



**Economic and Social Council**

Distr.  
GENERAL

UN LIBRARY

MAR 14 1985

E/1980/6/Add.35/Rev.1  
11 December 1984  
ENGLISH  
ORIGINAL: FRENCH

First regular session of 1985

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Reports submitted by States parties to the Covenant concerning  
rights covered by articles 10 to 12, in accordance with the  
second stage of the programme established by the Economic and  
Social Council in its resolution 1988 (LX)

Addendum

PORTUGAL

[23 October 1984]

INTRODUCTION

1. The Constitution of the Portuguese Republic of 2 April 1976 embodies, at times in detail, the fundamental rights and duties of Portuguese citizens and foreigners residing in Portugal and the principles relating thereto (arts. 12 to 79).
2. Since the principle of equality in dignity and in rights of all human beings and all peoples, regardless of their race, colour or origin, is at present a general principle of international law, it can be ranked among the rules and principles of general or ordinary international law which, under article 8 of the Portuguese Constitution, are an integral part of Portuguese law:

"Article 8

- "1. The rules and principles of general or ordinary international law are an integral part of Portuguese law.
- "2. The rules arising from duly ratified or approved international conventions shall apply domestically following their official publication, in so far as they are internationally binding on the Portuguese State.

146.

"3. The standards approved by the competent organs of international organizations of which Portugal is a member shall be directly applicable domestically, provided that express provision to that effect has been made in the treaty establishing the organization concerned."

3. Article 16 of the Constitution specifically refers to the Universal Declaration of Human Rights and article 18 of the same instrument states that the constitutional provisions relating to rights, freedoms and safeguards shall be directly applicable to and binding on public and private bodies; laws restricting them must be general and abstract in character and must not limit in extent and scope the essential content of constitutional provisions.

4. The Constitution further provides, in article 13, paragraph 1, that "all citizens shall have the same social dignity and shall be equal before the law" and, in paragraph 2, that:

"No one shall be privileged, favoured, treated unfairly, deprived of any right or exempted from any duty because of his ancestry, sex, race, language, place of origin, religion, political or ideological conviction, education, economic situation or social condition".

5. Article 7 of the Constitution recognizes the right of peoples to achieve self-determination and independence and to rebel against all forms of oppression and advocates equality among States, non-interference in the internal affairs of other States, and the abolition of all forms of imperialism, colonialism and aggression.

6. As will be evident subsequently, Portuguese legislators have embodied those principles in the national legal order, not only through the general acknowledgement of international law, but above all through clear and precise constitutional provisions, in accordance with which the Constitution, by virtue of the increased juridical force of all its provisions, provides the best means for affirming and laying down in the internal order the fundamental principles which apply to that order.

7. All citizens enjoy the rights and are subject to the duties laid down in the Constitution (art. 12, para. 1), have the same social dignity and are equal before the law (art. 13, para. 1).

8. As has already been stated, no one shall be privileged, favoured, treated unfairly, deprived of any right or exempted from any duty because of his language or place of origin (art. 13, para. 2).

9. Portuguese citizens sojourning or residing abroad enjoy the protection of the State in the exercise of their rights and remain subject to those duties which are not incompatible with their absence from the country (art. 14).

10. Aliens or stateless persons sojourning or residing in Portugal enjoy the rights and are subject to the duties of Portuguese citizens (art. 15, para. 1), except as regards political rights, public service in any capacity which is not

essentially technical and the rights and duties which, under the Constitution and the law, are reserved exclusively for nationals (para. 2 of the same article).

11. Since there are no legal provisions restricting the enjoyment of economic and social rights by aliens, the former are formally guaranteed such rights.

12. With regard to the measures taken in pursuance of article 3 to ensure the equal right of men and women to the enjoyment of the rights set forth in articles 10 to 12, the Portuguese legal system guarantees the equal rights and duties of men and women in all spheres.

13. As stated above, article 13 of the Constitution of the Portuguese Republic expressly and unconditionally provides for non-discrimination on grounds of sex. This principle is underscored in article 36 of the Constitution concerning rights and duties in relation to the family, marriage and filiation, and it is also to be found in articles 47, 49, 60, 67, 68 and 74, which deal with such matters as civil rights, labour, the family and education.

14. Changes introduced in the Constitution in 1982 further strengthened the principle of equality by ensuring the equal rights of fathers and mothers to protection, the only exception being the special protection which the latter require owing to the biological cycle of pregnancy, childbirth and lactation.

15. At the present time, all laws in Portugal are in conformity with the constitutional principle of equality.

16. In 1980, Portugal ratified the Convention on the Elimination of All Forms of Discrimination against Women, which has become domestic law in accordance with article 8 of the Constitution.

17. The restrictions on the exercise of the principle of equality between men and women are not, as we have seen, of a legal nature.

18. However, there is still a disparity between the laws and reality. There is a great difference between the principle of non-discrimination and the actual status of women, between the rights of the family as recognized in the Constitution and the laws and the actual conditions of many families.

19. Limitations on the exercise of rights are the result of several factors; the most serious is economic and has become more acute owing to the world economic crisis which has had a substantial impact on Portugal. The crisis is reflected in unemployment, inflation, and inadequate support structures for women and the family.

20. Other factors which limit the exercise of such rights are of a social and cultural nature, such as a lack of awareness of their rights on the part of citizens, especially women, traditions and cultural attitudes which influence the behaviour of women, and sex stereotypes.

21. As far as limitations imposed on the exercise of the rights provided for in articles 10 to 12 of the Covenant are concerned, we should first examine the provisions of the Constitution itself in the light of articles 16 and 18.

22. Article 16 deals with the scope of the fundamental rights laid down in the Constitution and provides that such rights "shall not exclude other rights provided for in the laws and the applicable rules of international law". As provided in article 18, the constitutional provisions relating to rights, liberties and guarantees are "directly applicable to and binding on all public and private bodies".

23. Such rules are therefore recognized as having legal force and as directly binding on public or private bodies.

24. These rules are binding on the legislative branch, which cannot enact laws contrary to such rights; on the judiciary, which cannot call them into question and must uphold them, if necessary, against any prior law; and on the executive, which must enforce them directly.

25. Article 18, paragraph 2, provides that restrictions may be imposed on rights, liberties and guarantees only in those cases expressly provided for in the Constitution and must "be limited to what is strictly necessary to safeguard other constitutionally protected rights and interests".

26. In addition, paragraph 3 specifies that laws imposing restrictions must be general and abstract in character, cannot have retrospective effect, and must not limit in extent and scope the essential content of constitutional provisions.

27. Since articles 10 to 12 of the Covenant relate to rights guaranteed in our Constitution, for a restriction to be imposed on such rights, the following conditions must be met:

The restriction must be expressly authorized by the Constitution;

The law imposing the restriction must be general and abstract;

The essential content of the fundamental right must not be affected by the restriction.

28. The exercise of such rights can be suspended only in the case of a state of siege or a state of emergency which has been proclaimed in the manner prescribed by the Constitution (art. 19).

29. There must be "actual or imminent aggression by foreign forces, disturbance of or a serious threat to the democratic constitutional order or public disaster" (para. 2 of the same article).

30. The declaration of the state of siege or state of emergency must be based on stated grounds and must specify the rights, liberties and guarantees the exercise of which is to be suspended for a period not to exceed 15 days, although subsequent extensions for the same period are allowed.

31. The declaration of a state of siege may not affect certain rights that are considered basic, such as the rights to life, security of person and personal identity (see art. 19, para. 4).

32. The proclamation of a state of emergency may provide only for a partial suspension of rights, liberties and guarantees.

33. The Constitution also lays down procedures for the protection of human rights in cases of abuse or violation of the rights of citizens. We have thought it useful to attach a paper on the system of fundamental rights, liberties and guarantees enjoyed by the human person in domestic law,\* in particular those set forth in international legal instruments such as the Covenant to which this report relates. This should help to shed some light on the extent to which the provisions of conventions can be invoked before national courts or administrative authorities and applied by such courts and authorities.

34. This report is accompanied by a copy of all the national laws referred to herein.\* The aim is to provide the Working Group with full information on the implementation of the Covenant domestically.

#### I. ARTICLE 10. PROTECTION OF THE FAMILY, MOTHERS AND CHILDREN

##### A. Protection of the family

##### 1. Principal laws

35. The 1976 Constitution of the Portuguese Republic contains, in addition to a number of other, somewhat scattered references, two fundamental provisions concerning the family. These are article 36, which sets forth the main principles governing the legal order and family legislation, and article 67, which establishes the recognition of the family by the State and the latter's duty to protect the family.

36. Those two provisions were amended during the revision of the Constitution in 1982 to bring adoption within the scope of the legal order and family legislation (art. 36) and to place greater emphasis on the family as the fundamental unit of society (art. 67).

37. Article 36 concerns the right to establish a family and to marry, the principle of the competence of civil law with regard to marriage, the equality of the rights and duties of husbands and wives, non-discrimination with regard to children born out of wedlock, parental authority, the equal capacity of husbands and wives in the civil and political spheres and with respect to the support and education of children, and the protection and legal regulation of adoption.

38. Article 67 is the fundamental provision of the Portuguese juridical order with regard to protection of the family. Since the family is the fundamental unit of society, protection of the family must be guaranteed by the State, in particular under the terms of article 67, through the promotion of the social and economic

---

\* Available for consultation in the files of the Secretariat.

independence of family units, a national network of assistance to mothers and children, a policy for the elderly, co-operation with parents in the education of their children, the promotion of family planning, and a fiscal and social benefits policy in relation to expenses incurred by families, and a comprehensive and integrated policy on the family formulated in consultation with family organizations.

39. Since the enactment of Decree-Law 496/77 of 25 November, which introduced major changes in the Civil Code with respect to family law, the equal rights and duties of men and women in marriage (as regards the existence and dissolution of marriage, matters relating to personal status or property, and the roles of father and mother) are guaranteed under the law (for example, arts. 1601 to 1636, 1671 et seq., 1677 et seq., and 1901 et seq., of the Civil Code).

40. The interests of the child must always be taken into account in all issues affecting him or her (arts. 1875, para. 2, 1878, para. 1, 1905, para. 2, of the Civil Code). The principle of the equality of all children whether born in or out of wedlock is embodied in the civil law.

## 2. Marriage

41. Women may marry when they reach the age of 18 years, or 16 years if one of the parents consents.

42. Under Portuguese law marriage must be entered into freely by prospective spouses. Since the entry into force of the Civil Code of 1867, marriage is a contract and mutual consent has been a necessary condition; without it the act is legally null and void.

43. Portuguese constitutional principles and civil law regarding the family are consistent with articles 15 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women, which Portugal ratified in 1980.

44. Act 37/81 of 3 October provided for equal rights for men and women with respect to nationality. Like men, women can now transmit their nationality to their spouses, as well as to their children if that is their wish. The preservation, loss and transmission of nationality depend on the will of one of the spouses, either the husband or the wife.

## 3 and 4. Measures to facilitate the establishment and maintenance of a family

45. As already mentioned above (para. 38), the family, as the fundamental unit of society, is entitled to the protection of society and of the State and to the creation of all the necessary conditions for the personal development of its members (art. 67, para. 1, of the Constitution).

46. In the field of social security, a marriage grant is provided to each spouse

regardless of whether he or she is employed or retired.\* The following benefits are also awarded:

(a) A family allowance granted to workers affiliated with social security schemes or to their spouses for each descendant or the like who is a dependant, and to needy children for whom family allowances are not paid to a parent, adoptive parent or guardian;

(b) A birth grant for each child who is born alive;\*

(c) A nursing grant payable for the first 10 months of an infant's life;

(d) A school supplies grant awarded to families unable to afford the necessary school supplies for their children;

(e) Emergency health care benefits awarded to a worker having parental authority over a child under three years of age, whether his own, that of a spouse or adopted, in the event of the child's sickness;

(f) A supplementary allowance awarded to workers participating in social security schemes or their spouses for each descendant infant, child or the like who is handicapped and to handicapped infants and children who are needy and for whom supplementary allowances are not paid to a parent, adoptive parent or guardian;

(g) A special education grant awarded for handicapped infants and children who are descendants or the like of participants in social security schemes and who are enrolled in special education programmes;

(h) A monthly allowance for life awarded to a beneficiary for each descendant or the like over the age of 24 years suffering from any physical handicap, motor disorder, or sensorial or intellectual impairment. Payment of the allowance is subject to a specific means test;

(i) A supplementary benefit for dependent spouse awarded to individuals in receipt of a disability or old-age pension, subject to a specific means test.

47. The following social security benefits are also payable:

(a) A death grant awarded to the surviving spouse and children who are entitled to a family allowance. Where there is no spouse or children, the grant is paid to collateral relatives of up to the third degree or the like who have been designated as beneficiaries by the deceased. Where no such beneficiary has been designated, the grant is payable to the person who paid the funeral expenses of the deceased;

(b) A funeral grant\* payable following the death of a worker, his or her spouse, children, whether biological or otherwise, including a child in utero, who

---

\* Except in the case of individuals insured under the voluntary scheme.

are entitled to family allowances, and dependent ascendants or others having the same legal standing;

(c) A survivor's pension awarded to the surviving spouse, an ex-spouse entitled to alimony, or children, whether biological or otherwise, including a child in utero, up to the age of 25 years, depending on the level of educational institution attended. This pension is not subject to any age limit in the case of descendants or others having the same legal standing, including a child in utero, who suffer from a total and permanent incapacity for work.

48. For individuals who do not meet the requirements for participation in any contributory scheme or who, although participants, do not qualify for benefits, a social welfare scheme was set up to assist needy cases. The scheme provides several cash benefits the award of which is not contingent on previous contributions or a work relationship.

49. The benefits available include almost all those payable under the contributory schemes. However, special mention should be made of the following family allowances that are specific to the scheme:

(a) A widow's or widower's pension payable to a surviving spouse who is not entitled to a pension from any other source;

(b) An orphan's pension payable to an orphan up to the age of majority or emancipation if he or she is needy and does not come under any contributory scheme.

The scheme also includes a social disability pension payable to persons over 18 years of age recognized as unable to engage in any occupation.

50. The Centros Regionais de Segurança Social (Regional Social Security Centres) - agencies in each district which have the legal status of an artificial person and administrative autonomy - are responsible for administering the social security schemes and for more direct social work services, including arrangements for responding to situations in which individuals and families in difficult socio-economic circumstances require help.

51. Such assistance, in the form either of equipment or of services, can be provided by institutions, public establishments which carry out, through the relevant institutional social channels, specific activities in response to the needs of various age groups protected under the system, or by private welfare agencies which receive technical and financial assistance from social security under co-operation agreements. The provision of such social welfare measures depends on the social and economic circumstances of the individual and his family, and on the ability of the provider institutions (extent of their service network and financial constraints).

52. The purpose of benefits in the form of facilities and services for children is to provide a number of kinds of social welfare services to which children are considered to be entitled by reason of their right to life. These benefits are



designed to ensure the all-round development of children and young people throughout the various stages of their growth, as well as co-operation with their families by playing a complementary role in the area of education and assisting the children, particularly during their parents' working hours.

53. Facilities include:

(a) Crèches for the care of children aged three months to three years during their parents' working hours;

(b) Child-minders. People who look after a maximum of four children, of up to three years of age, except in exceptional cases, for payment in their own homes;

(c) Family crèches. Teams of nurses living in a given district, supervised by and receiving technical and financial support from the social security authorities;

(d) Day nurseries for children from three years of age to the age of compulsory school attendance;

(e) Homes. Community facilities for the temporary accommodation of children and young people lacking a family environment for whom no other provision has been made;

(f) Leisure centres. Facilities to supervise children and young people above the age of compulsory school attendance up until the age of 12 years, after school hours.

54. Benefits in the form of services include:

(a) Family placement. Care, for a limited period of time, of children or young people lacking an adequate family environment by foster families supervised by the social security authorities;

(b) Adoption. Integration, by means of a legal link established through a judicial decision, of children or young people who have been abandoned or are without an adequate family environment into a family that is in a position to provide the care required for their development. The competent social security services supervise and assist the adoptive family both before and after adoption.

55. In order to correct the inequalities that still exist in the area of the provision of facilities and services, a programme to establish and implement new ways of meeting needs and to provide new facilities in regions not adequately covered is under way. Handicapped children and young people are covered by specific social welfare schemes. In addition to cash benefits for families caring for handicapped people (special education allowance and supplementary allowance), there are the following facilities and services to assist the handicapped, to ensure their overall development and their integration into society and the family and to assist and support families:

(a) Observation centres and diagnostic and psychological, medical and pedagogical counselling centres;

(b) In-home counselling services and special education establishments;

(c) Homes.

56. Moreover, as regards measures designed to maintain the family, as it was conceived, the supplementary tax penalized families, contrary to the provisions of the Covenant. Decree-Law No. 183-F/80 of 9 July changed this situation by establishing an overall family deduction favourable to married taxpayers. However, if both spouses work, the adverse effect of combining their incomes to determine the rate at which they are to be taxed continues to exist in this Decree-Law and penalizes working married couples.

## B. Protection of mothers

### 1. Principal laws

57. The Portuguese Constitution is also the basic instrument where the protection of mothers is concerned. Under article 68, the outstanding social value of motherhood and fatherhood is recognized, the occupational fulfilment of mothers and fathers and their participation in the civic life of the country are ensured and working women are guaranteed the right to maternity leave. Paragraph 2 (c) of article 68 recognizes the right to special protection at work during pregnancy and after childbirth.

58. Act No. 4/84 of 5 April deals with the protection of mothers and fathers and provides for specific protection for mothers only in connection with the biological cycle of motherhood, in other words, pregnancy, childbirth and lactation. This Act applies to all agricultural and domestic workers (art. 8).

### 2. Pre-natal and post-natal protection and assistance

59. The Directorate-General for Primary Health Care operates health stations and centres in all the municipalities and districts, where every form of assistance is provided to mothers and children. These establishments are also equipped with boarding facilities for emergency care, particularly assistance for normal childbirth.

60. All pregnant women and all children may use these facilities, particularly in order to be given, free of charge, additional diagnostic examinations and to obtain medicine or substitutes for breast milk in case of agalactia.

61. Medical stations, which come under the jurisdiction of the medical-social services and are located throughout the national territory, also provide treatment to mothers and children.

62. All care for mothers and children is provided free of charge, with the exception of medicine not dispensed directly by the services (the patients pay part of the cost of the medicine) and breast-feeding allowances, which come under the social security programme, as was mentioned above.

63. Delivery of a child in a hospital is entirely free of charge and includes any necessary health and puerperal care.

### 3. Special measure for working mothers

64. Under Act 4184 of 5 April, working women are entitled to 90 days of maternity leave, 60 days of which must be taken after the delivery.

65. In the event of miscarriage or stillbirth, the length of the maternity leave is 30 days (art. 9).

66. Pregnant workers are entitled to take time off from work for doctor's visits.

67. Lactating workers are entitled to two half-hour breaks per day for one year after the birth of their children without losing any pay or rights (art. 12).

68. During pregnancy and for three months following childbirth, working women are entitled to refuse to carry out assignments that are clinically inadvisable owing to their condition. During lactation (one year) working women are entitled to refuse to carry out assignments that might mean that they would absorb harmful substances likely to pass into their breast milk (art. 17).

69. In the event of the mother's death during the maternity leave or in the course of the 90 days following delivery, a working father is entitled to an amount of leave corresponding to the amount of unused maternity leave (art. 10).

70. In the event of the adoption of a child of under three months of age, the worker (whether male or female) who plans to adopt the child is entitled to 60 days' leave in order to care for him or her (art. 11).

71. Workers (whether male or female) are entitled to take 30 days off from work each year in order to care for their children, their spouse's children or their adopted children of under 10 years of age in the event of illness or accident.

72. In the event of hospitalization, workers may take an amount of time off equal to the length of time during which the child is hospitalized, but the father and mother may not avail themselves of this right to leave of absence simultaneously (art. 13).

73. A working father or mother is entitled to a leave of absence of six months, which may be extended up to a maximum of two years, starting from the end of the maternity leave in order to care for a child (art. 14).

74. Workers who have children of under 12 years of age are entitled to work shorter hours or to have a flexible schedule, under conditions to be determined (art. 15).

/...

75. It will be determined by law which assignments should be prohibited or be subject to certain conditions owing to actual or potential threats to the genetic functioning of women or men (art. 16).

76. While on maternity leave, employed women are entitled to an allowance equal to their monthly pay. An allowance whose level is calculated on the basis of an estimated total wage is payable under the scheme for domestic workers. Women coming under the agricultural scheme receive set daily allowances. A pre-natal allowance for women unable to exercise their profession owing to pregnancy is payable under the social security scheme for artists and performers.

#### 4. Specific measures for self-employed mothers

77. Medical care and medicines are also provided during and after pregnancy to self-employed mothers.

#### 5. Benefits in the event of the death of the husband

78. In the event of her husband's death, a woman may receive a survivor's (or widow's) pension and a death grant. She may be granted other social welfare benefits in the event of inadequate resources, as already mentioned above (paras. 47 and 49).

#### C. Protection of children and young persons

##### 1. Principal laws

79. The entry into force of the new Constitution of the Republic, which reflects the most recent developments in other countries in this area, has led lawmakers to revise their previous notions, in particular with respect to the law of affiliation.

80. This is one of the areas which has undergone the greatest change, as can readily be seen from the study entitled "La filiation dans la réforme du Code civil portugais du 25 novembre 1977", which is annexed to this report.\*

81. In it, the problem of establishing affiliation and its consequences, parental authority and its exercise, and guardianship are given careful consideration.

82. The treatment of parental authority reflects the new duties of fathers and mothers towards their children and the limits imposed by law on its exercise.

83. These limits include the possible loss of parental authority and the committal of the child to the custody of a third party or an educational or welfare establishment (arts. 1913 and 1918 of the Civil Code).

---

\* Available for consultation in the files of the Secretariat.

84. In addition, in article 153, the new Penal Code provides for the punishment of any individual who ill-treats a child in his custody or fails to provide a child with appropriate care.

85. Portuguese law has thus endeavoured to curb authoritarianism on the part of parents and to make them mindful of their duties in the building of a stable and happy family unit.

86. The welfare of the child is one of the principles underlying the changes made in the laws, especially in the case of the rules governing parental authority (see the study referred to in para. 80 above).

87. The same is true in the case of adoption. Article 1978 of the Civil Code goes so far as to provide that, with future adoption in view, a court may declare a child to be abandoned when his or her parents have failed during the year preceding the application to provide sufficient care to justify the continuation of an emotional bond between them and the child.

88. However, let us take a look at the legal rules governing adoption. The law provides for two types of adoption: full adoption and simple adoption. In both cases, the adoption order must be made by the family court (art. 1973 of the Civil Code and art. 62, para. 1 (c), of Act 82/77 of 6 December, concerning new arrangements in the area of judicial organization), if it is genuinely in the child's interest (art. 1974 of the Civil Code).

89. In order to determine whether adoption is in the child's interest, the court must order an inquiry into the character of the person wishing to adopt the child and into his or her background, family and economic circumstances and fitness for bringing up the child (art. 1973, para. 2, of the Civil Code and art. 163 of the decree-law on institutional arrangements for the welfare and supervision of minors). The court makes an adoption order only if the inquiry indicates that adoption presents no disadvantages.

90. Now let us consider the requirements for full and simple adoption:

(a) If they are married, the prospective adoptive parents must be over 25 years of age and have been married for more than five years and there must be no de facto separation, separation from bed and board or legal separation of estate;

(b) Where there is only one prospective adoptive parent, he or she must be over 35 years of age or over 25 years of age if the adoptee is the child of the other spouse;

(c) The maximum age permissible under the law for full adoption is 60 years (art. 1979 of the Civil Code);

(d) In principle, the adoptee must not be over 14 years of age (art. 1980, para. 2, of the Civil Code), and from that age onwards his or her consent is necessary in order for an adoption order to be made (art. 1981, para. 1 (a), of the Civil Code);

/...

(e) Full adoption is irrevocable (art. 1989 of the Civil Code), except where article 1990 of the Civil Code applies. In any event, a review of the order may be refused if the safeguarding of the adoptee's interest justifies it;

(f) Simple adoption is open to all persons over 25 years of age and under 60 years of age (art. 1992 of the Civil Code), and the consent of the prospective adoptee is also essential once he or she has reached the age of 14 years.

91. The relevant family law provisions reflect the lawmaker's concern for the child's welfare and the care taken to see that his or her interests, as an individual, are respected in both the natural and the legal family.

## 2. Special measures for handicapped or delinquent children

92. The protection of minors goes well beyond the rules embodied in the Civil Code. It is a matter not simply of regulating the institution of the family but of protecting the child outside that institution. Indeed, there is a need to deal with the problem of maladjusted children who have personality problems, are ill-treated or even abandoned by their parents, are delinquent and so on.

93. Pursuant to Act 82/77 of 6 December, all such matters fall within the jurisdiction of the Juvenile Court (children's court) and the Family Court (arts. 62 and 63).

94. Article 63, paragraph 1, of that Act provides that the Juvenile Court has the power to make orders in respect of minors over 12 years of age (with the exception of the case referred to in paragraph 2 of the same article) and under 16 (with the exception of the case referred to in paragraph 4 of the same article) who:

(a) Show that they have serious difficulties in conforming to normal social life owing to their circumstances or by their conduct or inclinations;

(b) Engage in begging, vagrancy, prostitution, immorality, alcohol abuse or the unlawful use of narcotic drugs; or

(c) Commit an act which is regarded under law as a serious, correctional or petty offence.

95. The Juvenile Courts also have the power (art. 63, para. 3, of Act 82/77, and art. 15 of Decree-Law 314/78 of 27 October):

(a) To make orders in respect of minors who have been ill-treated, abandoned or neglected, and whose health, safety, education or morals have been endangered as a result;

(b) To impose restrictions on the liberty of minors 14 years of age and over who have serious problems adjusting to family discipline, work or the educational and welfare establishment to which they are committed; and

(c) To consider and decide upon applications from minors for protection against the improper exercise of authority in the family or in institutions to which they are committed.

96. In short, the function of the Juvenile Court is to afford judicial protection to minors and defend their rights and interests by making orders for their protection, welfare and education (art. 2 of Decree-Law 314/78).

97. The Family Court, on the other hand (art. 62, para. 1, of Act 82/77), is concerned with such matters as guardianship and the administration of property, adoption, maintenance payments for minors, the loss of or the imposition of limits on parental authority, affiliation proceedings and so on.

98. Decree-Law 314/78 contains provisions relating to delinquent or merely maladjusted minors and establishes new institutional arrangements for the welfare and supervision of minors (hereinafter referred to as the OTM). We shall dwell here on this Decree-Law owing to its great importance in terms of the innovations and especially the new concepts relating to the treatment of minors which it introduces.

99. First of all, to emphasize that this is a first attempt in Portugal at protecting minors through the administrative process, recourse to the Court is avoided in certain cases, without prejudice to individual rights, however. In the event, for example, of lack of parental consent or parental opposition to intervention by the administrative bodies, the Juvenile Court must intervene.

100. Observation and welfare centres, established in the country's largest cities, are required, inter alia, to implement orders for the care or protection of minors under 12 years of age who:

(a) Have serious difficulties in conforming to normal social life owing to their circumstances or by their conduct or inclinations;

(b) Engage in begging, vagrancy, prostitution, alcohol abuse or unlawful use of narcotic drugs;

(c) Commit an act recognized as a serious or correctional offence under criminal law.

101. Intervention by the centres requires the express consent of the parents or the minor's legal representative; if they oppose intervention or the order made, and if it is admitted that the minor has knowingly committed acts recognized as serious offences under criminal law, the centres no longer have the power to deal with the case and the Juvenile Court is thereafter responsible in the matter.

102. In the event of a conflict, the Court's decision is, naturally, binding.

103. The observation and welfare centres take the protective measures that they deem appropriate, including the placement of minors in institutions administered by the Ministry of Justice, or in other institutions.

/...

104. The implementation of such measures is the responsibility of a welfare board composed of the director of the institution, a psychologist, the public prosecutor's delegate to the Juvenile Court (curador de menores), a representative of the Juvenile Services Department of the Ministry of Social Affairs and a representative of the Ministry of Education.

105. Article 18 of Decree-Law 314/78 lists the orders which may be made by the Juvenile Court:

- (a) Warnings to children;
- (b) Handing over of the child to his parents, guardian or any other person having custody of him;
- (c) Orders for the performance of certain acts or compliance with certain duties;
- (d) Orders for re-education;
- (e) Orders placing a child with a suitable family;
- (f) Orders committing a child to a public or private educational establishment;
- (g) Orders committing a child to a public or private institution for an apprenticeship;
- (h) Orders placing a child under a régime of assistance;
- (i) Orders committing a child to a semi-residential home;
- (j) Orders committing a child to a medical-psychological institution;
- (k) Orders committing a child to a re-education establishment.

The last of the above orders can be made only in the case of juveniles nine years of age and over (art. 20).

106. The Court naturally makes such orders only for children in special circumstances, in particular for:

- (a) Children over 12 years of age and under 16 in any of the situations referred to above;
- (b) Children who are ill-treated, abandoned or in a state of neglect harmful for their health, security, education and moral well-being;
- (c) Children over 14 years of age who have serious difficulties adapting to discipline in the family, work or establishment in which they have been placed.



107. It should be emphasized that the Juvenile Court is also empowered to evaluate and pronounce judgement in cases where a minor submits a request for protection against the improper use of authority by the family or the institutions in whose care he has been placed.

108. Even where the Court makes an order, it may not then cease to concern itself with the supervision of the minor. The judge may require persons having custody of the minor - including welfare agencies - to provide information from time to time on the minor's conduct (arts. 22, 24 and 44 of the OTM), and the social service agency (see arts. 6 and 25, para. 1, of the OTM) must submit to the judge fortnightly reports on the moral and material situation of the minor and his family and on compliance with the duties specified by the Court.

109. All such orders may, however, be varied whenever they are found to be inadequate, unavailing or even unnecessary (art. 25, para. 2, of the OTM; see also arts. 46 and 69 of that text).

110. The judge may, in addition:

(a) Suspend the orders referred to in article 18, paragraphs (e) et seq. for a time in order to assess whether the subsequent conduct of the minor makes them unnecessary (art. 27 of the OTM);

(b) Suspend the proceeding itself and defer consideration of the facts and the subsequent conduct of the minor, if his age, personality, situation or education makes such a course desirable (art. 28 of the OTM);

(c) Make interim orders, provided for under article 19 of the decree-law an institutional arrangement for the welfare and supervision of minors 1/ or vary on a temporary basis any other decision taken, after making the necessary summary inquiries (art. 42 of that text).

111. This body of provisions suffices to prove that the function of the Juvenile Court is basically to protect and educate, not to punish, and that a decision to order the confinement of a minor in an institution (see art. 30, para. 2, of the OTM) or some similar treatment is taken only as a last resort, when all other non-coercive measures have been found to be unavailing. Moreover, any orders that have been made can be varied at any time should they prove to be detrimental to the minor's education or conduct.

112. It should be emphasized that only the judge of a juvenile court may make orders placing minors in semi-living-in homes or medical-psychological institutions, or committing them to re-education establishments. He must be assisted in that decision by two judges expert in social matters.

113. Supervision proceedings are confidential (arts. 36 and 37 of the OTM). Failure to respect that requirement constitutes contempt of court (art. 39 of that text).

---

1/ In particular placement with a suitable family, or in an educational or welfare establishment, or any other establishment deemed to be appropriate.

114. In addition, efforts have been made to ensure that the legislation provides for permanent contact between the Court and the minor so that the judge is able to appreciate carefully the minor's problems and troubles and, as a result, make the most appropriate welfare and education orders. The law provides for:

(a) The questioning and observation of minors (art. 53, paras. 1 (a) and (e) of the OTM) during supervision proceedings. Paragraph 2 of that article even makes it mandatory for the minor to be heard when a supervision order is made concerning him. Only persons whose presence is considered appropriate by the judge may be present during the questioning of a minor (art. 54 of the OTM). The observation of a minor is the responsibility of either the observation and welfare centres or the medical-psychological institutions, depending on the individual case (art. 56 of the OTM);

(b) The presence of the minor at the hearing, if called for by the judge when an order provided for in article 18, paragraphs (i) to (l) is likely to be made (art. 61, para. 2, of the OTM);

(c) Contacts between the judge and the minor while the order is being carried out, whenever the latter considers it appropriate (art. 45 of the OTM).

115. The judge is thus in an excellent position to follow the development of the minor's personality and conduct, so that he (the judge) can modify his previous decisions if and when they prove to be inadequate or even dangerous for the child's rehabilitation.

116. In much of its work, the Juvenile Court receives help from various public or private agencies which see to the assistance and welfare of the child both during the supervision proceedings and after any decision regarding the confinement of the minor.

117. The Supervision of Juveniles Services come under a Department of the Ministry of Justice and are concerned with the welfare and observation of minors, their environment, and the implementation of protection orders (see art. 76 of the OTM) and of the supervision orders made by the courts, and with after-care. Social work has to be undertaken, in particular, in environments with the highest incidence of maladjustment or delinquency (art. 72 of the OTM).

118. The law provides for several kinds of establishments (art. 73 of the OTM).

#### Supervisory establishments for minors

119. Observation and welfare centres are, as has been shown above, non-judicial official institutions for the protection of minors (art. 75 of the OTM), which apply the welfare measures deemed appropriate (art. 78 of the OTM), implement orders made by the juvenile courts, or ensure that they are carried out (art. 79 of the OTM).

120. The purpose of observation, which is mandatory in cases of orders for placement in a semi-living-in home or a medical-psychological institution, or for

commitment to a re-education establishment, is to ascertain and classify the child's character and temperament, aptitudes, abilities and inclinations and his family and social circumstances (art. 84 of the OTM).

121. Re-education establishments are intended to provide children committed to their care with a formal education, cultural background and vocational training suited to their aptitudes and inclinations so that they are later able to return to society (art. 99 of the OTM).

122. There are plans for specialized re-education establishments to accommodate minors who have particular difficulties in adapting to a normal setting (art. 100 of the OTM).

123. Establishments of this kind have special sections for accommodating pregnant minors or unwed mothers and, in particular, a centre for infants (art. 101 of the OTM).

124. It should be noted that the formal education and vocational training of minors can be provided in both public and private establishments (art. 104 of the OTM).

125. Minors may be permitted to visit their families at the weekend, during school holidays or for special reasons when justified.

126. Medical-psychological institutions are concerned with the observation and placement of minors who are mentally defective or abnormal, with the exception of those who are untreatable (art. 109 of the OTM).

127. The observation and placement of such children can take place on a living-in, semi-living-in or non-living-in basis (art. 110 of the OTM).

128. Semi-living-in homes are open establishments for the social rehabilitation of minors assigned to them on condition that they stay in a family home.

129. Minors must follow a course of study or engage in an occupation so that they can develop their independence (art. 113 of the OTM) and become self-supporting.

130. If they work, minors are entitled to part of their salary. The rest goes into a "reserve fund" used to cover the expenses of their maintenance.

131. Minors who do not work are nevertheless entitled to receive pocket money (art. 118 of the OTM).

132. Half-way homes are also open establishments. They may be autonomous or affiliated with a medical-psychological institution or re-education establishment. Their purpose is to facilitate the transition from living-in to normal social life by helping minors to readjust gradually to ordinary living and working conditions (art. 120 of the OTM).

133. Placement in these establishments is decided by the Juvenile Court at the request of the establishment in whose care the minor has been placed.

134. Residential homes are also open establishments which accommodate minors receiving after-care or who are, for any reason, temporarily in need of care from the supervisory services for minors. Young people over 18 years of age may be admitted at their own request.

135. Residents must be students, have a job, or be serving some sort of apprenticeship.

136. Their basic purpose is to foster the self-reliance of young persons and their readjustment to society.

137. Specialized reception centres receive on a temporary basis minors in respect of whom supervision or protection orders have been or will be made because of alcohol abuse or the unlawful use of narcotic drugs (art. 127 of the OTM).

Provisions under criminal law with respect to young offenders

138. The aim of criminal legislation which recently entered into force (1 January 1983) is to stress re-education rather than punishment and to introduce greater flexibility in the social sphere, while taking into account a person's individual capacity for social rehabilitation, especially if he is at the threshold of adulthood.

139. Decree-Law 401/82 of 23 September introduced special legislation in this respect with regard to young offenders between the ages of 16 and 21 years.

140. This text applies only to young people who have committed an act considered to be a criminal offence, if, when the offence was committed, they were over 16 and under 21 and not unindictable under criminal law because of mental abnormality (art. 1, paras. 1-3).

141. Criminal law for young offenders must be aligned as closely as possible with the principles and rules of law regarding the rehabilitation of minors. In this respect, article 5 of this Decree-Law provides that in cases of prison sentences of less than two years, the judge may apply separately or concurrently the orders provided for under article 18 of Decree-Law 314/78, of 27 October, (mentioned in para. 95 above) to a young person under 18, taking into account his character and the circumstances of the matter in question.

142. Minors committed for the use of narcotic drugs are also helped by the specialized staff of the Centre for Research on the Prevention of Drug Use (art. 128 of the OTM).

143. The decree-law on institutional arrangements for the welfare and supervision of minors also provides for the possibility of co-operation between public and private agencies.

144. It is essential to co-ordinate all efforts undertaken with the same aim, without distinction as to the entities involved. This must be done in the interest of children in order to spare them the suffering that can result from the shortcomings, requirements and problems of State agencies.

145. This type of co-operation can take the following forms:

(a) The State, through the Ministry for Justice, by prior agreement entrusts the administration of establishments for the welfare of minors to private agencies specializing in the problems of children and young people (art. 130 of the OTM);

(b) The State, through the Ministry for Justice, obtains the collaboration of private agencies by means of subsidies. These agencies may assist the supervision services either on a temporary or permanent basis (art. 138 of the OTM).

146. In the case of an order for placement in a semi-living-in home, a medical-psychological institution or a re-education establishment (art. 18 (i), (j), or (l) referred to above), the young person may, if he so requests and when the opinion of the establishment has been obtained, be authorized by the judge to remain there after the age of 18 if there are obvious advantages for his training and education in so doing. In any event, he may not stay at the establishment beyond the age of 21.

147. If, in view of the circumstances of the case and the personality of a young person over 18 and under 21 years of age, a prison sentence seems not to be necessary or advantageous for his social rehabilitation, the judge may order punitive measures mentioned in article 6:

- (a) A warning;
- (b) The imposition of certain duties;
- (c) A fine;
- (d) Commitment to a detention centre.

148. The last-mentioned measure may be put into effect for a minimum period of three months and a maximum period of six months. At the end of that period, the judge may decide that there should be a "period of guidance and observation outside of detention".

149. During that period, the young person may be obliged to remain at the centre for a few hours a week (not more than six).

150. Decree-Law 90/83 of 16 February 1983 ruled, in fact, that the detention centres (mentioned in Decree-Law 401/82, art. 6 (d)), were an adequate remedy for young delinquents whose misdeeds were not sufficiently serious to justify a prison sentence, which might cause them to become deeply disturbed, but which, however, were sufficiently serious for them to be committed to some sort of institution.

151. The guiding principles of the detention centre régime require a combination of a demanding programme of activities and forms of intervention that aim to develop the young people's sense of social responsibility by encouraging them to participate in community services, taking into account, if possible, their interests and needs.

152. This Decree-Law represents an innovation in that it establishes a flexible arrangement with varying degrees of supervision of the young people:

Continuous (residential);

Non-continuous (semi-living-in);

Occasional (with the obligation of reporting at regular intervals).

153. It will therefore be necessary to wait for a while in order to evaluate how successfully this arrangement works and its results.

154. We have endeavoured to provide an outline of Portuguese legislation concerning the welfare of minors. Most of the provisions which have been described above are new, and not enough time has gone by yet to allow us to assess their merits and demerits. The law itself merely represents the lawmakers' wishes and hopes with regard to the social environment of minors. Thereafter, care must be paid to its implementation, and to the measures necessary to give life to its principles and aims. The law is always an abstract thing which must be applied by people who have their own ideas and their own failings.

155. They must first become imbued with a new outlook and acquainted with new truths, approaches and principles. That is why decree-law or institutional arrangements for the welfare and supervision of minors assigns an important role to psychologists (see arts. 88, 91, 107 and 128 of the OTM, which provide for the participation of psychologists in the pedagogic councils and the welfare boards which are the managing bodies of the re-education establishments).

156. It is also why treatment for drug addicts is at present available to anyone who needs it, without any involvement on the part of the police authorities; anonymity is in fact the rule and services are provided by teams of psychologists and psychiatrists.

157. Nevertheless, we cannot deny the existence of serious problems affecting the welfare of minors. Deteriorated social circumstances, the economic crisis, unemployment, and the emotional instability of modern society hamper efforts to find satisfactory solutions to the problems of the social maladjustment of children.

158. In affirming that more juvenile courts could be set up as they are deemed necessary (art. 3, para. 3 of the OTM), the lawmakers have taken a wise approach. They have, moreover, attempted to be realistic, never losing sight of the actual conditions. They have not tried to devise Utopian solutions. Rather, they have simply sought to take advantage of the existing resources and put them to new uses.

159. For this reason, in spite of all the difficulties, we believe that our responsibilities in this respect, particularly under the International Covenant on Economic, Social and Cultural Rights, do not constitute impossible goals but rather reminders of the hope for a steady improvement in the resources available with the aim of achieving a better understanding and treatment of the problems of children and young persons.

3, 4, and 5. Protection of children and young persons against exploitation and provisions governing their work

160. According to article 60 of the Constitution of the Portuguese Republic, it is the duty of the State to ensure special protection at work for minors, disabled persons and those engaged in particularly dangerous activities or working in unhealthy, toxic or dangerous conditions.

161. Also under the Constitution (art. 70), young people, particularly those at work, receive special protection with respect to their economic, social and cultural rights, including:

- (a) Access to education, culture and work;
- (b) Vocational training and advancement;
- (c) Physical education and sports;
- (d) The pursuit of leisure-time activities.

162. Youth policy must give priority to the personality development of young people, their desire to give free rein to their creative talents and their desire to serve the community.

163. The Child and Youth Welfare Service provides technical guidance, inspection and supervision services to facilities which serve children and at the same time co-operates with other government departments in the implementation of supplementary welfare measures.

164. According to article 123 of Decree-Law No. 49,408 of 24 November 1969 only minors over 14 years of age possessing the required skills may be accepted for the performance of any kind of work. For certain kinds of work, however, the above limit may be raised by an order prescribing labour regulations or through collective bargaining.

165. Article 122 specifies that the admission of minors to jobs which, by their nature or because of the conditions in which they are performed, might damage the physical, intellectual or moral development of those minors may also be prohibited or regulated by order.

166. The same Decree-Law provides that the employer has the right to apply disciplinary sanctions, such as dismissal, to workers of either sex who, by their conduct, cause or might cause moral harm to others.

167. In accordance with article 3 of Decree-Law No. 421/83 of 2 December, minors are not obliged to work overtime.

168. Article 33 of Decree-Law No. 409/71 of 27 September provides that workers under the age of 16 may not perform night work in an industrial establishment; they may only be employed at night in activities of a non-industrial character and when such night work is essential for the vocational training of the young person himself.

169. Minors over the age of 16 and under the age of 18 may not work at night in an industrial establishment except in cases of force majeure, that is to say where the normal performance of the activity carried out by the employer is prevented or in the case covered by the final part of the previous paragraph.

170. According to article 9, collective labour agreements should, whenever possible, reduce the maximum normal hours of work for young persons under the age of 18.

171. Decree-Law No. 102/84 of 29 March sets forth the legal guidelines for the initial training of young apprentices. It attempts to set up a mechanism for helping young people to find their place in society and take up an occupation.

#### 6. Statistical data

172. At present (1982) there are 71,000 minors at work and 13,000 unemployed minors seeking their first job, 38.5 per cent of whom hold the certificate of education and 7.1 per cent can read and write but have no formal qualifications.

173. The table below shows the number of minors between the ages of 10 and 14 working in the major occupational groups indicated.

Table 1. Second half of 1982  
(Thousands)

	Sales and trade	Specialized service workers	Agricultural workers, fishermen and others	Non- agricultural workers
Male	2	1	16	23
Female	0	4	14	10
Male and Female	2	5	30	33

174. In 1980 70,000 minors were employed and in 1982 71,000. The number of unemployed minors decreased from 14,000 in 1980 to 13,000 in 1982.



Table 2. Resident population between the ages of 10 and 14,  
 according to work status (second half of 1982)  
 (Thousands)

Work status	Male	Female	<u>Male and Female</u> Total Percentage	
Employed	43	28	71	7.7
Unemployed a/	8	5	13	1.4
Unemployed b/	1	1	2	0.2
Domestic service	1	14	15	1.6
Students and persons between the ages of 10 and 14	402	360	762	83.1
Otherwise inactive	23	29	52	5.9
<b>Total</b>	<b>478</b>	<b>437</b>	<b>915</b>	<b>99.9</b>
Economically active)	54.4	35.9	44.7	
) (Percentage)				
Unemployed )	4.3	12.0	7.5	

Source: Ongoing employment survey.

a/ Unemployed seeking a first job.

b/ Unemployed seeking new employment.

Table 3. Economically active civilian population between the ages of  
 10 and 14 who are unemployed and seeking a first job,  
 according to level of education (second half of 1982)  
 (Thousands)

Level of education	Male	Female	<u>Male and Female</u> Total Percentage	
Unable to read or write	-	-	-	-
Able to read and write but without formal qualification	1	-	1	7.7
Elementary primary education	3	2	5	38.5
Further primary education	3	2	5	38.5

Source: Ongoing employment survey.

Table 4. Employment of minors (10 to 14 years of age)  
 (Thousands)

		First half of							
		1975	1976	1977	1978	1979	1980	1981	1982
Employed	Male	45	47	44	44	49	40	48	43
	Female	35	33	27	31	32	30	29	28
	Total	80	80	71	75	81	70	77	71
Unemployed	Male	10	10	11	12	10	8	9	8
	Female	9	8	11	11	10	6	8	5
	Total	19	18	22	23	20	14	17	13

Source: Ongoing employment survey.

II. ARTICLE 11. THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

A. Information on general measures taken to ensure an adequate standard of living and to continue to upgrade the living conditions of the population

175. Generally speaking, the economic and social policy in effect in Portugal in the 1970s was directed towards substantially improving the living conditions of the population by developing a social security system and education and health services, and by adopting price, income and employment policies to achieve that goal.

176. At the same time, after the change in the political régime in 1974, the role of the public sector developed very rapidly, leading to a strong growth in public expenditures and major modifications in their content. To that end, social changes were accelerated and the consumption of essential foods, agricultural production and utilities rates were subsidized.

177. The development of the social security system resulted in higher benefits or a broader coverage of risks.

178. In that context, the Constitution of the Portuguese Republic, adopted in April 1976, provides in article 9 that one of the fundamental tasks of the State is "to create conditions permitting the promotion of the people's welfare and quality of life, especially those of the working classes".

179. Policies designed to achieve this goal are reflected in the broad lines of the Plan and in the Budget Act adopted each year by the Parliament. Global and sectoral policy measures are established, as well as the budgetary expenditures

needed to promote improved living conditions of the Portuguese people, taking into account the limitations imposed by the efficient accomplishment of other economic policy goals for the short and medium term.

180. In recent years, the average annual growth of the gross domestic product (3.7 per cent in the period 1977-1982) has been slower than that prior to 1974 (approximately 7.6 per cent for the period 1967-1973).

181. Nevertheless, the resulting - growth-relatively favourable compared with other countries with similar economies - occurred during a period in which the Portuguese economy was suffering not only from the effects of several oil crises but also from the upheavals resulting from the overthrow of the political régime, followed by a profound disarray in the country's political and economic structures. Then came decolonization, which resulted in the return en masse of the residents of the former colonies.

182. Under such circumstances, the fundamental objective of the economic policy became to prevent the growth of unemployment by strong action to protect employment and by absorbing a major portion of the surplus active population, a surplus caused not only by the arrival of the returnees but also by diminishing opportunities for emigration.

183. The difficulties which none the less arose with the worsening of the balance-of-payments deficit and the increase in the external debt, together with the widening deficit in the public sector, led to the adoption of a stabilization policy in 1977-1978, implemented through a series of measures which had certain temporary, restrictive effects on the economy, although the growth in economic activity continued at a relatively fast pace until the early 1980s.

184. Moreover, after the upsurge in private final consumption in the period 1974-1977, the structure of domestic research subsequently returned to a situation approaching the previous one, through the recovery of investment.

## B. The right to adequate food

### 1. Principal laws

185. The principal legal texts designed to promote the right of everyone to adequate food are the 1976 Constitution of the Portuguese Republic, as revised in 1982, and the laws mentioned in this report.

### 2. Measures taken to develop or reform the agrarian system

186. Agriculture continues to be one of the country's principal economic activities. There are currently approximately 950,000 agricultural holdings in Portugal, covering a total area of 5,202,935 hectares and providing employment for nearly 1,035,000 persons (26 per cent of the total active population). From 1979

to 1981, the gross value added generated by the sector evolved as follows (in millions of escudos):

Table 5

1979	at 1979 prices	105 368
1980	at 1979 prices	105 526
	at 1980 prices	115 757
1981	at 1980 prices	99 063
	at 1981 prices	110 989

In the same period, agricultural output accounted for the following proportions of the gross domestic product:

1979	10.6 per cent
1980	9.4 per cent
1981	7.8 per cent

187. Measures to develop or reform agrarian systems in Portugal, in order to augment their value and make more effective use of natural resources, under the aegis of the Farm Management and Organization Institute, are contained in Act No.77/77 - Agrarian Reform Framework Law - and in its regulations, *inter alia*, Decree-Law No. 227/84, on minimal levels of land exploitation, and Act No. 2,116/62 and Decree-Law No. 44,647/62, on farm consolidation (see annex). Currently, amendments to Act No. 2,116 are under consideration.

188. With regard to the laws in question, farm consolidation studies have been carried out in various regions of the country (Mondego, Viana do Castelo, Macedo de Cavaleiros, Cova da Beira, Várzea de Benaciate, Coruche and the Lima, Vouga and Alvor Valleys); technical support has been given to the transactions, with a view to joining contiguous lots in order to reduce or eliminate conveyance duties, and minimum limits are being established for parcelling rural properties (applicable throughout the country).

189. About 37 per cent of the Portuguese people's expenditure is on food. However, the country's agriculture, although it contributes approximately 11 per cent to the total value of exports, is insufficient to satisfy the domestic market. Thus, imports of agricultural goods and foodstuffs represent 15 per cent of total imports and, in the agricultural trade balance, the rate of coverage of imports since 1980 has been 45 per cent (provisional data for 1983).

190. Accordingly, the aim is both to encourage agricultural production (without going so far as to cause ecological damage) and to increase the sector's productivity with a view to improving living conditions for those engaged in agriculture and reducing underemployment and hidden unemployment.

/...

191. To that end, efforts are being made to overcome the difficulties which still exist, whether with regard to land tenure and management, the organization of farmers and markets and vocational training and rural extension, or with regard to physical shortcomings, particularly of an agrological nature.

192. In this context, the Government has embarked upon a series of programmes aimed at increasing productivity, improving the distribution of credit to benefit the least-favoured segments of the rural population, reorganizing rural extension and official support services, and developing in rural communities the authority necessary for the full participation of local leaders in the decision-making process devolving upon them.

193. All these measures are necessary to the transformation of Portuguese agriculture into an instrument of revitalization capable of:

(a) Meeting the credit and service needs of the rural population;

(b) Satisfying the food needs of population centres;

(c) Increasing the productive and organizational capacity of the rural population so that Portugal may reach a level equivalent to that of the other European countries, given that the process of its admission to the European Communities is under way.

194. The Government has pursued a policy designed to confer real decision-making power on the regional authorities, namely those in direct contact with, and aware of, the true nature of agricultural, economic and social problems.

195. Regional agricultural services, established under article 7 of Decree-Law No. 221/77, were organized by Regulatory Decree No. 6-A/79 which has been maintained in force under article 11, paragraph 3 of Decree-Law No. 293/82 until the establishment of the Regional Agricultural Directorates (DRA). Decree-Law No. 223/84 of 6 July, recently promulgated, defines the nature, functions and powers of the DRAs, as well as the principles governing the organization and structure of the bodies and services of which they are composed (see annexed laws).

196. The regional objectives established for the activities of the Ministry of Agriculture, Forestry and Food are pursued primarily through the DRAs, whose competence, practically speaking, is confined to the agrarian region which each DRA covers.

### 3. Measures taken to improve methods of production

197. Among the measures taken which are designed to accomplish tasks with the immediate objective of serving producers, the following should be stressed: large-scale water and agricultural engineering projects; rural extension courses and agricultural extension courses for the family; studies on soil desalination, drainage and irrigation; acceleration of vocational training for farmers and forestry and forest conservation workers in special centres, designed to protect and promote existing resources; enlargement of collective milking sheds,

particularly in the northern parts of the country; development of forage and pasture land; improvement of cattle, etc. The priority development objectives are the following:

- (a) Agrarian development of the mainland;
- (b) National production of seeds and cuttings;
- (c) Liming, mineral fertilization and development of pasture and forage land;
- (d) Development of regions which can be expanded and diversified, particularly agricultural water projects on large and small irrigation districts;
- (e) Better utilization of critical regions with degraded, light or skeletal soils, particularly in the inland regions of Trás-os-Montes, Beira Alta, Alentejo and Serra do Algarve, with a view to making greater use of our natural resources as forests or pastures; the results, which are of increasing economic and social interest, might improve the sharp disparities which now exist in the country;
- (f) Utilization of domestic resources to diversifying energy sources, particularly through the use of by-products or waste, and to develop energy-efficient ways of producing and processing of raw materials and foodstuffs;
- (g) Dissemination of useful knowledge and materials;
- (h) Vocational training.

198. The Bureau for International Co-operation has made it possible, since its establishment in June 1977, to develop a number of planned and projected activities by arranging, for example, for advanced technical training at a number of levels at specialized institutions abroad and the provision of assistance (for specific programmes, both bilateral and multilateral) by foreign technicians.

199. The training of technicians and farmers has paved the way for the gradual but generally successful introduction of new farming methods and complementarity with other, non-traditional and recently introduced techniques.

200. The current trend in the forestry subsector is toward multiple-use; it is generally recognized that well-run and scientifically managed forests have a beneficial effect on the environment, conserve soil and vegetation and retain water, which in turn influences their own production and that of the adjacent areas used mainly for food production. Consequently, forest development has a stabilizing effect on rural society and provides jobs at low cost, thereby helping to stem the exodus from the countryside and prevent the depopulation which is so detrimental to food production. Similarly, the construction of highways will improve the supply and flow of goods.

201. In the predominantly woodland regions of huge areas of the country, covered with forests, waste or fallow land, pasture or incorrectly cultivated regions, the growing of food will be stepped up by improving forest and pasturelands, increasing

fruit production (chestnuts, walnuts, acorns, carob, arbutus-berries, pine nuts, etc.), developing bee-keeping, hunting and fishing and the growing of bulbs, roots and, in particular mushrooms.

202. Special attention will be given to the rational management of energy resources in the woodland regions, which are currently undergoing active redevelopment and whose value is likely to increase with the succession of oil crises. There will be a special need to study the means of producing and transporting energy sources to users, so as to reduce, as far as possible, the physical - and sometimes arduous - effort involved.

203. Credit is extended to the agricultural sector by all commercial banks, investment banks and farmers' mutual loan associations; there is also a Financial Support Institute for Agriculture and Fisheries, whose purpose is to serve as the focal point for and manage the funds allocated to the sector, and, in collaboration with the Ministry of Agriculture, Forestry and Food, to define policies and lines of credit. The credit granted by financial institutions in 1982 totalled 73,588,000,000 escudos.

204. Such credit and institutions are basic instruments for the development of agriculture and constitute measures on which the farmer should be able to rely.

#### 4. Conservation measures

205. The Directorate-General for Agriculture regulates agricultural production in the areas of plant health and propagation, seed production and quality control, the study and control of plant diseases, pests and weeds, quarantine service under the terms of international conventions, and the study and testing of plant protection chemicals, fertilizers and correctives. It also collaborates in environmental studies aimed at the protection of agriculture.

206. Also of importance in this connection is the development of forestry, together with the associated "indirect benefits"; these include erosion control, shelter-belts to protect agricultural crops, the fixing of sand dunes through plantings, and, above all, the deflection of torrential run-off which, besides preventing damage to marginal land, makes improved fish breeding possible through the control of water flow.

#### 5. Measures taken to improve processing and distribution of agricultural and food products

207. The food and other agro-industries, which stimulate and give direction to production, are of great importance. They encourage the use of more advanced techniques and new working methods, guarantee a market and a higher price level for agricultural products, help to stabilize the supply of such products and, by absorbing manpower and thereby generating increased income, enable the local population to achieve a higher standard of living and a more balanced regional economy. The effectiveness of distribution also depends on the existence of

appropriate support infrastructures; indeed, the absence of such infrastructures could prevent any significant programme to increase agricultural and stock-raising production.

208. The Administration's interest in the food problem led to the establishment, in 1983, of a State Secretariat for Food, under the Ministry of Agriculture, Forestry and Food (Decree-Law No. 344-A/83). Its purpose is to ensure a coherent policy for all activities which deal with satisfying the country's needs for the marketing and processing of agricultural food products. The State Secretariat supervises bodies such as the Food Quality Institute, which carries on its activities in the areas of food and food quality policies; the Institute for the Support of the Processing and Marketing of Agricultural and Food Products (IAPA), whose responsibility it is to support economic and technological policy for processing and marketing agricultural and food products; and public enterprises and economic co-ordination bodies, whose work deals with sectors such as grains, olive oil and other oil products, wine, meat, milk, fruit, vegetables, etc., which are very important in nutrition.

209. The development of the food production complex is still one of the priorities of the nation's economic policy, as can be seen in the directives on agriculture and yield policy reflected in the broad lines of the Plan for 1984, approved by Act No. 43/83. At the same time, as a result of new legislation, the Government is trying to revitalize the operation of markets (Decree-Law No. 422/83, concerning the defence of competition), and to introduce greater discipline in the activities of economic agents (Decree-Law No. 28/84, concerning economic offences). The guidelines are being gradually implemented, through measures and activities now in progress or about to be undertaken.

210. Measures taken to improve the standard of living, particularly with regard to the right to adequate food, are as follows:

- (a) Support for investment in the priority subsectors through fiscal and financial incentives;
- (b) Fixing of guaranteed producer prices and interventions in the market;
- (c) Promotion of contracts between producers and industrialists;
- (d) Technical support for co-operatives and private undertakings;
- (e) Fixing of consumer prices;
- (f) Gradual improvement of trading channels;
- (g) Dissemination, through the media, of consumer information, education and consumer protection programmes.

211. Special mention should be made of the following measures and actions implemented or participated in by IAPA, which are part of national policy in this sector:



Technological support to food production industries, for modernizing their equipment and updating the manufacturing processes used;

Studies dealing with areas where family activity is very important, such as trade in preserved meats and regional cheeses, in order to promote the definition of such products, health and hygiene control, and standardization of products offered for sale;

Study of the use of by-products and wastes of agro-industries in foods, particularly as animal feed, thereby making it possible to increase livestock production and lessen the country's dependency in the area of food;

Preparatory work for the inventory of support infrastructures in the food production sector, their degree of concentration and product transport, processing, storage and distribution;

Operational support for the existing infrastructures, and for the setting up of new facilities, particularly in the areas of refrigeration and energy conservation.

#### 6. Measures taken to improve nutrition

212. In the period from 1970 to 1980 the percentage of animal protein rose from 44.4 per cent to 46.6 per cent (a percentage that is higher than the level currently recommended, which is 40 per cent). Where vegetable protein is concerned, there has been a slight reduction in the case of pulses.

213. The restructuring of the relevant ministries has resulted in the closure of the Directorate-General for Rural Extension (Ministry of Agriculture) and the Directorate-General for Trade Co-ordination (Ministry of Trade), which were departments responsible at the central level for supporting the education programmes in the area of food and nutrition implemented in the country. These programmes are therefore now the sole responsibility of the Food and Nutrition Council (CAN) (Decree-Law No. 265/80 and Order No. 689/81). The Council carries out its activities through three commissions: the Nutrition Research Commission; the Food Economy Commission; and the Food and Nutrition Education and Research Commission. The Nutrition Education Commission basically supports the National Nutrition Education Programme already being implemented throughout the country, on the basis of District Nutrition Education Groups to which representatives of the ministries of agriculture, education and social affairs belong.

214. The presidency of the Food and Nutrition Council has been entrusted to the Nutrition Research Centre of the National Health Institute and the vice-presidency to the Food Standards Institute of the Ministry of Agriculture, Forestry and Food. Representatives of departments and bodies concerned with solving national food and nutrition problems are also members of the Council. The training of food and nutrition technicians (introductory training and retraining) has been a constant concern of the three ministries involved in the programme. Nutrition education programming has been based on the outcome of the national nutrition survey conducted in 1981.

7. Measures taken to prevent food spoilage

215. The Food Standards Institute is taking on greater responsibility for monitoring the quality of foodstuffs. In addition to problems directly connected with the spoilage, contamination and safety of foodstuffs on sale and in storage, the Division for Nutrition and Nutrition Education has included in its programme a project, to which it attaches great importance, concerning catering in workers' and school canteens, the purpose of which is to bring about the necessary conditions to ensure that the catering is appropriate and of a high standard and to provide canteen staff with good working conditions. Helping to reduce food spoilage has also been one of the concerns of the technicians participating in the nutrition education programme; accordingly, greater emphasis has been placed throughout the country on the dissemination to the population of rural, urban and industrial areas of information on methods of preserving foodstuffs, particularly refrigeration and freezing, and on the most appropriate storage methods at all marketing and consumption levels.

8. Measures taken to disseminate knowledge of the principles of nutrition

216. In addition to their joint action among school children (at all levels of school education), the above-mentioned ministries, which are involved in the nutrition education programme, have particular responsibility for the population groups on which they have the most direct impact (for example, the rural population in the case of the Ministry of Agriculture and community health services in the case of the Ministry of Health). The two ministries in question are the ones that have made the greatest effort to establish a food policy, as a basis for health, the economy and the welfare of the population. The Ministry of Agriculture is responsible for undertaking major activities to step up technical assistance to farmers in order to encourage them to participate more effectively in integrated rural development projects, in which account is always taken of problems relating to agricultural production and productivity, food distribution channels and food consumption. It is obvious that national development projects should always take account of nutritional goals, which is not always the case. A form of agricultural planning that takes account of the population's nutritional requirements calls for changes not only in the conditions under which production takes place but also in the conditions under which food distribution and consumption take place. The nutritional status of the population can be improved only if the prices set and the profits obtained result in the redistribution of foodstuffs to malnourished individuals. Nutritional analysis is therefore an essential tool for the planning of development programmes. Agriculture must make a contribution not only to food production but also to feeding the population. The following conclusions may be drawn from a recent analysis of the Portuguese population's food requirements and the availability of foodstuffs in Portugal, both currently and in the light of forecasts for 1986:

(a) Both production and consumption of the following products should be raised:

Milk (which may be partly replaced by yoghurt and cheese);

Fish (which should be used as an appropriate substitute for meat);

Eggs (which can replace meat);

Bread (it is preferable for the population to consume bread consisting of 80 per cent wheat-flour and 20 per cent rye-flour);

Rice or pasta;

Pulses (which can, to a certain extent, replace meat, fish and eggs, as a source of protein, and rice and pasta, as a source of carbohydrates);

Leafy green vegetables;

Potatoes;

Fruit.

(b) Consumption of the following products should be reduced:

Olive oil and other edible oils (the main focus of the reduction in question should be on oils);

Butter and margarine;

Sugar;

Alcoholic beverages.

#### 9. International co-operation

217. Portugal, as a Member of the United Nations and a member of the specialized agencies, is an active participant in international co-operation and does all it can to promote the international effort to ensure the right of everyone to be free from hunger, particularly as regards the African countries whose official language is Portuguese, with which it co-operates closely in financial matters.

218. In view of the economic difficulties it is experiencing, Portugal itself receives assistance from such international organizations and agencies as FAO, IBRD, EIB and OECD.

219. At the bilateral level, Portugal has concluded and is implementing co-operation agreements with many countries, from which it receives and to which it provides assistance in such areas as know-how, technology and vocational training.

10. Statistics on the consumption of staple foods

Table 6. Table of comparative consumption  
 (1980 and 1985)

Staple foods	Pop. 9 336 700 (1980) Human consumption 1980 (Food balance)	Staple food requirements (Annual) 1980	Unit: Ton
			Pop. 9 603 000 (1985) Human consumption forecast (Requirements) 1985
Milk	€91 500	4 163 142	1 196 873
Meat	441 300	289 891	298 298
Fish <u>a/</u>	311 400	297 742	306 376
Butter or margarine	57 100	75 497	77 686
Eggs	47 200	-	67 972
Olive oil	40 700	88 807	91 382
Oils <u>b/</u>	105 900	-	-
Bread	766 000	835 371	859 597
Rice and pasta	161 600	251 706	259 005
Sugar	277 100	84 251	86 694
Leafy green vegetables	1 056 100	2 182 876	2 246 179
Potatoes	948 400	1 139 762	1 172 815
Fruit <u>c/</u>	600 200	1 402 389	1 443 058

a/ Including salt cod.

b/ Peanut oil, sunflower oil, soya-bean oil, etc.

c/ Including fresh and dried fruit.

C. The right to adequate clothing

220. Under article 63 of the Constitution of the Portuguese Republic, every individual is entitled to social security, which is designed to protect citizens who are in need or whose means of subsistence have been reduced.

221. Since the right to adequate clothing comes under the more general area of social security, we have nothing in particular to say concerning the actual application of this article.

/...

D. The right to housing

1. Principal laws

222. Article 65 of the Constitution provides that every individual has the right, for himself and his family, to a sanitary and comfortable dwelling of adequate size that is conducive to personal intimacy and family privacy. In order to ensure the right to housing, the same article requires the State to:

(a) Devise, as part of its physical planning, and implement a housing policy based on urbanization plans guaranteeing an adequate network of transport and social facilities;

(b) Encourage and support the initiatives of local communities and populations designed to solve their housing problems and to promote self-help construction and the establishment of housing co-operatives;

(c) Promote individual housing, provided that it is in the general interest. The State has a duty to adopt a policy designed to establish a system of rents commensurate with family income and access to private ownership. Since the State and the local authorities exercise effective control over real property, they will carry out the nationalization or municipalization of urban land where necessary and lay down rights of use.

2. Housing construction

223. The right to housing laid down in the Constitution is guaranteed by a series of legislative instruments concerning:

(a) Ways of ensuring that the public authorities have effective control over urban land use, including ways of acquiring plots, preparing development plans, co-operating with individuals or bodies corporate in urban expansion or rehabilitation operations, operations to control speculation and protection operations, either in the case of plots classified as being suitable for agricultural use or in the case of historic sites and monuments (Decree-Law 794/76 of 5 November (Land Act), Decree 862/76 of 22 December, Decree 15/77 of 18 February, Decree-Law 308/79 of 20 August, Decree-Law 497/80 of 20 October, Decree-Law 152/82 of 3 May, Decree-Law 451/82 of 16 November and Decree-Law 321/83 of 5 July).

(b) The definition of "social housing", through the establishment of its maximum value in the light of its size and location. The granting of the various types of public assistance is based on this distinction among the various kinds of housing (Decree 580/83 of 17 May, as amended by Decree 95/84 of 13 February).

(c) The allocation of housing units built by the central or local authorities themselves, either as privately owned units or as rental units, by means of a public competition in which registered candidates are classified on the basis of their requirements (condition of their current housing, family, financial

situation, location of their place of work, etc.). Property is purchased over a period of 25 years, subject to a condition subsequent, by means of monthly payments, whereas in the case of rental units, provision is made for the granting of a subsidy based on the difference between the technical rent (which is based on the estimated real value of the dwelling) and the social rent (which is based on the outlay considered possible, taking account of family income) (Regulatory Decree 50/77 of 11 August and Decree 288/83 of 17 March).

(d) Public aid for construction, through more favourable credit schemes (maturities and interest rates):

- (i) To local authorities and public-interest bodies, for housing construction (Decree-Law 220/83 of 26 May and Decree-Law 609/83 of 26 May);
- (ii) To municipalities, in order to purchase urban land and establish infrastructures (Decree-Law 6/84 of 5 January);
- (iii) To municipalities, in order to fund the programme to improve or rehabilitate insalubrious or decaying housing (Decree-Law 449/83 of 26 December and Decree 1077/83 of 31 December);
- (iv) To housing co-operatives, which are eligible for tax exemptions or abatement, in addition to the credit scheme.

(e) The conclusion of contracts to promote moderate-rent housing between the construction enterprises, special credit organizations and the central or local authorities. The contractor receives more advantageous financing and is eligible for certain tax exemptions or abatement. In accordance with the terms laid down in the contract, the housing may be allocated by the enterprise or the municipal housing department (Decree-Law 344/79 of 28 August, Decree-Law 14/81 of 27 January, Decree-Law 608/73 of 14 November and Decree-Law 797/76 of 6 November).

(f) The granting of long-term loans to individuals for the purchase or construction of their primary residence on more favourable financial and tax terms, provided that the cost of the dwelling remains within the set limits (Decree-Law 459/83 of 30 December and Decree-Law 5/84 of 4 January). Two other forms of building credit for primary residences are provided for in Decree-Law 44645 of 16 February 1962, chiefly concerning rural housing, and Decree-Law 460/83 of 30 December, which establishes a loan scheme for the construction of the shell of the dwelling, leaving the financing of its subsequent completion to the owner.

(g) Regulation of the free rental market, at present carried out by means of an optional rent control scheme, which is, however, currently being subjected to an overall review with a view to facilitating controlled rent increases and the establishment of subsidies to assist families whose financial situation is such that they cannot pay updated rents.

### 3. Improvement of construction

224. Portugal has a National Civil Engineering Laboratory (LNEC), with headquarters in Lisbon, which deals with virtually all branches of civil engineering and maintains continuing and close relations with similar organizations abroad. One of its services - that most directly linked to housing - is specifically concerned with the study of "buildings", "structures" and building materials. It is therefore responsible for approving new construction materials or procedures, in which task it is guided by directives based on the European agreements concluded under the auspices of the Union européenne pour l'agrément technique dans la construction, whose secretariat is located in Paris.

225. Co-operation with other countries is not, however, limited to Europe; it also exists at the international level, particularly through the intermediary of the International Union of Testing and Research Laboratories for Materials and Structures, for LNEC still routinely checks the production of materials.

226. Portugal has national regulations concerning safety precautions against earthquakes, which are somewhat innovative in their conception.

227. Those regulations and many others relating to safety have been developed internationally through the European Committee for Concrete, the International Federation of Pre-stressed Concrete and the International Association for Earthquake Engineering. It is noteworthy that the Director of LNEC is the chairman or vice-chairman of some of the international bodies cited, which convincingly illustrates the closeness of the relationships.

228. State services, particularly the Directorate-General for Water Resources and their Development of the Ministry of Social Facilities, carry out activities aimed at preventing floods or at least controlling their effects, although in some years rivers have overflowed their banks with catastrophic consequences. It is hoped, however, to solve the problem once construction of a series of dams on the main rivers, where flooding occurs most frequently and most violently, has been completed.

229. Work on regulations to reduce fire risks is also in the final stages. Currently, in the principal urban centres, plans for new buildings are subjected to the technical scrutiny of municipal firemen before receiving final approval, which is given only after safety requirements have been met.

### 4. Housing problems in rural areas

230. Rural housing is an important problem, especially in a country like Portugal, where a large percentage of the rural population still lives in villages or even at a distance from any settlement.

231. Although the houses, usually single-family dwellings, sometimes still tend to conform to the traditional styles of each region, in recent years there has been a growing trend towards dilution of the regional character of architecture as a

result of the adoption, particularly by the emigrant population, of imported models that are frequently in keeping with neither the climate nor the landscape. The most serious problems engendered by this type of dispersed construction concern connection to the water, electricity and sewage mains: well-water is still used and sanitary facilities are still very rudimentary. The State has therefore taken steps to change the system, by subsidizing the necessary infrastructures and adopting other measures, as can be seen from the following list of legislation:

(a) Decree No. 21698, of 30 September 1932 defines for the first time the conditions for direct State intervention in the improvement of sanitation in towns or villages; it may either plan the work to be done and develop relevant projects or pay up to 50 per cent of the cost of the work;

(b) Decree-Law No. 29216 of 6 December 1938 (concerning water) and Decree-Law No. 31674 of 22 November 1941 (concerning sewerage) specify various ways of providing the authorities with the means to pay the operating costs of water supply and sanitation services in towns or villages;

(c) The general regulation on water supply (Decree No. 10367 of 14 April 1943) and the general regulation on the piping of sewage (Decree No. 11338 of 8 May 1946) provide for the application of previous regulations;

(d) Decree-Law No. 33863 of 15 August 1944 reviews the situation in the country and announces the Government's intention to promote the necessary studies and works so that by 1954 at the latest all the municipalities of the continental territory will be equipped with drinking water supply systems;

(e) Decree-Law No. 38382 of 7 August 1951, approving the general regulation on urban buildings includes various provisions concerning water supply systems and mains drainage in apartment buildings;

(f) Act No. 2103, of 22 March 1960 provides that the Government will promote the supply of water to areas with more than 100 inhabitants in the continental territory;

(g) The order of the Minister of Public Works of 6 August 1962 approves standard dimensions for water tanks in order to reconcile efficiency with economy and standardizes the measurements to be used in projects;

(h) Decree No. 48517 of 6 August 1968 sets out the functions of the services of the Directorate-General for Health, the Water Sanitation Council and the municipal authorities, in order to ensure the quality of water for public consumption;

(i) Decree-Law No. 158/70 of 13 April provides a new stimulus to the study of drainage and waste-water purification problems;

(j) Decree-Law No. 570/71 of 21 December provides that municipal authorities or federations of municipalities that build waste treatment plants may receive Government aid up to a maximum of 90 per cent, and that the scheme instituted by



articles 2 to 9 of Decree-Law No. 158/70 for water treatment plants applies also to waste treatment plants;

(k) Decree-Law No. 574/75 of 6 October raises to 95 per cent the authorized Government share in the cost of social facilities installed by local authorities or other public-interest bodies;

(l) The resolution of the Council of Ministers of 27 January 1976 establishes the Directorate-General for Basic Health services;

(m) The order of 10 March 1976 creates the Oporto basic health services region;

(n) The resolution of the Council of Ministers of 16 March 1976 creates the Lisbon basic health services region;

(o) The order of 4 June 1976 creates the Beira Alta basic health services region.

5. Measures for the protection of tenants, such as rent regulations and legal safeguards

232. Between 1948 and 27 May 1974, the laws governing rental agreements included the following features:

In Lisbon and Oporto, rent freeze for the duration of the agreement;

Outside of Lisbon and Oporto, the option of adjusting the rent every five years through an appraisal by an official commission;

Freedom to set the rent whenever a new lease was prepared.

233. Under Decree-Law 445/74 of 12 September, the Government decreed emergency measures relating to rental agreements. It decided to maintain the rent freeze for the duration of the agreement, this time for the entire territory, to limit the setting of rents for buildings already rented, during the conclusion of a new agreement, on the basis of the preceding rent; and to limit the freedom to set rent to buildings being rented for the first time.

234. For new agreements the law now offers two options: either freedom to set the rent without the possibility of future adjustment, or the setting of a rent subject to annual adjustment at a rate established by the Government.

235. Apart from these situations, controlled rent adjustment in certain cases established by law is still possible: during exercise of the right to transfer the tenant's contractual status or a priority right in the conclusion of a new agreement, or when improvements or repairs are made at the owner's expense, provided that they exceed an established amount.

236. The law establishes a presumption of automatic renewal of the agreement which cannot be evaded except in specified cases.

237. The only grounds for cancellation and termination of the rental agreement are those recognized by law and confirmed by judicial decision.

238. Nevertheless, the right to terminate cannot be exercised by the owner if the tenant is 65 years old or more or if he has been living in the dwelling for at least 20 years.

239. The owner who terminates the agreement must pay the tenant compensation proportional to the duration of the agreement.

240. If the agreement lapses because of the tenant's death, the law grants his spouse or the members of his family in direct line, provided that they have been living in the same household for at least one year, the right to transfer the agreement, or to persons who have lived with him for at least five years and to subtenants, the right to conclude a new agreement.

241. Since 25 August 1977, the tenant has been able to exercise a priority right if the dwelling or building in which he lives is sold.

#### 6. Statistical data on the housing situation (to the end of 1982)

##### Situation in 1981

242. In 1981, the housing census showed that 36,732 families on the mainland were living in unacceptable dwellings (shanty towns). There were also 197,926 families living in shared housing and 538,132 in overcrowded dwellings.

243. As for the quality of housing, it is worth noting that in the same year only 57 per cent of the existing dwellings had running water, electricity and a bathroom with plumbing and that there were still 183,624 dwellings which had no such facilities at all.

244. Housing needs for the period 1971-1976 were estimated at approximately 430,000 dwellings. During that period (including 1976), approximately 220,000 were built (or 240,000 if extensions and restorations are included), which represents nearly 55 per cent of needs.

245. If account is taken of the number of families (including people returning from former colonies) and the deterioration of housing conditions, there was an approximate total of 500,000 households with housing problems in the period 1977-1980.

##### Housing construction

246. Table 7 shows the housing construction situation by source of financing, from 1971 to 1982.

Table 7. Number of dwellings constructed, by source of financing

Source of financing	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
Public sector	677	1 871	2 345	1 360	1 208	1 293	5 790	4 151	5 103	5 617	5 470	6 000
Private sector	34 632	37 659	38 981	41 220	29 964	27 997	28 058	28 937	30 136	31 194	31 832	32 300
Total	35 309	39 530	41 326	42 580	31 172	29 290	33 848	33 088	35 239	36 811	37 302	38 300

(estimates)

247. It should be stated that these tables do not include new dwellings resulting from extensions or restorations. Moreover, the estimate of dwellings completed in 1982 and financed by the private sector includes 4,943 dwellings built with the financial support of the State (SAAL re-housing programmes, housing co-operatives and development contracts).

248. During the period 1971-1976, the public sector's share (direct planning by the State) was 3.99 per cent of total housing construction. In the period 1977-1982, this share rose to 14.97 per cent.

249. In 1971, 4.3 dwellings were constructed in Portugal per 1,000 inhabitants. The number was 4.0 in 1981.

250. In addition to the use of direct promotion and financial support systems, the State intervenes in the free housing market by applying legislative measures to control rents, particularly since the entry into force of Decree-Law No. 445/74, which was replaced, however, by an optional rent control scheme that is now in the process of overall revision.

#### Rents

251. Despite the State intervention, indicators of the level of rents show a persistent upward trend, owing primarily to a decrease in rental offers.

252. Table 8 reflects this trend in the two principal cities of the continental territory, taking into account comfort factors.

Table 8. Index of rents of dwellings rented during the period, by comfort level\*

	Cities	1970	1972	1974	1975	1977	1978	1981
Comfort level A	Lisbon	100.0	126.6	166.6	175.7	235.7	315.5	499.7
	Oporto	100.0	89.7	142.7	116.5	175.9	190.2	362.2
Comfort level B	Lisbon	100.0	127.5	162.3	149.5	189.7	248.0	488.4
	Oporto	100.0	113.5	152.1	181.0	250.3	258.1	671.0

\* Each comfort level is characterized by the presence of all of the following:

A: Electricity, running water, mains drainage, toilet, bathroom, gas (only in Lisbon), service entrance, freight-elevator, caretaker, elevator.

B: Electricity, running water, mains drainage, toilet, bathroom.

Credit system

253. In February 1976, a system of low-interest State credit was set up for permanent personal housing. This system plays an extremely large part in the total volume of urban property transactions, thereby making it possible to prevent the sharp decline in the number of property transactions which started in 1974 - mainly because there was no incentive to purchase rental property.

254. This system of low-interest credit has been revised every year since 1976 with respect to rates of interest and repayment schedules (at the present time Decree-Law 459/83 of 30 December).

255. The loans are granted through three special credit institutions. Between 1978 and 1981, urban property transactions taking place through these institutions exceeded 50 per cent of the total number of transactions, as can be seen from table 9.

Table 9. Property transactions (1976 to 1982)

	1976	1977	1978	1979	1980	1981	1982
Total number of transactions	44 878	48 520	47 770	51 134	54 615	91 832	93 356
Number of contracts concluded through the special credit institutions	11 888	19 772	29 898	30 260	37 647	48 921	36 857

256. Of all the contracts concluded through the special credit institutions, those not subject to the low-interest system accounted for only 20.4 per cent of the number and 23.9 per cent of the value of transactions in 1978, and only 15.8 per cent and 17.3 per cent respectively in 1980, as can be seen from table 10.

Table 10. Contracts concluded through special credit institutions

Type of loan	<u>1978</u>		<u>1979</u>		<u>1980</u>	
	Number of contracts	Value of transactions	Number of contracts	Value of transactions	Number of contracts	Value of transactions
Low-interest	23 786	11 317	24 537	13 830	31 702	22 326
Regular interest	6 112	3 553	5 671	3 969	5 945	4 790
Total	29 898	14 870	30 208	17 799	37 647	27 616

257. Since January 1981, with the revision of the credit system (Decree-Law 435/80 of 2 October), nearly all contracts have been subject to low interest, so that since 1980 only the total number of contracts concluded through the special credit institutions is available.

### III. ARTICLE 12. THE RIGHT TO PHYSICAL AND MENTAL HEALTH

#### A. Principal laws

258. The principal laws designed to promote the right of everyone to the enjoyment of the highest attainable standard of physical and mental health are as follows:

Law No. 2120 of 19 July 1963;

Decree-Law No. 45,266 of 23 September 1963;

Decree-Law No. 40,358 of 27 February 1968;

Decree No. 48,358 of 27 April 1968;

Decree-Law No. 413/71 of 27 September 1971;

Decree-Law No. 414/71 of 27 September 1971;

Decree-Law No. 17/77 of 17 January 1977;

Regulatory Decree No. 12/77 of 27 February 1977;

Decree-Law No. 129/77 of 2 April 1977;

Regulatory Decree No. 30/77 of 20 May 1977;

Law No. 56/79 of 15 September 1979.

#### B. Measures taken

259. As far as emergency health care is concerned, priority was given to mother and child health activities, including: an increase in the number of public health care services and the improvement of existing services; in recent years there was a substantial reduction in infant mortality, at both the neonatal and post-natal stages.

260. Medical monitoring schemes currently exist for the 0-1 year age group and correspond to regional and local needs.

261. Apart from the foregoing, it should be mentioned that the health centres contain school health services. These are responsible for school inspections, monitoring the health of staff, periodic check-ups for pupils, isolation for communicable diseases, etc.

/...

262. The health centres have health workers and inspectors, who are responsible for environmental hygiene.

263. In the district centres, there are sanitary engineers to direct these activities in the municipal centres under them.

264. At the central level, the Health Inspectorate contains the Sanitary Engineering Service which, besides being responsible for the direction and technical supervision of the above-mentioned local services, develops research programmes, sometimes in collaboration with international agencies.

265. These services are responsible for the following: housing sanitation and industrial hygiene; water treatment and drainage; prevention and control of air, soil and water pollution; prevention and control of ionizing radiation; prevention and control of noise pollution; monitoring of reservoirs and control of vectors of pathogenic agents.

266. These services co-ordinate their activities with a number of other official bodies including the local administrations, the National Environment Commission, the Directorate-General for Environmental Hygiene, the Ministry of Housing and Public Works, etc.

267. There is a national vaccination scheme, which is reviewed from time to time. Epidemic control comes under the Directorate-General for Health, which relies on external services for this purpose.

268. The right to health is embodied in article 64 of the Constitution of the Portuguese Republic.

269. Under the ministerial order of July 1978, access to health care was provided for those not included in specific schemes; this was done by bringing such people under medico-social services. Meanwhile, the basic law governing the National Health Service was recently promulgated and published so as to give effect to the relevant constitutional provisions.

270. In public health, the main existing services are as follows:

(a) One health centre per municipality (approximately), their current number being 274. In the district capitals, the Centres are more varied and direct the activities of the Municipal Centres. The Centres contain the following main services: maternal health, family planning, gynaecology, child health, school health, primary medical care, environmental hygiene and stomatology;

(b) As far as hospitals are concerned, there is a first level consisting of municipal hospitals (coming under the health centres), which are facilities for treatment and in-patient care primarily intended to provide first aid and primary medical care in support of the health centres and to decide which patients should be moved to the higher levels of the system; a second level, consisting of district hospitals, is intended to provide medical assistance of a general nature and in the common specializations; and, at a third level, are the central hospitals with the

technical equipment necessary to provide by themselves all the assistance needed in the area they cover.

271. All the health services are to be integrated in a national health system, in accordance with the recently published basic law governing the National Health Service.

272. As far as funding is concerned, expenses are now generally defrayed by the State.

C. Statistical data

273. The available statistics are set forth below.



Table 11. Hospitals under the Directorate-General for Hospitals: capacity and number of patients treated from 1971 to 1981

	Number of Hospitals		Capacity		Bed/population index		Number of patients treated		Patients treated, per bed	
	1971	1981	1971	1981	1971	1981	1971	1981	1971	1981
<u>General hospitals</u>										
<u>Central hospitals</u>										
North	2	3 <sup>a/</sup>	1 909	2 959	0.59	1.00	32 729	58 906	16.30	19.20
Centre	1	2 <sup>b/</sup>	809	1 896	0.52	0.81	21 396	38 961	22.60	19.85
South	2 <sup>c/</sup>	5 <sup>c/</sup>	4 809	5 540	1.47	1.39	72 244	96 732	13.37	16.59
Madeira	-	1 <sup>d/</sup>	-	991	-	3.95	-	19 087	-	18.69
Total	5	11	7 627	11 386	0.86	1.16	126 369	213 686	15.15	17.99
<u>District hospitals</u>										
North	9	11 <sup>e/</sup>	1 733	2 423	0.53	0.82	32 526	66 253	18.16	26.87
Centre	5	10 <sup>f/</sup>	1 167	2 848	0.66	1.22	24 800	73 728	20.84	25.38
South	7	16	1 392	3 174	0.42	0.79	27 826	73 030	19.34	22.56
Azores	3	3	461	591	1.46	2.04	10 740	14 429	22.59	23.43
Madeira	1	-	495	-	1.93	-	15 609	-	30.60	-
Total	25	40	5 248	9 036	0.59	0.92	111 501	227 440	20.59	24.67
<u>Specialized hospitals</u>										
<u>Central hospitals</u>										
North	3	3	481	483	0.15	0.16	15 066	13 814	30.43	28.24
Centre	1	-	188	-	0.08	-	4 180	-	29.56	-
South	5	7	1 181	1 167	0.36	0.29	29 374	18 729	24.14	15.55
Total	9	10	1 810	1 650	0.22	0.18	48 620	32 543	26.23	19.26
<u>District hospitals</u>										
Centre	1	-	36	-	0.02	-	1 229	-	33.52	-
South	2	4	187	483	0.06	0.12	558	2 507	2.29	4.44
Total	3	4	223	483	0.03	0.05	1 787	2 507	7.34	4.44

Sources: Population - INE Statistical yearbooks; autonomous regions - Regional Health Directorate of the Azores and Secretariat of Social Affairs of Madeira; other statistical data from the Directorate-General for Hospitals.

(Notes and footnotes on following page)

(Notes and footnotes to table 11)

Notes: The geographical divisions do not cover exactly the same area in the years 1971 and 1981. In 1971 the Aveiro district was included in the North and in 1981 it was included in the Centre.

The designation "autonomous region" has been used only since 1976.

The specialized hospitals cover the following fields:

1971	Number of hospitals
Infectious and contagious diseases	1
Obstetrics	3
Pediatrics	2
Neuro-surgery	1
Hydropathy	1
Orthopaedics	3
Rehabilitation	1
1981	
Infectious and contagious diseases	1
Obstetrics	3
Pediatrics	2
Neuro-surgery	1
Orthopaedics	4
Rehabilitation	1
Pneumology	2

a/ One of these units, the Gaia Hospital Centre, includes two hospitals.

b/ One of these units, the Loimbra Hospital Centre, includes three hospitals.

c/ One of these units is a hospital group (Lisbon City Hospitals) which includes seven hospitals.

d/ Makes up the Funchal Hospital Centre, which includes three hospitals.

e/ One of these units, the Vale de Sousa Hospital Centre, includes two hospitals.

f/ Three of these units make up the Aveiro North, Aveiro South and Caldas da Rainha Hospital Centres, with two hospitals each.

/...

Table 12. Average hospital stay and occupancy rate

	Average hospital stay		Occupancy rate	
	1971	1981	1971	1981
<u>General hospitals</u>				
<u>Central hospitals</u>				
North	21.83	16.05	97.53	84.50
Centre	20.99	14.91	130.02	81.11
South	26.04	18.42	95.48	83.79
Madeira	-	14.26	-	73.06
Total	24.08	16.76	99.96	82.60
<u>District hospitals</u>				
North	13.81	9.26	68.75	68.20
Centre	12.62	10.63	71.40	73.95
South	14.37	10.77	76.16	66.59
Azores	12.96	11.38	80.23	73.11
Madeira	12.90	-	108.15	-
Total	13.47	10.32	76.03	69.78
<u>Specialized hospitals</u>				
<u>Central hospitals</u>				
North	9.64	7.36	80.40	57.00
Centre	8.47	-	68.72	-
South	9.39	14.40	62.17	61.36
Total	9.39	11.38	67.52	60.08
<u>District hospitals</u>				
Centre	6.57	-	60.35	-
South	78.44	64.02	49.30	77.85
Total	25.42	64.02	51.09	77.85

Sources: Autonomous regions - Regional Health Directorate of the Azores and Secretariat of Social Affairs of Madeira; other statistical data from the Directorate-General for Hospitals.

Table 13. Staff

	Number of doctors		Doctor/bed		Number of nurses <sup>a/</sup>		Number of nurses/bed	
	1971	1981	1971	1981	1971	1981	1971	1981
<b>General hospitals</b>								
<b>Central hospitals</b>								
North	982	2 212	1.94	1.34	964	1 894	1.98	1.56
Centre	211	1 311	4.31	1.45	525	1 219	1.73	1.56
South	1 432	3 991	3.36	1.39	1 764	3 389	2.73	1.63
Madeira	-	79	-	12.54	-	451	-	2.20
Total	2 625	7 593	2.91	1.50	3 253	6 953	2.34	1.64
<b>District hospitals</b>								
North	223	952	7.77	2.55	231	1 087	7.50	2.23
Centre	113	879	10.33	3.24	164	1 208	7.12	2.36
South	162	1 362	8.59	2.33	225	1 425	6.19	2.23
Azores	47	96	9.81	6.16	68	240	6.78	2.46
Madeira	40	-	12.38	-	84	-	5.89	-
Total	585	3 289	8.97	2.75	772	3 960	6.80	2.28
<b>Specialized hospitals</b>								
<b>Central hospitals</b>								
North	112	133	4.29	3.63	122	241	3.94	2.00
Centre	33	-	4.18	-	87	-	1.59	-
South	120	211	9.93	5.53	406	611	2.93	1.91
Total	265	344	6.83	4.80	615	852	2.94	1.99
<b>General hospitals</b>								
Centre	3	-	12.00	-	12	-	3.00	-
South	17	24	11.00	20.13	26	22	7.19	21.95
Total	20	24	11.15	20.13	38	22	5.87	21.95

**Sources:** Autonomous regions - Regional Health Directorate of the Azores and Secretariat of Social Affairs of Madeira; other statistical data from the Directorate-General for Hospitals.

<sup>a/</sup> Includes nurses and auxiliary nurses.

ANNEX

LIST OF DOCUMENTS PROVIDED\*

1. Constitution of the Portuguese Republic.
2. Study on the protection of human rights in the Portuguese legal system.

Article 10

3. Decree-Law 496/77 of 25 November, as amended in the Official Gazette of 4 January 1978 (Reform of Civil Code).
4. Act 37/81 of 3 October - Nationality law.
5. Legislation concerning social security.
6. Decree-Law 183-F/80 of 9 July.
7. Study on filiation in the reform of the Portuguese Civil Code of 25 November 1977.
8. Act 82/77 of 6 December.
9. Decree-Law 314/78 of 27 October.
10. Decree-Law 42/82 of 23 September.
11. Decree 90/83 of 16 February.
12. Decree-Law 49,408 of 24 November 1969.
13. Decree-Law 421/83 of 2 December.
14. Decree-Law 409/71 of 27 September.
15. Decree-Law 102/84 of 29 March.

Article 11

16. Legislation on the right to adequate nutrition.
17. Legislation on the right to housing.

---

\* These documents may be consulted in the files of the United Nations Secretariat as communicated by the Government of Portugal (in Portuguese, English and French).

Article 12

18. Act 2120 of 19 July 1963.
  19. Decree-Law 45,266 of 23 September 1963.
  20. Decree-Law 48,358 of 27 April 1968.
  21. Decree-Law 413/71 of 27 September 1971.
  22. Decree 414/71 of 27 September.
  23. Decree-Law 17/77 of 12 January.
  24. Regulatory Decree No. 12/77 of 27 February.
  25. Decree-Law 129/77 of 2 April.
  26. Regulatory Decree 30/77 of 20 May:
  27. Act 56/79 of 15 September.
-