

Question 18.a.

- National Strategy on the Rights of the Child (2021-2024)¹

Resolution of the Council of Ministers 112/2020, of December 18, approved this Strategy, which aims at furthering the implementation of the UNCRC in Portugal and constitutes an integrated and comprehensive approach to children's rights, contributing to a new planning cycle in matters of childhood and youth that underlines the individual role of the stakeholders involved and the collective commitment of all sectors in defining the measures to be adopted and actions to be implemented.

Substantially modelled by the Council of Europe Strategy for the Rights of the Child (2016-2021), it is based on five main pillars: (i) Promoting the well-being and equal opportunities for all children and young people; (ii) Supporting families and parenting; (iii) Promoting access to information and participation for children and young people; (iv) Preventing and combating violence against children and young people; and (v) Promoting the production of tools and scientific knowledge to enhance a global vision of children and young people's rights. The priorities, strategic goals and measures defined in the framework of this Strategy reflect parallel investments: one in strengthening specific areas of intervention that will have an impact on the realization of rights as a whole, and another in areas addressing strong asymmetries regarding more vulnerable children and youth.

The drafting process of the Strategy and of its two-year action plans was coordinated by the CNPDPCJ, which gave effect to a UN Committee on the Rights of the Child recommendation to Portugal by: setting up and coordinating an inter-ministerial working group; collecting and considering contributions from multiple governmental areas, entities with competencies in the scope of children's rights, from the children themselves and from the society at large - including through participation and consultation actions; and by launching a public consultation process upon which 27 contributions have been received.

- Priority III, on promoting access to information and participation for children and young people, includes improving information and knowledge of children and young people about their rights and ensuring adequate training for professionals who systematically interact with children and youth in the education, judicial, health and social security systems. Some of the measures currently being implemented are:
 - Deepening the knowledge held by children, families and communities, and professionals working with and for children, on the UNCRC and its Optional Protocols;
 - Promoting protection measures of the rights of children within the scope of action and intervention of public organisms (e.g. by elaborating children's rights safeguarding policies);
 - Reinforcing and publicizing the National Network of Support Centers for Children and Young People at Risk in the National Health System (created through Order 31292/2008, of December 5), within the scope of the National Programme for the Prevention of Violence throughout Life of the Ministry of Health;

¹ https://poise.portugal2020.pt/documents/10180/110879/RCM+n%C2%BA+112_2020.pdf/e9e8bf0b-067d-4456-9a85-0c3622816c1f

- Promoting equality between women and men, citizenship and human rights and combating discrimination, as a result of the articulation of the National Strategy for Education for Citizenship and the National Strategy for Equality and Non-Discrimination 2018-2030, namely by developing awareness-raising and training actions aimed at the technicians of the local Commissions for the Protection of Children and Young People (CPCJ), also taking into account the perspective the rights of children; and the
- Execution of measures and mechanisms that favour the participation of children, namely by promoting logistical conditions for their hearing that fit their characteristics and needs, and by fostering the training of professionals in the child promotion and protection system in the areas of child hearing and participation.

- Legislation

LPCYPD, amended by law [Lei n.º 142/2015, de 08/09](#), refers in its Article 4 to the guiding principles that should be taken into account in all the proceedings involving children. Although the law dates from 1999, these article was reformulated in 2015 and match the content the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, such as: Best interests of the child – the intervention must prioritize the interests and rights of the child; Privacy – The intervention should be carried out bearing in mind the intimacy, the right to image and the child’s right to privacy; Early intervention – the intervention should take place as soon as the situation of danger is known; Minimum intervention – The intervention should be only carried out by the entities and institutions whose course of action is essential to the effective promotion of the rights and to the protection of children and young people at risk; Proportionality and adequacy – The intervention should be adequate and necessary to the situation of danger in which the child or the youngster finds him/herself at the moment the decision is taken and can only intervene in his/her life and family if considered strictly necessary to such purpose; Right to information – The child and the youngster the parents, the legal representative or the person who has their de facto custody have the right to be informed of their rights, the reasons underlying the intervention and the way it is to be carried out; and the Right to participation and to be heard –the child and the youngster, separately or accompanied by the parents or by a person of their choice, the parents, the legal representative or the person who has their de facto custody have the right to be heard and to participate in the acts and on the definition of the measure on the promotion of rights and protection.

Paragraph 2 of this Article 4º refers that the child or the youngster has the right to be heard separately or accompanied by the parents, by the legal representative, by a lawyer of their choice or a public defender or by a person of their confidence.

The child shall be properly informed and heard on the measure to apply, always under the best interests of child(Article 4 a) and before every review (if he/she has the maturity to understand the meaning of the intervention and, in any case, if he/she has already completed 12 years of age, as established by Articles 84 and 4 i) of LPCYPD where it is specified that the child or the youngster over 12 years old, or younger, once his/her maturity to understand the intervention is taken into account, is heard by the Protection Commission or by the judge on (i) the situation that has originated the intervention and, (ii) on the

application, review or termination of the promotion and protection measures. The child or young person has the right to be heard individually or accompanied by the parents, legal representative, lawyer or person of his/her confidence (Article 84 of LPCYPD).

The law does not provide for the way in which the child's participation is achieved. However, the cases of promotion and protection are, as a rule, made in person, before a judge.

In any case, the child or young person has the right to be heard individually or accompanied by the parents, legal representative, lawyer or person of his/her confidence (Article 84 of LCYPR).

- Victims statute (EV)

Article 22(1) of Law 130/2015, of 4 September 2015 stipulates that all child victims have the right to be heard in criminal proceedings, and their age and maturity must be taken into account, adding Article 23(2) of the same law that the victim is accompanied, when making statements or testimonies, by a technician specially qualified to follow them up, previously designated by the Public Prosecution or by the court - and protective spheres - whether of a non-judicial nature (which falls within the jurisdiction of the commissions for the protection of children and young people) or judicial (within the jurisdiction of the courts), there is a legal principle, set out in Article 4(j) of Law 147/99 of 1 September 1999, of which other specific procedural provisions are corollary, which provides that the child, separately or in the company of the parents or of a person chosen by him, is entitled to be heard and participate in the acts and in the definition of the measure related to the promotion of rights and protection

- Educational guardianship law, amended by law 4/2015, 1 first January

As stated before the educational guardianship law applies to all behaviours that are considered as a crime, by children from 12 to 16 years old.

Article 45 establishes that *"1-participation of minors in any procedural step, even if they are under custody or guardianship, is done in such a way that they feel free in their own person and with the minimum of embarrassment.*

2 - At any stage of the proceedings, minors in particular have the right to:

- a) To be heard, ex officio or when he/she so requests, by the judicial authority;*
- b) Not answer questions put to him by any body about the facts he is accused of or the content of the statements he makes about them;*
- c) Not answer questions about their behaviour, character or personality;*
- d) To be assisted by a specialist in psychiatry or psychology whenever they request it, for the purposes of assessing the need to apply a guardianship measure;*
- e) To be assisted by a defence counsel in all procedural acts in which they participate and, when detained, to communicate with them, even in private;*

f) To be accompanied by their parents, legal representative or the person who has custody of them, unless the decision is based on their interests or the needs of the case;

g) To offer evidence and request steps;

h) To be informed of their rights;

i) Appeal, under the terms of this law, against decisions that are unfavourable to them.

3 - Under no circumstances shall a minor take an oath.

4 - The rights referred to in points f) and h) of no. 2 may be exercised on behalf of the minor by their parents, legal representative, de facto guardian or defence counsel”