

# 2.18

## Portugal

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**Population (2003):** 10.4 million  
**Total Fertility Rate (2000-2005):** 1.5  
**GDP per capita (US\$ using Purchasing Power Parities) (2003):** \$18,126  
**Female economic activity rate (ages 15 and above) (2003):** 51.8 per cent  
**Female economic activity rate as per cent male rate (2003):** 72 per cent  
**Employment rate for women with a child under 12 years – total with part-time rate in brackets (2003):** 76.4 per cent (7.2 per cent)  
**Difference in employment rates between women without children and women with child aged 0-6, age group 20-50 (2005):** -3.8 per cent  
**Gender-related Development Index (ranking out of 177 countries):** 26<sup>th</sup>  
**Gender empowerment measure (ranking):** 21<sup>st</sup>

### 1. Current leave and other employment-related policies to support parents

#### a. Maternity leave (*licença de maternidade*) (responsibility of the Ministry of Labour and Social Solidarity)

*Length of leave (before and after birth)*

- One hundred and twenty days: 90 must be taken following the birth, the remaining 30 days may be taken before or after the birth.

*Payment*

- Hundred per cent of earnings.

*Flexibility in use*

- Women can choose when to take 30 of the 90 days.
- Women can take 120 days at 100 per cent of earnings or 150 days at 80 per cent.
- The mother must take at least six weeks leave after which the remaining entitlement can be transferred to the father.

*Eligibility (e.g. related to employment or family circumstances)*

- All women employees with a record of six months (continuous or intermittent) of insurance contributions.

- Self-employed workers who contribute to social security are eligible.

*Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother*

- In the case of multiple births, the leave period is extended by one month for every additional child.
- In cases of poor health or death of the mother after giving birth, the father is entitled to the (remaining) leave to which the mother would otherwise be entitled.
- A working grandparent is entitled to 30 days leave following the birth of a grandchild to an adolescent still living at home.

## **b. Paternity leave (*licença de paternidade*) (responsibility of the Ministry of Labour and Social)**

*Length of leave*

- Twenty days, of which five are obligatory and must be taken in the first month after childbirth. The remaining 15 days must either be taken during the first month or after other leave taken.

*Payment*

- As for maternity leave.

*Flexibility in use*

- None.

*Eligibility (e.g. related to employment or family circumstances)*

- As maternity leave

*Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother*

- None

## **c. Parental leave (*licença parental*) (responsibility of the Ministry of Labour and Social Solidarity)**

*Length of leave*

- Three months per parent. The leave is an individual and non-transferable entitlement .

*Payment*

- None.

*Flexibility in use*

- Leave may be taken up to the child's sixth birthday.
- Leave may be taken: a) on a full-time basis for three months; b) on a half-time basis for a period of twelve months per parent; or c) on an alternating basis, i.e. working half-time and full-time up to a maximum of three months per parent.

*Eligibility (e.g. related to employment or family circumstances)*

- As Maternity leave.

*Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the parents*

- None

*Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone)*

- Where both parents work for the same employer, the employer has a right to postpone the leave of one of the parents.

#### **d. Childcare leave or career breaks**

- After Parental leave, one of the parents may take two years special leave on a full-time basis, extended to three years when there is a third or subsequent child and to four years when there is a severely handicapped or chronically ill child (*licença especial para assistência a filho ou adotado*). The leave is unpaid except in the case of handicapped children where the parent is entitled to a small cash benefit from social security. Unlike Parental leave, which is an individual entitlement, this special leave can only be taken by one parent who must prove that the other partner is employed or incapable of working. Moreover, while parents on Parental leave continue to be considered as employees with full rights and guarantees as if they were working (for example, they continue to be entitled to holidays which they can take at the end of the leave period), in the case of special leave, there is a suspension of the work contract: all rights and guarantees are suspended but the worker's right to return to his/her job is safeguarded.

#### **e. Other employment-related measures**

*Adoption leave and pay*

- In cases of adoption of a child under age fifteen, the adopting parent has a right to one hundred consecutive days leave. If there are two adopting parents, the leave may be divided between them.

*Time off for the care of dependants*

- Up to 30 days per year can be taken to care for sick children under the age of 10 years, with no age limit in the case of a child who is chronically ill or disabled. This is a family entitlement to be divided between parents as they choose. Paid at 65 per cent of the minimum wage.
- Up to 15 days unpaid leave per year to care for a spouse, older child or co-resident elderly relative, increased by one day for every second and subsequent child.

*Flexible working*

- One of the parents is entitled to two hours 'nursing' leave per day during the first year after birth, with no reduction of earnings. Although it is called 'nursing' leave, it may be taken by the mother or the father.
- If there is a handicapped or chronically ill child below one year of age, one of the parents (as long as the other is employed) may also apply for a five-hour reduction in the working week.

- Parents are entitled to four hours leave per school term to go to their children's school until children reach 18 years of age, with no reduction of earnings.

## **2. Changes in leave policy and other related developments** (including proposals currently under discussion)

Most of the changes in leave policy were introduced in the late 1990s, in particular with Decree-Law 142, 31 August 1999. Subsequent changes were introduced by the coalition government elected in March 2002:

- Unpaid part-time parental leave to care for children below six years extended from six to 12 months; five days of paternity leave made obligatory; parents' entitlement to a maximum of four hours leave per term to go to their children's school; the right to 15 days leave per year to care for a sick older child, a spouse or co-resident relative increased by one day for every second child and subsequent children (introduced in 2003);
- Changes in the protection of women in the workplace, such as: increase in the period of protection against dismissal from 98 to 120 days after giving birth; women with children under 12 months (previously 10 months) are exempted from working extra hours; pregnant women, women who have just given birth and nursing mothers are exempted from the regime of 'adaptable work' (according to this regime, normal working hours - eight hours per day, 40 per week - may be increased by two hours per day up to a maximum of fifty hours a week (introduced in 2003);
- A choice of taking maternity leave either as four months at 100 per cent of earnings or five months at 80 per cent (introduced in 2004);
- The government also announced in 2004 its intention to increase maternity leave by two weeks and its desire to increase part-time work by mothers with young children as a work/family solution. However, this government fell at the end of 2004. New elections took place in February 2005, with the Socialist party winning a majority of seats in parliament. Leave policies have not been high on the agenda in 2005. However, the governmental programme underlines the need to promote more equal sharing of the maternity leave (apart from six weeks reserved for the mother, this entitlement can be transferred to the father). It has suggested that a possible solution would be to make the fifth month of leave dependent on more equal sharing of the previous four months between mothers and fathers. Until now, no measures have been proposed.

There has also been some debate related to the payment of maternity leave but so far no changes have been introduced. For example, trade unions consider that there should be 150 days paid at 100 per cent of earnings and they have also underlined the need

for a minimum amount of benefit for maternity leave in the case of unemployed workers.

### **3. Take-up of leave**

#### **a. Maternity leave**

It is estimated by the Ministry of Labour and Social Solidarity that about two thirds of mothers (71 per cent in 2004) are eligible for paid maternity leave. For the option, introduced in 2004, between four months leave at 100 per cent of earnings or five months at 80 per cent of earnings, it is estimated that in 2005 about 25 per cent of mothers on maternity leave decided to choose the longer leave period.

Parental sharing of the four or five months of maternity leave has remained at extremely low levels. In 2004 only 363 fathers (0.3 per cent) shared some of the leave and in 2005 only 421. In summary, the four or five months of leave after childbirth still seem to be considered as 'maternity' leave rather than as 'shared' leave.

#### **b. Paternity leave**

The emphasis in Portuguese policy on gender equity appears to be having some effect. Since 2002 there has been a steady increase in the take up of paternity leaves. The five day paternity leave (introduced in 1999 and made obligatory in 2003) was used in 2002 by 26 per cent of fathers and the 15 day additional paternity leave by 14 per cent; while in 2004 the same leaves were taken up by 38 per cent and 29 per cent of fathers. Government estimates for 2005 confirm these upward trends: 43,267 fathers taking the five day paternity leave (up from 41,214 a year earlier) and 33,296 taking up the 15 day paternity leave (up from 31,425).

The rise in take-up of paternity leave is related to increased awareness of benefit conditions and entitlements. Nevertheless traditional gender role attitudes in workplaces often play a role in depressing take up. The 'obligatory' clause introduced in 2003 is helping to increase take-up rates of the five day leave but the impact is not as widespread as expected.

#### **c. Parental leave**

There is no information on take-up of leave. But as leave is unpaid, take-up is estimated to be very low.

### **4. Research and publications on leave and other employment-related policies since January 2001**

#### **a. General overview**

Policies to support working parents have been developed since the revolution in 1974. During the 1990s the issue of reconciling work

and family life gained ground and that there was a strong increase in service provision, in particular for the three to six year olds. In the late 1990s, the Socialist government introduced a perspective on family policy which was more strongly linked to gender equality policies, leading to the introduction of paid paternity leaves, two hours of work reduction (either parent) during the first year of the child's life and also to the option of sharing, by both fathers and mothers, of the maternity leave (after the six weeks which have to be taken by the mother). Most research has been on the broad question of the reconciliation of work and family life rather than specifically on leave policy, though most studies include information on such policies.

#### **b. Selected publications from January 2001, including results from research studies**

Wall, K., Aboim, S., Cunha, V. and Vasconcelos, P. (2001) 'Families and support networks in Portugal: the reproduction of inequality'. *Journal of European Social Policy*, Vol.11, No.3: 213-233.

The article analyses informal support networks in Portugal and shows that assistance flows mainly from parents and is strongly related to families' position in the social structure, with less favourable occupational categories determining lower levels of support (for childcare, for example) over the course of married life.

Wall, K. (2001, 2002, 2003, 2004) *Families and Family Policies in Portugal, Monitoring Reports for the European Observatory on the Social Situation, Demography and Family*.

Available at: [http://europa.eu.int/comm/employment\\_social/eoss](http://europa.eu.int/comm/employment_social/eoss)

These reports monitor the situation of families and the development of family policies over the last few years in Portugal; leave policy and the reconciliation of work and family life are two of the main trends described in these reports.

Wall, K. (2002) 'Mães sós e cuidados às crianças' ['Lone mothers and caring for young children'], *Análise Social*, No.163: 631-663.

This article reports on a qualitative study on the reconciliation problems of lone mothers in Portugal.

Guerreiro, M.D., Abranches, M. and Pereira, I. (2003) *Conciliação entre vida profissional e familiar – políticas públicas e práticas dos agentes em contexto empresarial [Reconciling Work and Family Life: Public Policies and Practices of Employers]*. Lisboa: CIES.

The research explores the relationship between work and family among young working parents in different organizational contexts in Portugal, combining an analysis of workers' strategies and perceptions with the study of organizational dynamics, comparing public and private sector organizations and considering the changes taking place in both sectors.

Perista, H. and Palma Ramalho, M.R. (2003) *Concilier Famille et travail entre les femmes et les hommes – du droit à la pratique (Rapport final des expertes juridiques et sociologiques portugaises)*. CESIS, Lisbon (mimeo): Association des Femmes de l'Europe Méridionale (livre en préparation).

This report, which will be included in a book comparing several European countries, analyses the concept of reconciliation, describes national legislation regarding the conciliation of work and family life and proposes new legal measures and good practices concerning the reconciliation of work and family life.

Organisation for Economic Cooperation and Development (2003) *Babies and Bosses: Reconciling work and family life. Vol 3 – New Zealand, Portugal and Switzerland*. Paris: OECD Publications.

A report of an OECD review of three countries, taking place in Autumn 2002, which examined policies and practices that aim to facilitate the reconciliation of work and family for parents with young children.

Torres, A. (ed.) (2004) *Homens e Mulheres entre família e trabalho [Men and Women between Family and Work] (CITE, Ministério da Segurança Social e do Emprego, Estudos, No. 1)*. Lisbon: DEEP.

This book presents the results of a 1999 survey on the reconciliation of work and family life in Portugal.

Wall, K. and São José, J. (2004) 'Managing work and care in immigrant families in four European countries', *Social Policy and Administration*, Vol.38, No.4: 591-621.

This article explores the strategies used by immigrant families to reconcile work and care for young children in four European countries (Finland, France, Italy and Portugal) drawing on in-depth interviews with couples and lone parents who have children below age ten.

Wall, K. (2006 forthcoming) 'Family change and family policy in Europe', in: S. Kamerman and A. Kahn (eds.) *Family Change and Family Policies in Southern Europe*. Oxford: Clarendon Press.

The chapter on Portugal analyses six main topics: the Formation of Families; Family law; Families and the Division of Labour (including the analysis of employment and parenting policies); the Income of Families; Families and Social Services; the Politics and Institutionalization of Family Policies.