

# STATE PARTY EXAMINATION OF THE PORTUGAL'S INITIAL PERIODIC REPORT ON THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

**65<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD  
13 – 31 JANUARY 2014**

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*Portugal ratified the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) on 19 August 2003. On 23 January 2014, the Committee on the Rights of the Child (the Committee) examined the initial periodic report of Portugal.*

## Opening Comments

The delegation of Portugal was led by Mr. Pedro Nuno Bartolo, the Permanent Representative of Portugal to the United Nations Office and other international organizations in Geneva. He was supported by a delegation consisting of representatives of the Public Prosecutor Office, the National Commission for the Protection of Children and Young People at Risk, Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of National Defence etc. and the Permanent Mission in Geneva. Mr. Pedro Nuno Bartolo reiterated the State Party's commitment to the rights of the child and noted that domestic legislation had been harmonized in line with the CRC and the OPAC. As a matter of example, he emphasized that when the State Party ratified the OPAC it also deposited a binding declaration in accordance with Article 3 (2) that the minimum age for any

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recruitment, including the voluntary recruitment of persons into its national armed forces was 18 years.

Ms. Amal Salman Aldoseri, the Country Rapporteur for the OPAC, welcomed State Party's initial report under the OPAC and commended the State Party for the declaration made on the minimum age of recruitment.

## **General Measures of Implementation**

### ***Legislation***

The delegation explained that the Act on Military Service number 174/99 of 21 September 1999 and Article 32 (2) (b) of the decree law number 289/2000 of 14 November 2000 were in line with Article 1 under the OPAC. These provisions stipulated that only citizens above 18 could apply to join the armed forces under contract or as volunteers. The delegation also clarified that, according to Article 6 of the Military Service Act, in war times only the maximum age limit (age of 35) could be modified and not the minimum one.

### ***Dissemination and training***

The Committee commended the State Party for having translated the OPAC into Portuguese and asked for more information on awareness raising and trainings delivered under the OPAC. The delegation replied that specific trainings on potential asylum seekers in line with the European Union guidelines and recommendations were organized for immigration officers, in cooperation with the Ministry of Foreign Affairs. The training included information on legislation related to health care and psychological support for migrants, pregnant women and immigrant children. Officials had been also trained to deal with minors claiming to be child soldiers.

### ***Peace education***

The Committee asked whether human rights and peace education had been incorporated into formal education curricula. The delegation confirmed that peace and defence education had been incorporated into formal educational curricula. A cross-cutting approach to peace education had been developed, including 15 relevant thematic areas. The peace education consisted of information about fundamental principles and democratic values. A cooperation protocol between the Ministry of Defense and other ministries was signed in order to promote core democratic values.

### ***Data collection and monitoring***

The Committee asked how the State Party had collected data on criminal offenses covered under the OPAC. It also enquired whether the government monitored and collected data on asylum seekers, refugees, migrants and unaccompanied children who might have been recruited or involved in hostilities.

## **Prevention**

### ***Unaccompanied minors***

The Committee was concerned about the increasing rates of unaccompanied asylum seekers coming from countries involved in armed conflict. The Committee asked whether the State

Party provided any physical and psychological recovery measures for those who might have been recruited in hostilities abroad.

Moreover, the Committee asked about the status of unaccompanied minors and enquired about the mechanisms in place to deal with these children. The delegation explained that status of unaccompanied minors was defined by the law number 29/2012 of 8 October 2012 on the rights of asylum seekers. Concerning unaccompanied children and families with young children in transit zones such as airports, the delegation informed that they would be placed in reception centres but immediately transferred to social service centres, where they would stay until the end of the asylum procedure.

## **International Assistance and Cooperation**

### ***Extradition and extraterritorial jurisdiction***

The Committee commended the State Party for having signed various treaties and mutual assistance agreements on extradition. It clarified that the principle of extraterritorial jurisdiction as provided by the CRC was different from the agreements on mutual assistance, because it did not required the principle of mutual recognition in order to trial the offender. The Committee also enquired whether the State Party had extraterritorial jurisdiction over crimes committed under the OPAC.

The delegation explained that, according to Articles 4 and 5 of the Criminal Code, the State Party had jurisdiction over criminal offences under the OPAC committed in national territory and aboard any ship or aircraft belonging to the State Party, as well as over crimes committed against Portuguese citizens by other Portuguese citizens living in the State Party's territory, and over crimes committed by Portuguese citizens, or by foreign nationals against Portuguese citizens.

## **Other Legal Provisions**

### ***Legal definition of the active use in hostilities of under 18 years old***

The Committee was concerned about the lack of definition of the term "active use in hostilities", in the Code of Military Justice. The Committee asked whether the State Party intended to clarify this concept, considering that Article 41 (h) provided the criminalization of "the recruitment or enlisting of under 18 years old in the national armed forces or their active use in hostilities" in war time. It also asked whether Article 41 (h) was applicable in peace time as well. The delegation answered that the concept of active use in hostilities had not been defined, and would therefore have to be determined on a case-by-case basis, according to jurisprudence.

## **Concluding Remarks**

Ms. Amal Salman Aldoseri thanked the delegation for the fruitful dialogue on the State Party's initial report under the OPAC. Mr. Pedro Nuno Bartolo thanked the Committee for its questions and suggestions and said that this dialogue would ensure better protection for the rights of the child.