

StopIGM.org: NGO Oral Statement CCPR128 Portugal, 02.03.2020

Daniela Truffer

I'm an intersex person and a survivor of Intersex Genital Mutilation presenting the Report of StopIGM, an international intersex NGO that last year already reported on IGM practices in Portugal to the Committee on the Rights of the Child, which in its Concluding Observations recognised IGM in Portugal as a harmful practice and urged the State party to implement additional legal, administrative and other measures to better protect intersex children [CRC/C/PRT/CO/5-6, para 28(b)].

As substantiated in our Report, Portugal has repeatedly claimed to have implemented legal provisions to effectively protect intersex children from IGM practices, including in paragraph 32 of Portugal's Replies to the List of Issue to this Committee, where the State party referred to Law No. 38/2018 which it claimed would "*establish[...] the right to [...] the protection of each person's sex characteristics*", and in paragraph 34, where the State party claimed that Law No. 38/2018 effectively "*[f]orbids treatments and interventions at any age without the person's consent except in cases of proven risk for the person's health*". Similarly, in a 2019 Report to the UN Economic Commission for Europe [UNECE], the Portuguese Commission for Citizen Ship and Gender Equality CIG claimed Law No. 38/2018 would "*establish [...] the prohibition of surgeries on intersex children*".

If these claims were actually true, and Law No. 38/2018 would indeed effectively prevent IGM practices in Portugal, our NGO would see no reason to be here today.

However, as substantiated by our Report and corroborated by CRC, unfortunately Law No. 38/2018 fails to effectively protect intersex children from inhuman treatment and harmful practices, since, also after Law No. 38/2018 entered into force, intersex children in Portugal nonetheless continue to be submitted to unnecessary genital surgery and other harmful procedures in the first years of life, including partial amputation of the clitoris, sterilising procedures, and "masculinising" genital surgery, all advocated and paid for by the State party, and perpetrated by publicly-employed doctors with impunity.

What's more, these non-consensual interventions continue to be justified as necessary medical treatment, despite the fact that they are based on psychosocial indications and on societal and cultural norms and beliefs, and despite the known lifelong severe physical and mental pain and suffering caused by IGM.

The reason for the obvious non-application of Law No. 38/2018 is in particular that it fails to comply with the minimum requirements established in Article 7 and the General Comment No. 20, especially in comparison to the current Portuguese anti-FGM legislation, which criminalises and sanctions the practice in the Penal Code and provides for extended limitation periods and extraterritorial protection, instead of limiting the victims' recourse to "*non-contractual civil liability under the Civil Code*", as in the case of Law No. 38/2018.

Recalling the severe pain and suffering caused by IGM practices, including loss or impairment of sexual sensation, painful scarring, impairment or loss of reproductive capabilities, lifelong dependency on artificial hormones, increased self-harm and suicide, and lifelong mental suffering and trauma, we therefore urge the Committee to sternly remind Portugal of its non-derogable obligations under the Covenant.

Thank you.