



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixty-fifth session

### Summary record of the 1861st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 22 January 2014, at 3 p.m.

*Chairperson:* Ms. Sandberg

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (continued)

*Combined third and fourth periodic reports of Portugal* (continued) (CRC/C/PRT/3-4; CRC/C/PRT/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Portugal took places at the Committee table.*
2. **Mr. Miranda Mendes** (Portugal), replying to a question raised earlier about civil society participation in the development of public policy, said that civil society was represented on the Advisory Council for Immigration Affairs, including immigrant communities. Public policy instruments were approved by means of inclusive public consultation mechanisms. His Government had nearly a thousand partnerships with civil society and, in 2011, his country's High Commission for Immigration and Intercultural Dialogue had received a European Public Sector Award in recognition of the role played civil society in setting public policy.
3. In reply to other questions posed previously, he said that the High Commission assisted children who were victims of racial discrimination, regardless of their immigration status. His delegation could provide additional information on special measures to help disadvantaged children.
4. **Mr. Kotrane** asked what measures the State party was taking to streamline administrative procedures for unaccompanied children seeking asylum. He would like to know whether the State party intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He requested information on the use of solitary confinement for imprisoned children, which violated the provisions of the Convention.
5. **Ms. Aldoseri** asked whether the national school curriculum covered human rights.
6. **Mr. Madi** asked whether the State party had a system for the early identification of accompanied or unaccompanied children seeking asylum who might have been involved in armed conflict. What procedures were in place to protect and rehabilitate such children?
7. **The Chairperson** requested further information about efforts to reduce the number of institutionalized children and about foster care, which received scant coverage in the report. She asked how the State party intended to address the dearth of experts on child and adolescent mental health and the shortage of beds in paediatric psychiatric wards. In view of the effectiveness of the recently suspended Programme for the Extension of the Social Facilities Network (PARES) in facilitating the construction of day-care centres, she recalled the European Commission's recommendation that the State party should continue to fund early childhood education despite the austerity measures currently in place.
8. **Ms. Vargas Tavares** (Portugal) said that judges and prosecutors were provided with training on human rights issues and had access to an online information network that would soon include a section on human rights. In order to better inform the public on that topic, the reports, recommendations and general comments of the international human rights treaty bodies were available on a government website, with Portuguese translations provided or forthcoming. The Government also published human rights handbooks targeting specific population groups.
9. **Mr. Santos Pais** (Portugal) said that while there was no overall national child protection mechanism, the National Commission for Human Rights endeavoured to promote an integrated approach to the protection of children's rights.

10. **Ms. Ávila** (Portugal) said that the mandate of the National Commission included enhancing dialogue with and ensuring the participation of civil society in setting, implementing and assessing public policy. That body held at least three plenary meetings annually and its working groups met on a regular basis. Meetings with civil society representatives were a standard part of the process of preparing reports for human rights treaty bodies.

11. **The Chairperson** said that, as she understood it, although there appeared to be no real coordination mechanism for safeguarding children's rights the State party intended to make improvements in that area.

12. **Ms. Ávila** (Portugal) said that while she could not agree with the statement that there was no coordination mechanism, her Government did intend to examine whether the current level of coordination was sufficient.

13. **The Chairperson** asked whether there was any mechanism in the State party for coordinating the implementation of the Convention.

14. **Ms. Ávila** (Portugal) said that implementation of the Convention and of the Committee's recommendations were part of the core work of the National Commission for Human Rights.

15. **Mr. Santos Pais** (Portugal) said that the responsibilities of the National Commission included the preparation of reports, such as the periodic report under consideration. The preparation of such reports required coordination among the various entities involved in the implementation of treaties. In his view, the establishment of a mechanism for the preparation of reports had improved coordination among government departments and other stakeholders in respect of human rights policies, including those pertaining to children's rights.

16. **The Chairperson** asked whether activities relating to the implementation of the Convention during the period between the issuance of the Committee's recommendations and the preparation of the next periodic report were monitored by the National Commission or by some other entity.

17. **Mr. Santos Pais** (Portugal) said he understood that monitoring such activities formed part of the mandate of the National Commission.

18. **Ms. Ávila** (Portugal) said that the National Commission was also responsible for disseminating the recommendations of international human rights bodies.

19. **Mr. Gomes Leandro** (Portugal) emphasized that the Portuguese legal system included provisions for the protection of children's rights. In order to strengthen implementation of those rights, his Government was endeavouring to inculcate new attitudes in parents, as well as at the level of the State and civil society. Safeguarding children's rights went hand in hand with promoting attitudes of citizenship and true democracy.

20. His Government was also taking steps to involve local communities in helping children claim their rights. There were local child protection committees, often set up under local initiatives, and over 300 youth protection centres. His Government aimed to promote prevention in order to reduce the need for intervention.

21. **Mr. Cardona Llorens**, recalling the Committee's general comment No. 14, on the right of the child to have his or her best interests taken as a primary consideration, asked whether, under national law, a legislative or administrative Act could be challenged on the grounds that that right had not been respected. If so, what requirements needed to be met? Was there a procedure for determining whether a child's best interests had been taken into account?

22. **Mr. Gomes Leandro** (Portugal) said that while the principle of the child's best interests was of great importance in his country's legal system, other elements such as privacy also needed to be considered. Every situation was unique, and judges must rule accordingly. That being said, decisions could be appealed on the grounds that a child's best interests had not been considered. It might not always be possible to take the best interests of the child as a primary consideration, for example, when imposing penalties in criminal cases, where the judge must first establish whether a proposed penalty would satisfy community expectations. Such considerations might influence the way in which a judge took a child's best interests into account in a ruling. Nevertheless, considerable efforts were being made to promote the consideration of children's rights in all aspects of life.

23. **Mr. Cardona Llorens** underscored that article 3 of the Convention, which provided that the best interests of the child should be a primary consideration in all actions concerning children, did not merely state a principle but enshrined a right. Under the Convention, that right must be taken into account not as an interpretive principle but as an overriding concern.

24. **Mr. Gomes Leandro** (Portugal) said that other rights must be borne in mind along with that right.

25. **The Chairperson** asked whether, for example, a court decision regarding a custody case could be revoked on the basis that the child involved had not been heard. Furthermore, when children were formally heard, were their views actually taken into account?

26. **Mr. Gomes Leandro** (Portugal) said that children were entitled to be heard in all proceedings relating to them, unless that might prove harmful to them. While children were not always heard formally, their right to be heard was safeguarded.

27. **The Chairperson** asked whether there was an age below which children involved in cases were not heard.

28. **Mr. Gomes Leandro** (Portugal) said that for the commissions for the protection of children and young people, the usual minimum age was 12 years. However, younger children could be heard if they demonstrated that they were capable of understanding the situation. Routinely soliciting the views of children was an innovation for his country's judicial system and required procedural and attitudinal adjustments.

29. **The Chairperson** said that, in accordance with the Convention, children should be heard whenever they had views on a matter concerning them, even if they did not understand the full situation. She therefore asked whether the views of very young children were heard.

30. **Mr. Santos Pais** (Portugal) said that child protection committees intervened only in cases involving children of 12 or older. However, all children whose rights were affected by a legal case were heard by the judge or prosecutor. The Public Prosecutor had recently announced her intention to establish a mechanism to coordinate the work of prosecutors and the aforementioned committees on children's issues.

31. **Mr. Gastaud** asked what procedures were in place to ensure respect for children's rights in schools.

32. **Ms. Khazova** asked whether the participation of the Public Prosecutor was mandatory in cases of international abduction.

33. **Mr. Santos Pais** (Portugal) said that the Public Prosecutor did intervene in all such cases.

34. **Ms. Filipa Pereira** (Portugal) said that the ill-treatment of children was dealt with at three levels. Initially, it was dealt with by the various child service agencies; then, if

necessary, by the child protection committees and, lastly, by the courts. A programme of action launched in 2008 to promote young people's health had listed actions to be taken regarding the ill-treatment of children up to 18 years of age that were applicable, in some cases, to persons up to 21. Multidisciplinary teams had been created in primary health-care centres to support children and young people at risk of ill-treatment. In 2012, those teams had reported some 6,800 suspected cases of ill-treatment. The number of reported cases was increasing due to greater awareness of the problem and improved ability to detect signs of abuse. A programme for health-care professionals had been launched to inform them about their role in prevention and detection.

35. **The Chairperson** asked what specific measures the State party was taking to combat violence against children and what results had been achieved through such measures.

36. **Mr. Gastaud** asked whether there had been any prosecutions and convictions in cases involving the ill-treatment of children in recent years.

37. **Ms. Filipa Pereira** (Portugal) said that the network of multidisciplinary teams in health-care centres worked to prevent the ill-treatment of children and to rehabilitate victims, who were referred to mental health services if necessary. Home visits were also conducted in such cases, with a view to re-educating family members.

38. **The Chairperson** asked what the results of those measures had been.

39. **Mr. Gomes Leandro** (Portugal) said that efforts were being made to change the attitudes of parents and educators to corporal punishment, which had only recently been criminalized in his country. To date, there had been a handful of convictions in such cases. A rehabilitation programme was in place to prevent perpetrators of domestic violence from reoffending. The number of participants in that programme had risen from 187 in 2011 to 695 in 2013. The programme had been assessed and found to be effective in reducing the risk of violence and related behaviours, such as alcohol abuse.

40. **Ms. Castello-Branco** (Portugal) said that there had been 13 convictions for the ill-treatment of children in 2010, 6 in 2011 and none in 2012. There had been 35 convictions for domestic violence against children in 2010, 44 in 2011 and 35 in 2012.

41. **Mr. Santos Pais** (Portugal) said that alternative measures such as electronic surveillance were sometimes used to prevent the ill-treatment and abuse of children.

42. **Mr. Miranda Mendes** (Portugal) said that, while parliament had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the 2009 United Nations Human Development Report had recognized Portugal as a leader in the protection of migrants' rights, and the country's legislative framework was faithful to the spirit of that Convention. In 2005 the High Commission for Immigration and Intercultural Dialogue had established a special unit to provide legal and psychological support to victims of racism, especially children. Procedures to punish racial discrimination were in place in both Portuguese and European Union law.

43. Various education policies focused on raising awareness of intercultural issues and recognizing cultural diversity as an opportunity for development. He would provide the Committee with copies of some of the numerous books and other materials used to promote interculturalism. Beginning in 2014, a national contest for children would be held to educate them about different parts of the world and about the importance of diversity. Certified classes in Portuguese as a second language were provided for migrant children between the ages of 5 and 19. The childcare facilities at the National Immigrant Support Centre in Lisbon allowed parents to make better use of the services provided there.

44. **Ms. Winter** wished to know how many perpetrators of domestic violence had been allowed to return home under electronic surveillance.
45. **Ms. Susana Pereira** (Portugal) said that the Permanent Adoption Observatory was still in operation. On the subject of delays in the completion of adoption processes, the majority of the children concerned were over 6 years of age, and it was difficult to place children in that age group.
46. **The Chairperson** asked why so many children in that age group had been put up for adoption. Had they been abandoned by parents who could not take care of them?
47. **Ms. Susana Pereira** (Portugal) said that children were placed with family members or trusted persons in approximately 84 per cent of cases in which child protection measures were taken. While children placed in foster care could remain in contact with their biological family, all such contact was severed as soon as the courts decided to put a child up for adoption.
48. **Ms. Khazova** asked whether she had understood correctly that the problem was not so much the adoption procedure itself, but rather a lack of suitable adoptive parents.
49. **Ms. Susana Pereira** (Portugal) confirmed that to be the case.
50. **Ms. Herczog** said that the widespread institutionalization of children was a problem in many countries. She suggested that the Government should establish support programmes that would enable pregnant women to keep their children rather than putting them up for adoption.
51. **Ms. Susana Pereira** (Portugal) said that the institutionalization rate had remained stable in her country since 2008. Measures being taken to address the issue included expanding the services provided through family support and parental guidance centres, improving foster care for children from birth to 3 years of age, and improving children's homes by employing additional psychologists, social workers and educators and by training existing staff.
52. **Ms. Herczog** said that powerful lobby groups were preventing the closure of children's institutions and that decisive action in the form of public policy was required to change the situation. She therefore asked whether the Government planned to close those institutions in accordance with the guidelines issued by the United Nations and the European Union.
53. **Ms. Susana Pereira** (Portugal) said that two legal committees had recently been established, to review the legal framework for adoption and for the child protection system.

*The meeting was suspended at 4.40 p.m. and resumed at 5 p.m.*

54. **Ms. Vargas Tavares** (Portugal) said that general regulations prohibited children's participation in shows involving contact with animals that would put children's safety at risk. However, requests for authorization for children to participate in cultural events, including bullfights, could be lodged with local child protection committees. Authorization was granted only to children over 12 years of age and then only with permission from the child's parents, upon presentation of a medical certificate, and provided that participation would not jeopardize the child's safety, health or well-being. The child's views on the matter should be heard whenever possible. Children over 6 years of age were allowed to attend bullfights as members of the audience. The Inspectorate General of Cultural Activities monitored compliance with the regulations on children's participation in bullfights; penalties for violations could include fines or the closure of the establishment concerned. There had been no reports of any accidents involving children in bullfighting training centres.

55. **Ms. Wijemanne** said that, regardless of the monitoring and requirements in place, by allowing children to participate in bullfights the State party was exposing them to violence and risk of injury.

56. **Ms. Oviedo Fierro** wished to know which general regulation governed children's participation in shows and cultural events and which authority was responsible for ensuring compliance. She asked whether the State party shared her view that parents who allowed their children to participate in bullfights were indoctrinating them in a form of violence. She requested examples of specific cases in which penalties had been imposed on bullfighting establishments for violating the regulations on children's participation. Lastly, she asked whether the State party would consider raising the minimum age for participation in bullfights.

57. **Mr. Cardona Llorens** noted that the National Commission for the Protection of Children and Young People at Risk had explicitly stated that animals used in bullfighting, irrespective of their weight and size, could endanger children and young people. Why, then, did the Inspectorate General of Cultural Activities continue to allow young children to take part in festivities in which there was bullfighting and children over 12 to take part in the bullfighting itself?

58. **Ms. Vargas Tavares** (Portugal) said that bullfights were considered to be shows or cultural events under the law. Portuguese legislation provided for participation in such events. The body responsible for monitoring compliance with the law in related matters was the Inspectorate General of Cultural Activities, which inspected the sites where such events were held. She did not have data on penalties imposed for violations of the law but would provide them at a later date.

59. The regulation governing the right of children and young persons to protection was article 2, paragraph 2, of Act No. 105/2009 of 14 September 2009. She could not say whether her Government was willing to raise the age at which an individual could take part in bullfighting-related events.

60. **Mr. Santos Pais** (Portugal) said that he wished to clarify a statement made earlier concerning electronic bracelets. Such bracelets could be used as an alternative to confining perpetrators of domestic violence in order to ensure that they stayed away from the residence of the victim.

61. **Ms. Filipa Pereira** (Portugal), replying to questions raised previously on road safety, drowning and other accidents, said that the Directorate General of Health was responsible for coordinating the implementation of the Decade of Action for Road Safety 2011–2020. There was also a National Programme for the Prevention of Accidents for 2010–2016. Although the number of children and young people who died as a result of traffic accidents had decreased, such accidents still accounted for two thirds of deaths of persons under 18 years. Portugal complied with European road safety regulations. Child car seats suitable for children's weight and size were regulated by law, and children up to 12 years of age were required to use child restraints. The law made provision for the safety of children with disabilities. Her Government was working with civil society to raise public awareness of road safety, including by disseminating brochures on that topic for children.

62. Turning to the issue of drowning, she said that a report covering the period from 2002 to 2012 by an association for the protection of children with which her Government was cooperating to promote public safety had indicated that between 2002 and 2008, 144 children and young people had drowned in her country. Since 2010, various campaigns had been launched to keep children safe and to avoid accidents such as burns, falls and drowning, with the help of publications, posters, radio spots and other materials.

63. **Ms. Ávila** (Portugal) added that her delegation would make various safety brochures, published in Portuguese, available to the Committee. She confirmed that children received swimming lessons in school.

64. **Ms. Costa** (Portugal) said that road safety had been taught in Portuguese schools for more than 25 years, starting in kindergarten. Schools had also begun to provide lessons on how to avoid various risks, which touched on road safety and dealt with potential dangers such as storms, walks in the mountains and other risks.

65. **Mr. Gastaud** requested information on the checks carried out by law enforcement officers to ensure road safety.

66. **Mr. Santos Pais** (Portugal) said that police officers routinely patrolled roads to ensure traffic safety and imposed penalties for the illegal use of mobile phones when driving or failure to wear a seat belt, for example. Police were out in great numbers during the summer break and other holidays, when many people were on the roads. They also monitored school safety, as part of the Safe Schools Programme.

67. **Ms. Costa** (Portugal), turning to the issue of children's participation, said that student representatives of all ages participated in a body that dealt with all school activities. Upper secondary student representatives were given the right to vote on that body. Referring to children from immigrant and Roma communities, she said that Portuguese schools were inclusive. The education system catered for the needs of all children, regardless of their background. It also ensured that the educational needs of disadvantaged children were met, including children with special educational needs and pupils from minority and migrant communities.

68. **Ms. Vargas Tavares** (Portugal) said that health professionals in Portugal were well aware of international standards concerning breastfeeding, particularly the World Health Organization (WHO) recommendation that infants should be exclusively breastfed for the first six months of life and continue breastfeeding along with appropriate complementary foods up to 2 years of age or beyond. The Government had established a register of breastfeeding to monitor how infants and small children were fed and to promote their health. The data collected showed that breastfeeding practices were in line with WHO recommendations. In 2002, nearly 99 per cent of newborns started breastfeeding; some 75 per cent were exclusively fed with breast milk until they left hospital, while 50 per cent continued exclusive breastfeeding up to 3 months of age and 22 per cent were breastfed exclusively up to 5 months of age. Studies had been conducted to determine why mothers abandoned the practice at an early stage. Portugal had established baby-friendly hospitals, which promoted breastfeeding and provided guidance and other support to mothers. The Government had launched public awareness campaigns, in cooperation with non-governmental organizations, and published brochures about the benefits of breastfeeding. Lastly, all health professionals were called on to respect the International Code of Marketing of Breast-milk Substitutes.

*Initial report of Portugal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/PRT/1; CRC/C/OPSC/PRT/Q/1 and Add.1)*

69. **Ms. Aldoseri** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether forced labour and trafficking in children for the purpose of sexual exploitation were covered under the Criminal Code, as amended. She wondered why the State party had indicated that it had adopted a formal decision not to provide disaggregated data on the implementation of the Optional Protocol. She wished to know whether the mandate of the National Commission for the Protection of Children and Young People at Risk included implementation of the Optional Protocol, as that body was responsible for monitoring implementation of relevant international human



rights instruments, including the Convention. Why had the parliament voted down bills on an annual report on the situation of children in Portugal and a national commission on the rights of the child, and what was the impact of those decisions on children?

70. Commending the State party on its translation of the Convention and the Optional Protocols into Portuguese, she wished to know how the Optional Protocol was disseminated to the public. To what extent were children aware of the Optional Protocol, particularly street children, Roma children and other vulnerable children? What steps had been taken to ensure that professionals working with children and the public in general were familiar with the Optional Protocol?

71. She invited the delegation to provide information on the partners with which the State party cooperated on upholding the Optional Protocol, including hotels and tourism agencies, in view of the fact that child sex tourism was increasing throughout the world owing to relatively inexpensive and visa-free travel. She noted with regret the child benefit cuts made by the State party, which had affected some 500,000 children. The cuts had resulted in an increase in child poverty, which heightened the risk of child labour and sexual exploitation. Did the State party have a comprehensive social policy designed to prevent and reduce child poverty, and had any studies been done to examine its root causes and identify the children most prone to poverty?

72. Noting with regret the low number of child trafficking and child labour cases that were reported, investigated and prosecuted, she asked the delegation to provide further details on the steps taken to prosecute the perpetrators in such cases. More information was needed on the investigation and prosecution of cases involving the kidnapping and abduction of children. Were the investigations into those cases sufficient? Lastly, she asked whether social networking companies were required by law to report instances of child pornography to the authorities.

73. **Mr. Kotrane** noted that the relevant law prohibited trafficking in children but did not explicitly ban the sale of children, as called for under the Optional Protocol. The Criminal Code stated that it was a criminal offence to transport children for the purpose of forced labour. Did the Code also cover cases of forced labour that did not entail the transport of children? More information was needed on the penalties prescribed for such offences. He asked what penalties applied to intermediaries involved in the adoption of children for payment. He also asked whether the courts heard cases of offences covered by the Optional Protocol committed by non-nationals of Portugal, and by Portuguese nationals abroad.

74. **Mr. Cardona Llorens** said that he would like to know what care was provided to children who were victims of the crimes covered by the Optional Protocol, especially vulnerable children. He asked whether children engaged in prostitution were always considered to be victims and treated as such, especially those between the ages of 16 and 18. How were such minors treated in the event that they were considered to be in conflict with the law?

75. **Mr. Mezmur**, with reference to the dismantling in 2012 of a human trafficking ring known as the “Bosnian Mafia” involving 30 children found to have been trafficked in Portugal, said that he would appreciate information on the kinds of assistance provided to the victims.

*Initial report of Portugal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/PRT/1; CRC/C/OPAC/PRT/Q/1 and Add.1)*

76. **Ms. Aldoseri** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that she welcomed the State party's binding declaration at the moment of its ratification of the Optional Protocol that the minimum age of any recruitment into the national armed forces was 18 years. She would like to know whether data were available on the number of refugee and migrant children in Portugal who had been recruited or used in hostilities. She noted with appreciation that the active use of children in hostilities in times of war constituted a war crime under national law. She would like to know how "active use" was defined under the relevant law.

77. She noted with concern that the curricula of military academies in the State party were established by the Ministry of Defence rather than the Ministry of Education and that children as young as 10 underwent mandatory military training. She wondered why boys were permitted to attend such schools as boarders while girls could enrol only as day pupils. The Code of Military Justice and the relevant national law prohibited pupils in military academies from being used in hostilities in times of war. Did that prohibition extend to peacetime?

78. Noting the increasing number of child asylum seekers who had been victims of offences covered by the Optional Protocol, she asked what psychological and physical support had been provided to them to help them to reintegrate into society.

79. **Ms. Winter** said that the issue of extraterritorial jurisdiction over all offences under both Optional Protocols was not covered by the various mutual legal assistance agreements entered into by the State party as those agreements did not apply the principle of reciprocity for offences. Did the State party intend to exercise universal jurisdiction to prosecute persons who committed offences under the Optional Protocols? How were extradition procedures regulated under the agreements concerned?

80. **Ms. Aldoseri**, noting that the Optional Protocol had been translated into Portuguese, asked how it had been incorporated into peace education programmes and school curricula.

*The meeting rose at 6 p.m.*