

Portugal

Portugal is a constitutional republic, with a president and prime minister in executive roles, and multi-party elections.

Constitution and government	Education and children's rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
<u>There is systematic religious privilege</u> <u>There is a religious tax or tithing which is compulsory, or which is state-administered and discriminates by precluding non-religious groups</u>		<u>Discriminatory prominence is given to religious bodies, traditions or leaders</u>	<u>Criticism of religion is restricted in law or a de facto 'blasphemy' law is in effect</u>
	<u>State-funded schools offer religious or ideological instruction with no secular or humanist alternative, but it is optional</u>		

Legend

Constitution and government

The constitution and other laws and policies protect freedom of thought, conscience and religion, as well as freedom of expression and freedom of assembly. These rights are generally respected in practice. The law prohibits employers from discriminating against individuals on the basis of religion or belief, and requires reasonable accommodation of employees' religious practices.

The government maintains a separate agreement with the Roman Catholic Church under the terms of a 2004 concordat with the Holy See, which replaced the concordat of 1940. The concordat allows the Catholic Church to receive a percentage of the income tax voluntarily allocated by taxpayers to various institutions in their annual tax returns. A taxpayer may allocate a portion of his or her tax payment to any registered religious group. The Catholic Church and "rooted" religious communities are also exempt from VAT.

<laicidade.org/wp-content/uploads/2007/06/concordata-2004-05-18.pdf>

The Law on Religious Freedom stipulates the relations between the government and religious communities, but doesn't mention any humanist, secular or other philosophical groups. The law allows each religious group to negotiate their own concordat-style agreements with the government.

The Religious Freedom Commission has representatives from several small religious communities, but no representatives from humanist or secular organizations.

<laicidade.org/wp-content/uploads/2007/01/lei-16-2001-06-22.pdf>

The State pays for the salaries of chaplains in public hospitals, prisons, the armed forces and the

police force. All the chaplains are nominated by the Catholic Church.

Religious symbols such as crucifixes are on display in many State primary schools and hospitals, and in some municipalities meeting rooms. Priests are invited to many public inaugurations by local authorities and by national authorities.

Education and children's rights

Public secondary schools offer an optional survey course on world religions taught by lay teachers. Religious groups may offer optional religion instruction through state-funded schools, provided the course is taught by lay teachers and ten or more students of the faith attend the class. The Buddhist, Bahá'í and Christian evangelical communities have teaching courses approved by the State. Religious group representatives have the right to approve the course's instructors as well as to dismiss them. All schools, both public and private, are required to accommodate the religious practices of students, including rescheduling tests if necessary (whether this extends to secular holidays or any non-religious practices is unclear).

<dge.mec.pt/educacao-moral-e-religiosa>

Local sources report that in public schools, the school administration often pressures parents into enrolling their children in Catholic education courses.

Pastoral visits to public schools by local Catholic priests, including the suspension of classes to participate in mass, take place in some schools, mainly around Easter.

The State has been unwilling to force gypsy families to keep girls in school after puberty and before the end of the legal period of obligatory schooling.

Since 2015 there has been a law penalizing female genital mutilation, however it is rarely enforced, despite cases being reported every year.

<publico.pt/2018/09/09/sociedade/noticia/se-acontece-em-portugal-mas-nao-ha-condenacoes-nao-e-feito-muito-bem-o-trabalho-de-casa-das-entidades-1843493>

Family, community, society, religious courts and tribunals

According to a census conducted in 2011, 81 percent of the Portuguese population is Catholic.

<ine.pt/xportal/xmain?xpid=INE&xpgid=ine_publicacoes&PUBLICACOESpub_boui=73212469&PUBLICACOESstema=55466&PUBLICACOESmodo=2&xlang=en>

There are no major restrictions on personal social freedoms. Portugal legalized same-sex marriage in 2010 and extended adoption rights to same-sex marriage in 2010. In 2007, Portugal held a referendum to remove what had been one of Europe's most restrictive abortion laws. The majority of voters were in favor of the legalization of abortion during the first 10 weeks of pregnancy.

<theguardian.com/world/2007/feb/12/gilestremllett.international>

However, doctors are granted the right of conscientious objection and the percentage of doctors who refuse to perform adoptions based on religious beliefs remains high.

<wbez.org/shows/worldview/in-portugal-abortion-legal-but-many-doctors-refuse-to-perform-them/5a63e08f-7ea0-4a9b-a9a5-4eac4ad570cf>

Despite government efforts aimed at prevention, education and victim protection, domestic violence remains a significant issue in Portugal. In 2016, the country registered 22,773 cases of domestic violence. Furthermore, statistics show that between 2015 and 2016, more than 5,000 domestic

violence aggressors who had already been proven guilty were exempted from serving a term of imprisonment.

<newsdeeply.com/womenandgirls/articles/2017/05/31/portugal-turns-to-prevention-to-take-on-its-domestic-violence-problem>

In a 2014 case of violent assault against a woman by two men, the attackers received light, suspended sentences. The Porto Court of Appeal upheld the suspended sentence citing the attackers' "depressive state" and citing the Bible, saying:

"adultery by a woman is a very serious attack on a man's honor and dignity, [...] Societies exist where the adulterous woman is stoned to death. In the Bible, we can read that the adulterous woman should be punished with death."

<uk.blastingnews.com/world/2017/10/judge-excuses-domestic-violence-because-of-womans-adultery-002117011.html>

<nationalpost.com/news/world/no-jail-for-portuguese-man-who-beat-ex-wife-because-her-adultery-assaulted-his-honour>

Freedom of expression, advocacy of humanist values

The Portuguese Constitution guarantees freedom of expression, freedom of information and freedom of the press.

Blasphemy law

A quasi-'blasphemy' law criminalizes "offending a person in virtue of his religious belief". Article 251 of the Criminal Code defines "Insult motivated by religious belief":

"Whomever publicly offends another person or derides that person because of his or her beliefs, in such a way as to disturb public peace, will be punished with a prison sentence of up to one year or with a fine of up to 120 days".

Article 252 further criminalizes "Hindrance, disturbance or insult to an act of worship":

"Whomever publicly vilifies a religious act of worship or derides such act will be punished with a prison sentence of up to one year or a fine of up to 120 days".

<legaldb.freemedia.at/legal-database/portugal/>

The articles do not appear to have been used in recent years.

The conflation of religious offence with the language of "public peace" and "vilification", as well as a lack of prosecutions producing case law, makes it difficult to assess interpretation of this law. We consider it unlikely that sentencing could result in a prison term without some element of hate crime, however the wording on "public offence" and "derision" based on "beliefs" alone is vague enough that the threat of prosecution remains over acts that should constitute legitimate expression about religion and thus constitutes a quasi-blasphemy law.

Defamation

Although prosecutions are uncommon, Portugal remains one of the few countries in Europe where defamation is still a criminal offense.

<freedomhouse.org/report/freedom-press/2015/portugal>

Under Article 180 of the Criminal Code, defamation is punishable by a prison term of maximum six months or a fine of maximum 240 days. If the act is committed through the media, the penalty is increased to imprisonment for up to two years or a fine not less than 120 days (Article 183).

In May 2013, journalist Miguel Sousa Tavares was placed under investigation for calling President Aníbal Cavaco Silva a “clown” in a newspaper interview. If found guilty of offending the honor of the President, Miguel could have faced up to three years in prison. However, the charges were dropped.

In April 2014, the same journalist was sued by the football team FC Porto due to comments he made in the sports daily A Bola. The team sought €1 million in compensation.

<bbc.co.uk/news/world-europe-22663977>

Between February 2005 and February 2015, the European Court of Human Rights (ECHR) condemned Portugal’s defamation laws 18 times, three times the average number of condemnations for an EU state.

<humanrightseurope.org/2014/04/portugal-journalists-celebrate-free-expression-human-rights-victory/>

The Portuguese journalist José Manuel Fernandes was found guilty of defamation by the Portuguese courts for an article written in 2006 and charged a €60,000 fine. The article centered on a critique of the appointment of Noronha do Nascimento to the Supreme Tribunal of Justice. The judge was defined as “the dark side of our justice system” and took out a prosecution for defamation.

Fernandes appealed to the European Court of Human Rights and in January 2017 he won a case for freedom of expression. The Court ruled in favor of the journalist as there was: “no reasonable relationship of proportionality between the restriction of freedom of expression of the complainant and the objective pursued of protecting the good name of Noronha do Nascimento”.

<portugalresident.com/portuguese-journalist-wins-landmark-case-over-freedom-of-expression>