



**THE CONVENTION ON THE RIGHTS
OF THE CHILD**

**PORTUGAL | NGO SHADOW
REPORT**

November 1st 2018

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EXECUTIVE SUMMARY

The Convention on the Rights of the Child was ratified by Portugal in 1990. From 1990 onwards Portugal has the binding obligation to implement the Convention and its Optional Protocol on the sale of children, child prostitution and child pornography and Optional Protocol on the involvement of children in armed conflict.

The NGOs that produced the present shadow report take the UN Conventions, Treaties and Agendas (i.e., the Beijing Platform for Action, the Agenda 2030, among others) as combined roadmaps on the design and implementation of policies and practices of our own NGOs, namely by adopting a rights-based approach to our work with women and children.

Monitoring the implementation of the UN Conventions is a commitment we all have. In the previous years of State reporting to the Committee on the Rights of the Child we did not had the opportunity to present a shadow report. Today, we made every possible effort to do so, by developing a collaborative methodology. This report is the product of our work.

This executive summary gathers the main challenges, constrains and obstacles in the implementation on the Convention on the Rights of the Child. Further developments and recommendations are to be found in every chapter of the report that is based on the chapters of the Convention.

- Mechanisms for the implementation of the Convention on the Rights of the Child

Although mention in the State report, on the period 2014-2017, there was no National Strategy and/or a National Plan of Action and correspondent Budget. The National Strategy only appears on the Report of the Annual State Budget 2019 as one of the measures to be implemented in 2019-2022.

No Minimum Standards on Human Rights for Services have been developed.

No effective and permanent national coordination structure. The existent consultative mechanism does not include human rights and women's human rights NGO.

- Collection of data and indicators

There is no systematic and comprehensive collection of data. Indicators are scarce and lacking a holistic analysis.

- Allocation of resources

A report from the European Commission on Education and Training regarding Portugal clearly states that:

“Funding is not allocated on the basis of any comprehensive evaluation strategy and does not have flexibility to address specific challenges. Most public education funding goes to public or government dependent private schools. According to national data, over 90 % of expenditure is for salaries (IGeFE, 2018). Investment in education infrastructure is heavily dependent on EU financial support. Schools have very limited budgetary autonomy to respond to challenges. School funding is not related to any goals or assessment of results.”¹

No evidence on the State Budget on how much resources are available to the promotion and implementation of the rights of the child. Apart from the resources allocated to the Ministry of Education, and having in mind that children living in Portugal have the right to education, access to schooling is not entirely universal: for instance, children are obliged to be in schools until the age of 18, but Roma girls, particularly when they reach

¹ European Commission (2018), Education and Training Monitor 2018, Volume 2. Available at: <https://ec.europa.eu/education/sites/education/files/document-library-docs/volume-2-2018-education-and-training-monitor-country-analysis.pdf>

puberty, frequently are not in schools. Recent statistics on Roma children collected on 2017 show a decrease in the number of boys and particularly girls reaching the secondary level of education.

The impact of financial and economic crisis still persists on the years covered by the 5th and 6th reports, namely on children at-risk of poverty (in 2016, 24.2%).²

- Dissemination of the Convention on the Rights of the Child

Raising awareness among children and young people on the existence of the Convention on the Rights of the Child is done *ad-hoc* at schools, public entities and civil society organisations. Children have not a deep knowledge of their human rights.

- Training on the Convention on the Rights of the Child directed to specific professional groups

The vast majority of professionals have no knowledge on the Convention on the Rights of the Child, Optional Protocol and General Comments even those who have the responsibility on the protection of children and the promotion on the rights of the child.

Training in this area is spread along the country without any strategically coherent approach.

Even within the Higher Schools of Education that train teachers for the basic level of education and that recognizes human rights as a priority, do not have autonomy to introduce this as part of their curricula. If any of these Schools introduce this as part of the curriculum without having the approval made by the Ministry of Education, they can lose their license.

- The transposition of the Convention on the Rights of the Child into policies

On the Portuguese Constitution there is a specific article on youth (Article 70th). This article cover some of children's human rights, namely economic, social and cultural such as education, culture, social security, housing, physical activity. In recent years, the Secretary State on Sports and Youth develop a platform of knowledge aiming at raising awareness about the implementation of human rights of youth. A National Action Plan on Youth was also recently approved (2018-2021) targeting young people aged 15-29 years.

Portuguese culture on human rights is based on local or regional projects, lacking its national approach. This aspect is easily observed in the Portuguese State Reports sent to the CRC Committee that are more similar to reports of activities than to a human rights report.

Quite often the State reports refer to "Best Practices" or "Innovative Projects", showing in some way that those are not public policies. For instance, the UNICEF Child Friendly Cities Initiative: our view is that this initiative does not cover children from all walks of society – it could somehow be reframed as an initiative targeting lucky children (those not excluded from mainstream society) as *Friendly Cities for some Children with Luck*. This is not acceptable in a country of the European Region.

- Rights-based approach to children: social benefits

The family allowance – a right every child in Portugal should have – is a social benefit attributed to their families and not to the children themselves. This makes impossible to guarantee and monitor its application to the child. In the majority cases, the family allowance is part of the family budget itself covering basic needs.

On the other hand, children living in a foster care home do not receive this social benefit/right.

² EAPN (2018), Pobreza e exclusão social em Portugal – 2016-2017. Available at: <https://www.eapn.pt/documento/577/indicadores-sobre-pobreza-dados-europeus-e-nacionais-outubro-2018>

A. GENERAL MEASURES OF IMPLEMENTATION (ARTS. 4, 42 AND 44 (6) OF THE CONVENTION)

LEGISLATION

Portugal has various legal mechanism concerning the rights of the child and protection on the area of Crime, such as crimes on violence against children in the Penal Code (all crimes previewed on the Portuguese Penal Code whose victims are children have public nature), and civil area, like Family, regulation of Parental Responsibilities (custody), Adoption etc.

Since 1999 there is a Protection law of children and young people at risk (Law nr. 147/99 of 1 September) that was reviewed in 2015 (1 year after the Concluding Observations on the 3rd and 4th periodic reports of Portugal) by the amendment of the Law nr. 142/2015 of 8 September.

This amendment has introduced the concept of “promotion of the rights of the child”, as the previous scope of the law was restricting to the legal intervention in case of children at risk.

However, what we observe is that the renamed “National Commission for the Promotion of Rights and Protection of Children and Young People” (previous called National Commission for the protection of Children and Young People at risk) is the main change of the law reinforcing this entity with competence and responsibility for the planning, monitoring, supervision and evaluating the “National Strategy for the Promotion of the Rights of the Child”. It should also be mention that this is to be implemented on 2019 onwards.

The main constrain to the implementation of the legislation regarding the rights of children is the lack of a comprehensive approach of the protection system and the justice system to the promotion and the protection of children rights.

The Portuguese justice system is, definitely, not child-friendly and in most cases does not have into account the child needs, his/her development, individual characteristic and specific context, and does not assure the safeguarding of the best interests and needs of the child, in regard to the interest and the rights of the parents or other adults responsible for the child.

For example, in “Domestic Violence court cases, there is still a lack of articulation between the Penal Court and the Family court, i.e., the Penal Court may decree a prohibition of contacts and the Family Court decides that the father has the right to visitation or even to joint custody. Even with the addition of Article 1906-A of the Civil Code introduced by the Law 24/2017, 24 of May, the joint custody within the context of domestic violence is still a possibility and a frequent reality (even when there is a restricted order or a condemnation on domestic

RECOMMENDATIONS

To be implement by the competent public authorities a periodic independent assessment study of the impact of the legislation concerning the promotion and protection of the rights of the child, its effective implementation and progress towards a fully compatibility to the principles and provisions of the Convention.

To ensure the implementation of a national intersectoral strategy for the promotion and protection of all children rights with a Human Rights-based framework and a reliable accountable mechanism.

To implement a certification system and mandatory specialized training for the judicial system professionals intervening with children on child development and promotion and protection of the rights of the child.

To implement national and local comprehensive and binding Action Plans on the Promotion and Protection of Rights of the Child with multisectoral partnerships of public entities and NGO with specific and enough financial resources allocation.

To implement, in a regular basis, a National Campaign on the rights of the child and promote children’ voice and participation on the promotion of their own fundamental human rights.

violence). The mentioned law makes a reference to the possibility of not implementing joint custody when domestic violence is present but does not hinder joint custody when the judge considers joint custody within the best interests of the child.” (NGO Shadow Report to GREVIO, 2017).

Furthermore, the Portuguese legal framework does not recognize children who witness or are exposed to domestic violence as “direct” victims, as victims of mental or psychological violence as foreseen in the CRC Recommendation nr. 13 – 21e), arguing that the violent partner can be an excellent parent and that it is in the “best interest of the child” to give visitation rights, shared custody or in some cases full custody to the violent parent, and consequently there is no legal mechanism for protection and safety of those children.

And there are also cases that even occurring femicide committed by fathers, the custody of the child is given to the father who committed the murder of the mother or to the father’s family, and in some cases despite of the efforts made by the mother’s family to have the child custody, committing themselves to the protection of the child.

In a daily basis, children are confronted with Court decisions disregarding their individual needs, demonstrating great ignorance about the child development, not validating the child’s voice and perverting the concept of best interest of the child by personal convictions, misjudging potential risk to children safety.

The traditional approach to children, by the Portuguese society in general and the judicial system in particular, is as minors, meaning “objects” of the rights of the adults’ caregivers and not subjects of rights by themselves.

This is linked to another major constraint: the lack of knowledge and training by the judicial system professionals, including magistrates, about the international Human Rights instruments, such as the Convention on the Rights of the Child, to which the Portuguese State is committed and as well a lack of professional specialization on this area.

An example of this is the frequently inertia of the judicial system in regard to child forced marriage by the Roma community, mostly girls; its impact on children is often minimized and the practice is considered as a cultural tradition. Only the most recent National Action Plan for the prevention and combat against violence against women and domestic violence (2018-2021) has enlarged the scope to prevent harmful traditional practices such as child and forced marriage.

On the other hand, the public in general and the children in particular have little information about the existing child protection mechanism and national legislation concerning child rights’ promotion and protection. And moreover, the majority of the public and professionals don’t know the existing communications procedures of the Optional Protocol to the Convention on the Rights of the Child, ratified by the Portuguese State in September 2013.

B. GENERAL PRINCIPLES (ARTS. 2, 3, 6 AND 12 OF THE CONVENTION)

DEFINITION OF THE CHILD

In Portugal there are incoherent minimum age requirements regarding the definition of a child, namely:

- age to give consent to sexual acts, which is 14 years when all those involved in sexual acts are children and 16 years when the other sexual partner is older than 18 years.³

³ <https://expresso.sapo.pt/internacional/2018-03-07-Sexo-consentido-e-a-partir-de-que-idade--Em-Portugal-e-aos-14-anos-em-Franca-vai-haver-este-mes-nova-lei#gs.PnPplvo>

- Minimum age to work: with the authorisation of both parents, a child aged 16 can legally be employed.

NON-DICRIMINATION

Non-discrimination to happen needs a cultural change in values, which underpin methodologies and practices in all society sectors (public, private and population in general). It's a transversal area that must be addressed by policies, plan and actions and ensured its evaluation in an all frameworks, not as "bits and pieces".

Portugal should ensure the effective elimination of gender-base discrimination and the effective elimination of any form of discrimination against girls and young women, migrant children, Roma and children of African descent, Muslim children as well as lesbian, gay, bisexual and transgender adolescents.

Girls face disproportional discrimination in access to quality leisure, sports and civic participation activities.

Roma and migrant children face high levels of discrimination when trying to use services.

Children are not protected from hostile media coverage in particular girls and young women, Roma children and children of African descent.

Society needs to accept the diversity of children: they're not just a part of the group or community they belong to; they are who they are, their tastes and different personalities and ought to be respected.

Law enforcement professionals require training in order to ensure fully respect and protection of all children regardless of sex, gender, social class, special needs, nationality, religion or being part of minority groups.

In associations that promote leisure and sport activities, the participation and perspective of girls is not present. There is no gender perspective in youth associativism in general, sport and leisure associations and other means of involvement in local life.

Roma girls: in Roma communities, when girls reach puberty, families take them out of school in order to conserve their "purity". This practice is very common, the vast majority of Roma girls are taken out of school at the age of 12-14. This practice is illegal, as children have the right to education and school is compulsory until the age of 18. The state, municipalities and schools are somehow an accomplice of this practice. It is considered a taboo and the only alternative that is put on the table by the State is taking the girlchild from the family. Also, the practice is encouraged by the High Commission for Migration (ACM) that every year issues a circular letter among the promoters (association, local authorities etc) of educational projects in ethnically diverse areas and social neighbourhoods about the possibility of integration of Roma girls in "online school". This distance learning system is foreseen by the law for children who are chronically ill or who are children of parents with travelling professions (originally for

RECOMMENDATIONS

To monitor the implementation of the National Strategy for the Education on Citizenship, assessing the effectiveness of prevention and combating sexual and gender-based discrimination, racial discrimination of children of immigrants, foreigners and ethnic and racial minorities, including the Roma minority and people of African descent; to adopt mechanisms of regulation of scholar practices concerning the integration of the more vulnerable groups of children.

Combat school segregation and ensure access of Roma children to quality education, both school and pre-school.

Invest in the prevention of early school leaving by Roma girls giving tools to schools, preventing the state institutions to be an accomplice and through awareness raising and mediation. In the eyes of Roma families, the only reason for children to go to school shall not be under threat to prevent the State from taking away the children. Parents and children need awareness on the benefits of school and education.

Implement gender mainstreaming of youth associations and associations that promote leisure and sport activities through gender mainstreaming of the public funds that finance them.

children of circus artists). The ACM encourages the professionals that work within its projects to be a sort of an accomplice of parents in taking the girls out from school. For the online school system, by law, the child needs a parent or relative that becomes their tutor and oversees their development. As in Roma families the educational levels are generally low, it would be impossible for the parents to become tutors. The ACM, perpetuates wrong information (completing the points of the article of the Portaria n.º 85/2014) in a circular letter, that it is obviously not foreseen by the law as it is unconstitutional for professionals to become tutors of the children in order to facilitate their social inclusion. This tutoring is impossible to work as in terms of time and dedication it is impossible to expect that the professionals have the availability required for the process. This is the most striking segregation strategy that exists on the level of formal education in Portugal and it prevents the full citizenship, participation and equal access to opportunities of Roma girls.

BEST INTEREST OF THE CHILD

Regarding the CRC recommendations to Portugal the NGO authors of this Shadow Report agree that the principle of the “best interest of the child” remain a theoretical concept, mostly employed in accordance with the interests of the adult (professionals of all areas or parents/family members/caregivers) reclaiming it, then those of the child whose voice and views are frequently undervalued, no matter his/her development stage and maturity.

The principle of the "best interest of the child" has indeed been written down as the rule of thumb - Law 147/99 of 1 September, amended by Law 142/2015 of 8 September, Articles 4, 58, 60 and 62-A; enactment of new legislation on civil guardianship law and civil sponsorship: Law 141/2015, 8 November, articles 5, 17, 27, 35 and 40; adoption: Law 143/2015, 8 September, articles 3, 36, 38, 34, 36, 50,52,63,79 and 82 and educational guardianship: Law 4/2015, 15 January, articles 6, 36, 40,45,47,77,101,107,123,133 and 140.

However, a clear and precise understanding of the concept of “best interest” remains elusive, to the point that it is subject to competing interpretations. There is no clear and precise definition of what such interest should entail, thus leaving it up to decision makers to fulfil this blank with their own personal views. As it is, children's physical or financial needs are perhaps more easily spotted, but it remains to discretionary views to perceive and decide upon children's safety, security, attachment to primary caretakers, psychological needs, right to grow in an environment free from violence and right to be heard, among others.

Thus, it may very well be that the same judicial case receives two completely different outcomes in the hands of different decision makers who have considered that the "best interest of the child" is completely opposite. The "best interest of the child" is a wheel of fortune.

RECOMMENDATIONS

To define the best interest of the child as their set of fundamental rights, including their access to primary needs, but also their right of choice, the attachment to their primary caretakers, the right to live in an environment free from violence, their safety and security. This set of guidelines should not inhibit decision makers of looking at each case as an individual case and listening to the child in question as it is already advised to, but seldom followed.

To make the hearing of children mandatory in all cases that concern them, be it criminal or civil / family cases. The examinations (forensics, judicial, and otherwise) should be always videotaped to clearly grasp the full testimonial of the child.

To educate decision makers and all involved in children hearings and examinations about such procedures as a mandatory rule of continuous education for this field.

To give children who are going to testify / be examined the safety net of a professional of their trust, especially if they are aged 5 years old or under. To consider the hearing of the child as a main asset into decision making, i.e. rightful right of the child to have a voice.

There has been some updating of professional materials, e.g. The Manual of the Hearing of the Child, to be used by professionals. However, continuous education in this specific matter is not mandatory by the professionals at stake which results in children being heard by decision makers who very seldom have been "educated" in this a particular and delicate subject. The consequence is a painful, if not traumatizing effect, of forensics and judicial vis-a-vis with children.

Moreover, the hearing of children is advised but not mandatory, so their opinion or testimony may not even be considered for decision making even though it was heard in a court of law.

Finally, Criminal and Civil /Family Courts are separate entities. Thus, separate cases may be happening at the same time in these two Courts with the same individuals at stake. Hence, it seldom occurs that within the same chronological frame, Criminal Court takes a temporary stand upon "the best interest of the child" (e.g. not to face their abuser) while Family / Civil Court takes a contrary stand upon that same "best interest" (e.g. maintain contact with that person, said person being a family member). Such contradictions are not rare and remain unresolved.

Whenever children maintain they have been mistreated or abused by a family member, namely a parent (statistically usually the father), Family Court usually sees as more important the parent /father's right to maintain physical contact with the child rather than the child's allegation that a crime has been committed against them or in fact the child's right to live and grow free of violence, their right to safety and security, to have their needs met, and to have a voice.

As it was said, most judicial cases involving children are discretionary, i.e. decision makers have the right to decide using only what they believe fit to and, moreover, interpreting the law as they believe rightful to.

Hence, a concept as open and vague as "best interest of the child" which indeed has not been filled with any sort of guidelines becomes an ideal spot for the appearance of decision makers' personal values and a ground for their personal experience to flourish, rather than to listen to the personal experience of the child in front of them. Thus, each individual child's case (which should be addressed personally) becomes trampled by the decision makers' core set of values and experiences as well as religious believes for example.

The hearing of children is not made by trained professionals who work solely with them, nor is it made by decision makers who are educated to question /examine children. Moreover, there is no law that states the protection of children while being heard (e.g. no accompanying trained professional). If a hearing or

RECOMMENDATIONS

To implement at national level binding Minimum Standards and indicators for the intervention with children of public and private entities and professionals ensuring the respect for their views and their best interests in a Human Rights principles approach and relabel monitoring mechanism to assess the full implementation; reinforcing institutional procedures and professional practices, in order to protect children's rights in a harmonizing way across all national territory.

To define indicators and implement monitoring system about the fulfilment at national and local level of the rights of children to have their rights and voice respected.

To implement mandatory qualification and specialized training for all professionals intervening with children on Promotion of Children Human Rights, Gender equality, Non-discrimination and Non-violence, valuating children's voice and promoting their civic participation.

To provide qualification training for rights of the child professional coaches to identify gender stereotypes, manipulative and violent behaviours and to have prevention strategies for the protection of children rights.

To prioritize children cases in administrative and judicial cases with a clear definition of procedures and criteria to minimize the impact on children lives.

examination is to take place, the process is not videotaped and seldom audio taped, so the whole testimony of a child, i.e. including their reactions, is virtually lost.

Criminal and Civil /Family Courts hardly ever communicate, their cases being considered "boxed". Therefore, it is not particularly relevant for Family Court if a parent (statistically, often the father) has mistreated or abused a child, since biological rights take precedent over action.

In fact, though not legally stated, in practical decisions taken judicially the Roman mentality of the *pater familias* is still very much observed: the father has the right to use his children as he sees fit.

Although legislation provides the right for child to be heard in every dimension of service provision (public and private) it's far to happen, although this is a perception for there's no structured monitoring of this right at national or local level.

Children's voices are not valued in Portugal, and some procedures and practices aiming to assure the right of the children to be heard may even cause them serious psychological and social damages due to a lack of specialized training and stereotyped representations concerning children's skills and competencies.

Although there has been some progress in the last decade, these constraints regarding the "best interest of the child" and the "respect for the view of the child" is not an appanage of the judicial and child protection system but also in all professional areas and society in general.

C. VIOLENCE AGAINST CHILDREN (ARTS. 19, 24 (3), 28 (2), 34, 37 (A) AND 39 OF THE CONVENTION)

Concerning violence against children Portugal has not a coherent comprehensive inter-sectoral political strategy for the prevention and combat of this issue.

The Penal Code criminalize the physical and psychological maltreatment of children, sexual abuse and neglect and according to the Protection law of children and young people at risk (law nr. 147/99 of 1 September), article 4th on Guiding principles of intervention, k) the intervention should be in a subsidiarity way, meaning that the frontline is the so called "entities with competence in child and youth issues", followed by the Commissions for the Protection of Children and Young People and in the last instance the Courts.

The Commissions for the Protection of Children and Young People (Comissões de Proteção de Crianças e Jovens – CPCJ) intervention shall take place, when the frontline entities intervention is not appropriate or not sufficient to remove or prevent the danger faced by the child.

The philosophy behind this subsidiarity strategy is to avoid, as much as possible, the intervention of the formal and "heavy" judicial system, however in many cases this leads to a prolonged maintenance of the risk

RECOMMENDATIONS

To implement coherent and comprehensive public policies for the prevention and combat against violence against children in articulation with the other National Action Plans integrated on the National Strategy for Equality and Non-discrimination.

To define indicators and collect reliable data on violence against children, comparable, disaggregated by age and sex; to create a system that allows to aggregate disperse data from multiple entities (governmental and nongovernmental) concerning children's abuse and neglect.

To improve the qualification and specialized training of professionals from the different areas intervening with children victim of violence.

To reinforce legal mechanisms and the training of judicial system professional on these issues.

To improve education on the issue.

To forbid violence on TV and films with the same criteria to sex scenes.

or danger situations of the child due to the possible “drag of the process from one instance to another”.

Another constraint is some of the specificities of the Commissions intervention, namely it can only intervene with the expressed consent of both parents, even if the full custody was attributed only to one of them. In Domestic Violence cases where the perpetrator is one of the parents, this can put the child and the victim parent in a greater risk situation, if there are not protective judicial mechanisms in place and often there is the case.

Until 2015 there was also the case of children sexual abuse by one of the parents, but with the amendment of the law of the Protection law of children and young people at risk (law nr. 142/2015 of 8 September, article 11th determine the enlargement of the immediate intervention of the judicial system in specific cases, like the sexual abuse is perpetrated by a parent or the person that is entitled to give consent to the intervention of the Commission.

In the year of 2017 these Commissions have intervened in a total of 35.075 situations:

- 6.257 (40%) negligence cases;
- 2.806 (18,3%) danger behaviour in childhood and youth cases;
- 2.643 (17,3%) danger situations violating the right to education;
- 1.915 (12,5%) exposition to domestic violence.

Another constraint to the intervention of the Commissions is the lack of uniformed procedures of intervention, that may differ from one Commission to another, not ensuring equal procedures and rights in the intervention across the country, namely cities and their local neighbourhood. The Guidelines of the National Commission for the Promotion of Rights and Protection of Children, that is the national entity with competence to monitor and evaluate all local Commissions for the Protection of Children and Young People, are not binding.

Portugal is lacking its obligation of recording systematically detailed data concerning children's abuse and neglect and widely disseminate it.

Numbers for child abuse and neglect are rising, in part because there is greater awareness by people interacting with children in detecting and reporting those potential cases.

Concerning corporal punishment there is a growing condemnation of the public opinion, however it still been

RECOMMENDATIONS

Report massively on what is sexual abuse; teaching teachers and families on how to prevent abuse, how to approach sexuality and how to educate for affection, mutual pleasure and consent.

Privilege the attachment of the child to its primary caregiving parents.

Reject imposing shared residency as a principle for separated/divorced families.

Ensure that acts of abuse, neglect and domestic violence are effectively investigated and that the perpetrators are brought to justice and are given adequate and crime deterrent sentences.

Protect the child victim during the entire legal process, by pausing contact to the accused perpetrator.

Immediately remove perpetrator from the family home during the criminal process. Instead of sheltering women and children who are forced to exit their home, lose their job and changing schools, the shelters should host the perpetrators to keep the victims safe and protect their financial stability.

Forbid the placement of children solely on the grounds of poverty or unintended neglect.

Privilege support by other competent family members to “strangers”, i.e., intuitions.

Psychological forensics is important and should be conducted by child mental health professionals who have studied the sexual abuse of children and are informed of their difficulty to express the whole story in one or two sessions only. Silence is quite common in children who are victims of sexual abuse and should not be taken - as often is in Portugal by forensic teams, who have never met the child but for half an hour - as a sign that abuse never happened.

used by some caregivers, as a tradition method of children's education.

On the other hand, a worrying tendency to disregard reports and signs of child physical and sexual abuse when suspected to be perpetrated by the parents is also observed. This is mainly due to the spreading of theories without scientific basis, such as the "parental alienation" theory, which casts doubt on violence allegations, particularly sexual violence.

The family continues to be the main stage, with domestic violence and divorce/separation being a strong catalyst for the abuse and neglect of children to arise or to continue.

The recent public petition to bring into force legally the shared residency as a primary rule of custody in cases of divorce/separation of the parents, is also contributing to minimize the potential risk of abuse and neglect cases, increasing the impact of re-victimization and of violence escalation towards the child and the victimized parent.

Many professionals dealing with and deciding on these cases still reveal inadequate qualification and demonstrate lack of empathy in evaluating abuse and neglect cases.

There is, also a deeply concern about the judicial system approach to those cases, as only 6% of sentenced domestic violence perpetrators are given prison sentences. In some cases, the victimized child is forced into keeping regular contact with her/his abuser.

Portugal's financial situation is still problematic, with low income and food insecurity affecting many families. There are several reports of children being forced into institutions - most privately operated with public subsidies - solely for poverty reasons. Almost 9'000 Portuguese children are institutionalized.

Abuse, including sexual abuse, and bullying in the school is also on the rise.

In case of sexual abuse, forensic exams are not done on time for a report to be considered viable. Thus, most of the forensic exams are "inconclusive" by default, since no DNA is ever found.

In the majority of the cases that are not crisis situation if a child is taken to a public hospital, forensic teams for sexual abuse, around the country (operate only 2 or 3 days per week) exams have to

RECOMMENDATIONS

Courts shouldn't mandate exams after months and then rely on them for not condemning potential abusers. Forensic teams on hospitals shouldn't refuse to work for children who go there with the excuse that there is not court order.

The general public should be informed of what to do and where to go in case of sexual abuse. Most mothers naively wash their children and do not take a stand against forensic teams when they refuse to examine the child in question.

Training courses and specialized formation for professionals of health, psychology and law, about sexual violence is needed. As it is fundamental that any child (boy or girl) will be heard and believed if or when they disclose. Or later, in adulthood life they seek support, as we know that some professionals have been identified by survivors as flawed and unprepared to handle cases involving sexually abused boys.

Articulation between Criminal and Civil / Family Courts should become a reality in all cases involving violence upon children (including violence by proxy). When a child states abuse, their words and fears should be considered in both courts. The rights* of the parent / father to be with a child should not take over the child's rights to grow without violence and to be safe and secure, nor their psychological needs of recovering from trauma.

* notice that, strictly speaking, according to the law parents do not have rights regarding their children. They have duties. This concept has been misused lately. In fact, children are the ones who have rights whilst parents have but responsibilities towards them.

To allocate specifically resources to support children of femicide cases, who often lose both parents at once: the victim-parent is deceased, and the offender-parent is detained. In each situation an automatically support mechanism must be activated.

The support to child survivors of sexual abuse must be done in due diligence. The time of the child is not the same of the adults.

wait until a proper scheduled date is booked, even if the child is hospitalized due to trauma, e.g. vaginal or anal rupture.

If the child is not hospitalized but carries their normal daily life, forensic exams can only be done by Court ordering.

Such procedures will take a minimum of two months to be officialised.

Hence, physical trauma will be deemed "inconclusive" as evidence of sexual abuse.

Needless to say other forms of sexual abuse whose physical marks are less evident, such as oral sex, and that need immediate forensics action, are completely left aside by practitioners.

As far as psychological forensics go, they are not done by child specialist, but by general psychologists, who may work with sexually abused children one day and with adults that are victims of other traumatic situation on the next day.

Frequently the psychological forensics report is misguided and, again, like the judicial hearing of children, conducted as if it was the child on trial. Moreover, quite often, children are accused of lying about the abuse, especially if they reveal abuse by a parent (statically, generally the father), by being told they have "unfulfilled fantasies", "they dream too much" and that their other parent (usually the mother) has given them a previous script to tell;

For example, many cases of sexual abuse do not leave physical evidence, e.g. exploitation resulting in pornography, even if there has been physical manipulation involved, e.g. masturbation.

As for cases of sexual abuse resulting in major physical trauma, the importance of physical forensics is capital. We live in a world of technological capacities where other countries, such as nearby Scotland, have already found ways to detect evidence of sexual abuse while we are still only taking photographs of scars and bruises... Something that hardly requires a medical degree! Nevertheless, and if the State has clearly decided to cut costs on this matter, then at least let us proceed with forensics on due time - a period of a few hours for oral sex (due to the scrubbing of the mouth's inner cheeks without the presence of other agents such as food, liquids, etc.) and not a much longer period for vaginal and anal exams (again, considering scarring and baths).

Furthermore, there is a lack of qualification/preparation in the identification and assessment of child abuse and neglect by the relevant parties, frequently romancing the parental relationships in domestic violence or sexual abuse cases, downplaying the gravity of those crimes and denying the suspicion regarding accusations of abuse.

On one hand there is a low conviction rate and extremely rare prison sentences for domestic violence and sexual abuse, and on other hand there is a prejudice towards the parents' poverty or mental health problems leading to hasty decisions of child separation and placement in institutions.

Responses to children exposed to domestic violence and femicide should be comprehensive and holistic, taking into account the range of effects and needs of different children. They need to know that there are adults who will listen to them, believe them, shelter them, and need the government, its support services and the legal system to meet their needs. Portugal must specifically allocate resources to support these children, who often lose both parents at once: the victim-parent is deceased, and the offender-parent is detained.

The loss of a parent due to femicide has a major impact on children and both the government and the legal system need to address them as victims and not only witnesses. It is urgent to ensure that in such a situation every child will be properly supported. For this to happen it is imperative to create a support mechanism that is automatically activated and recognizes the unique vulnerabilities of children and adolescents. Most of the families lack the knowledge or the means to help their children in this process. For this reason, it is essential

that this support is made available free of charge, resulting from the cooperation of legal, health, educational and social workers and other professionals that work together to act as an advocate on behalf of the children. It is a vital role of the state to ensure that all children are properly accompanied throughout the healing process.

Besides the emotional support, children need to be provided with pre-court preparation and support. Having to testify in court can be a stressful experience. Children and adolescents may not fully understand the criminal justice system and can often feel frightened or overwhelmed by the court process. When talking about children and adolescents that have been exposed to domestic violence, the experience it's even more difficult because they are required to give evidence against a family member.

In the XXI century, Portuguese children are still treated by the courts as simple witnesses and are forced to testify before the aggressor and other spectators in the courtroom repeated times. Seeing the aggressor again triggers a stress reaction and unfortunately, in Portugal there is no mechanism in place to shield a testifying child from the aggressor.

We believe that the following measures should be made statutorily available across Portugal:

The use of a one-way witness screen or the ability to testify from outside the courtroom via a closed-circuit video link (CCTV). Entering the evidence this way spares the child from having to repeat all the details of what happened. Research on CCTV and child testimony confirms expectations that children feel less stressed when testifying outside the courtroom and also provide more effective evidence.

The use of a "support person"/psychologist to sit with or near a testifying child. Among the advantages of this accommodation is that the child feels less alone and scared and they see a familiar face.

Another issue of concern is the lack of recognition that boys are also victims of sexual violence. Researchers have found that at least 1 in 6 men have experienced sexual abuse, whether in childhood or as adults. Nevertheless, we know the majority of the reported cases happened during the childhood. As the Council of Europe states, 1 in 5 children will be victim of sexual abuse on his or her life, however only 1 in every 10 children discloses the sexual abuse story.

Many adults (parents, carers, teachers, etc) wrongly assume that a child will disclose if they have experienced a traumatic sexual experience. So, if a child won't speak, adults might assume nothing has happened, unaware of the complexity of the grooming process that abusers do, how it silences the children.

In case of abuse when adults don't identify a visible impact on the child, or only "minor effects" are noticed, adults may believe that the traumatic experience will fade away and be forgotten, and that there won't be lasting negative effects.

There's also cases in which adults incorrectly equate sexual abuse only with violent rape, and don't recognize that serious consequences can be caused by many kinds of sexualized interactions with children, including unwelcome touching, exposure to pornography, witnessing sexual acts, among other traumatic experiences. All of these examples of experiences are unwanted or abusive betrayals of adult's responsibilities and children's trust, and all can have lasting negative effects on the child's development and later in their adult life.

Speaking specifically about boys who are sexually abused, when they disclose it is known that they are faced with disbelief and discrimination. Within the family context, the fact that boys may face disbelief and even physical punishment after they disclosure can be seen as an example to show how difficult it is for adults to understand that boys are also victims of sexual violence (1 in every 6) even if it is less than girls (1 in every 3). In some cases, adults, specifically fathers, demand the boys to "man up" and show proof of their manhood and to overcompensate their masculinity.

Families and society are influenced by misconceptions regarding the gender stereotypes and myths such as "boys and men can't be victims of sexual violence", or that "a man knows how to defend himself", "a man has to solve their problems by himself", contributing to the lower visibility of male sexual abuse as a public health problem and also contributing the silencing of male survivors.

These stereotypes and myths are well spread among professionals (health care, law enforcement, psychology, education, etc.) and it's common that they won't identify male survivors of sexual abuse as such, or might not hear, believe victims when they disclose.

D. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (ARTS. 5, 9-11, 18(1) AND (2), 20, 21, 25 AND 27 (4) OF THE CONVENTION)

FAMILY ENVIRONMENT

During the period 2014-2017, austerity measures impact was quite present within families. Data on poverty show the hardships faced by families, particularly those with children:

- At risk of poverty rate: 18.3% (2017);
- At risk of poverty rate and social exclusion: 25.1% (2016);
- Severe material deprivation: 6.9% (2017);
- People living in households with very low work intensity: 8.0% (2017);
- **Children at risk of poverty and social exclusion: 24.2% (2017);**
- At risk of poverty rate for women: 18.7% (2017);
- **At risk of poverty rate for households with dependent children: 19.7% (2017);**
- **At risk of poverty rate for single parents: 33.1% (2017).⁴**

Single-parent families, namely those headed by women, face an at-risk of poverty rate higher than the rest of the population (33.1%) as well as children (24.2%). Additionally, **20.7% of children in Portugal are at-risk of income poverty and 7.4% are in severe material deprivation.** More than 40% of large families in Portugal are at-risk of income poverty.⁵

Children and single-parent families at-risk of poverty have frequently low community networks support or even extended family support. Additionally, those in the labour market face low wages - in 2016, 21.6% of all workers received the national minimum wage; 58.7% of those workers are women - and long working hours.

Childhood education facilities were downsized during the austerity period in Portugal. Nevertheless, in 2016 there were 2.674 early childhood facilities in Portugal, 74.1% were public. However, in the big urban areas,

RECOMMENDATIONS

Family environment:

Child allowance should be a right every child should have, independently of living in a family environment or not.

Family benefits: There is a persistent need to increase family income, particularly among female single-parent families. Increase food pensions for mothers or caregivers.

Better policies on reconciliation of work and family life, namely regarding public transportation (more public transportation, better quality of the transport, appropriate schedules), less working hours (in general people work 40 hours/week), availability of accessible early childhood education facilities across the country (for instance, in Lisbon half of those facilities are private).

⁴ EAPN Portugal (2018), *National Poverty Watch Report Summary September 2018 Portugal*. Available at: <https://www.eapn.pt/documento/616/national-poverty-watch-report-summary-september-2018-portugal>

⁵ EAPN Portugal (2018), *Pobreza e exclusão social em Portugal – 2016-2017 EU-SILC 2017*. Available at: <https://www.eapn.pt/documento/577/indicadores-sobre-pobreza-dados-europeus-e-nacionais-outubro-2018>

there are a lot of those facilities that are private (Lisbon: 44%; Setubal: 43%; Porto: 34%). The coverage rate of educational facilities for children aged 0-3 years was 50.3% (2016).⁶

As in many other countries, the discourse of globalization, crisis, discrimination and the need to impoverish persists. More and more, children do not play outside their homes; there is a lack of integrative, safe cities with neighbourhood, parks and playgrounds.

On the other hand, service providers to children, namely those that are run by NGO, are always looking for financial resources based particularly on projects' proposals; this means that services cannot ensure stability human resources.

Accessible and affordable care is not sufficiently supported by State, namely in the big urban areas. In that sense, teenage mothers lack social support particularly when they should be involved in education.

Whenever needed, families could also benefit from counselling and mental services.

CHILDREN DEPRIVED OF A FAMILY ENVIRONMENT

In Portugal there are 2 major facilities for children deprived of family: temporary shelter for children, and children and youth houses. On the temporary shelter for children, 62% had 10 or less years and on the youth houses 38% had between 11 and 15 years and 35% between 16 and 18 years.⁷

Portugal has a high number of children living in institutions: in 2014: 8.470; 2015: 8.600; and 2016: 8.175.⁸ Broadly, those children correspond to 0.56%-0.58% of the population living in Portugal under the age of 14 years.

Looking at children deprived of a family environment in 2016, the vast majority (87.4%) are living in temporary shelters or in children and youth houses; only 3.2% are placed in a family-based care provision (mainly boys with 12 or more years). 20% of children living in institutions were prescribed medication. Main reasons to be institutionalized: negligence (72%), psychological maltreatment (8,5%), physical maltreatment (3.4%) and sexual abuse (2.8%).

The number of children placed in this type of care has been decreasing dramatically since 2006 (from 2.698 in 2006 to 261 in 2016);⁹ the breaking point was in 2008 when the financial support to people with family bounds and kinship was withdraw. For instance, in

RECOMMENDATIONS

Children deprived of a family environment:

To invest in the process of children's inclusion outside of the institutional care system;

Introduce new solutions to support families: including networking (even if they are paid), increased comfort, help in solving family problems and with children and institutions. Make citizenship friendly and stop demanding constant poverty management.

To reinforce the mechanisms of children's integration in healthy family environments.

Support organizations to perform according to Standards (to be defined) and annually evaluate provision of services, having in mind the goals settled ahead (Plan).

⁶ GEP/MTSSS (2018), *Carta social – rede de serviços e equipamentos 2016*. Available at: <http://www.gep.msess.gov.pt/cartasocial/pdf/csosocial2016.pdf>

⁷ GEP/MTSSS (2018), *Carta social – rede de serviços e equipamentos 2016*. Available at: <http://www.gep.msess.gov.pt/cartasocial/pdf/csosocial2016.pdf>

⁸ Instituto da Segurança Social, I.P. (2017), *CASA 2016 - Relatório de Caracterização Anual da Situação de Acolhimento das Crianças e Jovens*. Available at: http://www.seg-social.pt/documents/10152/15292962/Relatorio_CASA_2016/b0df4047-13b1-46d7-a9a7-f41b93f3eae7

⁹ Instituto da Segurança Social, I.P. (2017), *CASA 2016 - Relatório de Caracterização Anual da Situação de Acolhimento das Crianças e Jovens*. Available at: http://www.seg-social.pt/documents/10152/15292962/Relatorio_CASA_2016/b0df4047-13b1-46d7-a9a7-f41b93f3eae7

2016 in Lisbon there was no child placed in a family-based care provision.

According to a newspaper, between 2014 and 2016, 151 pre-adopted and adopted children were returned to the state care system.¹⁰

The system of supporting parents and legal guardians in the performance of their child-rearing responsibilities, in particular in situations of poverty and disabilities, are neither enough or effective.

NGO representatives stated that many children are withdrawn from their families due to financial difficulties, organization of life and lack of supporting social networks; however, the reason recorded in the social security system appears as negligence.

During the years there has been poor policies coordination; only old solutions are applied, without minimum standards followed by public and private organizations.

E. DISABILITY, BASIC HEALTH AND WELFARE (ARTS. 6, 18 (PARA. 3), 23, 24, 26, 27 (PARAS. 1-3) AND 33 OF THE CONVENTION)

DISABILITY

In Portugal, families with children with disabilities (until the age of 24 years) receive an extra bonus on the family allowance. Again this allowance is given to the family and not to child.

A special education allowance is also available to families with children with disabilities (until the age of 24 years) to compensate financially all burdens related to education (for instance, the frequency of an appropriate educational facility). Again this allowance is given to the family and not to child.

No data available on children with disability is published.

HEALTH AND HEALTH SERVICES

The access to public health services is free of charge to children aged 12 and below.

Waiting periods for specialised health care services are too long, namely in areas such as dental health, ophthalmology, young mental health. Private health care services are too expensive for the majority. This equals no equal access to health care services for all children.

Early motherhood is still a reality in Portugal. In 2015, 2.295 girls gave birth.

Girls' survivors of female genital mutilation have no specialized medical services to provide re-constructive surgeries and no psychological support.

RECOMMENDATIONS

All children should have free health services until they reach 18.

To increase the presence of psychologists and social workers in schools and health contexts;

To improve the conditions of the national health care system in order to optimize children's mental development, not only in remediate situations. A preventive strategy must be intentionally adopted;

Funds allocation to services that provide support and coordination;

The National Mental Health Program should ensure the creation of psychological support services for children and adolescents in an adequate environment separated from adults. There is an urgent necessity on specific health services to children and adolescents' victims that ensures physical and psychological rehabilitation and that supports children and adolescents during the family court processes and criminal proceedings.

¹⁰ Correio da Manhã, 2 de junho de 2017. Available at: <http://www.cmjornal.pt/cm-ao-minuto/detalhe/151-criancas-devolvidas-em-2-anos-e-meio>

MENTAL HEALTH

The availability of mental health services is not coherent with the number of children in need for support, specifically if we take into account the estimate data on sexual abuse against children (one in 5 children, CoE).

The number of children impacted by violence in Portugal is still a tragedy:

Year	No. of reported domestic violence incidents	% of domestic violence incidents where children were involved
2011	28.989	41.5%
2012	26.084	42%
2013	27.318	39%
2014	27.317	38%
2015	26.595	% not available
2016	27.005	% not available
2017	26.713	34%

Source: Data from the Ministry of Internal Affairs

In more than 50% of the total number of sexual crimes the victims are children.

On the first semester of 2018 there were already 16 women murdered on domestic violence context from which resulted 14 orphan children. From 2004 to 2017, 475 women were murdered on domestic violence context (562 attempted murders) from which resulted 178 orphan children.

This violent context affecting children in Portugal is not properly addressed by the mental health services. Access to health services by victims including physical and psychological rehabilitation is not ensured. Children involved in domestic violence incidents are not considered victims. They are treated as witness with no psychological support, no risk assessment and no assessment of their social needs.

The very few mental health care and services for adolescents are provided in hospitals that also provide mental health care to adults.

Mental health care and services for children and adolescents are an urgent necessity.

By not addressing the violent context (resulting from domestic violence and sexual abuse) affecting children in Portugal and ensuring proper health services and physical and psychological rehabilitation Portugal is forcing children to live with the violence consequences as extensively documented.¹¹

There are few mental health care professionals in the formal educational system, making it impossible to give an effective assistance to all the children in need; the mental health care services for children in hospitals are scarce; and there's no other accessible way for children in need for a mental assistance.

There is lack of training in gender related issues for mental health care professionals that are dealing with children, especially in formal education system.

¹¹ Ferrajão, Paulo C; Oliveira, Rui A; Bibas, Maria. 2017. "Vicarious Trauma And Inter Generational Trauma Among Children Of Domestic Violence Victims"; Miguel Oliveira Rodrigues, "Os filhos da Violência Doméstica: Impactos comportamentais e escolares" ("Children of domestic violence: Impact on behavior and academic results"); Children exposed to domestic violence - Osofsky, 1995; Rieder & Cicchetti, 1989; Sudermann & Jaffe, 1999; Inter Generational Trauma - Lyons-Ruth, et al., 2005; Bombay et al., 2009.

F. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (ARTS. 28, 29, 30 AND 31 OF THE CONVENTION)

EDUCATION, INCLUDING VOCATIONAL TRAINING AND GUIDANCE

Austerity measures, in the last decade, affected the education sector with impact in infrastructures, personnel, teachers and non-teaching staff and increased in all education levels the number of pupils by class. Portugal still faces high levels of early school leaving and grade repetition, with about one third of 15-year-olds having repeated at least one grade (EC, 2018). The repetition rate differs across education levels and regions and is significantly higher in the Lisbon and southern regions (OECD, 2018).

Additional resources are needed to identify and support teaching for pupils with special educational needs (SEN). Education of pupils identified as SEN is almost exclusively provided in mainstream schools (88 %), and such pupils are fully integrated in regular classes. Resources for these pupils are insufficient; there is a lack of teaching skills and a reduced number of special education teachers (EC, 2018).

Data on vocational education and training (VET) pupils should be available in order to understand if VET programs are mainly recommended to migrant and under privileged children. Roma children and other ethnic minorities are not encouraged to pursue higher education.

Pre-school and school opening and closing times are not adequate to the working hours of families, children are often left unaccompanied at school before schools open and after closure.

Funding is not allocated on the basis of any comprehensive evaluation strategy and does not have flexibility to address specific challenges schools meet (EC, 2018).

RECOMMENDATIONS

Schools need to have the necessary human, technical and financial resources to provide high-quality education for all children despite social class, special needs, gender, location, nationality, religion or being part of minority groups.

The number of pupils per class needs to be reviewed in order to integrate the needs of all children, also special education needs.

The curriculum should reflect the diversity of the population and the contribution of women, people of African descent and Roma, as well as be in accordance to the international treaties ratified by the Portuguese Republic in order to avoid gender stereotypes, to promote gender equality, introduce women writers in literature programs and rethink how history is taught, in particular feminism and women's movements, as well as slavery, and violence against indigenous people.

Children of all religions should feel respected and represented in school premises and text books.

Comprehensive sexuality education should be implemented and not be dependent on the will of school management and parents.

Make pre-school education available to all children despite social class, special needs, gender, location, nationality, religion or being part of minority groups.

Evaluate high drop-out and repetition rates at school by gender, children with special needs, nationality, minorities and religious groups and provide data available on a regular base.

Make sure all children from low-income families, migrants, refugees and minorities have the necessary resources to attend school and university.

RECOMMENDATIONS

Teachers need training in alternative methodologies, children rights, gender issues, human rights, diversity, multicultural societies at all levels of school.

Sport need adequate infrastructures in schools and all pupils should attend those classes despite social class, gender, location, nationality, religion or being part of minority groups. The programs should be reviewed in order to offer different options and promote gender equality.

All children should have access to cultural and leisure activities, even those living in the suburbs of the main urban areas and those living in rural areas. Girls should participate too.

All dietary needs should be available in school menus.

Schools should integrate members of the minorities, like Roma, African or of African descent, in their workforce, including teachers.

Listen regularly to children at all levels of school and involve them in all spheres of decision making at schools.

Patios and playgrounds should not reinforce gender stereotypes and segregation.

All toilets should provide the necessary hygienic materials for girls according to their age.

During holidays children should have leisure and cultural activities available at community level.

G. SPECIAL PROTECTION MEASURES (ARTS. 22, 30, 32-33, 35-36, 37 (B)-(D), 38, 39 AND 40 OF THE CONVENTION)

ADMINISTRATION OF JUVENILE JUSTICE

Regarding child victims and victims overall, different decisions according to where they are decided and usually a long time waiting (accused and victim);

People in general lack confidence on the judicial system, namely driven by the long-time decisions are made.

There is few or no mandatory training for professional and no-professional staff working with children in the judicial system, making most of the times the "re-educational spaces" a reinforcement of the non-adaptive beliefs and behaviour of this children.

We need more training in racial matter to professionals working in the justice system.

The use of a "solitary room", with very less conditions than the others, is still used in the first day of the penalty and when the children misbehave.

We recommend awareness raising actions on rights and duties in society and specialised training for professionals of the justice system on the rights of the child.

REFUGEE CHILDREN AND ASYLUM SEEKERS

During the period 2013-2017 a total of 188 unaccompanied children asylum seeker have been refuse to enter in Portugal, corresponding to 2.7% of the total of refusals.

Year	No. of unaccompanied children asylum seeker who have been refuse to enter	No. of all refusals to enter	% of refusals to enter of unaccompanied children asylum seeker on the total of refusals
2013	10	813	1.2
2014	37	959	3.9
2015	29	1.284	2.3
2016	48	1.655	2.9
2017	64	2.143	3.0
Total	188	6854	2.7

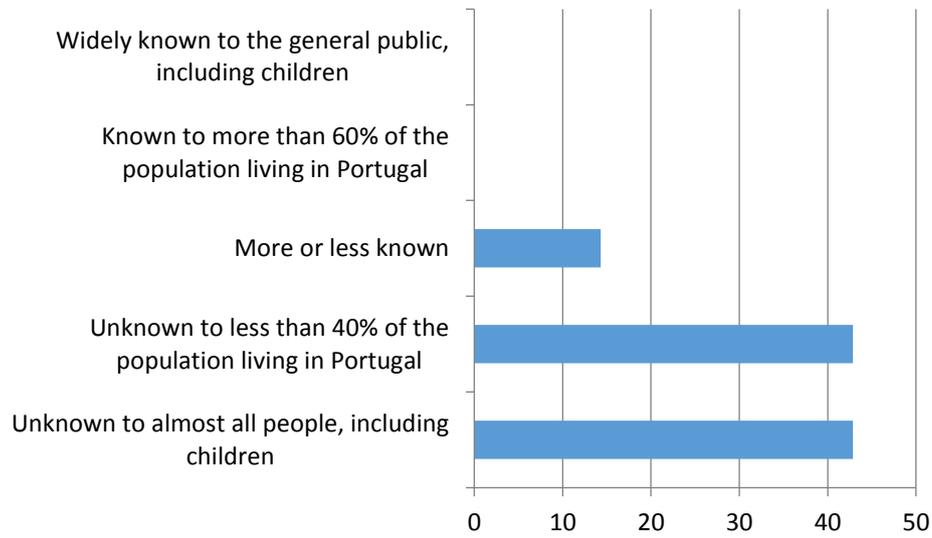
Source: SEF/GEPF (2018), Relatório de Imigração, Fronteiras e Asilo 2017. Available at:
<https://sefstat.sef.pt/Docs/Rifa2017.pdf>

Recent news on newspapers account for the detention of children when arriving in Portugal (2018).¹² The UN had already asked for the intervention of the Ombudsman.

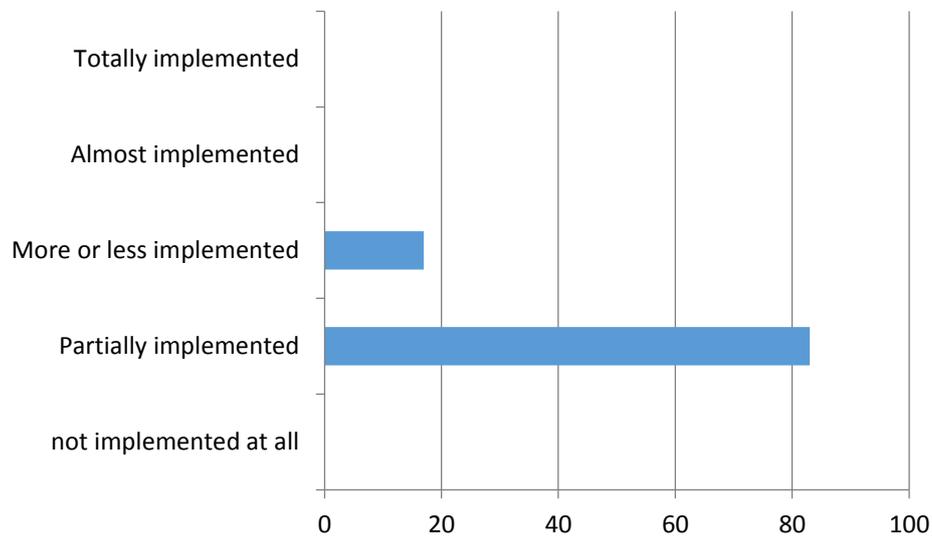
¹² <https://www.tsf.pt/sociedade/interior/sef-esta-a-deter-criancas-que-pedem-asilo-no-aeroporto-de-lisboa-9622999.html>

**A MINOR ASSESSMENT REGARDING THE CONVENTION ON THE RIGHTS OF THE CHILD
IN PORTUGAL ACCORDINGLY TO THE NGO THAT PARTICIPATED IN THIS REPORT**

At the end of the form that collected the responses from the NGO, we asked to assess if the Convention on the Rights of the Child was known in Portugal. 43% of the NGO assesses that the CRC is unknown to almost all people, including children, and 43% assesses that the CRC is unknown to less than 40% of the population.



NGO were also asked to assess the degree of implementation of the Convention on the Rights of the Child in Portugal. Almost all of the NGO (83%) assesses that the CRC is partially implemented in Portugal.



OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

During the period 2014-2017, there were around 93 children victims of traffic confirmed by criminal investigations. Children were detected by NGO working on the field as well as by law enforcement agencies. Almost half of the children were detected in 2017 (40 children). Girls are particularly at risk of sexual exploitation.

The available data on the type of exploitation does not allow us to identify how many children were trafficked for the purpose of sexual exploitation; this is due to the fact that data coming from NGO are subject to protection as statistical confidentiality. Nevertheless, sexual exploitation appears as one of the referred reasons.

Confirmed children victims of traffic in Portugal, 2014-2017:

Year		Predominant sex	Predominant nationality	Medium age	Predominant type of exploitation
2017 (*)	PT as a country of transit	Female (14 out of 24)	D.R. Congo	14	Unknown (23)
	PT as a country of destiny	Female (13 out of 13)	Romania	13	Forced begging (8)
2016	PT as a country of transit	No reference	No reference	No reference	No reference
	PT as a country of destiny	No reference (26)	No reference	16	No reference
2014	PT as a country of transit	No reference (8)	No reference	No reference	No reference
	PT as a country of destiny	No reference (19)	No reference	No reference	No reference
	Total	90 (+ 3 in 2017) (*)			

(*)Data mentioned on the text of the report refers to 40 children; however, data disaggregated on a table only accounts to 37.

Source: Annual Statistics Reports on Trafficking in Human Beings, 2014, 2016 and 2017. Available at: <https://www.otsh.mai.gov.pt/recursos/>

It should be mention that in 2018 the first and only shelter for children victims of traffic opened in Portugal, run by a human rights NGO. However, although there are children victims of human trafficking in Portugal as proven by the above data, to date no children were placed in the mentioned shelter. And clearly this does not fulfil the right of a child to protection and security, namely through the provision of safe and appropriated accommodation and emergency shelter.

Having in mind this Optional Protocol and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in particularly its Article 6, Portugal should implement and enforce legislation and sound policies on preventing and combating sexual exploitation, in particularly prostitution and pornography.

Some of the NGO that produced the present report are advocating for the adoption of the Nordic model on prostitution. However, the public debate in Portugal is misleading people to promote the adoption of the decriminalisation model on prostitution, a model that has a strong link with trafficking in human beings , namely children, as mentioned on the European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality: “whereas the prostitution markets fuel trafficking in women and children” (50); “ Points out that child prostitution and the sexual exploitation of

children are on the increase, also through social network media, where deception and intimidation are frequently used” (§16).¹³

Pornography, in particular online pornography, should be prioritised as an issue to be included in the Sex Education at schools in Portugal. As mentioned in the chapter on Education, Sex Education benchmarks should be revised and should include the prevention and combating on sexual exploitation, such as prostitution, pornography, revenge porn, abuse sexting, creepshots or digital voyeurism, etc.

On the other hand, as mentioned in the Chapter on Family environment, the at-risk of poverty rate among children is quite high in Portugal (reaching almost 1 in every 4 children). As pointed out on the Concluding Observations made by the Committee on the Rights of the Child on the Optional Protocol in 25 February 2014, Portugal should “adopt comprehensive and targeted social policies to address the root causes of offences under the Protocol, particularly child poverty” (pp. 4-5)

RECOMMENDATIONS

Widely disseminate the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Raise awareness on the Optional Protocol on night-time commercial settings (bars, night-clubs, etc.).

There is a shelter for children who were trafficked; all trafficked children should be placed in this shelter in order to receive proper psychosocial support and to be in a safe space only with children.

The shelter must receive sufficient, adequate and regular financial resources.

All professionals and services dealing with children victims of trafficking in human beings should work in close cooperation with the shelter.

Review Sex Education benchmarks in order to include the prevention and combating on sexual exploitation, such as prostitution, pornography, revenge porn, abuse sexting, creepshots or digital voyeurism, etc.

Some of the NGO that produced this report also recommend the adoption of the Nordic model on prostitution in Portugal, namely ending the demand by criminalising sex buying and criminalising those who buy sex from children (apart from the eventual crime on buying sex, they should also be criminalised under the crime of paedophilia).

Adoption of comprehensive and targeted social policies to address the root causes of offences under the Protocol, particularly child poverty.

Disclose data on children who were trafficked for the purpose of sexual exploitation, namely prostitution and pornography, disaggregated by sex, age and nationality, on an annual basis.

¹³ European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0162+0+DOC+XML+V0//EN>

REPORT'S AUTHORSHIP AND WORKING METHODS

The present report is a result of the work carried out by an NGO task force coordinated by the Association of Women's against Violence (AMCV), the Portuguese Platform for Women's Rights (PpDM) and the Association Women without Borders (Associação Mulheres sem Fronteiras).

The NGO task force included the following NGO:

APAV – Associação Portuguesa de Apoio à Vítima

Associação Contra o Femicídio

Associação Humanidades

Associação Plano i

Associação Quebrar o Silêncio

Associação Ser Mulher

Dignidade

EOS – Associação de Estudos, Cooperação e Desenvolvimento

REDE de Jovens para a Igualdade

The coordinators of the task force developed an online form in order to collect contributions from all the referred NGO, members of the task force. The report gathered all contributions, integrating also an analysis of the Portuguese State 5th and 6th Reports.

To produce this shadow report, all the concluding observations made to Portugal by the Committee on the Rights of the Child were taken into consideration; from the first report in 1994 and onwards we pinpointed the concluding observations that constitute a concern on a continuous basis and worked based on them.

We also took in due consideration the concluding observations on report submitted by Portugal on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

The present report is the result of the above work.