



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fourth session

SUMMARY RECORD OF THE 633rd MEETING

Held at the Palais Wilson, Geneva,
on Friday, 26 May 2000 at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Malta (CRC/C/3/Add.56; CRC/C/Q/MAT/1; written replies of the Government of Malta to the questions raised in the list of issues (CRC/C/1(Future)7))

1. At the invitation of the Chairperson, Ms. Farrugia and Ms. Misfud (Malta) took places at the Committee table.

2. Ms. FARRUGIA (Malta) noted that Malta had ratified the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women in 1990. In 1993, important amendments had been introduced into the Civil Code to bring it into line with the latter Convention, including the introduction into the legislation of the sharing of parental responsibility by fathers and mothers.

3. Attention currently focused on the rights and situation of children. Several articles of the Convention on the Rights of the Child were echoed in the Constitution of Malta, while others were taken up in various acts or regulations or had been introduced into domestic legislation to give effect to other international instruments. In particular, the principle of the best interests of the child had long been present in the Civil Code.

4. In recent years, Malta had enthusiastically undertaken an overhaul of legislation and services relating to children. A draft "Children Act" was currently being prepared and would be the subject of a national debate. In particular, it promoted children as subjects of law and provided for the repeal of all discriminatory provisions, especially those concerning children born out of wedlock; the revision of the laws in force so as to encourage the protection and development of children and the regularization of procedures for placing children in foster homes and institutions. A bill establishing the post of Ombudsman for Children was also about to be published.

5. The CHAIRPERSON invited the members of the Committee to ask questions about implementation and follow-up measures.

6. Mr. RABAH noted with satisfaction that the State party had drawn up its initial report in conformity with the Committee's guidelines had ratified the amendment to article 43 of the Convention and acceded to the European Convention on the Exercise of Children's Rights.

7. He asked whether there was any form of cooperation within ministries or between the various government ministries and bodies dealing with children. In particular, what was the function of the Children and Young Persons Advisory Board? How did the Government cooperate with non-governmental organizations (NGOs)? Had they participated in the drafting of the initial report? Which services were provided by the Church?

8. Ms. MOKHUANE asked about the status of the work of the Aldgate Commission, which was in charge of studying ways to set up and coordinate the structures required for the implementation of children's rights. The Convention was taught at university level for social science and law students, but how were the relevant civil servants and parents and children made aware of the Convention at the community level?

9. She wondered why the legal age for marriage, 16 for both girls and boys, was so low, particularly in view of the fact that the age of consent for non-marital sexual relations was 18.

10. Mr. FULCI said that the report needed to be updated, as it described the situation prevailing in 1993. He would like to know who had written the report, which NGOs had been consulted and which "voluntary organizations" had taken part in its preparation. What exactly was the status of the bills on the Children Act and on the establishment of an Ombudsman for Children? Who was responsible for considering them, and when would they enter into force? What models had been used for the bill on the establishment of an Ombudsman for Children?

11. Mr. DOEK sought clarification as to the status of the Convention, which apparently had not yet been incorporated into domestic law. Since Malta had set up services and social protection systems for children he wondered, what prevented the authorities from lifting their reservation to article 26 of the Convention, as the Government of the Netherlands had already done.

12. What had been the initial conclusions of the Aldgate Commission? What was the status of the NGO Liaison Office and how was it financed?

13. Ms. TIGERSTEDT-TÄHTELÄ asked whether the adoption of the bills on the Children Act and on the establishment of an Ombudsman for Children had been slowed owing to political hesitation, and whether the media had supported their adoption. What percentage of the State budget was allocated to sectors directly of interest to children? Was Malta's economy currently strong?

14. Ms. KARP asked why it was taking so long to adopt the new legislation on children. Was public opinion in favour of such steps? What measures had already been taken to make professionals and the general public aware of such matters? Had children heard of the Convention, and were they aware of their rights?

15. Ms. RILANTONO asked how the public authorities had gone about collecting data for comparisons with other countries, in particular data on vulnerable groups.

16. The CHAIRPERSON asked whether the Government had encountered any problems in disseminating the Convention, and whether it was planning to draft a version that was more accessible to children.

The meeting was suspended at 10.35 a.m. and resumed at 10.45 a.m.

17. Ms. FARRUGIA (Malta) said that the report had been drawn up by the Ministry for Social Welfare. The Government sought to play a coordinating role in the main fields related to children.

18. Several NGOs had been consulted on the drafting of the initial report. The Government had established an NGO Liaison Office in order to hold an informal dialogue with the numerous NGOs working in Malta. It funded assistance projects, for which it had earmarked subsidies amounting to 70,000 Maltese liras in 1999; more than half of those subsidies had been allocated to NGOs specializing in children related issues.

19. The Church managed nearly all institutions for minors. Placement in institutions remained a subject of concern for the Government, but for the time being the problem was handled by the Church which was not perceived as interference in the State's affairs.

20. During their most recent mission to Malta, Ms. Aldgate and a member of her staff had begun considering the latest report on child protection, entered into consultations with NGOs and addressed the

activities carried out by the Government departments concerned. The Aldgate Commission would present its report by 2001, and the new laws should be adopted according to schedule.

21. Children were more aware of the Convention than their parents, as the Convention was taught at school and exhibitions were held on the subject. As Maltese society was very traditionalist, implementation of the principles in the Convention must take place gradually to allow time for attitudes to change. At the local level, social workers and policemen, among others received training in the Convention.

22. The legal age for marriage, which was 16 for both girls and boys, had been inherited from canon law but in practice the average age of marriage was between 24 and 26.

23. The bill concerning a children's ombudsman, which was based on legislation in Sweden, British Columbia (Canada), Iceland and New Zealand, should lead to the creation of a post of Ombudsman for Children, with the task of promoting and monitoring respect for the rights of the child. That bill should be adopted at the same time as the Children Act, but there had been some delay in the adoption process. Once finalized, the draft Children Act would be published as a White Paper and submitted for comment from the general public.

24. Any international instrument, including the Convention, had to be incorporated into a Maltese law in order to be applicable. However, that would in no way limit its scope. As for the reservation to article 26 of the Convention, the Maltese Government provided social protection for children, but the protection was commensurate with its means, and the Government was not able to ensure full realization of that right. It therefore did not plan to lift that reservation.

25. There was no specific heading in the State budget for children's services. The Ministry for Social Welfare received allocations to cover family allowances, and in addition to formal education, the Ministry of Education funded cultural and sporting activities and activities for youth.

26. After a period of stagnation, the Maltese economy appeared to be recovering without any major problems. The country was in the process of joining the European Union.

27. The Maltese-language text of the Convention served as a teaching aid at schools but a text specifically designed for children was needed. The Maltese Government intended to concentrate its efforts on the 10 per cent of children who were illiterate. It had implemented a literacy project at the local level, under which illiterate young adults took part in drafting simplified version of the Convention for children.

28. Data on children were collected by the Central Office of Statistics and various other bodies in their respective areas of competence, which sometimes led to continuity problems between statistics compiled by one body or the other. It would be for the future Ombudsman for Children to ensure the coordination of such activities. With regard to vulnerable groups the National Commission for Persons with Disabilities had collected many statistics and presented numerous reports. It cooperated with NGOs working with the disabled.

29. The CHAIRPERSON invited the members of the Committee to ask follow-up questions on the replies just given and to put questions on general principles and civil rights and freedoms.

30. Ms. RILANTONO requested further information on family planning and birth control programmes, and on the strategy adopted to combat the high level of premature deaths owing to serious congenital disabilities and non-infectious diseases.

31. She regretted the use in the domestic legislation of the term "illegitimate" in reference to children born out of wedlock, as such a discriminatory term was not without consequences for the children's development. What was the proportion of female students in the different branches of higher education?

32. Mr. DOEK, pointed out that article 26, paragraph 2 clearly did not call for unlimited social insurance.

33. Noting that in Malta adopted children did not have the same rights as other children in respect of inheritance, and that the birth registration procedures differed for children born in and out of wedlock, he asked whether the inter-ministerial working committee on such matters had issued recommendations to lift those provisions.

34. Ms. TIGERSTEDT-TÄHTELÄ sought clarification on how the White Paper had been circulated to sound out public opinion concerning the draft Children Act, and asked whether the views of children would be included.

35. Mr. FULCI noted that Malta had not seen fit to incorporate into its domestic law the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, although there had been racist incidents in 1999. He asked for specific information on concrete measures taken or under consideration, including in the legislative field, to ensure that all children enjoyed the rights set forth in the Convention. Had the mechanisms established to promote equality between the sexes achieved satisfactory results?

36. Ms. KARP noted with satisfaction that a provision of the draft Children Act gave children the possibility of accepting or refusing medical treatment. Who decided whether a child was sufficiently mature and well-informed to exercise such a right: was it the doctor, or a judge? She added whether measures had been taken to protect children against inappropriate treatment and whether surgical operations could be carried out on children without their parents' consent.

37. She asked why the provisions of the draft Children Act stated merely that children's views were taken into consideration, without affirming the principle according to which children's views must systematically be taken into consideration whenever any decision was made concerning them. Lastly, what measures had been taken to ensure that teachers respected the privacy of children at school?

38. Mr. RABAH asked what were the respective ages of criminal responsibility, military service and the civil right of entry into contractual relationships. Were the best interests of the child taken into account in judicial and administrative decisions?

39. Ms. TIGERSTEDT-TÄHTELÄ asked whether the Ombudsman would be empowered to receive and take action on complaints.

40. Ms. FARUGGIA (Malta) said that the circulation of a White Paper was a common procedure in Malta. Any bill of special importance, such as the draft Children Act, was communicated in its entirety and in an abridged version to every household, and was the subject of a national debate which took place through radio discussions and meetings held by NGOs. Recommendations made by the public were then incorporated into the proposed amendments. Children took part in the consultation process, at school. The same procedure would be followed for the bill on the establishment of the post of Ombudsman for Children. The future Ombudsman would be able to receive and examine complaints.

41. There was still discrimination against children born out of wedlock, but only on paper. The new legislation would put an end to that situation. A court had recently authorized a father to bequeath equal shares of his property to his children, including those born out of wedlock, despite the fact that the current law prohibited it.

42. The recent incidents of racial discrimination had shocked the overwhelming majority of the population. The Maltese had realized that they were not as free from prejudice as they had thought. The matter was the subject of much debate. A new law text provided for the enjoyment of equal rights for refugees and their dependents in Malta, including children under 18, who had full access to public education, vocational training services and medical care. Foreign children requiring special care could be authorized to apply for asylum and to receive assistance.

43. The provision concerning consent for medical treatment had been formulated taking into consideration the conclusions of a symposium of doctors and jurists held on that question. It was for the Family Court to decide whether a child could exercise the right to give consent to medical treatment. The Family Courts had been completely reorganized, and every effort had been made to take children's best interests and children's views into consideration.

44. With regard to children's privacy, anyone with access to certain information was obliged to respect its confidentiality. That was the official policy in force, although it was not always easily applied in a country as small as Malta.

45. The age for mandatory military service was set at 18. Concerning the age of criminal responsibility, it was for the court to determine whether there had been intent to cause damage, and consequently whether a young offender should be prosecuted. A special body was in charge of monitoring youths in trouble with the law.

46. The age of civil capacity and age of majority were both set at 18 years; that limit was reduced to 14 years for making a will and to 16 years when a request for emancipation to trade was filed for the purpose of concluding a transaction.

47. Decisions concerning birth control were a family matter. There was unrestricted access to such services. As for children's access, since pre-marital sexual relations should in principle not occur, there was no structure specifically for youths. Young people could, however, request and receive assistance. Family planning was taught at school.

48. School was compulsory until age 16. In 1998 there had been 3,600 women and 3,500 men in university. There were as many women as men in law, medicine and economics. Women were much more sparsely represented in engineering schools but twice as many women as men were studying to become teachers.

49. Ms. MOKHUANE asked whether a woman in Malta who became pregnant as a result of a rape must go to another country to have an abortion, or whether an exception was made in such cases.

50. Corporal punishment was prohibited at school, but "reasonable" or "moderate" chastisement could be inflicted at home. How was the distinction made between what was reasonable or moderate and what was not? It had also been stated that society's attitude towards corporal punishment in the home had changed. Was that information based on research, or simply on impressions and hearsay?

51. Ms. KARP noted that a child who wished to receive medical treatment without advising or consulting his or her parents must apply for it through the justice system. Such a procedure might be

lengthy, and it could not be guaranteed that the judge would be able to obtain a clear idea of the child's needs and the situation. Instead of resorting to a judicial procedure, would it not be preferable to set up specific services through which children could receive treatment without having to consult their parents, if they so decided?

52. By law, the privacy of children must be respected at school. How was that applied in practice? Had any complaints been filed? Had they been followed up?

53. Ms. FARRUGIA (Malta) said that "reasonable" chastisement was indeed permitted within the family, but would no longer be once the Children Act had been adopted. The proposed amendment to the legislation was partially based on a very real trend toward the prohibition of such punishment. The population's opinion had been requested, and children had been questioned about the types of punishment they received.

54. It was difficult to determine how many abortions performed abroad, and it could be assumed that the actual number was higher than the number of cases known to the authorities. Pregnant teenagers benefited from several support measures under the education and social benefits systems, but there were very few such cases. Abortion was not authorized in any circumstances, even in cases of rape.

55. The judicial procedure to determine whether a child should receive medical treatment could be very speedy. For example, in a recent case involving a child needing a blood transfusion whose parents were both Jehovah's Witnesses, the Second Hall Court of voluntary jurisdiction had handed down a positive ruling within a few hours after the request had been filed by the doctors.

56. No complaints had been filed for non-respect of the privacy of children at school, and there appeared to be no problems in that regard. Because of the country's small size and population, special precautions clearly had to be taken in that area.

57. Ms. KARP asked why the draft Children Act made no specific reference to the right of the child to have his or her view heard, as had been done in the draft for the establishment of a post of Children's Ombudsman. Children must be able to express their opinions.

58. Ms. FARRUGIA (Malta) said she would convey that concern to the authorities and that the Children Act could be amended accordingly.

59. Mr. DOEK asked whether annual statistics had been compiled on the number of divorces and the number of children concerned. Were the children entitled to have their opinion heard at a given age, or were more fundamental criteria applied? He would also like to know whether divorced parents could maintain joint custody of their children.

60. Did Malta intend to accede to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption and the European Convention on the Adoption of Children?

61. Mr. RABAH asked whether there were any associations which dealt with persons under 18 and offered them activities related to their interests. Had pilot projects been carried out to set up a children's parliament or children's municipal councils?

62. Mr. FULCI noted that Malta had signed bilateral agreements on adoption with Romania and Albania. Would it be possible to provide recent statistics on international adoptions, broken down by

country of origin, in particular for countries other than Romania and Albania? Did Malta intend to accede to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, which would effectively govern the question for all countries?

63. Had the dietary advice given to schoolchildren since 1997 made it possible to solve the major public health problem of obesity in Malta? Had absenteeism and violence at school worsened or improved since the drafting of the report? Specifically, what measures had been taken to deal with those problems?

64. Ms. KARP asked what relationship existed between the police and the persons assigned by the Church to examine cases of sexual violence against children. Was the Church obliged to inform the police, or could it close a case on its own initiative because it considered it preferable for the victims for no criminal inquiry to be held? What were the provisions governing police inquiries into cases of sexual violence?

65. School absenteeism could in part be attributable to the fact that children did not feel at ease at school, and were afraid of violence there. Was there a link between the measures taken against school absenteeism and the plans to change the curriculum?

66. Ms. RILANTONO asked how the authorities intended to introduce formally the concept of fostering into the law. The Children Act included a provision for the remuneration of families which had previously taken on children for free. Most foster families had expressed the fear that such a provision would make their activity into a commercial undertaking.

67. The report indicated that there had been an increase in the number of teen pregnancies. At what age did sex education begin at school? What methods were used at school to encourage children to lead a healthy life in order to diminish the problems of obesity and the risk of premature death?

68. Ms. TIGERSTEDT-TÄHTELÄ asked whether children belonging to ethnic or linguistic minorities had the opportunity to receive an education in their own language in Malta. Did the State help them to preserve their culture?

69. As only children placed under guardianship could currently appeal to the justice system for compensation if their guardians did not fulfil their responsibilities, what could a child placed under another scheme do in similar circumstances? What precisely did guardianship entail?

70. Mr. DOEK asked whether a comprehensive programme had been drawn up to limit the use of placement in institutions in favour of a return to the family of origin or placement in foster homes. The fact that girls placed in institutions often ran the risk of staying institutionalized until they reached the age of majority was of particular concern. Was placement in institutions decided for a set period, at the end of which the child's situation was reconsidered?

71. Would the central office to deal with allegations of child abuse and negligence mentioned earlier be able to investigate and prosecute cases and receive reports of abuse? Lastly, were there currently sufficient health services for teenagers, and what did their activities involve?

72. Ms. MOKHUANE asked what procedure was used to evaluate prospective adoptive parents, in particular which criteria were applied to determine whether they were fit to care for a child. What was the status of the interdisciplinary research project launched to compare the situation of children placed in institutions with that of children placed in foster care? The Maltese appeared to favour care by private

doctors over care by doctors at public establishments. Why? What was the quality of treatment at public institutions?

73. Ms. FARRUGIA (Malta) said that children from the age of 14 be heard by the judge in cases where the parents were separated, if the case directly affected parental authority. If children under 14 so requested, many judges agreed to hear them. Joint custody was not possible in principle, but many couples reached agreements allowing it in practice, with one parent maintaining custody and the other having a right of access or visiting rights.

74. Freedom of association was a right widely exercised by children in Malta, and there were many children's groups in cities, villages and schools. Two years ago, a children's parliament had been successfully held, and a European parliament of 16- and 17-year-olds met annually. Recently, social science students had carried out a project on the possibility of involving children in local decision-making.

75. Bilateral adoption agreements had been concluded with Romania and Albania, and many children from those countries had been adopted by Maltese citizens. The main South American countries for adoption were Brazil and Peru. The question of accession to international adoption conventions was still under consideration.

76. Regarding obesity, nutritionists visited schools, and the home economics classes taught children how to cook healthy meals. Numerous advertizing and information campaigns had been conducted for some time to encourage children and adults alike to eat healthily and to exercise.

77. A study on school absenteeism had been published in 1997-1998. Situations, where children received no encouragement from the family to attend school did occur, but were not the rule.

78. Maltese-language document had been issued on proper behaviour at school. Concerning bullying and persecution, in each school there was a group of teachers who worked, at times with a psychologist, to teach the children correct behaviour. A few rather serious cases had raised public awareness of the fact that school bullying was a serious problem. Meetings were also held for parents to help them understand how their children would behave if they were being bullied and to teach them how to deal with such situations.

79. The Child Protection Unit, which was attached to the Social Work Development Programme was in charge of investigating cases of sexual violence and employed qualified staff for that purpose. For its part, the Church had just published a report on the question, which included 21 cases of sexual violence, some far in the past, involving church personnel. Any coordination between the Social Work Development Programme, the telephone hotline and the Church would not involve the police, as only a civil inquiry was conducted at that stage. The future Children Act listed a number of cases in which the Church would be obliged to inform the police, but those provisions were not yet applicable. In cases involving the 179 Hotline and the Child Protection Unit, information was regularly communicated to the police, although that was not mandatory. The child protection services' main fear related to the methods used by the police, who were relatively inexperienced in dealing with such matters.

80. The recommendations of the commission studying the way in which child witnesses were treated had not yet been followed up effectively, no doubt pending the establishment of family courts. New procedures, such as the videotaping of testimony as recommended by the commission, were currently under consideration.

81. The Foster Care Unit had been in existence for three years and had achieved good results. The Ministry for Social Welfare had ordered a study of the differences between children placed in institutions and those placed in foster homes. The directors of residential care facilities were the first to recognize that foster placement must be used whenever possible, but it was very difficult to find foster parents who were prepared to care for a child only to see him or her taken away from them after six months. Finding foster families for longer-term placement, however, was not difficult. Lastly, the Children Act did not aim to establish financial incentives; it was simply intended to compensate families who took it upon themselves to care for a child.

82. Malta had a broad range of free, easily accessible public health services. For some specializations where services were not so readily available, the State services provided updated lists of specialists and the fees they charged.

83. Malta had no specific policy concerning sex education and reproductive health awareness, hence there was a great disparity of knowledge of those subjects among schoolchildren. However, a decision should be taken once the national minimum curriculum was adopted. Such education was currently dispensed to children from 13 to 15 by their personal skills teachers, who were not always sufficiently qualified for the task. Religious bias still influenced the way in which that subject was taught; it was apparently addressed more seriously and more freely at private schools. The use of contraceptives by unmarried teenagers under 18 was authorized on the advice of their doctors, who took the decision on a case-by-case basis.

84. While minority children were well integrated and spoke Maltese and English, no special measures were taken at school to help them preserve their cultural heritage. Traditions were passed on through the family. No assistance of that type was provided to refugee children, who generally had very short stays in Malta.

85. An orphaned child with no surviving parent could request that a court designate a tutor. That was currently the only case in all the legislation in which a child had direct access to the justice system. It had served as a precedent, to request that direct access should be granted in other cases as well.

86. As a result of certain incidents, children whose fathers or mothers were in prison were no longer permitted to visit them without supervision. That was far from satisfactory, given the right of the child to maintain contact with his or her parents.

87. Ms. KARP said she was surprised that the proportion of cases of sexual violence against children which gave rise to police investigations was quite small. Did the Government intend to correct that situation?

88. The new national minimum curriculum was apparently already being applied in schools. It would therefore be useful to know how the curriculum had been implemented, in particular from the perspective of teacher training and changes in school management.

89. Ms. MOKHUANE asked how the HIV/AIDS situation had evolved since 1997, and whether the State party had changed its position concerning the use of condoms.

90. Ms. FARRUGIA (Malta) said that condoms were sold over the counter and were readily available in Malta. Concerning Government policy to control HIV/AIDS, the Health Department had recently decided that drug addicts should be given easy access to clean syringes at public dispensaries. Preventive action was being carried out in schools and for the general public.

91. The police had been provided with a sexual violence victims support unit which should enable it to address such cases more effectively. However, police staff had not yet received sufficient training to work with small children. The police could always intervene if the case was public, but if that was not so then the situation was problematic, because reporting it to the authorities presupposed the family's consent. Legislation was needed to clarify the situation.

92. The formulation of the national minimum curriculum had been the subject of meetings among all the heads of private and public educational establishments and of consultations with all the parties concerned. The curriculum was indeed already being introduced, and the question of training had been broached specifically during preliminary consultation meetings. The new curriculum would apply to many subjects beginning with the next school year.

The meeting rose at 1 p.m.