

# United Nations Secretary-General Study on Violence against Children

## Questionnaire to Governments

### PORTUGAL

#### International human rights instruments

**1. Describe any developments with respect to violence against children which have resulted from your country's acceptance of international human rights instruments, including, for example, the Convention on the Rights of the Child and its optional protocols, the Palermo Protocol or regional human rights instruments. Provide information concerning violence against children in which your country's courts or tribunals have referred to international or regional human rights standards.**

The two reports Portugal has submitted before the UN Committee on the Rights of the Child give a detailed and clear picture of the way the Portuguese legal framework has been influenced and updated in light of the ratification of the Convention on the Rights of the Child and other international legal instruments (see CRC/C/3/Add.30 and CRC/C/65/Add.11).

More specifically on the question of violence against children, and in general terms (since some of the issues will be further developed in the answers to other questions) the values protected by article 19 of the Convention on the Rights of the Child are automatically protected under Portuguese criminal legislation. The Penal Code (arts. 153 and 254) lays down punishment for fathers, mothers, guardians or, generally, anyone who is responsible for the care or custody, guidance or education of a child under 16 years of age who, out of meanness or selfishness, ill-treats or is cruel towards a child, fails to give him the health care or assistance required by his relationship to the minor, uses the child to perform dangerous, prohibited or inhuman activities, or overburdens him with work that is physically or intellectually excessive or inappropriate. Concerning sex crimes the child's age is specially taken into account in general classifications of offences (for example, rape), and there are crimes for which the child's age is a key element in the classification.

On the other hand, under the Civil Code (arts. 1915 and 1918), parental authority may be removed from parents who violate their duties towards their children; parental authority can also be limited when there are no grounds for removal but the child's safety, health, character development or education are endangered. Both limitation and removal of parental authority must take place by judicial action. Recent legislation on adoption considers that any child may be legally entrusted to a couple, an individual or an institution, with a view to future adoption, if the parents, by action or omission, endanger his safety, health, character development or education to such an extent that the emotional ties inherent in the parent-child relationship are seriously jeopardized.

### **Legal provisions on violence against children**

#### **2. Describe how forms of violence against children are addressed in your country's constitution, legislation and subsidiary legislation, and, where appropriate, customary law**

##### The Constitution of the Portuguese Republic

Firstly, the Portuguese Constitution, includes specific provisions dealing with the situation of children and their education. Article 36(5) of the Constitution states that «Parents have the right and the duty to educate and maintain their children», which is an ethical-social and also juridical duty (cfr. J.J.Gomes Canotilho e Vital Moreira, *Constituição da República Portuguesa Anotada*, 3.<sup>a</sup> Edição, Coimbra Editora). Also Article 69 (entitled «Childhood») of the Constitution of the Portuguese Republic determines *inter alia* that children have the right to be protected by the community and the State for their full development, particularly against all forms of abandonment, discrimination and oppression and against the abuse of authority in the family or other institutions. This is the first sign of the importance and high ranking the Portuguese legislative framework accords to the protection of children against any form of violence, including corporal punishment. This provision appears within the chapter on fundamental rights and duties of the Constitution and guarantees thus the right of children to protection, namely against physical and psychological violence. This also means that all ordinary legislation issued in Portugal must be in conformity with the fundamental law – the Constitution.

##### The Criminal Code

The Criminal Code too contains specific provisions prohibiting and punishing the use of corporal punishments against children.

According to its Article 143(1) «[w]hoever causes bodily injury or impairment of health of another shall be punished with confinement up to 3 years or a fine». According to the well-established Portuguese doctrine, the acts that constitute offences against the human body are «those involving the impairment of physical condition, including the loss of organs, limbs, or skin (not forgetting that classifying the organ or the limb as “important” entails the immediate classification of the offence against the physical integrity as serious under Article 144), bodily injuries, such as bruises, wounds or swells, physical changes, as a radical cut of hair [...], or painting certain parts of the body of the victim with a substance difficult to remove *v. g.*, tar or oil painting [...], the functional disturbance of body functions through, for example, the production of a harmful noise, among others [...]» (cfr. Faria, Paula Ribeiro, *Comentário Conimbricense do Código Penal, Parte Especial*, Volume I, Article 143, III § 9, pp. 205-206.)

With respect to this issue, the Portuguese Supreme Court, in a Decision of 18 December 1991, stated that it constitutes a violation of Article 142 of the Criminal Code, and thus a crime, even in those cases where the victim does not suffer any bodily harm, incapacity to work or even any pain or physical suffering, as in the case in question where the victim was just slapped. The conclusions of this Decision were confirmed by several other Court Decisions, like for example the Supreme Court Decision, of 21 January 1999, according to which «Article 143 of the Criminal Code provides for an offence against the physical or psychic integrity of the victim and admits the possibility of a physical offence without an external injury». Another Decision of the Supreme Court, of 4 March 1999, also refers that acts against the physical integrity of the victim constitute an offence even in those cases where the victim has not suffered any physical harm or pain.

Another Decision of the Court of Appeal of Évora, of 12 October 1999, also relates to the case of a father who slaps her 16-year-old daughter twice in the face during a discussion. From the Court's Decision it is very clear that there is no legal basis for the right to educate and «discipline» a child with recourse to physical aggressions. In this context the Court quotes the Civil Code to show that it does not permit the use of physical aggressions towards children. According to this Decision, the Civil Code, even before its revision in 1977, never accorded parents a right to educate their children using physical violence. In fact, before 1977 it only granted parents a functional power (and not a right) to moderately discipline children. This provision of the Civil Code was then, of course, eliminated by the 1977 revision and, pursuant to the Decision in question, this change must have had in consideration Principle VI of the 1959 UN Declaration on the Rights of the Child. Finally, the Court concludes that neither the lack of respect

of a daughter for her father, nor the latter's power-duty to educate her, justify the resort to violence by the educator.

According to the 1977 Portuguese Civil Code «parents, in the interest of the children, should ensure their safety and health, provide for their sustenance, direct their education, represent them [...] and administer their goods». The Civil Code goes further in determining the content of "paternal power" through the following wording «children must obey their parents; these, however, in accordance with the maturity of the children, must take into account their opinion in the important family issues and recognize their autonomy in organizing their life». As violence is not an explicit means of education, we must apply the Criminal Code.

Moreover, the Portuguese Supreme Court also defends this point of view and calls for a direct application of the provisions of the Criminal Code whenever a child is slapped by her father. The Supreme Court (9 February 1994) clearly considered that there is no rule that confers a right to discipline or educate a child using physical aggressions and therefore sentences a father to imprisonment for having slapped her daughter twice in the face.

In this context one should not forget the explicit aggravation of penalties applicable in cases of aggression among parents and children. In fact, according to Portuguese law (Article 146 of the Criminal Code) a father's aggression against a child is an especially aggravated offence. The rule deriving from the combination of Article 146(1) and (2) with Article 132(2)(a) results in an aggravated criminal reaction where the victim is a descendant, ancestor, adopted child or the adopter of the aggressor. In these particular cases, the law stipulates that the aggressor's behaviour is considered specially offensive or perverse.

### The Pupil's Statute

In addition to the criminal legislation, other different legal instruments stipulate the prohibition of the use of any form of corporal punishments against children. Law no. 30/2002 of 30 December, entitled **the Pupil's Statute**, prohibits the use of corporal punishments in school.

According to this law, pupils have the right to enjoy a school environment that ensures the necessary conditions for the promotion of the pupil's physical, intellectual, moral, cultural and civic development, as well as the right to be treated with respect and have his or her physical and mental integrity respected in school. Moreover, Chapter V of the same law, entitled «Discipline», stipulates the type of disciplinary measures that may be applied to pupils, as well as their aims.

According to the law, the disciplinary measures shall have pedagogical and preventive ends, as well as preserve the teachers' authority. Article 24(3) of the law explicitly determines that «no disciplinary measure may, in any form, harm the pupil's physical, psychic or moral integrity nor be of a pecuniary nature». Thus, any corporal punishment inflicted by teachers or other school personnel is explicitly considered illegal.

#### The Law on Educational Guardianship

Law no. 166/99 approves the **law on Educational Guardianship** and applies to children aged between 12 and 16 years who have committed an act considered a crime and gives rise to the application of an educational guardianship measure. Article 4 of the law identifies the only measures that may be applied to children who are subject to the application of the law. In that list no reference is made to the use of physical, or moral, violence against the children, instead reference is made to measures like deprivation of the right to drive motorcycles, the compensation for the offended person, the carrying out of tasks for the community, the attendance of training programmes, just to quote some significant examples.

Moreover, one of these measures – qualified by the law as a measure of last resort – consists in the child's internment into an educational centre (see Article 4(1)(i)). Article 171 of the law enumerates the rights of children subject to a measure of internment and determines with regard to that that they have the right to respect for their life, physical integrity and health. According to the same provision, children have the right to respect for their dignity and intimacy, as well as the right to exercise their civil, political, social, economic and cultural rights.

Furthermore, Article 188 of the law, entitled «Respect for the child's physical integrity and dignity», stipulates an absolute and explicit prohibition of the application of measures that may be considered a cruel, inhuman or degrading treatment or that may endanger the physical or psychic health of the child. Paragraph 2 of this provision states equally that «the application of a disciplinary measure may not, in any case, translate, directly or indirectly, into the application of corporal punishment, the deprivation of food or the right to receive visits [...]».

Finally, pursuant to Article 90 of the decree law no. 323-D/2000, of December 20 - approves the General and Disciplinary Rules of the Educational Centres - the personal physical containment is explicitly limited to the use of physical force to restrain the child.

### **3. Provide details of any specific legislative provisions on:**

- **Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment and sexual abuse**

Besides the legal framework which has already been described above, there are several programmes aiming at preventing violence against children. An example of programmes aimed at preventing violence against children is the **Program Safe School**<sup>1</sup>, which was created in 1996 by the Ministry of Internal Administration and the Ministry of Education. It involves policing schools and their surrounding areas, as well as the most common school paths by security forces. By reinforcing watch out activities and joining up means, the purpose of this **Program** is to achieve security for the pupils and the schools, including the protection of children against sexual exploitation and sexual violence, and against kidnapping. It is also intended to contribute to the prevention of the use of psychotropic drugs by young people, by way of the dissuading effect that this kind of measures usually have.

The Program is carried out by police officials who are dully trained and prepared for this type of action, as well as by vehicle, which areas exclusively dedicated to the surveillance and protection of the school population. Each vehicle is responsible for a certain number of schools and is equipped with a mobile phone and a first-aid kit.

The Ministries that have specific tasks in the field of the protection of children have frequently set up commissions with a view to promoting actions addressed to childhood. Aware that any relevant work in this area requires integrated and coordinated forms of intervention, many such commissions have had inter-institutional compositions (mostly inter-ministerial, but also mixed or tripartite, i.e. with governmental and non-governmental participation).

Moreover, the “**SOS for Children**” telephone line established in 1988 by the Child Support Institute (a Portuguese child rights NGO) does outstanding work in the area of prevention, support, information, guidance and handling of situations of children victims of violence. The work in this area of the Portuguese Association for the Support of Victims and the Portuguese Association for Child and Family Law should also be highlighted, as these two associations take a keen interest in the social rehabilitation of child victims of neglect, exploitation or abuse.

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<sup>1</sup> More information on this program can be found under: [www.gnr.pt/escolasegura.html](http://www.gnr.pt/escolasegura.html).

- **Protection of children from all forms of violence**

Decree-law No. 98/98, envisages the protection of children at risk. In this regard the protection envisaged is based on local protection commissions. These commissions are competent for the detection of situations that create a risk to the rights of the child or are damaging to their health, safety, training or social integration. All police and judicial authorities as well as all public and private entities with powers in matters pertaining to children or youngsters, are under a duty to inform local commissions of any such facts that they are aware of. The Commissions are under a duty to exercise their actions where a child or parents so requests or, upon consent of the latter, in situations that they detect or they are inform of. The Courts intervene where there is no consent.

Concerning violence and child abuse, the above-mentioned Decree-Law No. 98/98, of 18 April, has set up a National Commission for the Protection of Children and Youngsters at Risk. It was given powers for planning state intervention and co-ordinating, following and evaluating the action of public bodies and the community in matters pertaining to the protection of children and youngsters at risk.

The adoption of that decree-law as well as the reform of the legislation in this field should be considered in the framework of a larger legislative reform that aims at ensuring different treatment, on the one hand to situations in which the child is the victim of ill-treatment or other behaviour that puts him at risk and, on the other hand, to situations in which the child commits illicit actions.

The Commission is under the Ministers of Justice and of Labour and Solidarity. Its membership is made up of representatives of the Presidency of the Council of Ministers, the Ministries of Justice, Labour and Solidarity, Education, Health, the Prosecutor General, the Ombudsman and the Secretary of State for Youth, amongst others.

The Commission must intervene where parents, the lawful representative of the child or the person who is in charge of the child, create a risk to the safety, health, training, education or development of the child, or do not face such risks with a view to eliminating them. In this framework, Article 3 of the law explicitly mentions physical and psychological ill-treatment as reasons enough for the intervention of the Commission.

Moreover, the **Project for the Support of the Family and the Child (PAFAC)** was set up in 1992 with the following priority aims:

- Detect situations where children are ill-treated;
- Diagnose family ill-functioning that provoke ill-treatment of the child;
- Act as necessary in order to stop the risk situation.

This project is designed to cover children who are the victims of physical and/or psychological violence and who received medical care in health centres or hospitals.

In each central hospital an office of this project was set up. Each office is made up of one paediatrician, one psychologist, one nurse, one social service technician and one lawyer. At a second stage, the project will be enlarged to cover district hospitals.

Different departments of the State, from the Ministries of Health, Labour and Solidarity and Justice, are involved in the implementation of this project.

The results of the action carried out in the framework of this project, with respect to the detection of situations of ill-treatment, the diagnosis of family situations leading to ill-treatment, interventions in families and leading children towards social responses, may be evaluated according to the indicators that figure in the following tables:

### Indicators concerning the Project Support to the Family and the Child

INDICATORS	1996	1997	1998
Families being followed	98	124	195
Minors that form the families	280	341	497
Minors victims of ill-treatment detected by hospitals	121	157	296

Source: Project Support to the Family and the Child

### Age structure of children victims of ill-treatment

Age group	1996		1997		1998	
<b>&lt; 3 years</b>	102	41.1%	85	27.7%	131	49.1%
<b>4 to 6 years</b>	48	19.4%	68	22.2%	48	17.9%
<b>7 to 12 years</b>	69	27.8%	102	33.2%	70	26.2%
<b>13 to 18 years</b>	29	11.7%	52	16.9%	18	6.8%
<b>TOTAL</b>	248	100.0%	307	100.0%	267	100.0%

Source: Project Support to the Family and the Child

### Typology of ill-treatments

Typology of ill-treatments	1996		1997		1998	
Physical	489	33.7%	420	32.7%	742	37.6%
Psychological	238	16.4%	163	12.7%	259	13.1%
Negligence	631	43.6%	573	44.6%	856	43.4%
Sexual Abuse	91	6.3%	129	10.0%	116	5.9%
<b>TOTAL</b>	<b>1449</b>	<b>100.0%</b>	<b>1285</b>	<b>100.0%</b>	<b>1973</b>	<b>100.0%</b>

Source: Project Support to the Family and the Child

### Emergency Line "Ill-treated Child "

#### Age structure of children victims of ill-treatment

Age group	1996		1997		1998	
< 3 years	429	26.2%	374	27.7%	504	24.5%
4 to 6 years	327	20.0%	314	22.2%	409	19.8%
7 to 12 years	605	37.0%	525	33.2%	699	34.0%
13 to 18 years	274	16.8%	301	16.9%	447	21.7%
<b>TOTAL</b>	<b>1635</b>	<b>100.0%</b>	<b>1514</b>	<b>100.0%</b>	<b>2059</b>	<b>100.0%</b>

Source: Project Support to the Family and the Child

- **Redress, including compensation, for child victims of violence**

Decree-Law No. 423/91, of 30 October, amended by Law No. 10/96, of 23 March, establishes a legal regime for the protection of victims of violent crime. Articles 129 and 130 of the Criminal Code stipulate the civil liability deriving from a crime, and the compensation of the injured party is provided for in special legislation.

Under Decree-Law No. 423/91 of 30 October, Regulatory Decree No. 4/93 of 22 February and Law No. 10/96 of 23 March, the Minister of Justice is responsible for the decision to award compensation to the victims of violent crimes, upon the advice, as to the merits of the award and the amount to be awarded, of the Fact Finding Commission for the Award of Compensation to Victims of Violent Crimes, a body set up to consider and analyse these specific requests.

The Commission is composed of a judge appointed by the Supreme Council of the Judiciary, a lawyer appointed by the Bar Association and a senior official of the Ministry of Justice, appointed by the Minister.

- **Penalties for perpetrators of violence against children**

As was already above mentioned, according to article 143(1) of the Penal Code «[w]hoever causes bodily injury or impairment of health of another shall be punished with confinement up to 3 years or a fine».

- **Reintegration and rehabilitation of child victims of violence**

One of the objectives of the **Law for the Protection of Children and Youngsters at Risk** from 1999 was precisely to overcome some stigmatising attitudes towards children who are victims of ill treatments, including sexual exploitation. The new law aims in fact at differentiating these child victims from those children who are the perpetrators of crimes.

The interest of establishing a clear distinction between these two situations (child victims vs. child perpetrators) and of creating a differentiated regime for the treatment of children, has been constantly reaffirmed by the Committee on the Rights of the Child in Concluding Observations formulated on the reports of States Parties to the CRC.

The types of interventions set forth in this law are guided by the following principles:

- a) The best interest of the child and the youngster;
- b) Privacy;
- a) Early intervention;
- b) Minimal intervention;
- c) Proportionality;

- d) Parental responsibility;
- e) Family prevalence (which means that preference shall be given to those measures which integrate children in their respective families or promote their adoption);
- f) Mandatory character of the information;
- g) Mandatory character of the audition and participation;
- h) Subsidiarity;

Moreover, in accordance with article 7 of the Law, the intervention of entities with competence in matters related to childhood and youth is done in a consensual way, with the agreement of the parents or any other person legally responsible for the child and in accordance with the above-mentioned fundamental principles. It can only be done, if there is no opposition from the child.

When the intervention of the above-mentioned entities is not possible to occur in an adequate way, the intervention of the commissions for the protection of children and youngsters at risk takes place. This intervention depends upon the express consent of the child's parents or legal guardian. These commissions are official, non-judiciary institutions, with a functional autonomy and aim at promoting the rights of children and youngsters and preventing or putting an end to situations, which may affect the child's security, health, education or development.

The judicial intervention only takes place as a measure of last resort, namely when

- a) there is no commission for the protection of children and youngsters at risk available in the district in question,
- b) there is no consent for the intervention of the commission,
- c) the child or youngster shows opposition to the commission's intervention,
- d) the commission does not receive the necessary means for the application or execution of measure considered adequate; or
- e) the commission has not taken any decision on a situation which was brought to its knowledge more than 6 months ago;

- f) the Public Prosecution considers the decision of the commission illegal or inadequate for the protection or promotion of the rights of the child or youngster;

There are two types of placements in institutions, in accordance with the type of equipment where they take place, that is, whether the placement occurs in a House for Temporary Shelter or in a Home for Children and Youth. In the first case the placement is of a short duration and in the second one it is of a prolonged one (see article 50 §1 of Law 147/99, of 1 September).

The reviews of placement take place in accordance with the type of institution the child is placed in. In the Houses for Temporary Shelter the placement has a maximum length of 6 months (see article 50, §2 of the Law 147/99, of 1 September) and must be reviewed at least within 6 months. However, when the deadline for the placement is exceeded (article 50 §3 of the above-mentioned law allows for it in cases where a return to the family is predictable or while the diagnosis of the child's situation or the definition of his/her forwarding is still to determine), this review must take place every three months.

In relation to the Homes for Children and Youth, the above-mentioned law determines that the placement in such institutions is aimed at children and youngsters who require a placement for a period of time above six months (see article 50, §4 of the Law 147/99, of 1 September). However, it does not determine the placement's maximum length. In relation to the review of placement, article 62 §1 determines that it must take place at the end of the deadline determined in the agreement or court decision and, in any case, by the end of periods which shall not be longer than six months. In any case, the revision can equally take place before the deadline determined in article 62 §1, namely at the request of those persons who have a special interest in the process (that is, those referred to in articles 9 and 10 of the Law: the child's or youngster's legal guardian or the child and youngster him/herself) as long as the occurrence of certain facts justifies this request.

**5. Indicate if corporal punishment of children, in any setting, including in the family, is explicitly prohibited in your legal system.**

A detailed description of the Portuguese legal framework in relation to corporal punishment against children is presented above under question 2. It is however noteworthy to mention that the World Organisation Against Torture lodged a collective complaint against Portugal under the Protocol providing for a system of collective complaints to the European Social Charter on 31 July 2003. It related to Article 17 (the right of children and young persons to social, legal and

economic protection) of the Revised European Social Charter and alleged that Portuguese law has not effectively prohibited corporal punishment of children, nor has it prohibited other forms of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights concluded that there was no violation of Article 17.

The Committee mentioned that « Given Section 143 of the Criminal Code as interpreted by the Supreme Court, the Committee holds that in Portugal the **prohibition of all forms of violence has a legislative basis; it has the potential to reach all forms of violence** regardless of where it occurs or to the identity of the alleged perpetrator; and it is backed by adequate, dissuasive and proportionate sanctions. » (bold added)

**6. Provide information on whether the penal code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 years olds.**

The Penal Code does not allow, for any person, independently of his or her age or the crime that he or she has committed, capital punishment nor any type of corporal punishment.

**7. Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation.**

Bullying is not foreseen in the Portuguese legislation, namely in the Pupil's Statute (Law 30/2002, of the 20th of December) which limits itself to mentioning, in general terms, the duties of loyalty towards other peers and of integration of all pupils in school.

According to article 163 §2 of the Penal Code, which is included in the section on crimes against sexual freedom, someone who abuses of his or her position of authority in order to constrain someone to be subject to or to practice a sexual act, is punished with a prison sentence of up to 2 years.

**8. Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country.**

There is not a specific provision dealing exclusively with the practice of female genital mutilation. This practice is however punished under the Portuguese Criminal Code, whose Article 144 stipulates that "Whoever injures another person's body or health so as to [...] deprive him or her of an important organ or member"; or "deprive him or her of the possibility to or affect, in a serious

manner, his or her [...] possibility to use the body, senses or language”; or “cause him or her a particularly painful or permanent disease” “shall be punished with 2 to 10 years of imprisonment”.

No case concerning female genital mutilation has ever been reported to the commissions for the protection of children and youngsters. Work is however being done in order to prevent this practice within migrant communities: in 2004, a seminar was held on this topic, migrant women’s associations were consulted (concluding that the best way to address this problem is through preventive awareness-raising measures), training actions were organised (directed towards migrant women and men as well as educators, teachers, nurses and doctors working with high risk communities) and a questionnaire for medical practitioners elaborated in order to assess the extent of this problem and indicate necessary responses.

Marriage is governed by the Civil Code and people can only enter it once they have completed 16 years of age. There is an absolute prohibition of marriage if any of the spouses is under such age. Acts aimed at inducing a forced marriage may be punishable under Criminal law provisions dealing with “coercion”.

In Portugal, the category of “honour crimes” is not recognized. Therefore, “honour” as such is not a factor diminishing criminal liability and any crime committed for that reason shall be tried and punished under the ordinary criminal law provisions applicable to the crime in question.

Any of these practices (or any other which places the child at risk) may give rise to an intervention on the part of entities with competence in the area of child protection (in particular the commissions for the protection of children and youngsters and courts).

**9. Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children. If specific provisions do not apply to such children provide details of protection offered to them.**

Migrant children have access to the health care services provided by the National Health System (SNS) and also to pre-school and school education, irrespective of the legal status of their parents in the country. Therefore a national registry of foreign children was created with the sole objective of ensuring these children access to health care and education. The High Commissioner for Immigration and Ethnic Minorities ensures the enforcement of this right. Foreign citizens living in Portugal for at least one year have the right to family reunification with

those members of their family who live abroad, with whom they have lived before or who depend upon them (Immigration Law, Decree Law 244/98 of 8 August, lastly changed through Decree Law 34/2003 of 25 February).

**10. Provide information on any difference in the definition of violence and the applicable legal framework**

Article 143 of the Penal Code, which deals with light offences against the physical integrity, determines that those who inflict an offence on the body or health of another person are punished with a prison sentence of up to three years. Article 144, which deals with serious offences against the physical integrity, establishes a higher penalty (between 2 and 10 years of imprisonment) and applies to cases where the victim is deprived of an important organ or member, sees his/her working, intellectual or procreation capacities affected or has a specially painful or permanent illness. Article 152 of the Penal Code, on ill-treatment and violation of security rules, determines that those who have under their care, guardianship, responsibility, education or direction an underage or specially defenceless person and inflicts physical or psychic ill-treatment against him/her, employs him/her in dangerous, inhuman or prohibited activities or surcharges him/her with excessive work, is punished with a prison sentence of 1 to 5 years, if the conduct is not punished under article 144 of the Penal Code.

**11. Provide information on any recent comprehensive review of the legal framework to address violence against children.**

On 1 September 1999, an Act was adopted (Act 147/99) establishing a new and comprehensive framework for the protection of children and youngsters in danger. This Act was regulated by Decree-Law 332-B/2000, of 30 December and it has re-organised the previously existing system of child protection, giving the power to intervene in order to promote children's rights and protect children to entities with competence in the area of childhood and youth (for example, social security, educational authorities and youth associations), commissions for the protection of children and youngsters and courts.

According to the specific situation in question, such bodies can adopt the following measures in order to remove danger, protect and promote the child's safety, health, training, education, well-being and integral development and ensure the physical and psychological recovery of children victims of abuse: support within the family, care in charge of a reliable person, parent education,

family support, life autonomy support, placement in a foster family, placement in a foster family with the purpose of adoption and institutional placement.

Commissions for the protection of children and youngsters have a central role to play within this system. They are official, non-judicial bodies which work autonomously, with the participation of the main community agents. Such commissions shall act in case other entities with competence in the area of childhood and youth are unable to do so efficiently. The measures these commissions establish must be agreed upon by parents (and by the child over 12 years of age). In case there is no such agreement, the case shall be referred to courts.

Also in September 1999, a new Act on Educational Guardianship was adopted, aiming at 12 to 16 year-olds who practice acts defined as criminal.

Act 59/98, of 25 August has given victims of sexual crimes the possibility to have their testimonies recorded for future use as evidence within the process. This possibility, initially envisaged for victims of drug trafficking and organised crime only, is of particular importance concerning children, which are considered particularly vulnerable victims.

Act 7/2000, of 27 May, has introduced the prosecution *ex officio* of crimes of domestic violence (against the spouse or children), which have thus ceased to be punished only in case the victim submitted complaint (or did not oppose prosecution).

Lastly, Act 93/99, of 14 July, established a legal framework for the protection of witnesses in criminal proceedings (including the victims themselves). This Act – regulated by Decree-Law 190/2003, of 22 August – provides for a number of special measures to protect “particularly vulnerable witnesses”, including “by reason of age”, even if these persons are not subject to threats to their life or physical integrity. Once the particular vulnerability of the witness is established, the judge shall appoint a social worker to accompany the witness and, if necessary, provide him or her with psychological support. The witness may also be allowed to testify by videoconference and/or be temporarily removed from the family or social environment.

## **12. Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children**

A **National Commission for the Protection of Children and Youngsters at Risk** has been created in order to monitor, evaluate and support the existing 263 commissions for the protection of children and youngsters.

An annual report is elaborated on the activity of these commissions, containing proposals to improve their work. The National Commission also elaborates annual reports to assess the activities of local commissions and of the programs developed to respond to risk situations.

After the disclosure of a major case of sex abuse within a public institution, the Government has created a technical and scientific Council, composed by experts, to identify the causes of abuse within foster schools.

This Council has requested two groups to undertake studies: one to determine financial means for institutions to subsist without depending exclusively on the State (with the view to promote the creation of institutions run by NGOs); and another to conceive a standard-based model institution. The latter study has found that standards cannot be dictated by Government, but rather established with the participation of institutions themselves.

Another study has been commissioned to a university in order to base a bill to amend the legal framework on children representation within court and administrative proceedings.

A standardized crime report form and a standardized attendance form have also been elaborated for cases of domestic violence, with the view to, *inter alia*, bring national indicators in line with European indicators. It is expected that these new instruments will facilitate comparative studies on this issue.

### **Courts tasked with addressing violence against children**

**13. Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.**

As long as the specific case of violence against children committed is considered a crime, the common courts are competent to address the issue.

### **Minimum age for sexual activity**

**14. Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for girls and boys? Is this age different in respect to heterosexual and homosexual activities?**

The minimum age for valid consent to sexual activity is 14 years (see article 172 of the Portuguese Penal Code). Those who practice a «relevant sexual act» with a child below that age, are considered to be practicing a crime of sexual abuse of children.

This age of consent is the same for boys and girls.

However, in those cases where the child is between 14 and 16 years of age and has a relevant sexual act with an adult of the same sex, the adult is punished with a prison sentence of up to 2 years. This would not be the case in relation to heterosexual acts, because in those situations the age of valid consent is 14 years.

#### **15. Provide information on the minimum age for marriage for women and men.**

The marriageable age, both for men and for women, is also 16 years (Civil Code, art. 1601, para. (a)). However, the marriage of persons under 18 years of age requires the consent either of both parents exercising parental authority or of a guardian, or, in default of the latter, a court decision.

#### **Sexual exploitation of children**

#### **16. Legislation and other measures to prevent the commercial sexual exploitation of children**

Article 174 of the Criminal Code stipulates that where a full-age person has copulation, anal or oral sexual intercourse with a child between 14 and 16 years of age, abusing of his/her inexperience, shall be punished with imprisonment up to two years.

According to article 176 of the Criminal Code those who favour, procure or facilitate the prostitution of a minor between the ages of 14 and 16 years are punished with imprisonment between 6 months and 5 years. Those who make an under-16-years old minor practice prostitution or significant sexual acts in a foreign country are punished with imprisonment between 1 and 8 years.

The combat against procurement and trafficking in minors is equally intensified through the criminalisation of the laundering of its profits, through the change of article 2 of Decree-Law

325/95, of 24 December on: Preventive and repressive measures against the laundering of money and other property that proceed from criminal offences<sup>2</sup>.

The above-mentioned norms of the Criminal Code reveal the intention of the legislator to punish those who use children in order to produce show or transfer material. Such norms are usually applicable when the child is under 14, save where the person who commits the act is in charge of the children in which case the protection of the law runs up to the age of 18.

Moreover, the Portuguese Penal Code consecrates the fundamental principle of territoriality, according to which the Portuguese law is applicable to the facts practiced on the Portuguese territory, independently of the agent's nationality. Article 5 of the Penal Code<sup>3</sup>, which was revised in 1998 as a consequence of the First World Congress Against the Commercial Sexual Exploitation of Children, opens an exception to this principle, by stating that the Portuguese courts are equally competent of judging certain crimes committed outside the Portuguese territory if the agent is found in Portugal and cannot be extradited. Among the set of these crime one finds

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<sup>2</sup> <http://www.gddc.pt/legislacao-lingua-estrangeira/english/decree-law-325-95.htm>.

<sup>3</sup> **Article 5 – Offences committed outside the Portuguese territory**

1. Except when otherwise required by an international treaty or convention, the Portuguese law is also applicable to offences committed outside the national territory, namely to:

- a) offences that are a crime under the articles 221, 262-271, 300, 301, 308-321, 325-345;
- b) offences that are a crime under the articles 159, 160, 169, 172, 173, 176 and 236-238, paragraph 1 of article 239 and article 242, as long as the offender is found in Portugal and cannot be extradited;
- c) offences committed by Portuguese or by foreign nationals against Portuguese nationals whenever:
  - I the offenders are found in Portugal;
  - II the offences are also punishable under the law of the country where they were committed except when in that country no punitive power is applied; and
  - III the offences constitute extradition crimes and the extradition is prohibited; or
- d) the offences were committed against Portuguese nationals by Portuguese nationals who are ordinarily residents in Portugal at the time the offence is committed and are found here;
- e) the offences were committed by foreign nationals who are found in Portugal and whose extradition has been requested, when these offences constitute extradition crimes and the extradition is prohibited.

2. The Portuguese criminal law is also applicable to offences committed outside the national territory that the Portuguese State is bound by an international treaty or convention to judge.

#### **Article 6 - Restrictions on the application of the Portuguese law**

1. The Portuguese law is applicable to offences committed outside the national territory only when the offender has not been tried in the country where the offence was committed or if he has failed to serve the whole or part of the sentence.

2. Even if the Portuguese law is applicable under the preceding paragraph, the offender is tried in accordance with the law of the country where the offence was committed whenever it is more suitable for the offender. The penalty applicable under that law is replaced by the corresponding penalty set out in the Portuguese system or, if there is no exact equivalent, by the penalty prescribed by the Portuguese law for such offence.

3. The preceding paragraph is not applicable to the offences under subparagraph a), paragraph 1 of article 5.

in article 5 of the Penal Code are precisely the sexual abuse of minors, the sexual abuse of dependent minors, the trafficking of minors and favouring or procuring the exercise of prostitution by a minor. In these cases, the Portuguese law does not require the agent or the victim to be Portuguese, nor does it call for the crime to be equally punishable in the country where the fact has been practiced.

Finally, and as was already mentioned, there are several Programmes addressing the prevention of the commercial sexual exploitation of children in Portugal, *inter alia*, the PAFAC, the Safe School Programme and also the actions carried out by the Commission for the Protection of Children and Youngsters at Risk.

### **Pornography and harmful information**

**17. Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.**

According to article 172 of the Portuguese Criminal Code, on sexual abuse of children, any person who acts over a child under 14 years of age, either by way of obscene words or written document, spectacle or pornographic object, as well as any person who uses a child under 14 years of age for obtaining photographs, films, or recordings of a pornographic nature, shall be punished with up to three years imprisonment. Showing or transferring such materials is also punished in the same way. Moreover, since 2001, the possession of such materials with the aim of exhibiting or giving them away, is also criminalised through the same provision.

According to article 172 § 4, those who commit such actions with a lucrative end, shall be punished with imprisonment between 6 months and 5 years.

According to the article 173 §2 and 3 of the Criminal Code, where the persons who commit such acts are in charge of a child ages between 14 and 18, for purposes of education or assistance, the punishment shall be imprisonment between 1 and 8 years.

**18. Provide information on any legislation or guidelines to protect children from injurious information and material transmitted through the media, Internet, videos, electronic games, etc.**

The Television Law (Law 32/2003, of 22 August.) contains provisions protection children against programmes with a violent of sexual contents. It is a general obligation of the television operators to ensure the «observance of an ethic consistent with the protection of the especially vulnerable public, namely children and youngster» (see article 30§1). This protection becomes even clearer in relation to the limitations of programing. In this context pornography in unrestricted television services is forbidden and excessive violence or the incitement to racism and xenophobia. The law expressly related this prohibitions to the respect for the free development of the child's and adolescent's personality. With the same purpose in mind, the legislator limits the period during which the broadcasting of programmes susceptible of negatively influencing the child's development is allowed – only between 11 p.m. and 6 a.m.

According to the Advertising Code (Decree Law 330/90, of 23 October, lastly changed through Decree Law 224/2004, of 4 December) some restrictions to the contents of advertising which is specially directed at children are imposed. Advertising must take into account the child's «psychological vulnerability» and must abstain itself , inter alia, from inciting children directly, through the exploitation of their lack of experience; from exhibiting elements susceptible of endangering their physical or moral integrity. Advertising of alcoholic drinks, tobacco or any type of pornographic material is forbidden not only in schools, but equally in publications, programmes of activities which are specially targeted at children.

### **Reporting obligations relating to violence against children**

#### **19. Provide information on legislation, regulations or administrative directives requiring reporting of all forms of violence against and abuse of children in all settings to appropriate bodies**

Please see below under **26** the information given concerning the 263 commissions for the protection of children and youngsters that act in situations of risk.

### **Complaints Procedures**

#### **20. Provide information on any complaints procedures relating to all forms of violence against children**

Under the Portuguese legal system, anybody can report situations of violence to Public Prosecution services, for the purpose of criminal prosecution and victim protection.

The protection system is 3-tiered, with the intervention of:

- (1) entities with competence in the area of childhood and youth (for example, social security, education and health services), which act with the agreement of parents or the child's legal representatives.
- (2) Commissions for the Protection of Children and Youngsters, which act in case local authorities are unable to guarantee an effective protection, with the agreement of parents or the child's legal representatives.

In both cases (1) and (2) the child above 12 years of age can oppose the intervention. In case the child is above 12, his or her hearing is mandatory and there are no costs associated thereto.

- (3) Courts, which act, inter alia, in case the child over 12 or the child's parents or legal representatives oppose the intervention. In this case, Public Prosecution intervenes to promote and uphold the rights of the child at risk.

Article 103 of Act 147/99 establishes that the child's parents or legal representative or the person who has the child's effective custody can, at any stage of the proceeding, mandate a lawyer or request the appointment of a legal council to represent them or the child. The appointment of a legal counsel shall be mandatory whenever the child and his or her parents or representatives have conflicting interests and also when "the child or youngster with adequate maturity so requests it to Court". The appointment of legal counsel shall be effected in accordance with the Act on legal support. At the judicial hearing, the child must mandate or be appointed a legal counsel.

Furthermore, a document was elaborated, entitled "Procedural status of the victim", to explain to victims their rights and duties within the procedure. This document shall be published as a leaflet and made available at police stations. A Protocol was celebrated with the Portuguese Law Society in order to provide legal support to victims of domestic violence.

In case the child is subject to an education guardianship procedure (under the Act on Educational Guardianship), he or she shall be appointed a lawyer.

**21. Indicate whether children or persons acting on their behalf can access these procedures. Indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available**

Please see answer given under 20.

**22. Describe steps which have been taken to raise awareness of possibilities to submit complaints about violence against children.**

Over the last years, several telephone hotlines have been created to facilitate the reporting of cases of child abuse and ill-treatment: the Ministry of Social Solidarity (*Projecto de Apoio à Família e à Criança*), the Ombudsman and NGOs (like *Instituto de Apoio à Criança*) have such telephone hotlines.

The **Project for Family and Child Support** (*Projecto de Apoio à Família e à Criança*) has been created in cooperation with the Ministry of Health and, inter alia, established ill-treated children support centres within hospitals, which has contributed to raise the awareness of doctors to the problem of violence against children.

A Protocol was celebrated with the Portuguese Law Society in order to provide legal support to victims of domestic violence.

Next school year, on the occasion of the 17<sup>th</sup> anniversary of the Convention on the Rights of the Child, many human rights education activities are foreseen in schools throughout the country.

A number of measures have been taken within the National Plan against Domestic Violence, inter alia mass media campaigns, training and educational activities. For more information, see the chapter on awareness-raising.

**23. Provide information on any special procedural or evidentiary rules which may apply in proceedings with respect to violence against children.**

As stated before, children can be considered “particularly vulnerable witnesses” for the purpose of the Act on Witness Protection. In this connexion, a social worker can be assigned to accompany the child and, if necessary, the judge shall provide the child with psychological support. The witness may also be allowed to testify by videoconference (or other means to conceal his or her identity) and/or be temporarily removed from the family or social environment.

The child should testify as soon as possible after the crime and the judge may take provisions so that the child never meets his or her aggressor.

**24. Provide information on the usual outcome of complaints of violence against children (e.g. compensation, punishment of perpetrators, perpetrator rehabilitation, family therapy).**

Crimes committed against children are reported to Public Prosecution services for the purpose of prosecuting perpetrators. There is however a great discrepancy between the number of proceedings initiated and convictions.

The Act on the Protection of Children and Youngsters in Danger provides that, in case a child is considered to be at risk, an agreement on the promotion and protection of the rights of the child shall be celebrated (with the agreement of parents and of the child above 12 years of age), which can foresee measures such as: support within the family, care in charge of a reliable person, parent education, family support, life autonomy support, placement in a foster family, placement in a foster family with the view to adoption and institutional placement.

If there is no such agreement, the case shall be referred to courts, which decide on the most suitable measure to apply (seeking once again, if possible, the agreement of all parties).

As stated before, the judge may also provide the child with psychological support.

**25. Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (e.g. imprisonment, corporal punishment, community service, perpetrator rehabilitation, family therapy).**

In case children aged 12 to 16 commit an act described as crime, the provisions of the **Act on Educational Guardianship** shall apply. Depending on the seriousness of the act committed, the following measures can be applied to the child: reprimand; prohibition of driving motorcycles; reparation of the victim; economic sanctions or community work; conduct obligations; imposition of other obligations; training programmes; educational follow-up; and institutional placement (in open, semi-open or closed regime).

Only the most serious offences can lead to institutional placement (crimes punishable with more than 3 years of imprisonment) and this measure must be preceded by an evaluation of the child's personality. It is always a measure of last resort.

**26. Are there any Governmental authorities, structures and mechanisms, including at federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?**

**If YES, identify these authorities, structures and mechanisms and describe how coordination is ensured.**

At present, there are 263 commissions for the protection of children and youngsters – established at the municipal level - that act in situations of risk, in case it is possible to reach an agreement between the commission and the child's parents or representatives (as well as the child above 12 years of age).

The composition of these commissions aims at ensuring the best possible coordination between all entities with competences in the area of childhood at the local level: municipalities, social security, Ministry of education, doctors, private institutions of social solidarity, parents' associations, youth associations, security forces, sports and culture associations and technicians.

Although the commissions work autonomously (in case the agreement reached fails to be honoured they shall refer the case to the competent court), there is a National Commission for the Protection of Children and Youngsters at Risk whose task is to monitor, support and evaluate local commissions. This National Commission formulates guidelines concerning the work of local commissions and may also issue recommendations.

Within the judiciary, there are family and minors' courts with specific competence in the area of childhood. Public Prosecution has, by virtue of its Statute, the competence to represent children, upholding their interests.

The action of social solidarity services is also of paramount importance in this area, both to identify situations of ill-treatment and abuse and to find adequate responses thereto. Social security, inter alia, develops the following programmes: "Projecto de Apoio à Família e à Criança" (*Project for Family and Child Support*), aimed at ill-treated children, particularly within the family; "Ser Criança" (*To be a Child*), which seeks to promote the necessary conditions for the development of underprivileged children and the familiar, social and educational reintegration of children in risk of exclusion; Programme to Prevent and Eliminate the Exploitation of Child Labour (PPETI); and a programme to ensure immediate shelter for children in emergency situations.

Upon the adoption of the II National Plan against Domestic Violence, a mission authority has been established and is also developing important work in the fields of training, education, guidance and study of the problems associated with domestic violence, including against children.

The Ministry of Home Affairs runs the programme “Escola Segura” (Safe school), which aims at protecting children from violence within the school. The Ministry of Education runs a programme on the prevention of sexual abuse of children.

Furthermore, the Office of the Ombudsman develops an important work in the area of child protection, and has created a telephone hotline with the specific purpose of receiving complaints relating to children at risk or in danger.

See also reply to question 42.

**27. Is there a lead Government authority tasked with responsibility for addressing violence against children?**

**If YES, provide details.**

As can be seen from the reply above, there is a multiplicity of entities addressing the issue of violence against children. Of those, we shall highlight the National Commission for the Protection of Children and Youngsters at Risk, many activities of which aim at combating violence against children in particular.

**28. Are specific financial and/or human resources allocated by your country to address violence generally?**

**If YES, indicate the extent of these allocations.**

The Portuguese State budget does not allocate specific financial resources to violence, but rather to the several government departments concerned (none of which is exclusively devoted to this subject-matter).

**29. Does your country allocate specific financial and/or human resources to activities to address violence against children?**

**If YES, provide details.**

The activities undertaken by the public entities referred to in the reply to question 26 are basically funded by the Portuguese Government (sometimes in partnership with local authorities and NGOs). Occasionally, funding is sought from European Union programmes and bodies.

We add that many of the activities promoted by the National Commission for the Protection of Children and Youngsters at Risk specifically pertain to the subject-matter of violence against children.

For instance, in accordance with Article 32 (5) of Act 147/99, of 1 September, the National Commission shall promote an annual meeting to evaluate the work of local commissions. On 2004, annual meetings were devoted to the issue of ill-treatment of children.

**30. Do international or bilateral donors provide resources to your country for activities to address violence against children?**

No.

**31. Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?**

Please find below a table with the distribution of Portuguese Development Aid according to different sectors of activity, as for example, education, health, water, sanitation and others. As is easy to note, Portuguese cooperation does not allocate specific financial resources to violence against children, but rather to broader subject-areas.

**Infrastructures and Social Services**

**Sectoral Distribution of Portuguese Development Aid**

**(in Thousands of Euros)**

	<b>2002</b>	<b>2003</b>	<b>2004</b>
<b>Education</b>	3811	55864	43758
<b>Health</b>	8437	7120	7716
<b>Reproductive Health</b>	-	-	227

2002/2004

**Distribuição Sectorial da APD Bilateral***(Milhares de Euros\*)*

Sectores	2002	2003	2004
<b>I - INFRA-ESTRUTURAS E SERVIÇOS SOCIAIS</b>	<b>151 477</b>	<b>121 099</b>	<b>91 415</b>
EDUCAÇÃO	38 112	55 864	43 758
SAÚDE	8 437	7 120	7 716
POLÍTICAS EM MATÉRIA DE POPULAÇÃO/ SAÚDE REPRODUTIVA			227
FORNECIMENTO DE ÁGUA E SANEAMENTO BÁSICO	334	126	1 743
GOVERNO E SOCIEDADE CIVIL	80 351	41 778	20 963
OUTRAS INFRA-ESTRUTURAS E SERVIÇOS SOCIAIS	24 242	16 210	17 009
<b>II - INFRA-ESTRUTURAS E SERVIÇOS ECONÓMICOS</b>	<b>9 145</b>	<b>3 536</b>	<b>6 248</b>
TRANSPORTE E ARMAZENAMENTO	4 360	1 255	1 150
COMUNICAÇÕES	907	770	2 595
ENERGIA: PRODUÇÃO E APROVISIONAMENTO	1 720	342	961
BANCOS E SERVIÇOS FINANCEIROS	886	653	454
NEGÓCIOS E OUTROS SERVIÇOS	1 273	515	1 088
<b>III - SECTORES DE PRODUÇÃO</b>	<b>7 235</b>	<b>3 501</b>	<b>3 498</b>
AGRICULTURA	4 759	2 452	1 969
SILVICULTURA	52	125	141
PESCAS	3	15	8
INDÚSTRIA	142	32	188
INDÚSTRIAS EXTRACTIVAS	329	350	181
CONSTRUÇÃO	1 146	314	787
COMÉRCIO	9	13	150
TURISMO	794	201	74
<b>IV - MULTISECTORIAL / TRANSVERSAL</b>	<b>4 171</b>	<b>13 758</b>	<b>7 741</b>
<b>TOTAL SECTORIAL</b>	<b>172 027</b>	<b>141 895</b>	<b>108 902</b>
V - AJUDA A PROGRAMAS E AJUDA SOB A FORMA DE PRODUTOS	46	2 655	2 539
VI - ACÇÕES RELACIONADAS COM A DÍVIDA	12 341	4 672	564 536
VII - AJUDA DE EMERGÊNCIA	1 807	1 072	14 827
VIII - CUSTOS ADMINISTRATIVOS DOS DOADORES	7 417	8 829	8 273
XIX - APOIO ÀS ORGANIZAÇÕES NÃO-GOVERNAMENTAIS	2 930	1 358	3 082
X - NÃO AFECTADO/NÃO ESPECIFICADO	876	1 013	287
<b>TOTAL GERAL:</b>	<b>197 443</b>	<b>161 494</b>	<b>702 446</b>

Fonte: IPAD

Water/ Sanitation	334	126	1743
Other Infrastructures	24242	16219	17009

32. If your country has a national human rights institution such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints?

If YES, provide details.

The Portuguese **Office of the Ombudsman** aims at defending and promoting the citizen's rights, freedoms, safeguards and legitimate interests by reviewing, without power of decision, complaints concerning acts or omissions on the part of public bodies and issuing recommendations to the competent organs as are necessary to prevent or make good injustice (Article 23 of the Portuguese Constitution). The actions of the Ombudsman are independent of any acts of grace or legal remedies provided for in the Portuguese legal system.

Being accessible to the whole of society, including children, the Office of the Ombudsman intervenes to ensure that the competent entities take action and adopt the proceedings which best guarantee citizen's rights and fundamental freedoms.

The activities of the Office of the Ombudsman concerning children include running a telephone hotline named "**Messages from children**", through which it receives communications that, if applicable, lead to the opening of formal procedures aimed at ensuring the protection of the rights of the child concerned, as well as issuing recommendations of a general nature addressed to specific entities on the best way to ensure certain rights. The Office also undertakes activities aimed at diffusing the hotline among the general public and, in particular, children.

Children can contact the Office of the Ombudsman through the hotline, but also in writing, through the INTERNET and in person (either at the Office's premises and in activities members of the Office participate in, namely at schools).

### **Telephone hotline "Messages from children"**

#### a) Main features

In 1992, the Office of the Ombudsman established a telephone hotline (Green Line "Messages from children") to receive complaints related to children at risk or in a dangerous situation. It is a free of charge hotline which both children and adults on their behalf can have access to.

It is not an emergency hotline, but rather a hotline which provides technical and human counselling on matters related to the rights of the child and the best ways to guarantee such rights.

The unit serves as an ad hoc focal point to matters related to children within the Office of the Ombudsman. According to the specific problem posed by the caller, the professionals who serve the hotline either deal with the case themselves or refer it to another unit with expertise in the area in question (some cases, even involving children, are better dealt with by experts in areas such as labour, urbanism or health care).

In order to achieve the main purposes of the hotline, the Office of the Ombudsman strives at:

1. Disseminating information on the rights of the child as provided for in the Convention on the Rights of the Child as well as in the Constitution of the Portuguese Republic, Portuguese Civil Code, Act on Educational Tutelage, Act on Juveniles at Risk and other legal instruments;
2. Disseminating the hotline "Messages from Children" as means to ensure that children effectively enjoy their rights and are able to lodge complaints of the abuses they are victims of;
3. Guaranteeing a personalized, attentive and efficient service;
4. Contributing to the access to information;
5. Referring the different cases to competent authorities and, if necessary, following the action taken thereon;
6. Preventing violations of the rights of children.

On 27 July 2000 a proposal was adopted to reorganise the hotline services, of which resulted in:

- An extension of the opening hours, which doubled (was from 15:00 to 18:00 on working days and is now from 9:30 to 17:30 also on working days);
- Extension of the staff working time, given the growing number of phone calls and files (began with one person working half term and is now of 2 persons working full time);
- Improvement of the organization and follow-up of each file, with the view to engage the entities to act in an efficient and timely manner, taking into account the need to protect the child in question;
- Rationalisation of the available time with the view to be able to give an answer to the calls received and processes open, but also to study general issues, either following a complaint or at the initiative of the Ombudsman.

#### b) Follow-up activities

For each situation, the hotline services endeavour to find the best possible solution with the competent services and institutions, in order to ensure that the fundamental rights of children are

effectively guaranteed. The Office of the Ombudsman co-operates, inter alia, with the following services and institutions:

- Commissions for the Protection of Minors (CPM);
- Regional Centres of Social Security (CRSS);
- Institute of Social Reinsertion (IRS);
- Municipalities;
- Institute for Child Support (IAC);
- Support project for Family and Children (PAFAC);
- Santa Casa da Misericórdia (SCM);
- Ministry of Education and General Inspection of Education;
- Schools and School Delegations;
- Ministry of Labour;
- Ministry of Justice;
- General Inspection of Labour;
- Institute for Social Development (IDS);
- Courts;
- Office of Family Mediation;
- P.S.P. (Public Safety Police);
- G.N.R. (Guarda Nacional Republicana);
- Adoption services;
- Hospitals;
- Civil Registries;

- Foreigners and Borders Service;
- High Commissioner for Refugees.

### **Recommendations issued by the Ombudsman**

The Ombudsman has issued a number of recommendations concerning the implementation and guarantee of the rights of the child, of which we highlight the following:

- A recommendation, addressed to the Regional Director of Solidarity and Social Security regarding the violation of the rules concerning adoption (consubstantiating a situation of sale of children). It was recommended that adoption services ensure that all placements of children are duly justified and communicated to the competent court and social security services, that all placements decided by host institutions are followed by the social services and that the social services staff all situations as soon as possible with the view to facilitate the adoption procedures (Recommendation 20/A/00, of 13 March 2000) - P-13/99 (Aç);
- Regarding the same issue, the Ombudsman recommended to the Ministry of Justice that the Civil Code be amended so that the exhibition of the medical declaration certifying birth be made compulsory for the purpose of registering birth and that, in all situations without exception, the institutions where birth has taken place, or people who have witnessed birth, are obliged to communicate such birth to the civil registry (Recommendation 28/B/99, of 23 July 1999) – P-13/99 (Aç);
- The Ombudsman recommended to the Minister of Health that compensation be granted to a mother who had suffered injuries giving birth due to medical malpractice (Recommendation 38/A/00, of 9 May 2000) – R-2829/96 (A3);
- Regarding a case of refusal to grant maternity allowance, the Ombudsman recommended to the Minister for Labour and Solidarity that the act of refusal be revoked (Recommendation 29/A/99, of 27 April 1999);
- A recommendation addressed to the Secretary of State for Educational Administration saying that the State should progressively support the expenses of the educational component of pre-school education in all schools (Recommendation 37/A/00, of 18 April 2000) – R-3897/99 (A3);
- A Recommendation, addressed to the Minister of Justice, singling out a shortfall on legislation concerning the deadline for filing court cases on the investigation of paternity and maternity. The

Ombudsman has recommended a legislative amendment to provide for the non-aplicability of statutory limitations in the filing of such law suits whenever they aim at purely personal purposes.

### **Dissemination of the hotline**

Over the years, the hotline has been disseminated and publicized, among adults and children, through a number of different means, *inter alia*:

- Distribution of promotional materials (rulers, stickers), which inform about the existence of the hotline and its operation (2000);
- Interviews to several media (radio, newspapers and magazines);
- The INTERNET: in 2000, the Office of the Ombudsman webpage was updated, to provide the user with information about the hotline purposes, operation schemes and contacts, as well as with the reports of activities of the last three years;
- TV: In 2000, the Office has presented a proposal for a television programme within the commemorations of the Universal Declaration of Human Rights, with the purpose of diffusing those rights which directly relate to children. It aimed at demonstrating, in a way accessible to children, the meaning of such rights, situations in which they are threatened or violated and providing information about the available remedies;
- Participation in several debates, seminars and conferences on children and their families (namely in schools – see also below).

### **Other activities**

The Ombudsman is a member of the National Commission for the Protection of Children and Juveniles at Risk since the establishment of this Commission in 1998 and the co-ordinator of the hotline services participates in the monthly meetings of this Commission on his behalf.

The Ombudsman is a member of ENOC (European Network of Ombudsman on Children) since 1997 and the co-ordinator of the hotline services participates in ENOC annual meetings on his behalf.

The Ombudsman and members of his Office have also participated, and continue to do so, in a number of seminars, congresses and meetings on issues relating to children, namely adoption, juvenile justice, social work, child labour and children victims of sexual abuse.

At the international level, we highlight the participation in the ENOC annual meetings, as well as in a training course for Ombudsman assistants (with special focus on techniques for the protection of the rights of the child) (Guatemala, 25 September to 8 October 1999) and II Meeting on the Protection of Minors in Iberoamerica (Madrid, 11 and 12 November 1999).

**33. Are there any particular parliamentary structures (for example special committees) to address violence against children?**

**If YES, provide details.**

**34. Have there been any recent parliamentary initiatives to address violence against children?**

**If YES, please give details.**

### **III. ROLE OF CIVIL SOCIETY IN ADDRESSING VIOLENCE AGAINST CHILDREN**

**35. Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employer's organizations, national non-governmental organizations, international non-governmental organizations) and the major activities engaged in (including advocacy, awareness raising, research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).**

Several civil society entities (such as universities and NGOs) undertake activities addressing the rights of the child, many of which deal with violence against children.

We begin by emphasising the fundamental work developed (including in partnership with public bodies) by the NGO Institute for Child Support (*Instituto de Apoio à Criança – IAC*) in the promotion and protection of the rights of the child, inter alia of children victims of violence.

On 2003, IAC has participated in a study within the European Union Programme DAPHNE (which supports preventive measures aimed at combating violence against children, adolescents and women), one purpose of which was to create an International Directory of NGOs working in the area of missing and sexually exploited children.

On 25 May 2004, International Day of the Missing Child, IAC has held a Meeting at the Portuguese Parliament on “Missing and Sexually Exploited Children – situation in Portugal”. On November 2004, IAC has published a study on the same topic.

IAC has launched a children’s help service, SOS Child, with the purpose to promote and defend children’s rights, support the child and the family, prevent problem situations, inform, guide and orient the situations brought before its attention, raise the awareness of community structures and society at large to children at risk, listen to children and advocate children’s rights. It is a confidential and anonymous nation-wide service aimed at children, families, professionals and the community.

SOS Child comprises three help lines (including one for situations of missing children), postal service, e-mail, personal counselling (legal, social and psychological) and school mediation. Teams are multidisciplinary, integrating psychologists, social workers, child educators, school mediators and lawyers.

Through its “school mediation” component, SOS Child promotes, upon request, the establishment of Offices for Student and Family Support within schools. These offices aim at preventing school drop-out, school absenteeism, violence, bullying, addictive behaviour and the worst forms of child labour. Several meetings have been held in order to evaluate the work of the existing Offices for Student and Family Support. On May 2005, a discussion forum has been promoted on “Primary Prevention within the School – To Educate and to Prevent”.

Since 1990, through protocols established with different universities and higher education institutes, SOS Child receives interns of social service, psychology, social education, social policy, sociology and culture animation. It also promotes training and awareness raising activities.

IAC also runs a programme for street children.

The Portuguese Association for Victim Support (APAV) provides assistance to victims of crime and their families, through the provision of information and legal support. Among other initiatives aiming at contributing to victim support and redress, in 2001-2002 it ran project CORE II, under

which a handbook was elaborated with guidelines on how to provide assistance and support to children victims of sexual violence.

The National Confederation for Action on Child Labour (CNASTI) acts in this area, through field programmes and awareness-raising activities, and has created a telephone hotline. Also the National Confederation of Parents' Associations has a relevant action as a social partner to sovereign organs and other entities.

The NGO Association of Women against Violence has also developed relevant initiatives, such as a congress on sexual abuse of children and a training course on the same topic.

On September 2003, the "White March" was organised in Portugal by the NGO "Inocência em Perigo" (Innocence at Risk) in co-operation with the Filos Foundation.

Several awareness-raising activities undertaken under the II National Plan against Domestic Violence have been developed in partnership with private entities, namely commercial enterprises.

Portuguese academic institutions are beginning to be interested in the issue of violence against children, and some master and PhD theses thereon have already been elaborated. For instance, the Catholic University has run two courses on the rights of the Child. The West Legal Association (which joins lawyers, magistrates and other legal experts) has also run courses on the rights of the child. The Coimbra Academic Association also held a training session on child abuse. The Institute for Child Studies of Minho University has held two post-graduation courses on the rights of the child and will be holding a training course on the rights of the child for members of the commissions for the protection of children and youngsters. Also the Lisbon Autonomous University ran a training course on the rights of the child for members of the commissions for the protection of children and youngsters.

Within the implementation of the II National Plan against Domestic Violence, several initiatives were undertaken in partnership with private entities, including business companies. For example, an institutional publicity campaign was undertaken; a "Survival Handbook" was elaborated, aimed especially at victims of domestic violence, containing legal and psychological information, as well as protection and safety strategies to victims and their children; and a fund-raising action was undertaken to support training programmes with the view to enable the professional reintegration of victims of domestic violence or their personal valorisation.

**36. Describe the support provided by your Government for these activities and the efforts made to coordinate civil society and government initiatives.**

Portuguese Government provides support in a variety of forms to activities relating to combating violence against children. As stated before, certain activities developed by some NGOs are undertaken in partnership with public entities. NGOs like IAC are recognized to have a high social interest and thus given a series of benefits, including tax benefits. The creation of the telephone hotline on missing children has been effected through a Protocol celebrated between IAC, the Ministry for Home Affairs and the Office of the Prime Minister.

As an example of the support provided, we shall indicate that the National Commission for the Protection of Children and Youngsters in Danger has paid the participation of two members of each commission for the protection of children and youngsters at the training courses organised by the Minho University and the Lisbon Autonomous University.

Concerning co-ordination, the composition of the commissions for the protection of children and youngsters aims at ensuring the best possible coordination between all entities with competences in the area of childhood at the local level: municipalities, social security, Ministry of education, doctors, private institutions of social solidarity, parents' associations, youth associations, security forces, sports and culture associations and technicians. The Institute for Child Support (IAC) is sometimes invited to participate at the work of these commissions as an observer.

**37. Describe the role played by the media in addressing violence against children**

In 1999 the High Authority for the Media (which is an independent administrative body shall be responsible for ensuring, *inter alia*, the right to information, the freedom of the press and the respect for personal rights, freedoms and guarantees) promoted the signature of an agreement between the four existing Television Channels on the issue of Violence. They agreed on several rules, namely the insertion of special signs in those cases where the programmes shown are deemed to be violent and avoiding the insertion of violent scenes in TV spots aimed at advertising TV shows or programmes. It published a study in 1999 on Violence in Portuguese Television ([http://www.aacs.pt/violencia\\_tv/index.htm](http://www.aacs.pt/violencia_tv/index.htm)).

Portuguese Journalists have adopted a Code of Conduct approved in 1993, according to which «The journalist shall not identify, directly or indirectly, the underage victims of sexual crimes and the underage delinquents.». A similar provision can be found in Law 1/99 (Journalist's Statute).

The Oporto Club of Soroptimist International launched in March 2005 a Handbook aimed at supporting journalists on how to deal with and report the issue of domestic violence (see <http://manualmediavd.blogspot.com>).

#### **IV. CHILDREN AS ACTORS IN ADDRESSING VIOLENCE**

**38. Provide information on the involvement and consultation of children in designing activities, and in implementation and monitoring of programmes and policies to address violence against them. Provide details, including ages and other details of the children involved.**

On November 2004, on the occasion of the 15<sup>th</sup> anniversary of the Convention on the Rights of the Child, a commemorative session was held dedicated to the participation of children. The contribution of several schools was requested and they participated with theatre, music and exhibitions.

NGOs were invited to promote the right to participation. Several NGOs committed to this, including “Novo Futuro”, “Acreditar”, “Ajuda de Berço”, “Fundação do Gil” and IAC and are now elaborating a brochure with an illustrated Convention on the Rights of the Child.

Next school year, adherent schools will also participate in the commemorations of the 17<sup>th</sup> anniversary of the CRC. Each school will choose a theme and it is expected that some will dedicate their presentations to the issue of violence against children.

Furthermore, within the II National Plan against Domestic Violence, a partnership is underway with the Youth Institute to organise a “Hemicycle – Citizenship Game” whose theme was, in 2004-2005, “Domestic violence: measures of combat and prevention”. The objective was that secondary school students debate this issue and reflect thereon.

Also in collaboration with the Youth Institute, a forum on domestic violence was held, with the participation of a great number of adolescents and a panel of experts in this area.

**39. Describe the involvement, if any, of children in designing special procedural or evidentiary rules applying in court proceedings with respect to hearings concerning violence against children. Provide details including ages and other details of the children involved.**

Since 1995, annual sessions of the “Parliament of the Young” are held at the Portuguese Parliament, with the primary purpose of diffusing, among school age youngsters, democratic values and practices and education for citizenship.

This initiative is developed in permanent co-operation with the Ministry of Education, by virtue of a Protocol signed in 1998. From 1995 to 2000, sessions were aimed at elementary school children only but, since then, a session for secondary school children has also been held.

This Project is developed in several phases throughout the year, beginning with the enrolment of schools, which select a theme from a list approved annually and present a work thereon. Participating schools are then selected by a national jury that decides upon hearing the opinion of Regional Education Directorates (the national jury also determines the number of members of parliament that each school shall elect for the session).

Young “members of parliament” are then elected in schools, after an electoral campaign, and a “parliamentary group” is organized composed by those elected in each constituency. Elected “members of parliament” participate in preparatory meetings, held in each constituency, with the presence of national co-ordinators and representatives of the Ministry for Education. At these meetings, the speaks-person for the constituency is elected, as well as officials, and documents to present at the session are debated and voted upon.

The sessions of the “Parliament of the young” are generally held in May and June each year. Since 2004, each session comprises a period dedicated to Commission Meetings (chaired by Members of the Portuguese Parliament) and a period for Plenary Meetings. Plenary Meetings are always chaired by officials elected by young “members of parliament” and include a pre-order of the day period to address questions to guests, as well as an order of the day period to approve a recommendation to Parliament.

Sessions are always broadcasted live by the Parliament TV Channel and, since 2003, in the Internet. Normally, the Minister of Education participates at the formal opening of one of the sessions and the President of the Portuguese Parliament closes each session.

On 2005, the V Parliamentary Session for secondary school children debated the theme “Education/Training-Employment” and the XI Parliamentary Session for elementary school children debated the theme “Social responsibility of the young in the prevention of risk behaviour”. Both submitted recommendations to the Portuguese Parliament.

**40. Describe the amount and type of resources made available to support children's participation in activities to address violence against children.**

On 2004, the Parliamentary budget allocated € 28.100,00 to the activities of the "Parliament of Children and Youngsters". In 2005, this amount was of € 59.600,00.

## **V. POLICIES AND PROGRAMMES TO ADDRESS VIOLENCE AGAINST CHILDREN**

**41. Does your Government have a comprehensive policy concerning violence against children?**

**If YES, provide details and describe any gender-specific provisions included in the policy.**

There is not a comprehensive policy as described in the heading for this section. The issue of violence against children is addressed through a number of public policies, namely the II Plan Against Domestic Violence, which encompasses violence committed against women, men, children, the elderly and disabled persons, and the II National Plan for Equality (gender equality).

**42. Does your Government deliver, or provide direct support for delivery by other agencies, of specific programmes aimed at preventing and responding to violence against children?**

**If YES, please provide available summary reports, or URLs, of these programmes, and indicate, using the table below, which settings and types of violence are addressed by these programmes:**

	<b>Physical</b>	<b>Sexual</b>	<b>Psychological</b>	<b>Neglect</b>	<b>HTPs</b>	<b>Other</b>
<b>Family/Home</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>
<b>Schools</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>
<b>Institutions</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>
<b>Neighbourhood/ Community</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>
<b>Workplace</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>

<b>Law enforcement</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>
<b>Other</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>?</b>	<b>X</b>

Social security runs a series of programmes that aim at promoting and protecting the rights of children, including abused children.

For instance, PAFAC (Project for Family and Child Support) has the following primary purposes: to detect situations of ill-treated children; to undertake a thorough diagnosis of family malfunctions which motivate child ill-treatment; and to develop the necessary actions to put an end to the situation which puts the child at risk. It aims at children identified as victims or at risk of ill-treatment and their families.

Programme “Ser Criança” (*To be a Child*) seeks to promote the necessary conditions for the development of underprivileged children and the familiar, social and educational reintegration of children in risk of exclusion.

Further information about both these programmes can be found at: <http://www.seg-social.pt/>.

The Programme to Prevent and Eliminate the Exploitation of Child Labour (PETI) is directed towards children in situation of school drop-out before completing compulsory education; children at risk of premature insertion into the labour market; children found in situation of effective exploitation of child labour; and children victims of the worst forms of exploitation. PEETI runs its own website: <http://www.peeti.idict.gov.pt/default.asp>.

Programme “Escola Segura” (*Safe School*) aims at combating violence against the child with the school and is ensured by police officials duly trained and prepared for this kind of action, as well by vehicles exclusively dedicated to protecting students. Easily identifiable by their colour and exterior image, each vehicle is responsible for protecting several educational institutions and is equipped with a mobile phone and a first aid kit. Officials also develop awareness-raising and information activities at schools with the view to promote behaviour conducive to safety.

The programme on the prevention of sexual abuse of children run by the Ministry of Education includes a website (<http://www.drec.min-edu.pt/abuso/filme3.swf>) with practical information on the

prevention of this problem and adequate responses thereto. The Ministry of Education is also developing a project on school safety, within which a School Safety Kit has been elaborated.

Programme SOS Child, run by IAC and supported by the Government in a variety of ways, covers all children in problem situations, including victims of all forms of violence (see reply to question 35). Further information on this programme can be found at: <http://www.iacrianca.pt/>.

A number of actions and programmes are also run within the II National Plan against Domestic Violence. Apart from information, education and awareness-raising activities (see replies to questions 54 to 56), we shall highlight some of the most significant:

- Elaboration of a standardized crime report form, to be filled at the time of registering a report of domestic violence. It contains risk indicators which subsequently allow, after being sent to Public Prosecution Services, swiftly to detect which measure is the most adequate to each situation;
- Creation of a "Risk Evaluation" form, to be used at the inquiry procedure, at the security forces' initiative or upon request from judiciary authorities;
- Re-structuring of the Reception Service for Victims of Domestic Violence, in parallel with the re-structuring of the National Social Emergency Hotline, with the view to a better and more efficient reception of and support to victims, 7 days a week, 24 hours a day;
- Elaboration of a reception guide for social workers who attend victims of domestic violence; this reception guide is due to be integrated into training actions of such workers.
- Elaboration of a standardised reception form, to be used by the several entities that work in the area. This form has the advantage of standardising the collected data, having as a reference indicators approved by the European Union Council of Ministers in December 2002, which shall later be treated by the National Statistics Institute;
- Creation of a Network to Support Victims of Domestic Violence (VDnet): this is a network which links, through the Internet, all public and private bodies that attend victims of domestic violence. It will work on the basis of the standardised reception form, which can be consulted and/or filled by the different social workers involved, through restricted access codes and with guarantees of confidentiality. This articulated intervention shall enable a more efficient and quicker attendance of victims and avoid double victimisation

resulting from the existing lack of articulation between different bodies. VDnet shall also have a public access area, with specific information on domestic violence.

- Signature of a protocol with a university in order to ensure systematic collaboration in this area. This protocol has brought about the opening of a weekly consultation for aggressors. Efforts will be made so that this consultation for aggressors be implemented throughout the country, in association with a family intervention (eventually integrated into the National Health Service).

**43. Does your Government monitor the impact of these policies and programmes directed towards violence against children?**

**If YES, describe the monitoring systems and provide a URL or other reference where the system and outcomes are described in greater details.**

Yes. Under the II National Plan for Domestic Violence, a report on its implementation must be presented each December and shall then be submitted to the Council of Ministers. The 2004 report is attached. An observatory to monitor the implementation of the Plan was created in 2003 and meets each trimester.

An observatory has also been created to monitor the implementation of the II National Plan for Equality and report thereon to Government. More details about it can be found at the website of the Commission for Equality and Women's Rights: <http://www.cidm.pt/>.

Furthermore, a report on the evaluation of the activity of the commissions for the protection of children and youngsters is elaborated annually, as well as a report on the activity of the National Commission for the Protection of Children and Youngsters at Risk.

The Office of the Ombudsman elaborates an annual report to evaluate the operation of its telephone hotline dedicated to children at risk (the 2003 report can be found at: <http://www.provedor-jus.pt/publicacoes/2003/RecadosCrianca.html>).

**44. Does your Government participate in any internationally coordinated activities concerning violence against children?**

**If YES, please provide details.**

Portugal participates within the framework of the EU, the Council of Europe and the UN whenever the issue is discussed and dealt with. Also, during its Chairmanship of the Council of Europe's Committee of Ministers, Portugal organised a Conference on The Protection of the Rights of the Child, in particular against trafficking and violence, which took place in Lisbon on the 1st and 2nd of June 2005. Portugal also actively participated in the Regional Consultation for the preparation of the UN Study on Violence against Children, held in Ljubljana (5-7 July 2005).

## **VI. DATA COLLECTION, ANALYSIS AND RESEARCH**

**45. Over the past five years, has there been any victimization, epidemiological or other population-based surveys of any forms of violence against children in your country?**

**If YES, provide details or references, or attach.**

In 1999, Parliament has commissioned a study elaborated by the sociologist Ana Nunes de Almeida (Instituto de Ciências Sociais, Universidade de Lisboa) in cooperation with the Centre for Legal Studies (Ministry of Justice). This study aimed at constructing a typology of forms of abuse and negligence and to relate them to the social contexts of the child's family. This research was carried out in two stages: the first analysed the situations of abused children living in Lisbon; the second stage included a national survey of child abuse. Here are some of the findings of this research:

- Adults responsible for children victims of abuse or neglect are distributed for all levels of schooling (from higher education to a complete absence of schooling skills). They belong to a wide variety of professional groups when active; however, the overwhelming majority is in the lower scale of the labour market. Perpetrators of emotional abuse with physical aggression have a less pronounced place in the lower levels of schooling: their incidence tends to point to levels above primary schooling, encompassing higher education and the definitive abandon of children happens in educated segments of the population. In these two types of ill-treatment, aggressors (both men and women) have occupations closer to the top of the socio-professional hierarchy, probably exercised in an urban environment (as high/medium scale technicians).

- In half of the families there are alcoholics, in 16% drug abusers and in 11% persons with a criminal record.
- Ill-treatment affects children of all ages; however, early-childhood is primarily represented: six per cent of children are under one month old, almost ¼ is under a year.
- 91% of children are white Caucasian;
- A significant part is born out of an early or late pregnancy;
- School occupies a marginal place in the daily life of these children: 1/3 misses school regularly, ¼ is systematically late for classes, another third has failed some degree. To this poor relation with school adds an impressive distance from the health system services: almost 60 per cent has no regular medical follow-up.
- The majority of children victims of abuse or neglect lives in nuclear families, but there is an important number of other arrangements, such as single parenthood and recomposed families;
- ¼ of children has irreversible physical sequels; 53% has psychological sequels.
- The biological father, the mother, or both, are directly involved in about 65% of these situations.

There are also the annual reports on the activities of the commissions for the protection of children and youngsters, and of the National Commission for the Protection of Children and Youngsters at Risk, which contain valuable data on the issue of violence against children in Portugal.

It is expected that new instruments elaborated within the II National Plan against Domestic Violence – the standardized crime report form and the standardized attendance form will facilitate comparative studies on the issue of domestic violence, including against children.

**46. Have there been any small-scale or representative interview studies with parents and children on violent victimisation of children?**

**If so, please give details.**

There have been studies on this issue within the master/PhD thesis pertaining to the issue of domestic violence(see reply to question 35).

In 2000, the Ministry of Health has commissioned a study on “Young people aggressive behaviour and violence”. The complete report on this study can be found at: [http://www.onsa.pt/index\\_86.html](http://www.onsa.pt/index_86.html).

**47. Over the past five years, has your Government conducted or commissioned any scientific research projects on the problem of violence against children?**

**If YES, indicate the subject of this research and where the findings of these projects may be consulted in more detail.**

After the disclosure of a major case of sex abuse within a public institution, the Government has created a technical and scientific Council, composed by experts, to identify the causes of institutional abuse.

This Council has requested two groups to undertake studies: one to determine financial means for institutions to subsist without depending exclusively on the State (with the view to promote the creation of institutions run by NGOs); and another to conceive a standard-based model institution. The latter study has found that standards cannot be dictated by Government, but rather established with the participation of institutions themselves.

Another study has been commissioned to a university in order to base a bill to amend the legal framework on children representation within court and administrative proceedings.

Within the II National Plan against Domestic Violence, a preliminary study to characterize intervention on perpetrators of domestic violence was presented in 2004. A number of other investigation projects are underway, including a tripartite study on a sustained practice of fight against domestic violence and psychological studies on the issue of domestic violence.

**48. Have studies or surveys been undertaken into the impact of legal measures to address violence against children?**

**If YES, provide details or references, or attach.**

The reports presented annually by the National Commission for the Protection of Children and Youngsters at Risk provide for an evaluation of the implementation of programmes aimed at addressing the situation of children and youngsters at risk.

**49. Does your Government have a system for formal inquiries into all child deaths in which it is known or suspected that violence may have played any part?**

Yes.

**Provide details.**

Whenever a child dies, an official enquiry is always initiated, unless a doctor certifies that such death was due to a normal cause. Any doubt is reported to Public Prosecution services, which will order an autopsy and hear the doctor and the child's family.

**50. Are regular (e.g. annual) reports published describing the statistical profile of the known or suspected violent deaths investigated by the system?**

**If YES, what proportion of all homicide deaths are under the age 18?**

According to data published by National Statistics Institute, in 2003 there was a total of 182 cases of "injuries purposely inflicted by other persons": of these, none concerned children under 4 years of age and 12 were of persons below 19 years of age. This rate shall thus be of approximately 6.5% (is it not possible to present an exact figure, given that persons aged 18 and 19 are included).

Concerning judicial processes tried and finalised in 2003, resulting in condemnation, the data is as follows (2003):

Crimes	Victims		
	Up to 12 years	Up to 18 years	Total of victims (all ages)
Simple and qualified murder	..	5	159
Privileged murder, murder at the victims's request,	3	..	5

infanticide			
Murder by negligence	18	37	502

51. If reports on the national profile of known and suspected violent deaths are published by your Government, indicate how the data is broken down for the purpose of reporting (check all that apply):

<b>Sex</b>	X
<b>Age</b>	X
<b>Ethnicity</b>	
<b>Manner of death (homicide, suicide, undetermined)</b>	
<b>External causes of death (firearm, strangulation, etc.)</b>	X
<b>Geographical location of incident (address)</b>	X
<b>Scene of occurrence (home, school, etc.)</b>	
<b>Time and date of incident</b>	X (month)
<b>Victim-perpetrator relationship</b>	X
<b>Other:</b>	

52. Provide the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003.

Processes before the commissions for the protection of children and youngsters:

			2000	2001	2002	2003
<b>Number of existing commissions</b>			170	193	216	239
<b>Initiated processes</b>			3792	9083	9445	12719
<b>Re-opened processes</b>			228	618	754	823
<b>Archived processes</b>			919	1796	2033	3632
<b>Processes with measures adopted</b>			1160	1962	1981	2922
<b>Causes directly related to violence</b>	<u>Abandon</u>	Number of cases	131	430	560	739
		Percentage	3.3%	4.5%	5.3%	5.1%
	<u>Neglect</u>	Number of cases	977	2762	3647	5294
		Percentage	24.6%	29.1%	34.5%	36.5%
	<u>Physical and psychological ill-treatment</u>	Number of cases	405	1036	1601	2378
		Percentage	10.2%	10.9%	15.1%	16.4%
	<u>Sexual abuse</u>	Number of cases	75	231	251	474
		Percentage	1.9%	2.2%	2.4%	3.3%
	<u>Child prostitution</u>	Number of cases	-	-	45	21
		Percentage	-	-	0.4%	0.1%
	<u>Child</u>	Number of	-	-	6	19

	<u>pornography</u>	cases				
		Percentage	-	-	0.1%	0.1%
	<u>Exploitation of child labour</u>	Number of cases	10	27	29	45
		Percentage	0.3%	0.3%	0.3%	0.3%
	<u>Abusive exercise of authority</u>	Number of cases	36	65	101	62
		Percentage	0.9%	0.7%	1.0%	0.4%

Processes before 1<sup>st</sup> degree courts finalised in 2003:

<b>Situation which prompted the court's intervention</b>	<b>Number of processes</b>	<b>Number of children</b>
Ill-treatment	297	333
Sexual abuse	39	41
Abandon or self-reliance	388	439
Lack of care or affection adequate to the child's age and personal situation	653	773
Obligation to perform activities or work that is excessive or inadequate to the child's age, dignity and personal situation or detrimental to the child's upbringing and development	21	25
Subjection to behaviour which gravely affect the child's safety or emotional balance	139	177

Behaviour, activities or use of substances which gravely affect the child's health, training, education or development:		
Begging	13	15
Vagrancy and/or libertinage	60	61
Prostitution	3	3
Use of alcohol	15	18
Illicit use of drugs	12	14
Other behaviour, activities or use of substances which gravely affect the child's health, training, education or development	172	188

**53. Provide the total number of convictions and reported cases for the various categories of crimes of violence recorded against children in 2000, 2001, 2002 and 2003.**

In 2000, 734 persons under the age of 20 had been victims of crimes resulting in a conviction of the suspected offender.

In 2001, there was a total of 5165 victims under the age of 16 of crimes reported to police forces (GNR and PSP). 1822 persons under the age of 20 were victims of crimes tried and finalised in 2001. 809 persons were victims of crimes resulting in a conviction of the suspected offender.

In 2002, there was a total of 5820 victims under the age of 16 of crime reported to police forces (GNR and PSP). Of these, 135 were crimes against life (including attempted murder). The majority were crimes against physical integrity (2351) and against patrimonial goods (2037). 788 were crimes against sexual freedom and self-determination (including sexual abuse, child prostitution and child pornography). 266 were crimes against personal freedom. 200 were crimes against the family. 1726 persons under the age of 20 were victims of crimes tried and finalised in 2002.

This data is available at "Estatísticas da Justiça" (website maintained by the Ministry of Justice): [http://www.gjlp.mj.pt/estjustica/justi%C3%A7a\\_penal.htm](http://www.gjlp.mj.pt/estjustica/justi%C3%A7a_penal.htm).

## **VII. AWARENESS, ADVOCACY AND TRAINING**

**54. Over the last five years has your Government conducted or commissioned any campaigns for raising awareness of and preventing violence against children?**

**If YES, please describe any recent campaigns, including the settings and types of violence that were the subjects of the campaigns and the target audience (general public, caregivers, teachers, etc.).**

In 2003, a TV campaign was undertaken by the Commission for Equality and Women's Rights (CIDM) to raise the awareness of the general public to the problem of domestic violence.

In 2004, a campaign of institutional publicity was developed, entitled "Say no to domestic violence", supported by a variety of national companies. This was the first phase of a medium-term (3-year) project developed in partnership by a public entity – CIDM – and two business companies: EPAL and Pfizer. This campaign was diffused via TV, national and regional radio and national and regional press, as well as in trains and panels placed in shopping centres, universities, bars, entertainment halls and football stadiums. Leaflets and posters were distributed in pharmacies, hospitals and medical centres. A study on the impact of campaign was undertaken, indicating a rate of memorisation of 73% (the age group with a higher level of memorisation was that of 45-54).

The distribution of information material was effected in collaboration with pharmacy associations. Steps were taken with the view to the prompt signature of protocols that ensure continued collaboration, not only in the distribution of leaflets but also in the diffusion of the message in the magazines of the two existing associations, in the transmission of TV spots in the pharmacies' TV closed circuit and in the provision of professional training in the area of domestic violence to pharmacists.

This 3-year project shall comprise, in 2005-2006, a basic school contest entitled "Let's live without violence in the family, at school and in society" aimed at discussing the issue of violence among children aged 10 to 15. This project has already been elaborated and teaching units and audio and video materials will be made available in all participating schools.

In November 2003, a round table was organised with the view to raise the awareness of the media to the problem of domestic violence. A Conference on the attendance of victims of domestic violence was held in November 2004, involving all public and private bodies intervening

in this area. Working papers developed throughout the year were presented at this Conference, with the view to ensure a more adequate response in victims' reception and attendance, namely the crime reporting form, the reception form and a paper explaining the Public Network to Support Women Victims of Violence.

A "Survival Handbook" was also elaborated (in partnership with "The Body Shop" business company), aimed especially at victims of domestic violence, containing legal and psychological information, as well as protection and safety strategies to victims and their children.

Steps were taken to integrate a non-violence perspective into pre-school, basic and secondary school curricula, but these efforts are yet to produce results.

Discussion forums on violence for secondary school students are also being held in partnership with the Portuguese Youth Institute.

Since September 2004, meetings are being held with those municipalities which have shown an interest in creating information posts on this problem or in developing projects in the same area.

Furthermore, members of the coordination team in the area of domestic violence frequently participate in seminars, meetings, TV interviews and debates, as well as in interviews in the press and radio stations.

Many commissions for the protection of children and youngsters also develop activities to raise the awareness to the rights of the child and elaborate and diffuse instruments of social marketing on the commissions' activity. Some of them also participated in the setting up of the local network of social resources and in the elaboration of prevention projects. For these purposes, they used pamphlets and brochures, the mass media and acted with the entities which are their members. They also participated in activities developed at the local level, as speakers in seminars and promoted meetings with the heads of their members' services of origin. In a smaller scale, some commissions also promoted training sessions.

**55. How were the campaign messages and information disseminated (check all that apply)?**

<b>Print media</b>	X
<b>Radio</b>	X

<b>Television</b>	X
<b>Theatre</b>	X
<b>Schools</b>	X
<b>Others</b>	X

56. Over the last five years, has your Government provided, commissioned or sponsored training programmes in the area of violence against children?

If YES, indicate which of the following areas were addressed by the last such training programmes and which provider groups received training (check all that apply).

	<b>Prevention</b>	<b>Protection</b>	<b>Redress</b>	<b>Rehabilitation</b>	<b>Penalties</b>
<b>Medical Professionals (including paediatricians, nurses, psychiatrists and dentists)</b>	X	X	X	X	
<b>Public health practitioners</b>	X	X	X	X	
<b>Social workers and Psychologists</b>	X	X	X	X	
<b>Teachers and other educators</b>	X	X	X	X	
<b>Court officials (including judges)</b>	X	X	X	X	X
<b>Police</b>	X	X	X	X	X

<b>Prison officers</b>					
<b>Juvenile offenders personnel</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Institution personnel</b>					
<b>Parents/guardians</b>					
<b>Other (please specify)</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	

**Please provide details.**

**Medical professionals:** the Ill-Treated Children Support Centres created in hospitals by the Project for Family and Child Support, in cooperation with the Ministry of Health has contributed to raise the awareness of doctors to the problem of violence against children. The response to cases of child abuse and ill-treatment is included in the training of all medical personnel, and there is a good cooperation between medical and judicial authorities for the purpose of protecting children against violence.

**Social workers and psychologists:** Since 1990, within the program SOS Child and through protocols established with several universities and high education institutes, the Institute for Child Support receives interns from social service, psychology, social education, political science, sociology and cultural animation, with the view to raise the awareness of these professionals to the problems faced by children and find adequate responses thereto in the exercise of their professional responsibilities. The issue of the rights of the child, including protection from violence, is addresses in the curricula of virtually all social service courses ministered in Portugal and there are life-long training actions on such issue, including at the post-graduate level.

All the workers of foster homes have received initial training on the issue of domestic violence. Life-long training modules are being developed too.

**Teachers and other educators:** In articulation between the II National Plan against Domestic Violence and the National Plan for Equality, a teacher training plan has been elaborated, to be ministered by the teacher training centres, on the theme "Education for Equality". Protocols have

also been established with the Lisbon School of Humanities in order to ensure that teachers know how to act in cases of violence against children.

**Court officials:** In 1983, within the Centre for Judiciary Studies (which provides initial and life-long training to magistrates), a permanent analysis group on ill-treated children has been created. This group has elaborated a document with questionnaire forms which have been distributed to doctors and that they still use today.

Education and awareness-raising on the rights of the child has been included in the initial and life-long training of judges and prosecutors. A particular emphasis is put on awareness-raising to the application of the measure of withdrawal of the aggressor in cases of domestic violence. Besides initial training actions, in 2005 two courses have been held: on violence within the family and on sexual abuse. The Centre will also develop a training course for magistrates working with commissions for the protection of children and youngsters.

The Portuguese Law Society and the NGO "Association of Women against Violence" have signed a protocol in 2003, providing for the promotion of training activities of trainee lawyers and lawyers in area of violence against women and children. In 2005, two training seminars have been concerning sexual abuse of children.

**Police:** The issue of the rights of the child is addressed within modules of criminal and human rights law forming part of the initial training of law enforcement officials. The High Institute of the Judiciary Police and Criminal Sciences provides life-long training courses on sexual abuse of children and trafficking on human beings. In the area of cooperation with the European Police Academy, a course on domestic violence was held in 2004, organised by Slovenia.

For 2005, three courses on interviewing children victims of sexual abuse are foreseen, as well as a seminar on the criminal investigations of sexual abuse of children and a course on child pornography in the INTERNET. A criminal profile of sexual aggressors in the context of the sexual abuse of children is being elaborated. In the area of cooperation with the European Police Academy, Portugal will organise a course on child pornography in the INTERNET and participate in courses on trafficking in human beings and international aspects and experiences of domestic violence.

During 2005, 15 training actions of facilitators within the police forces are foreseen. These facilitators shall then provide for the training of all law enforcement agents acting in the area of

domestic violence. Specific training is provided to those agents who are placed in the Investigation Centres on Women and Children.

**Prison officers:** human rights form part of the training of prison officers and, in 2004, a protocol was established with the High Institute of the Judiciary Police and Criminal Sciences to provide a human rights training course for prison officials. We are however unaware of any specific content concerning violence against children.

**Juvenile offenders personnel/Institution personnel/Parents/guardians:** All the workers of foster homes have received initial training on the issue of domestic violence. Life-long training modules are being developed too. One of tasks of the commissions for the protection of children and youngsters is to provide parental education. In 2003, 69.9% of the commissions identified the need to reinforce actions of parental education.

**Others:** a training module on gender violence has been conceived for municipal workers. It is foreseen that this module be reformulated in order to encompass family violence in general.