, however, often

² https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership_en

diverge and clash, especially when it comes to the spillover effects, their consequences, and the power and nature of the supranational institutions (Risse, 2005: 294).

Since the mid-1970s until very recent years, the scholarly literature regarding Europeanization has suffered a few twists and turns from the dichotomy of the 1950s. In the mid 1970s, neofunctionalism was declared obsolete by Haas and there was a big tendency to validate intergovernmentalism (Stone Sweet and Sandholtz, 1998: 3). In the 1980s, more countries joined the European Communities, which led to a growing interest on how member states reacted to the latter's influence (Borzel, 2003: 1). New questions started then to be relevant, so in the 1990s researchers became more interested on how countries were impacted on a domestic level by the European institutions and their processes (Borzel and Risse 2007: 484). This implied that a "top-down model" was applied in order to study this effect and impact (Major, 2005: 179). By the mid 2000s, the scientific literature was mostly about the impact of European integration on EU member states (Schimmelfennig, 2009:5); however, in the years that followed, it also started to include and focus on the candidate countries like those from the Western Balkan region (ibid).

The term Europeanization has been used by many authors; however, not always with the exact same meaning. Therefore, it is important to differentiate the term European Integration from Europeanization, especially since these concepts share a link that might create some confusion between the two. Haas defined political integration as "the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities towards a new center, whose institutions possess or demand jurisdiction over the preexisting national states" (Haas,1958:16). European Integration is applying this term to the member states and supranational institutions like the EU. In other words, member states delegate their sovereignty to the EU. According to Major,

Europeanization is not a process, but an instrument in the wider context of European integration, without which it would not exist (Major, 2005: 178).

As European Integration was already defined above, the next step will be to cover the different and most important definitions of Europeanization that have been used and proposed by different authors and researchers. The first precise definition for Europeanization was introduced by Ladrech, who defined it as the process of “reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (Ladrech 1994: 69). Another important definition was proposed by Olsen (2002), who believed that, in order to understand Europeanization, one should divide the concept into five different uses, including changes in external boundaries, a central penetration of national systems of governance, developing institutions at the European level, a political unification process, and exporting forms of political organization (ibid.: 923-924).

As Olsen's definition is so comprehensive and broad, according to authors like Radaelli (2006: 59) and Moumoutzis (2011: 610), it becomes rather useless. Risse (2001) does an extensive work in breaking down Europeanization and how, according to him, it should be studied. So, in his perspective, Europeanization is the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem-solving that formalize interactions among actors, and of policy networks specializing in the creation of authoritative rules (ibid: 3).

According to Risse, as the goal is to study the impact of the abovementioned concept on the member states and on their political, legal, and social structures, a top-down perspective is applied. In order to do so, the author proposes a three-step approach. The first step is to assume that Europeanization by itself is not enough to cause any domestic change (ibid.: 2). The starting point should be the identification of the processes at the European level

relevant to a specific area. The next step is related to another important concept, which is the “goodness of fit”. This is the degree of “fit” or “misfit” between the EU demands and the domestic policies, which will create “adaptational pressures”. The higher degree of “fit” would mean a bigger compatibility and weaker adaptational pressures, which would make the process shorter and easier to complete. On the other hand, a higher degree of “misfit” would mean a lower compatibility and therefore stronger adaptational pressures. These can be a challenge to the domestic identity, principles, laws, structures, and practices (ibid.: 7-8). This concept was highlighted by other scholars (Major, 2005; Moumoutzis, 2011; Borzel and Risse, 2003) throughout the years as a crucial factor for change. Lastly, the third step is related to the institutional and cultural background of the country in question. Governments can respond very differently to the pressures imposed by the EU towards change, depending on the mentioned factors.

Domestic changes have been a point of interest for several authors, as they are a crucial part for understanding Europeanization. After observing their take on the subject, I noticed several similarities in most of their works. The authors analyzed for this topic were Grote and Lang (2003), Radaelli (2003), and Borzel and Risse (2003), who have broken down the process of change in degrees according to their different approaches. Firstly, Grote and Lang (2003) have pointed out the highest quantity of degrees. They were able to identify five degrees of change, including absorption, transformation, inertia, retrenchment, and accommodation (ibid.: 226). Both inertia and retrenchment are degrees in which governments are resisting Europeanization. Their theoretical approach is very similar to Radaelli's (2003: 48), who excludes accommodation, but keeps the first four stages, therefore suggesting a four-fold approach. Borzel and Risse's (2003) is the approach mentioned with the least degrees, as they highlight only three: absorption, accommodation, and transformation (ibid.: 69-70).

The academic literature on Europeanization also includes dialogues between authors such as Radaelli (2006) and Borzel (2002), which are both interesting and enriching for the study of the phenomenon. The latter considers that policy preferences and action capacity should be factors to consider when it comes to policy change. She even puts member states in one of three different categories: pace-setters, fence-sitters and foot-draggers. The names of the categories explain the position of the country towards Europeanization and domestic policy changes. The first category, 'pace-setters', includes countries which are usually more economically stable and therefore are able to develop, create, and exercise more policy initiatives towards Europeanization. 'Fence-sitters' do not apply pressure, neither do they oppose those initiatives. And lastly, 'foot-draggers' are usually countries with a less developed and stable economy that lack both factors mentioned by the author (ibid.: 208-209). Radaelli (2006: 61) criticizes Borzel's perspective, as he believes that actors can learn from the EU outside of these factors, since they are dynamic and not static.

Borzel (2002) has also described Europeanization as a “two-way process” in which directives and ideas are 'downloaded' from the EU to the domestic level, and in which national policy preferences are 'uploaded' to the EU. Major (2005) did consider that Europeanization is instead a three-dimensional concept, as cross-loading can occur, especially due to globalization. Ideas and norms can be transferred from and within European neighbors and other sources like certain domestic entities and policy areas (ibid.: 186). Radaelli (2000) once again highlights that the EU and the member states are dynamic entities which, therefore, implies the need to remember that globalization and the worldwide spread of information needs to be considered when studying Europeanization. The author describes it as being the

Processes of construction; diffusion and institutionalization of formal and informal rules, procedures, policy paradigms, style, “ways of making things” and shared beliefs and

norms which are first defined and consolidated in the making of EU decisions and then incorporated within logic of domestic discourse, identities, political structures and public policies (ibid.: 4).

Ultimately, as Major simply puts it, it is a change “due to Europe and within Europe” (Major, 2005: 186).

1.2 Europeanization in Portugal

Portugal joined the European Communities in 1986, so before the creation of the aforementioned “Copenhagen criteria”, in the hopes of increasing political and economic power (Wong and Hill, 2011: 7). By being a part of this new actor with supranational powers and influences, Portugal would ideally be able to solve some of its domestic issues and be more involved in foreign affairs. Even though Portugal joined the European integration project more than 30 years ago (at the time of writing this dissertation), according to Magone (2004: 16) it is one of the countries that is least researched in this area of study. The author states that it probably has to do with the fact that Portugal is a small country and somewhat in the periphery of the EU and does not have sufficient influence. Therefore, very few papers have been published on the Europeanization process in Portugal (ibid:17).

The process of Europeanization in Portugal is mainly top-down, and it has been quite important for the modernization and transformation of state and public administration reform in Portugal (Magone, 2011: 778). One of the most important events for the contemporary Portuguese society was the end of the authoritarian regime in 1974. Overcoming the negative effects of such a regime is a hard and lengthy process. In fact, some old pattern behaviors are still present in portuguese society which represent a roadblock towards further reform.

Magone highlights centralized decision making, low-level qualification, and inefficient human resource allocation as being some of those old patterns that prevent Portugal and its democratic culture from maturing and developing (ibid: 756). Goucha Soares (2010) shares a similar perspective with Magone when it comes to the low-level qualification as, according to him, the whole educational system should improve and be based on innovation (ibid.: 334). The author also highlights the Portuguese economy and justice system as being big players in damaging the process of Europeanization, which subsequently is damaging for the quality of democracy (ibid).

Goucha Soares identifies the adoption of the Euro as the end of the 'gold age' for Europeanization in Portugal (ibid: 333). Magone, on the other hand, believes that Portugal has, in the last years, regained its place in the international community. It gained good reputation as an unbiased international interlocutor and strengthened its relations with neighboring countries and the Portuguese-speaking community (Magone, 2006: 28).

Now that I have done a literature review and analyzed some of most influential academic works on the subject of Europeanization and also briefly explored the state of the art on Europeanization in Portugal, I will, in the next chapter, outline the EU's role in fighting for women's rights and against domestic violence, by explaining the most important conventions, initiatives, and programs developed in order to tackle these issues.

CHAPTER 2 - The EU's role in fighting for women's rights and against domestic violence

Throughout the years, the EU and its institutions, especially the European Parliament (EP) and the European Commission (EC), as well as the Council of Europe (COE), a European intergovernmental organization, have dealt with women's rights by promoting equal pay and equal economic independence, by promoting gender equality outside of the EU (and Europe), by promoting gender balance in decision-making positions, and by trying to end gender-based violence (Council of Europe, 2017).

The statistics on these subjects show that women from all EU member states still suffer with discrimination, sexual abuse, harassment, poor working conditions, rape, and in some severe situations, death on the grounds of sex (Gender Equality Index, 2017). On average, one in three women in the EU has been a victim of physical and/or sexual violence since the age of 15; one in 20 women has been raped; over half (55%) of women have experienced sexual harassment; one in three women has experienced psychological abusive behavior by a partner; and one in three women has experienced physical or sexual violence by an adult during childhood (Council of Europe, 2017). This overview only shows us what has been reported. According to the European Union Agency for Fundamental Rights (FRA), in 2014 only 14% of women reported their most serious incident of intimate partner violence to the police, and 13% reported their most serious incident of non-partner violence to the police (FRA, 2014 :3).

Addressing and taking action towards women's rights and domestic violence is a challenge, due to the lack of reliable data, since it is such a sensitive subject, causing it to still be under-reported. Gender-based violence against women is not only a serious violation of human rights and a form of gender-based discrimination, but it is also the main structural

expression of inequality between women and men. At the same time, it is the root cause of gender inequality, as it is an obstacle to women's full participation in economic, social, political, and cultural life (European Added Value, 2013: 7). Nowadays, only about a third of women who are physically or sexually abused by their partners contact the authorities. In addition, complaints are not systematically recorded, and the data is not easily comparable between EU countries. In recent years, initiatives have been developed towards facilitating data collection. In 2014, the first EU survey on women's experiences of violence was published by the FRA. Following that, in 2015, Eurostat collected administrative data recorded by national authorities and then EIGE produced an online mapping tool, called Gender Equality Index, which works with administrative data sources and other statistics, as well as studies on violence against women.

Besides the initiatives to collect reliable data, the EU has been working on other projects; however, since the Treaties of Rome in 1957 that women and their rights have been, at least, considered with the equal pay for equal work principle. Until the 1990s, most of the EU's work towards gender equality focused on economics and not so much on social rights. Nowadays, the EU has been working towards balancing the political, economic, and social scale for women, not just inside its borders, but also outside. Broadly, it protects women and children from gender-based violence through legislation and practical measures on victims' rights. More specifically, the EU works in order to reinforce victims' rights on all stages of the criminal process through an EU directive establishing minimum standards on the rights, support, and protection of victims of crime; to set up instruments for the mutual recognition of protection measures; it aims to raise awareness of gender-based violence by co-funding campaigns run by national governments, and supports transnational projects run by non-governmental organizations combating violence against women, children, and young people; it facilitates finding common solutions among EU countries, by organizing exchanges

of good practices; it also invests on research on gender-based violence; and, at the international level, the EU has signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in the Istanbul Convention.

Montoya (2009), whose work is central in this dissertation, states that the EU created most of its important initiatives aimed at combating violence against women primarily after the mid-1990s. After the adoption of the Maastricht Treaty, in 1993, and the Amsterdam Treaty, in 1997, the EU's institutions became relevant, which led to the expansion of the policy beyond economic issues, placing human rights as a priority (ibid.: 333). The pressure in the 1970s and 1980s, applied by second wave feminist activists, started to generate effects at the international and European levels. EU action supporting policy reform really began with the “Campaign for Zero Tolerance for Violence against Women”. Experts were dedicated to drawing up norms and recommendations aimed at eradicating violence against women.

The EU has developed initiatives that provide domestic advocacy organizations with valuable resources and has facilitated increased transnational cooperation and networking. When we take a magnifying glass, we see, however, that the EU has, in fact, undertaken a number of non-binding initiatives which are important for normal distribution, but fail to hold member states accountable for poor domestic practices, especially as there is no guarantee that governments will be able to put the policy into practice. Montoya suggests that one of the main goals for the EU should be better implementation (ibid: 346). Moreover, the first step suggested is to have a stronger oversight in the implementation process.

Both the United Nations and the Council of Europe have adopted mechanisms for monitoring and evaluating their member states. However, both organizations are limited in their coercive authority to deal with states that fail to make significant progress, which then leads to uneven development and continuous suffering of women and children, as minimal

changes occur. The next step that the author proposes should be taken by international and regional organizations involves initiatives aimed at capacity building (Montoya, 2006). In particular, resources can be distributed to local organizations that can then provide continual monitoring and internal pressure or can actually participate in the implementation process. The stronger the local capacity, the more consistent progress will be seen, even during times of less supportive governments. The EU has been more willing to engage in this type of strategy through the Daphne Program (ibid).

The European Commission tries to combat violence against women in three different ways: first by creating general policy towards gender equality; second by the accession process that countries have to go through in order to belong to the EU, and lastly through the Daphne Program. The latter was initiated in 1997 by the European Commission and it has provided significant funding for civil society, local authorities, and researchers to address violence against women in the EU (FRA, 2014: 12). The project's main goal is to prevent violence against children, young persons, and women by building networks of expertise across the Member States (Montoya and Agustin, 2013: 546). This program is EU's most concrete means of combating violence against women, according to the authors, with over half of its projects focusing on gendered violence. So far, it has had four phases. In each of them, there have been changes in budget, project requirement, and regulations, as well as in the emphasis placed on certain projects. More recently, the focus is being put on cultural and traditional framings of violence such as honor killing and female genital mutilation (ibid: 551).

Montoya and Agustin show particular concern for the current discourse of the European Institutions, as there has been a tendency to use exclusionary discourse. This leads to the creation of several situations which can be dangerous for those considered non-Europeans, migrants, and women in general (ibid: 554). Focusing on several forms of

violence and relating them to specific cultures and traditions leads to ignoring that gender-based violence is rooted in structural gender inequality, and by marginalizing vulnerable groups, typically ethnic minorities and migrant women and girls, can undermine the seriousness of other, normalized forms of violence. Also, by focusing almost exclusively on diagnosis, culturalized framings often fail to address potential solutions to problems which are real and serious. In other words, they do not target relevant groups at risk. Instead, it contributes to stigmatizing them through processes of othering and identity constructions which highlight minority and majority differences in exclusionary ways, leading to the creation of “outsiders” which can be very dangerous to the migrants and diasporas (ibid:554).

The Daphne Program has, throughout the years and different phases, encouraged activity on domestic violence by actors in the member states to provide new forms of support and protection across the EU. It also helped to build both financial and research capacity into associated issues across the member states (Lamont, 2013: 4). However, Montoya and Agustin (2013: 551) show that it has also included some exclusionary discourse in its fourth phase in 2007. It is particularly remarkable as domestic violence is widespread throughout Europe and it affects women from every background, ethnicity, and religion. Violence towards women is a fundamental rights violation as well as being an obstacle to the enjoyment of a safe citizenship. The Program may have an impact on gender equality, but this is framed as an issue of public health, which may affect the nature of the projects which apply and are funded. The benefits are indirect, building on existing national activities in the member state, rather than harmonizing across the member states (Lamont, 2013: 20). So, indeed, it does not challenge domestic violence across the member states, but instead aims to have the different member states sharing best practices. By identifying campaigns that raise awareness on the issue and provide victim protection, there is an urgency of capacity building

by having people ‘on the ground’ in the member states (ibid: 12). The Program does, however, rely on these people and activism instead of incentivizing new action.

Despite the direct relationship between domestic violence and gender equality, the EU has not been using a legal basis for any measure affecting domestic violence. Art.19 TFEU states that any action taken under this competence must be “within the limits of the powers conferred on the Union, requiring a link to another area of shared European competence where discrimination may have an impact, but tackling discrimination on the basis of sex has not been used as a joint competence in this context” (ibid : 13). This leads us to question the EU’s competence to adopt measures on discrimination affecting sensitive issues such as family law, education, and health, which are considerably serious, as previously discussed. According to Montoya and Augustin (2013) the scope of EU law should be extended in a way that the development of the EU’s social policies on gender equality and gender-based violence towards women could use gender equality to justify the adoption of new measures in the context of the Area of Freedom, Security and Justice. Taking these measures would be crucial at the European Level in order to legally battle violence in all its forms and discrimination. Additionally, EU policies have mainly been in the form of soft law, there has been growing support for more binding legislation (ibid: 555).

In 2008, the Guidelines on Violence against Women and Girls Combating All Forms of Discrimination against Them were created by the EU. It is a very comprehensive and complete document, which includes many forms of violence against women and explicitly lays out recommendations on how to address this on-going issue. It also refers a large international legal framework and the obligations of the different member states in eradicating violence against women. Montoya and Agustin (2013) say it is a very feminist document, adopting a wide and inclusive definition of violence against women (ibid: 550). It uses both a universal and intersectional framing of violence that characterizes gender-based violence as

widespread but also how it can affect vulnerable groups in different ways. The language in the document shows a good balance between universality and inclusive intersectionality. The major problem of this document is the fact that it is directed only at EU external policy. The guidelines and standards put in place with this extensive document should also make member states accountable as this is an issue they deal with: instead, they are directed at countries outside the EU. This includes countries that are candidates and in the accession process, therefore not yet EU members, and countries with which the EU, or its member states, may interact. These guidelines if applied to all member states and third countries would be a great starting point to tackle the issue: however, they ultimately establish higher standards for ‘outsider’ countries than ‘insider’ countries, even though violence and discrimination against women are present in both cases. It becomes a reflection of the increasingly cultural conceptualization of violence against women as a foreign problem (ibid).

In 2011, the Istanbul Convention was held by the Council of Europe on preventing and combating violence against women and domestic violence. It was very important, since it was the first legally binding convention in the area (EPRS, 2018: 5). It came into force in 2014 and was signed by the EU in 2017. It was described in 2011 as a new landmark treaty of the Council of Europe, which opens the path for creating a legal framework at a pan-European level to protect women against all forms of violence, and prevent, prosecute, and eliminate violence against women and domestic violence (Council of Europe, 2011). The several goals of this convention are to first and foremost, protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. Then, it aims to contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women. It also designs a comprehensive framework, policies, and measures for the protection of and assistance to all victims of violence against women and domestic violence. It promotes

international cooperation with a view to eliminating violence against women and domestic violence and it provides support and assistance to organizations and law enforcement agencies to effectively cooperate in order to adopt an integrated approach to eliminating violence against women and domestic violence. Thus, ensuring an effective implementation of its provisions by the Parties, this Convention established a specific monitoring mechanism called GREVIO. The European Added Value Assessment found that an EU directive would have far greater impact on national legal orders than EU accession to the Istanbul Convention, but taken together, the two instruments would guarantee a true European Area of Freedom, Security and Justice where violence against women becomes not only rhetorically but also legally outlawed (EPRS, 2018:8).

According to Lamont (2013), the distance between the EU and the individual is an inherent problem in the social sphere. It is a challenge for the EU's goals in achieving gender equality, as the EU cannot beat domestic violence alone. As an actor in partnership with other bodies like the member states and local organizations, it can be an effective catalyst for further activity and change (ibid :22). The Istanbul Convention or the Daphne Program are great examples as they contain relevant guidelines on how to improve women's situation not just in Europe, but in the world: however, implementation and local participation is essential for improvement.

CHAPTER 3 - Analysis of the europeanization of women's rights and the fight against domestic violence in Portugal

3.1 Historical overview of women's rights and the fight against domestic violence in Portugal

Women from all backgrounds had to fight for their rights, like the right to vote, or the right to access education; however, women are still discriminated, harassed, beaten, raped, and murdered - in some places with greater intensity, others with less, but nevertheless the discrimination is present. At the international level, the United Nation's Universal Declaration of Human Rights in 1948 was groundbreaking. It was essential to set a basis of rights for all and, even though it is not legally binding, people all over the globe have benefited from it, including women. Women's rights were addressed directly for the first time at the European level in 1957 with the Treaties of Rome and the Equal Pay for Equal Work principle. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1979 addressed the discrimination faced by women on a daily basis, and it is one of the most important conventions on Women's Rights to this day. It consists of 30 articles, often described as a bill for Women's Rights, in which the UN defines discrimination against women and sets up a path on what national entities should do in order to end such discrimination. Article 1 of the CEDAW defines discrimination against women as:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human

rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (CEDAW, 1979: 2).

By accepting the Convention, states commit to end discrimination against women in all its forms. This Convention was launched and signed at a time when there was a lot of pressure being applied by activists on the most diverse topics, one of them being gender equality.

In fact, according to Montoya (2009: 336) before the 1990s, the international community played a minimal role in promoting policies to combat violence against women. As a consequence, in 1995, the Beijing Declaration became a new landmark for women's rights, which named violence against women a critical area of concern, resulting in the push for policy-making regarding gender-based violence and, more specifically, domestic violence (Virkki, 2017: 6). CEDAW and the Beijing Declaration were the catapults that inspired European feminist activists to take advantage of the political opportunities and demand bigger action on the issue of domestic violence, which, until then, had barely been approached (ibid).

The EU has also developed initiatives, like the Daphne Program, and hosted other conventions throughout the years in order to bring further attention to the issue. EU policy reform began with the “Campaign for Zero Tolerance for Violence against Women” (Montoya, 2009: 333), after which several resolutions were adopted: the 2000 Resolution on Trafficking of Women; the 2003 Resolution on the Elimination of Domestic Violence against Women; and the 2004 Resolution on the Elimination of Honor Crimes against Women (ibid.: 334). More recently, the EU Guidelines on Violence against Women and Girls Combating All Forms of Discrimination against Them, in 2008, and the Istanbul Convention, in 2011, were very important, especially on the topics of domestic violence and gender-based violence against women.

Feminists activists were essential in order to bring women's rights issues to the international agenda. The concept of feminism is a complex set of ideologies and theories that, at its core, seeks to achieve equal social, political, and economic rights for women and men. It refers to a diverse variety of beliefs, ideas, movements, and agendas for action. It refers to any actions, especially organized, that promote changes to society to end patterns that leave women disadvantaged (Lewis, 2018). One of the most common theories used to explain feminism is the Wave Theory, which is a great tool for understanding the history of feminism and the fight for gender equality. This theory identifies three waves and, in recent years, we have been experiencing what is believed to be the fourth wave.

The first wave of Feminism is heavily connected to the women's suffrage movement and is, nowadays, associated with racism, especially in the USA, where first wavers fought for white women's suffrage, for equal opportunities of education, employment, and for the right to own property. The second wave worked mainly on improving women's financial and reproductive rights. Activists cared deeply about the systemic sexism infiltrated in the society and one of the goals was to destroy the belief that women's highest purposes were domestic and decorative, and wished to break the social standards that reinforced that belief. Many second wavers often found traditional forms of feminine expression to be toxic and unnecessary, for example the use of make-up, bras, or heels was rejected by some of these women, begetting the stereotype of feminists as angry, lonely, and man-hating (Mann and Huffman, 2005). Feminism acquired an unfavourable reputation, and it was associated with female supremacy. In her article called 'Rejecting the "F-Word"', North (2009: 742) goes over the notion that Feminism is a concept that has been 'badly' portrayed by the media.

Many feminists have argued that the media in the 1980s and 1990s tended towards hostile and negative constructions of feminism, ranging from ridicule to trivialization, or attacks on movement spokeswomen (Bradley, 1998; Huddy, 1997; Sheridan et al., 2006).

According to Riley, this led to many people endorsing feminist values but without seeing themselves as feminists (Riley, 2001: 56). The third-wave activism involved fighting against workplace sexual harassment, working to increase the number of women in positions of power, and it embraced the fight for trans rights as a fundamental part of intersectional feminism (Grady, 2018). The third wave would go on to embrace all kinds of ideas, language, and aesthetics that the second wave had worked to reject and consider toxic, such as 'high-femme girliness'. With the rise of the third wave, this conception of feminine expression has been questioned and reformed. Thus, 'third wave' feminism, as it is often referred to, placed emphasis on choice and on intersectionality (Baumgardner, 2000).

The last decade has seen a pronounced increase in feminist activism and sentiment in the public sphere, which scholars, activists, and journalists have called the "fourth wave" of feminism. A key feature of the fourth wave is the use of digital technologies and the internet for feminist activism and discussion (Pruchniewska, 2019: 3). Initiatives like #MeToo, the slutwalk and time's up, have changed the face of feminism in this era. The goal of #MeToo was to give people a sense of how sexual harassment is present in society (Gilbert, 2017). Additionally, this wave is queer, sex-positive, trans-inclusive, body-positive, and digitally driven (Grady, 2018).

According to Forest and Lombardo (2012), gender equality continuously changes, thanks to the political and discursive action of a multiplicity of actors from institutions to civil society (ibid.: 3). The previously discussed waves of feminism demonstrate how the fight for gender equality has changed and continues to do so. Nowadays, the fight is far from being over and the data reflects this.³ During the 20th century, women's rights in Portugal were influenced by the political, religious, and patriarchal idealization of women and their role in society. With an autocratic government, Portuguese law was characterized by a regression in

³ <https://eige.europa.eu/gender-equality-index>

Civil Rights, especially for Women. In 1933, according to the Constitution, equality between all citizens was established with the exception of women, due to their 'nature', and for the 'well being of the family'. Gender-based discrimination, at the time, was clear in most aspects of life, as women were not allowed to vote, drive or leave the country without authorization from the head of the family. (Ferreira, 1998: 3)

Compared to other countries like the United Kingdom or the USA, Portugal did not experience the waves of feminism with such intensity or at all in the same way. The country did not have a suffrage movement in the beginning of the 20th century and any discontent showed towards policy or social conduct happened mainly in the mid to late 1970s. The end of the dictatorship, in 1974, created the possibility for legal and social change. Until then, strict and patriarchal principles were too embedded in law and in the mindset of the Portuguese people to allow any progression towards a more liberal society. In 1980, Portugal started to have a bigger international participation with the signature and ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979). This implies that the Portuguese Government was determined to implement the 30 articles outlined in the convention and to adopt measures in order to end any distinction, exclusion, or restriction made on the basis of sex towards women (CEDAW, 1979: 3).

By the time of the signature, the new Portuguese Constitution had already established the equality of all citizens, and between other rights, women formally gained financial independence from their husbands and the right to vote. Nonetheless, it was in 1983 that the Portuguese Government took the first step towards the fight of domestic violence with the article nº 153 of the Penal Code, in which the mistreatment of minors and between spouses became a crime.

When Portugal joined the European Economic Community (EEC) in 1986, it was able to closely follow the European integration Project's work towards gender equality. Although,

according to Montoya (2009), until the 1990s, most of the EEC's work on this topic focused more on economics than on social rights (ibid: 333).

In the early 1990s, the Portuguese Government made some legal advancements against domestic violence and towards gender equality. The law number 61/91⁴ from the 13th of August 1991 marked the beginning of the regulation towards the protection of victims of violence. The beginning of the decade is also marked by the foundation of the first Portuguese association designed to help victims of crimes in an individualized, qualified, free of charge, and confidential way.⁵ The Portuguese Association of Victim Support (in portuguese the Associação Portuguesa de Apoio à Vítima - APAV), is a national association that seeks to promote the protection and support of victims, in particular the less fortunate, trough providing information on their rights and by assisting with moral, legal, social, psychological, and economic support. Trough its work, APAV is also able to collect statistical information regarding topics like homicide or domestic violence, which then are compiled into statistical reports and shared online.

In May 1995, Portugal experienced a legal reform which represented another step towards the end of domestic violence. The maximum prison sentence for domestic violence and rape went up from three to five years. Also, the concept of domestic violence suffered a few updates: it was broadened in order to include psychological mistreatment and also to include violence between family members or someone with whom the victim lives, like a partner or child, other than the spouse. According to APAV's statistics, these were important changes: between 2013 and 2017, on average, 37,65% victims of domestic violence suffered psychological mistreatment.

⁴ https://www.apav.pt/apav_v3/images/pdf/DL_61_91.pdf

⁵ https://www.apav.pt/apav_v3/index.php/pt/a-apav/quem-somos

Later, in 1995, the world conference on women in Beijing brought further awareness to the fight for women's rights at the international level, where Hilary Clinton gave a speech stating that “Women’s Rights are Human Rights”. In Portugal, legally, women's rights had improved considerably since the 1970s, and in 1997 a new revision of the constitution led to the promotion of equal opportunity between genders as one of the State's official tasks, and to an affirmation towards equal participation by men and women in politics. This change would lead to more and better work opportunities for women, opening them up to more powerful positions in politics or any other area of business.

When it comes to domestic violence, in 1999 the Portuguese Government created a new initiative called the National Plan against Domestic Violence (Plano Nacional contra a Violência Doméstica). In the meantime, this project has evolved and there have been five different subsequent plans. The most recent one, (Diário da República, 1.^a série, N.º 253, 2013: 7019) focuses on four different strategies to tackle domestic violence: preventing, sensitizing and educating; protecting victims and promoting their integration in society; intervention and connection with the offenders; and training professionals in order to assist the victims. In the following year, domestic violence became a public offense, which means that a simple complaint or accusation would be enough for public prosecution. Shortly after, the Council of Europe adopted, in 2002, the Recommendation on the Protection of Women against Violence, which outlined an inclusive definition of violence against women; listed specific measures that states should introduce, develop, and improve; and provided a monitoring framework by which member states would be required to report their progress every two years (Montoya, 2009: 335).

The Portuguese government kept on making changes to law and creating new ones like the law n° 59/2007, from the 4th of September 2007, which states that domestic violence is an autonomous crime from mistreatment and any other infraction of security laws. In the

following couple of years, three more laws supported the fight for women's rights and against domestic violence even further: the law n.º 14/2008 from the 12th of March, which forbids and sanctions gender discrimination regarding the accessibility of services and goods; the law n.º 104/2009 from the 14th of September, that approves financial compensation for victims of domestic violence and violent crimes; and the law n.º 12/2009 from the 16th of September which establishes the applicable regime towards the prevention of domestic violence, the protection and assistance of its victims. The latter has been updated three times since then - its latest alteration (at the time of the writing of this dissertation) is the law n.º 129/2015 from the 3rd of September 2015.

When it comes to the fight against domestic violence and gender-based violence, one of the most important conventions to date is the 2011 Istanbul Convention. It was held by the Council of Europe on preventing and combating violence against women and domestic violence and it was the first legally binding convention in the area (EPRS, 2018: 5). Portugal signed it in 2011; however, it was only ratified in 2013. It came into force in 2014 and was signed by the EU in 2017 – meaning that Portugal ratified on its own it even before it was ratified at the EU level. It was described as a new landmark treaty of the Council of Europe, which opened the path for creating a legal framework at a pan-European level to protect women against all forms of violence, and prevent, prosecute, and eliminate violence against women and domestic violence (Council of Europe, 2011).

Not long after it came into force, the main results of the biggest EU-wide survey on violence against women were released. It revealed that violence against women undermines women's core fundamental rights such as dignity, access to justice, and gender equality. Statistically, in Europe, one in three women (33%) has experienced physical and/or sexual violence since the age of 15 and every second woman (55%) has been confronted with one or more forms of sexual harassment (FRA, 2014: 167). Therefore, violence against women is not

an issue that only affects third world countries or a minority. This implies that it cannot be seen and treated as a marginal issue that reaches only some women's lives. Additionally, according to the European Added Value Association (EAVA) (2013), violence against women is an omnipresent scourge and gender-based violence against women is not only a serious violation of human rights and a form of gender-based discrimination, but it is also the main structural expression of inequality between women and men (ibid: 7).

3.2 Discussion: the transfer of norms between the European Union and the Portuguese levels

When referring to Europeanization, our reference is Radaelli's (2003) conceptualization, who believes that actors can learn from outside the EU, since globalization and the worldwide spread of information needs to be taken into consideration. The author explains Europeanization as being a set of processes of construction, diffusion, and institutionalization of formal and informal rules, procedures, policy paradigms, style, "ways of making things", and shared beliefs and norms, which are first defined and consolidated in the making of EU decisions and then incorporated within the logic of domestic discourse, identities, political structures, and public policies (ibid.: 4). In order to analyze Europeanization and its existence in Portugal regarding the areas of women's rights and domestic violence, it was crucial to review both national law and European events, conventions and advancements, as I have done in the previous subchapter, since the latter should influence the former. In the early 1970s, Portuguese women lived in the 'dark ages' without any rights and overwhelmed with obligations. After the revolution, in 1974, and in the years that followed, women slowly gained a greater sense of equality and civil rights back. Most of these changes occurred prior

to the signature of CEDAW in 1979. So, until then, we are unable to identify any signs of Europeanization.

Portugal started its fight against domestic violence in 1983 and the 1990s were the decade in which Portuguese law made greater advances and people's awareness regarding the topic grew. In 1995, the Beijing Convention reminded member states of the necessity of seeing women's rights as human rights and of the urgency of tackling gender-based violence. Before this convention, Portugal had already made changes to its law in order to fight gender-based violence and protect its victims. In 1997, a new revision of the constitution led to the promotion of equal opportunity between genders as one of the state's official tasks. Until then, we are unable to identify any link between Portugal's and EU's discourse. In 1997, we are able to do so; however, identifying evidence of Europeanization is hard, as there is no mention to the EU's work so far.

After this, the Daphne program and the Istanbul Convention, in 2011, stand out as catapulting women's rights and domestic violence as urgent issues to be tackled. These types of events and initiatives played an important role in ensuring that member states were acting towards gender equality. In Portugal, even though they were relevant, the Portuguese government after the dictatorship was determined to focus on power and freedom. However, before the Beijing Convention (1995), the Portuguese Government had already made legal advancements when it comes to balancing the scale on gender equality and discrimination. Only after this convention were we able to identify a correlation between the EU's work and domestic change in Portugal.

Understanding Radaelli's (2000, 2003, 2006) approach to Europeanization is essential in order to be able to analyze the development of women's rights in Portugal. This concept is a four-fold approach, meaning that the author considers the existence of four possible stages to the process: absorption, transformation, inertia, and retrenchment. Absorption refers to the

inclusion of European requirements and inputs, transformation refers to a fundamental shift of national practices, inertia refers to cases in which governments resist Europeanization, and retrenchment refers to cases in which there is opposition to the European requirements, leading to 'less Europeanization' (Lenschow, 2006: 62). However, when studying Europeanization, there is the need to remember that globalization and the spread of information worldwide are factors to take into consideration, as member states are dynamic and not static.

The Portuguese Government, since the mid-1970s, made a political effort to assist women in the fight for equality. In the decades that followed, Portugal strived for continuing this fight, which led to new laws and amendments being passed throughout the years. Until the 1995 Beijing Convention, Portugal had been ahead of the EEC/EU's requirements and there were no correlations between the work of the two entities. In 1997, we see the promotion of equal opportunity between genders being set as one of the state's official tasks and we can identify Portugal following the EU's discourse and policies, although we are unable to directly classify it as Europeanization, as there is no mention to the EU's work. The Convention of Istanbul in 2011 changed that. Even though Portugal was already in line with most of the European requirements, domestic changes occurred, and these were derived from the EU's influence on domestic violence. In Istanbul, the vulnerability of victims was recognized, and the concept of domestic violence evolved, which was updated in article nº 152 of the Portuguese Penal Code. This Convention also established an european pattern in order to defend the victims of domestic violence. These international norms were adapted to national law, especially as european directives were translated into Portuguese law (Casaca, 2019: 101). The aftermath of the Convention shows that Portugal included european requirements into its law, proving the existence of Europeanization on this topic.

Although the country made big legal advancements on gender equality, according to the European Institute for Gender Equality (EIGE) and the Gender Equality Index, Portugal, apart from work and violence, scores below average on nearly every category: time, money, knowledge, power, and health. Health and work are the categories in which Portugal has its highest scores, while time and power are the lowest scores.⁶ Furthermore, at the European level, domestic violence and violence towards women are identified as a serious violations of human rights (EAVA, 2013: 7), as almost 70% of victims of violence are faced with severe health consequences, a third of victims have experienced violence from multiple types of perpetrators, and nearly half of the victims of violence have not disclosed the incident to anyone (Gender Equality Index, 2017).

Additionally, the low prosecution and conviction rates for crimes of domestic violence and rape are a problem common to a number of EU member states (European Parliamentary Research Service, 2018: 7). At the European level,⁷ Virginija Langbakk, the Director of EIGE said that ‘we are moving forward at a snail’s pace.’ According to Langbakk, the EU is still far away from reaching a gender-equal society and all member states have room for improvement. The Gender Equality Index shows whether government

policies are matching the specific needs of women and men, and if these are working.

Over the last ten years, the biggest leap for gender equality has been in the area of decision-making, especially in the private sector. Although gender equality in decision-making has improved, it still has the lowest score at the European level. This reflects the uneven representation of women and men in politics and marks a democratic deficit in EU governance.

⁶ <https://eige.europa.eu/gender-equality-index/2015/PT>

⁷ <https://eige.europa.eu/news/gender-equality-index-2017-progress-snails-pace>

3.3 Considerations regarding the treatment of data on violence

The most concerning findings in our analysis concern violence and the treatment of data. Firstly, it is the only domain with very reduced data from the year of 2012 alone. Secondly, EIGE considers this to be a satellite domain, which means that it belongs to the framework of the Gender Equality Index in all respects but does not impact the overall score or the EU's average. Thirdly, violence is represented, unlike the general score of the Gender Equality Index. As with other variables, the higher the score, the closer the country is to achieving equality between women and men in all areas; yet, the interpretation of the composite measure of violence against women uses the opposite approach. This means that the higher the score of the composite measure, the more serious the phenomenon of violence against women is in the country.⁸

Besides being confusing and, since violence towards women is not only a serious violation of human rights and a form of gender-based discrimination, but it is also the main structural expression of inequality between women and men (European Added Value, 2013: 7), the fact that it does not count for the member states' overall scores is strange. Especially as countries like Finland, Denmark, the Netherlands, and Sweden are poorly scored on Violence, but have some of the highest scores on the Gender Equality Index from 2017. One must trust that it has to do with the lack of reliable data regarding violence, due to the circumstances in which it occurs being incredibly sensitive and therefore likely under-reported. However, the findings regarding the violence domain, the fragmentation of data, and lack of care towards it leads us to believe that the Index is not as straightforward as it should be.

According to this same Index, Portugal is the fourth country, out of 28, closer to achieving gender equality when it comes to violence, even though Portuguese national statistics

⁸ <https://eige.europa.eu/gender-equality-index/about>

reveal unsettling numbers, with women being 82,5% of the total of victims of domestic violence, and 80% of abusers being male. When comparing Portugal to the EU's average, overall the EU scores 66,2 points, while Portugal scores 56 points. Additionally, the domains with a bigger discrepancy between the European average (which scores higher) and Portugal (which scores lower) are Power and Time. Power, with a difference of 14,6 points, mainly due to the lack of economic power, and Time with a difference of 18,2 points, mainly due to the lack of time for social activities. According to Macedo and Santos (2013), female work within the private domestic space also survives in a position of invisibility in terms of social recognition (ibid: 236). When comparing the European overall average and the Portuguese average, with the Gender Equality Index, in 10 years (from 2005 to 2015) the Portuguese average improved 6.1 points, while the European average improved 4,2 points in the same time frame. Recalling EIGE Director Virginija Langbakk's words, we are moving forward, but 'at a snail's pace'.

In Portugal, statistical data regarding this sensitive topic was also not reliable, as it was vastly under-reported.⁹ A well known popular expression in Portugal on the topic of marriage is: 'entre marido e mulher não se mete a colher', which translates to 'between husband and wife we don't put a spoon'. This expression implicates that there is a culturally based understanding that, in the worst-case scenario, someone outside that relationship should not meddle between a husband and his wife. Even though this is just a popular expression, it reflects and explains why it took so many years for victims and others outside the relationship to report violent situations, as it was simply not socially acceptable. Additionally, in 2000, Portuguese law states that domestic violence is a public crime, which implies that a simple complaint became enough to open a lawsuit.

⁹ https://www.apav.pt/apav_v3/images/pdf/Estatisticas_APAV_25AnosNumeros_1991-2016.pdf

APAV's records after 2000, and in the following years, show a huge spike in the number of reported incidents of domestic violence. In 1999, 4740 cases were reported, while in 2000, 10270 cases and two years later, the number doubled to 20594 cases being reported. With the formation of APAV in the beginning of the 20th century, Portuguese women finally had an association designed to help them with the circumstance they were facing. Besides helping victims of domestic violence and other crimes, APAV collects and organizes information, which is used to build statistical data. Some of the most important reports that show trends regarding women's rights and domestic violence within the Portuguese society are: 25 years in numbers > 1991-2016 (25 anos em números > 1991-2016) and domestic violence victims 2013-2017 (vítimas e violência doméstica 2013-2017). In the last three years (2016 – 2018), the cases of domestic violence reported in Portugal and the number of appointments held by APAV have grown immensely (and continue to do so).

From 2016 until 2018, there was a growth of 31% of cases: from 35411 appointments in 2016 to 46371 appointments in 2018. This does not necessarily mean that domestic violence is the worst that it has ever been in Portugal; it means that people (victims or otherwise) are reporting the situation more than before, meaning that it is extremely important to have a real understanding of the problem in order to be able to address it accordingly. The statistics show that, from 2013 until 2017, 85,73% of victims of domestic violence were women, who were married (34%), and belonged to a nuclear family with children (41,9%). In 80% of the cases, these victims suffered with continuous victimization, meaning that it was repeated throughout time, with an average duration between two and six years (15,1%). Additionally, 65% of the situations occurred at the family residence and only 40,3% of victims pressed charges to the authorities. The abusers in over 85% of the situations are male with ages between 26 and 55 years of age.

The statistics from 2018 changed slightly, but overall the numbers were very similar: the majority of the victims were women (82,5%), with ages between 25 and 54 years of age (39,8%); victims were mainly married (27,7%) and belonged to a nuclear family with children (32,9%); over half of the contacts (55.9%) made came through the available phone line; the aggressors, 80% were male, with ages between 35 and 54 years (21,3%), and shared an intimate relationship with the victim, as 57,7% were spouses, partners, boyfriends, or former spouses, former partners, or former boyfriends.

Portuguese law has come a long way to help women gain their independence and strength. Nowadays, women are able to achieve things that previous generations never thought possible; however, women still face discrimination on the grounds of sex, violence, rape, stalking, sexual harassment at work, catcalling on the streets, cyberbullying online, and, in severe cases, femicide. The most important step will always be to educate and change mentalities, as the law is no longer enough. This 'step' is, in fact, a long path towards gender equality, as changing mindsets can take generations. Portuguese public policies have kept the compromise to promote gender equality in all national, international, and European instances, as mentioned in the National Plans towards Gender Equality, Citizenship, and non-Discrimination, and the National Plan to Prevent and Combat Domestic and Gender-based Violence (Macedo e Santos, 2013: 235). However, statistical and dialogical data shows that gender stereotypes still prevail (ibid: 239).

The discussion of women's access, progress, and qualifications also brings to light their fragile position when it comes to equality of conditions in working and learning. Stereotypes, together with social and institutional generalized resistance to change, lead women to develop more traditional pathways and constitute an obstacle to equality of condition (ibid: 240). When it comes to domestic violence, statistics show that Portuguese women are the main target of this crime, and 44,35% of them are still not pressing charges to

the authorities. Despite the government's efforts to improve the situation, women are still in a fragile position. Magone (2006) highlights that centralized decision making, low-level qualification, and inefficient human resource allocation as being some of those old patterns that prevent Portugal and its democratic culture from maturing and developing (ibid: 756).

CONCLUSION

The proposition made with this dissertation was to study and understand how the European integration and membership influenced Portuguese discourse, policies, actions, and institutions regarding women's rights and domestic violence, in light of the concept of Europeanization. When comparing women's rights from before 1974 with those from today, we reach the conclusion that they were exceedingly reduced in the past. One of the biggest evidences was the Portuguese Constitution at the time, which established citizen equality, apart from women, who were considered inferior due to 'their nature and for the well being of their family'. The 1974 revolution allowed women to gain basic civil rights. Nowadays, on paper, Portugal is in a good position when it comes to women's rights and domestic violence. However, there is a discrepancy between Portuguese law and reality as gender stereotypes, together with social and institutional resistance to change, lead women to develop more traditional pathways and constitute an obstacle to gender equality. Nonetheless, I was able to verify the existence of Europeanization and its mechanisms in the area of women's rights and domestic violence; however, its impact was mainly legal.

The analysis of my primary sources was crucial for a better understanding of the European and Portuguese discourse, policies, actions, and institutions. By the time of the Beijing Convention in 1995, Portugal was already fighting inequality. Moreover, in 1997, the promotion of equal opportunity between genders being was set as one of the state's official tasks and Portugal seemed to be following the EU's discourse. In this occasion, we are unable to identify a direct link to Europeanization, as there is no mention to EU's work. The Convention of Istanbul in 2011 was a landmark event. Even though Portugal was already in line with most European requirements, domestic changes occurred, and these were clearly derived from the EU's influence.

The concept of domestic violence evolved and was updated in article nº 152 of the Portuguese Penal Code. Additionally, an european pattern in order to defend the victims of domestic violence was established and included in the National Plan to Prevent and Combat Domestic and Gender-based Violence. Also, european directives were translated into Portuguese law. On this instance, we can conclude the existence of Europeanization processes of absorption and transformation, as Portugal included European requirements into its law and had a fundamental shift of national practices due to the National Plan to Prevent and Combat Domestic and Gender-based Violence. Notwithstanding, even though several and important legal changes were made, Portuguese women are still threatened by domestic violence, discrimination, and sexual harassment, which is not being reported as much as it should. In 2018, there were more victims not pressing charges to the authorities (44,35%), than the ones who did (40,26%). Speaking up has never been so important, which is the reason why movements like #MeToo and 'time's up' have gained such momentum. Only when victims speak up will we understand the real scope of gender inequality.

At the European level, developments towards gender equality have been real, but have been developing at an exceptionally slow pace, including for Portugal. According to the Gender Equality Index, even though the European Average is higher than Portugal's for over 10 points, in 10 years (2005-2015), Portugal improved proportionately faster than Europe. Another conclusion taken from the Index is that in Portugal the domains with lower score on gender equality (in general and in comparison to the EU average) are time and power. Power due to the lack of economic power and Time due to the lack of time for social activities. When it comes to violence, the Index revealed misleading information as it only has statistical information on violence from 2012, which, in turn is considered to be a 'satellite domain' and, according to the Index, it does not count for the scores of any country, and lastly, Portugal is considered to be the 4th member state with more gender equality. This leads to several

questions that could be addressed in future research: Why does violence not count and why is violence data not analyzed and exposed with the same care as the other domains? How is it possible for Portugal to be the 4th member state with more gender equality on violence when in 2018 82,5% of victims of domestic violence were female and 80% of abusers were male?

The discrepancy, lack of care, and fragmentation of the data available makes it manifestly hard to draw reliable conclusions not just on the status of violence in the European Union, but also on grasping the real image of gender (in)equality across Europe. When it comes to further difficulties, finding, reading, and interpreting Portuguese law comes up as particularly challenging. It is particularly hard to find Portuguese laws throughout the years. Understanding the legal and political context for Portuguese women throughout the 1970s until the 1990s is demanding, as the available information is very reduced.

Besides having difficulties in finding reliable data on the topic, it was also particularly challenging to find a causality between a Europeanization process and Portuguese discourse, policies, actions, and institutions regarding women's rights and domestic violence, apart from the more visible influence of the 2011 Istanbul Convention. Therefore, the use of Europeanization as an analytical approach for women's rights and domestic violence would perhaps be more effective on a different case study.

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