



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

Twenty-eighth session

SUMMARY RECORD OF THE 731st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 1 October 2001, at 10 a.m.

Chairperson: Mr. DOEK

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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)

Second periodic report of Portugal (CRC/C/65/Add.11; CRC/C/Q/POR/2 (list of issues); written replies by Portugal (document without a symbol distributed in the meeting room in English only); HRI/CORE/1/Add.20 (core document))

1. At the invitation of the Chairperson, Mr. Dos Santos Pais, Ms. Rocha, Mr. Labescat, Mr. Antunes Ferreira, Ms. Fonseca, Ms. Clemente, Ms. Brás Gomes, Ms. Mourão, Mr. Nunes, Ms. Albuquerque and Ms. Baptista Lopes took places at the Committee table.
2. Mr. DOS SANTOS PAIS (Portugal) said that the Portuguese Government had striven to provide the Committee with as full a report as possible, supported by a great deal of specific data. The written replies to the list of issues, likewise very detailed, contained numerous updates. The members of the delegation viewed the current meeting as an occasion not only to provide any additional information requested but also to review the policies and programmes now being implemented in Portugal with a view to discerning and correcting any possible shortcomings.
3. The Portuguese Government had amended a number of laws and broadly reoriented its social policies since the submission of the initial report. The changes reflected the adoption of a new approach, based on the involvement of governmental bodies in all questions relating to the child. It had also strengthened its cooperation with non-governmental organizations active in the fields of education and public awareness concerning the rights of the child. Several of them had been involved in drawing up the report, which had subsequently been widely disseminated to all interested organizations.
4. A number of awareness and information programmes had been put in hand in the context of the United Nations Decade for Human Rights Education, some of them under the auspices of a national commission set up for that purpose. The Government had taken various steps, with the valuable support of NGOs, to raise public awareness about the rights of children. Booklets had been published and teaching materials prepared. In addition, a number of web sites had been created to make information accessible to as many people as possible. The outcome of the Committee's work, including its concluding observations, had likewise been made available to the relevant governmental and interested professional bodies in Portugal as well as in other Portuguese-speaking countries.
5. Since the submission of the initial report, the Portuguese Government had considerably strengthened coordination and follow-up mechanisms for the implementation of the Convention, the principle one being the National Commission for the Protection of Children and Young People at Risk. It had organized various training sessions, aimed particularly at teachers, police and legal officers and social workers. Its policies and programmes stressed the promotion of the principle of non-discrimination, in matters including access to health, education and social services, as well as the protection of migrants and ethnic minorities. It had also paid particular

attention to the right of children to participate in decisions relating to them, including in the juvenile justice system. In addition, a law putting an end to compulsory military service had been adopted.

6. Combating poverty remained a priority for the Government, which attached particular importance to protecting vulnerable and marginalized groups. The social services catering for children with special needs, including street children and those with serious family problems, had been strengthened, in particular to avoid recourse to the juvenile justice system wherever possible. A further essential social step, a positive discrimination mechanism, had been set up for the purpose of allocating family benefits. Numerous measures had also been taken to combat child labour.

7. The CHAIRPERSON said that the report of Portugal was being considered almost three years after its submission, which made for some difficulty despite the updating provided in the written replies to the list of issues. He pointed out that the Committee had proposed an amendment to article 43 of the Convention, with a view to increasing the number of its members from 10 to 18. In order to be adopted, the amendment had to be approved by two thirds of the States parties. In view of the interest Portugal had always shown in the Committee's work and its commitment to implementing the Convention, the Committee encouraged the Portuguese delegation, whose Government had already approved the amendment, to lend its active support in that respect by suggesting that other parties do likewise.

8. Ms. TIGERSTEDT-TÄHTELÄ noted that Portugal's report followed the Committee's guidelines very closely; it was extremely detailed, which made it a little difficult to read at times. She nevertheless welcomed its precision and the holistic approach on which it was based, as well as its analytical and self-critical nature. She also thanked the delegation for the quality of the written replies, which made it possible to assess the progress achieved since 1998, when the report had been submitted.

9. She commended the State party for attaching high priority to the protection of vulnerable children, the fight against poverty, support for the family, improvement in education, the abolition of child labour and the reform of the juvenile justice system.

10. With regard to cooperation between the Government and NGOs, it would be interesting to know what was meant by "monitoring the activities of non-governmental organizations" (report, para. 15) to be effected by the Office of the High Commissioner for the Promotion of Equality and the Family. It would likewise be useful to know more about the amendments envisaged to legislation relating to the protection of children at risk, the law on civil guardianship, the regulations governing the Minors' Protection Boards, the legal framework for foster families and homes for children and young people deprived of a family environment, the social security system and the Penal Code, with particular regard to the sexual exploitation and sexual abuse of children. The Portuguese delegation might also make it clear whether the Azores and Madeira had been involved in preparing the part of the report which concerned them.

11. She would like to know exactly what mechanisms or institutions had been entrusted with coordinating and monitoring the implementation of the Convention at national, regional and local levels. The delegation might also indicate whether the permanent mechanism mentioned in

paragraph 13 of the report had commenced appraisal of the implementation of the National Programme of Action prepared in 1992 pursuant to the Declaration adopted at the World Summit for Children.

12. The Committee would also like to know what proportions of the national budget were devoted respectively to health, education and social protection, in order to determine the extent to which the State party was complying with article 4 of the Convention, which required it to undertake all appropriate measures to the maximum extent of its available resources for the implementation of the rights recognized in the Convention. Lastly, she would like to have details about the financing of the plan to combat poverty, the reform of the juvenile criminal justice system and the activities undertaken by municipalities and regions for the benefit of the child.

13. Ms. CHUTIKUL asked whether the bodies that had participated in drawing up the National Programme of Action for Children had likewise been involved in its follow-up and evaluation. She also wished to know what body was ensuring the coordination, monitoring and evaluation of activities in favour of children carried out by the many institutions mentioned in the report, how the Government chose the NGOs with which it worked and whether the NGOs were federated in some way.

14. Mr. AL-SHEDDI said that he would like to have details about the services provided to families and children by the many bodies and NGOs concerned with children. He wondered whether it might not be worthwhile, in order to avoid any overlapping and conflict, to implement a single plan of action for children.

15. Mr. CITARELLA inquired whether the Government intended to create an agency to coordinate the activities being carried out by the various bodies responsible for implementing the Convention in their respective spheres of competence. It seemed that the Government was thinking of abolishing the National Commission on the Rights of the Child; did it plan to establish a new body to take over the Commission's role?

16. Ms. OUEDRAOGO asked what share of the budget for bilateral cooperation was devoted to implementation of the Convention and why, in the statistical tables provided in the written replies, minors between 15 and 18 years of age were sometimes included in the 15-24 age group. It would also be useful to know what percentage of the budget was devoted to disabled children; how the general public's - and in particular children's - knowledge of the Convention was assessed; whether professionals working with and for children received adequate training in the field of children's rights; and whether any structures existed at national and local levels which allowed children to voice their opinions on issues of interest to them.

17. Ms. KARP said that she would like to know what measures had been taken to prevent corporal punishment and what support was provided to bodies carrying out child-related activities at local level.

18. On the issue of the need for the State party to develop a comprehensive strategy, she asked what lessons had been learned from the activities carried out by the Ombudsman in the field of children's rights. It would be useful to learn how the Consultative Youth Council

operated in practice and whether, as indicated in the report, a representative of the Ministry of Finance was to be among the members of the National Commission. It was regrettable that the definition of the child had not been taken fully into account when preparing the statistics, as young people aged 15 to 18 years had often been grouped with adults. She noted that the provisions of the revised Penal Code relating to sexual offences provided protection for children only up to the age of 16 years and that the juvenile justice system did not apply to minors over the age of 16.

The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.

19. Mr. DOS SANTOS PAIS (Portugal) said that his department had duly notified various non-governmental organizations (NGOs) that the Committee was to hold a session in June 2001, and it had underlined the importance of their participation in its meetings. All of the data contained in the report concerning NGO activities had been provided by the NGOs themselves. It seemed that a translation error had altered the meaning of the passage relating to NGOs contained in paragraph 15 of the report (originally drafted in Portuguese): the Office of the High Commissioner for the Promotion of Equality and the Family was, in fact, responsible for promoting coordination between NGOs and not for monitoring their activities. It was worth noting that Portuguese NGOs played a particularly active role, and hence there was no need for the Government to monitor their activities.

20. Ms. ROCHA (Portugal) said that law No. 99/2001 of 25 August had incorporated certain provisions into the Portuguese Penal Code aimed at protecting children from sexual abuse, in particular offences committed within the family, and doctors, teachers and other professionals were obliged to report cases of sexual abuse.

21. Mr. DOS SANTOS PAIS (Portugal) said that some new information from the Autonomous Region of Madeira had been made available since the preparation of the written replies; the delegation would be pleased to answer any questions that the Committee might wish to raise on that subject. The local Minors' Protection Boards, of which there were 18, were independent bodies whose decisions were final. In order to ensure the coordination of activities carried out by the various Boards, the Government assigned a given Board a key role in a particular sector. For example, in the case of the Office of the High Commissioner for the Promotion of Equality and the Family and the National Commission for the Protection of Children and Young People at Risk, the same individuals in both bodies were responsible for coordination.

22. Ms. CLEMENTE (Portugal) said that the aim of the local boards was to promote the rights of the child and to prevent situations of risk, as well as to work with the competent authorities to identify shortcomings and determine available resources. In accordance with the Convention and pursuant to the Portuguese Constitution, the State party had implemented a widespread reform in 1997-1998, largely concerning legislation and mechanisms and policies relating to children, the objective of which was to reaffirm the rights of the child and to ensure that they were respected. Civil society had been heavily involved in the process. The National Commission for the Protection of Children and Young People at Risk had been established in accordance with a 1999 law, and had a wider scope than its name suggested. It was, in fact, the main national forum for discussion, examining the situation of the child, planning and

coordinating policies, and evaluating activities conducted by the public and private sectors. The Commission was based on a partnership between the State and the communities. Its composition was highly representative, and it made its decisions in a democratic way, on the basis of the work carried out by a technical body also responsible for putting such decisions into effect. It played a particular role in the implementation of the Convention, including through the training of local boards and the evaluation of their activities. Among other things, it had since 1999 launched numerous initiatives aimed at improving the dissemination of the Convention.

23. Ms. BRÁS GOMES (Portugal) said that the large number of local Boards reflected the Government's decision to decentralize as far as possible the implementation of decisions taken at national level. One example of the coordination of the intersectoral cooperation activities undertaken with groups of NGOs was the social solidarity cooperation agreement concluded in 1996 between the Government, the national associations of Portuguese municipalities and administrative regions and three private associations. Its primary aim was to create a permanent mechanism to devise joint cooperation strategies between the private sector and the Government and local and regional authorities. Joint initiatives affecting various sectors had been launched within its framework, including pre-school teaching, assistance to disabled persons and the elderly, support for drug addicts and the promotion of employment.

24. Ms. ALBUQUERQUE (Portugal) said that the National Programme of Action prepared in follow-up to the World Summit for Children and the corresponding end-of-decade review, as transmitted to the Secretary-General of the United Nations at the end of 2000, had been formulated under the guidance of the Documentation and Comparative Law Office. The ministries and the NGOs which had participated in their preparation had also contributed to the preparation of the periodic report and written replies. The coordination and the continuity of the process were therefore effectively guaranteed. Comprehensive information (the statistical annex to the end-of-decade review) about the impact of the National Programme of Action - including, in particular, a significant reduction in maternal mortality and the development of pre-school education - could be consulted on the Office's web site (www.gddc.pt). The authorities responsible for implementing the Convention were the same as those dealing with the National Programme of Action, and the coordination of their activities was guaranteed across the board. During the negotiations on the draft version of the final document of the Special Session of the General Assembly on the follow-up to the World Summit, Portugal had requested that specific reference should be made to the correlation between the processes used to implement the decisions of the World Summit and the provisions of the Convention. It had also insisted that the obligation to create a new plan of action should be included in the final document.

25. Mr. DOS SANTOS PAIS (Portugal) said that the delegation would convey to the appropriate authorities the concerns expressed by the Committee regarding the absence of disaggregated budgetary data on the expenditure for child protection programmes. He pointed out that the Portuguese State budget and the corresponding statistics were drawn up in accordance with the model used by most countries.

26. Ms. FONSECA (Portugal) said that the reform of the juvenile justice system had taken place in September 2000. Very few statistics were currently available. Those concerning the first half of 2001 showed a marked reduction in the number of cases brought before the juvenile courts, probably because of the distinction that had been made between children "at risk" and

those “having committed an offence”. Generally speaking, the most common decision made by judges when dealing with cases involving minors was to issue a warning. It was very rare for a child who had been brought before a court to be placed in a Ministry of Justice institution or to be entrusted to an agency of the social solidarity system.

27. Ms. BAPTISTA LOPES (Portugal) said that statistics were available for the period from January to August 2001 on the internment measures that had been in effect since the reform. The data were broken down by gender, kind of institution (open, semi-custodial or custodial), type of offence and age. The statistics also covered measures taken as a result of the reclassification of cases pending when the new law had entered into force. All such data indicated a strong decline in the number of cases of internment.

28. Mr. DOS SANTOS PAIS (Portugal) said that local and regional communities were autonomous, and were thus free to set their own priorities in budgetary matters. It was for them to determine how much of the budget should be allocated to programmes for children.

29. In 2000, the telephone hotline set up by the Ombudsman to receive complaints from children had taken some 4,000 calls. Complaints covered a wide range of subjects, including child custody, education, the payment of alimony, physical and mental abuse, problems at school and the implementation of protective measures. The Ombudsman was a member of the European Network of Ombudsmen for Children (ENOC) and played a central role in the protection of children’s rights in Portugal. The recommendations issued by the Ombudsman were often acted upon by government services. Parliament had therefore considered that there was no reason to establish a special ombudsman’s office for children’s rights, as it would not be advisable either to isolate children from the rest of the population or to set up yet another body with the aim of defending their rights.

30. Increasing importance was being given to respecting children’s views. Every year, a session of Parliament was held for children, in which young people elected by their peers expressed their concerns and the hopes of the new generation. The principle of respect for the views of the child was firmly established in a new law on the status of schoolchildren, which stipulated that school administrators must hear the pupils’ opinions on any matter of concern to them. Any child over the age of 12 must be consulted for any decision relating to his or her adoption.

31. The definition of the child varied from one field to another. The age of sexual consent had been set at 16, and that for recruitment into the military at 18. Children from the age of 12 had to be consulted by judges as part of adoption procedures.

32. Ms. TIGERSTEDT-TÄHTELÄ requested further information on the “youth societies” mentioned in the written replies. Were they sports associations? Were they headed by young people themselves? Did young people have a say in decisions affecting them at the local level, such as on the building of sports facilities?

33. During the consideration of the initial report of Portugal, the Committee had recommended that the State party “take the necessary measures (...) to prevent abuse and corporal punishment of children, including within the family”. Had Portugal adopted legislation criminalizing ill-treatment of children?

34. Had the necessary support been given to segments of the population at risk, in particular street children, as the Committee had recommended in its concluding observations? Had the Government undertaken a comprehensive study allowing it to develop and implement suitable policies and programmes? The report indicated that the Cabinet had taken a decision which had recognized that the promotion of the family and the protection of children and young people at risk were a priority for the Government. What had been the results of the various measures taken to that end, such as the reorganizing and reinvigorating of the adoption services, the creation of a national network of temporary and emergency shelters for children and young people at risk and the monitoring, supporting and assessing of foster families and homes for children and young people?

35. Could the delegation provide statistics on the number of children currently placed in institutions or foster families? Did the Portuguese Government prefer adoption to placement in foster families, as the launching of the Adoption 2000 programme in 1997 might suggest?

36. Ms. AL-THANI sought clarification concerning the new procedure allowing professionals who worked with children to report cases of presumed sexual abuse that were brought to their attention. Was there a legal framework aimed at protecting such people from any legal action? Once the abuse was proven and the child was placed in a foster home, what body was responsible for making sure that the necessary attention and care were provided for the child’s personal development in the new setting?

37. The statistics on accidents, injuries and accidental injuries were alarming, reflecting as they did the primary causes of death, hospitalization and disability among children and adolescents. The explanation given in the report was that “children’s and families’ natural behaviour and psychosocial tendencies are not properly suited to their environment”. What precisely did that mean? Were the accidents in question mainly road accidents or domestic accidents? Lastly, had there been a decline in accidents and other injuries since the adoption of the national programme for the prevention of accidents and accidental injury, which had been mentioned in the report?

38. Ms. CHUTIKUL asked whether, as part of the dissemination of the Convention, any debates took place between children and their parents on matters related to discipline or between students and teachers on student participation in decisions that concerned them at school. With regard to non-discrimination, had specific measures been taken recognizing the rights of the Roma or the rights of the children of immigrants, whether they were documented or undocumented?

39. Had the major legislative and administrative reform undertaken by the Ministry of Solidarity and Social Security already had an effect in reinforcing psychological support for children who were victims of physical or mental abuse? What precisely did the reform entail? Did it call for preventive, protective or rehabilitative measures?

40. Ms. KARP asked whether, in accordance with the Programme of Action adopted by the Stockholm World Congress against the Commercial Sexual Exploitation of Children, Portugal had adopted a law against the sexual exploitation of children. In cases where sexual abuse was proven, were structures available to assist in the victim's rehabilitation?
41. Rather than making a hearing of the child's views conditional upon his or her age or situation, would it not be preferable to adopt a law specifying that children must be heard on any question which concerned them? What had been the outcome of the Family and Children's Support Project (PAFAC)? Lastly, what had been the repercussions of the adoption of selection criteria for the granting of family benefits (such as family allowances, breastfeeding bonuses and birth allowances)?
42. Mr. CITARELLA requested further information on the functions of the Ministry of Equality, which had replaced the Office of the High Commissioner for the Promotion of Equality and the Family and the National Commission on the Rights of the Child. Would it be in charge of drawing up the State party's next periodic report? Would it centralize statistics provided by the various bodies protecting children?
43. Referring to the table on page 34 of the written replies, he asked the delegation to explain what was covered by "Placement in Ministry of Justice institutions" and "Other measures". Lastly, it appeared from the information on page 36 of the replies that children 9 years of age were placed in that type of institution. What exactly were those institutions?
44. The CHAIRPERSON, speaking in his capacity as a member of the Committee, asked whether the child's right to privacy was respected in homes for children and institutions of the juvenile justice system. Could their correspondence be opened, or was confidentiality respected? Were children able to communicate in private with their parents and, if necessary, with their lawyers? Lastly, could the delegation provide more information on the new phenomenon of joint custody of children after divorce? Were children allowed to give their opinions on that matter, or was the decision imposed upon them?

The meeting rose at 1.05 p.m.