

# Prison conditions in Portugal

*António Pedro Dores, Nuno Pontes, Ricardo  
Loureiro*

European Prison Observatory. Detention conditions in the European Union



With financial support from the  
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António Pedro Dores, Nuno Pontes, Ricardo Loureiro  
Antigone Edizioni  
Rome, September 2013

ISBN 978-88-98688-01-2



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Criminal Justice Programme of  
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## THE EUROPEAN PRISON OBSERVATORY

The European Prison Observatory is a project coordinated by the Italian Ngo Antigone, and developed with financial support from the Criminal Justice Programme of the European Union. The partner organizations are:

Università degli Studi di Padova - Italy

Observatoire international des prisons - section française - France

Special Account of Democritus University of Thrace Department of Social Administration (EL DUTH) - Greece

Latvian Centre for Human Rights - Latvia

Helsinki Foundation for Human Rights - Poland

ISCTE - Instituto Universitário de Lisboa - Portugal

Observatory of the Penal System and Human Rights - Universidad de Barcelona - Spain

Centre for Crime and Justice Studies – United Kingdom

The European Prison Observatory studies, through quantitative and qualitative analysis, the condition of the national prison systems and the related systems of alternatives to detention, comparing these conditions to the international norms and standards relevant for the protections of detainees' fundamental rights.

The European Prison Observatory highlights to European experts and practitioners 'good practice' existing in the different countries, both for prison management and for the protection of prisoners' fundamental rights.

Finally it promotes the adoption of the CPT standards and of the other international legal instruments on detention as a fundamental reference for the activities of the available national monitoring bodies.

[www.prisonobservatory.org](http://www.prisonobservatory.org)

## PRISON CONDITIONS IN EUROPE

The collection and organization of available data on the penitentiary systems of each country has been coordinated by the Università degli Studi di Padova, that developed and tested a comprehensive data collection grid to collect the information required to describe the different national penitentiary systems. The data collection grid has been developed having in mind as main reference the European Prison Rules (Council of Europe. Recommendation Rec(2006)2. Adopted on 11 January 2006), and the information collected in every country monitored by the Observatory, and presented in these Reports on prison conditions, describe every national penitentiary system, focusing in particular on its compliance with the European Prison Rules.

The research activities have been carried out by the project partners, that drafted a report on prison conditions in their country. Further information and all the national reports can be found on the project website.





## GENERAL DATA\*

\*updated to December 2012 for daily data and to the entire 2012 for flow data

1. **Total population of the country:** 10.541.840 (December 2011, last census)
2. **Total prison population rate per 100,000 inhabitants:** 129

### Adult prisons<sup>1</sup>

3. **Number of prisoners (including pre-trial detainees):** 13.614
4. **Number (and % of the total number of inmates) of detainees serving a final sentence (i.e. excluding pre-trial detainees):** 10.953/80.5%
5. **Total capacity of penal institutions (with reference to legal criteria. If legal criteria are not available explain the reasons for this lack of information):** 12.077 (no legal criteria).
6. **M<sup>2</sup> provided per prisoner (legal criteria):** the statute states only that the cubic space must respect human dignity.
7. **Actual surface for prisoner (m<sup>2</sup>) (i.e. m<sup>2</sup> available divided per total number of prisoners):** N/A
8. **Prison density – total number of prisoners in relation to capacity (%):** 112,7%
9. **Number of foreign prisoners (and % of the total number of inmates):** 2.602 – 19,1%
10. **Number of foreign pre-trial detainees (and % of the total number of inmates):** 887 – 6,5%
11. **Number (and % of the total number of inmates) of female detainees:** 758 – 5,6%
12. **Number of female foreign inmates:** 175
13. **% of female foreign prisoners of the total number of female prisoners:** 23%
14. **% of female foreign prisoners of the total number of foreign prisoners:** 7%

<sup>1</sup> Statistical data for adult Prisons came from the General Directorate of Prison Services (Direcção-Geral dos Serviços Prisionais <http://www.dgsp.mj.pt/>).

- 15. Number of prisoners (including pre-trial detainees) between 18 and 20 (inclusive) years of age (and % of total prison population):** from 16 to 18 = 60 (4%). From 19 to 20 = 292 (2,1%) (note that, as more extensively explained below, in Portugal, although the juvenile and adult systems are separate, children as young as 16 can be condemned as "adults", thus coming to serve their sentence in an adult prison among adults).
- 16. Total number of entries to prison facilities:** 6.605
- 17. Total number of deaths in penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example, in ambulances, in hospitals etc.):** 66 (the specifications requested are not available)
- 18. Total number of suicides in penal institutions (specify if this datum includes only the detainees who died – from suicide – inside the prisons or if it also includes those who died outside the prisons – for example in ambulances, in hospitals etc.):** 16 (the specifications requested are not available)
- 19. Budget for the Justice System and % of Gross Domestic Product:** € 1.078.464.698,00 - 0,65% (2012 Executed Budget)
- 20. Specific budget aimed at penal institutions and % of the previous:** € 321.267.613,00 - 29,79% (prison, rehabilitation and judiciary police – 2012 Executed-Budget)
- 21. Specific budget for staff and % of budget for penal institutions:** N/A
- 22. Specific budget for prison facilities and % of budget for penal institutions:** for specific budgets and/or costs relating to prisons we found no official sources, and only conflicting information about the costs in the media. Referring to 2010, the cited daily cost per prisoner varied from €40,00 to €53,00, thus making it impossible to extrapolate a budget. See: <http://www.tvi24.iol.pt/503/sociedade/prisao-pres-recluso-tvi24/1445628-4071.html> or [http://www.dn.pt/inicio/portugal/interior.aspx?content\\_id=1765508](http://www.dn.pt/inicio/portugal/interior.aspx?content_id=1765508). There is no other information available to the public on this matter.
- 23. Specific budget for inmates (support, activities, etc.) and % of budget for penal institutions:** see 22.

**Juvenile prisons<sup>2</sup>**

- 24. Number of juvenile prisoners (including pre-trial detainees): 261**
- 25. Number (and % of all juvenile inmates) of juvenile detainees serving a final sentence (i.e. excluding pre-trial detainees): 245 – 94%**
- 26. Total capacity of juvenile penal institutions (with reference to legal criteria): 253**
- 27. M<sup>2</sup> provided per juvenile prisoner (legal criteria):** the statute states only that the cubic space must respect human dignity.
- 28. Actual surface available per juvenile prisoner (m<sup>2</sup>) (i.e. m<sup>2</sup> available divided per total number of prisoners): N/A**
- 29. Prison density – total number of juvenile prisoners in relation to capacity (%): 103%**
- 30. Number of foreign juvenile prisoners (and % of the total number of juvenile inmates): N/A**
- 31. Number of foreign juvenile pre-trial detainees (and % of the total number of juvenile inmates): N/A**
- 32. Number (and % of the total number of juvenile inmates) of female juvenile detainees: 29 – 11%**
- 33. Number of female juvenile foreign inmates: N/A**
- 34. % of female juvenile foreign prisoners of the number of all female juvenile prisoners: N/A**
- 35. % of female juvenile foreign prisoners of the total number of juvenile foreign prisoners: N/A**
- 36. Number of prisoners (including pre-trial detainees) between 18 and 20 (inclusive) years of age (and % of total juvenile prison population): 60 – 23%**
- 37. Total number of entries to juvenile prison facilities: N/A**

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<sup>2</sup> Statistical data for minors came from General Directorate of Social Reintegration (Direcção Geral de reinserção Social <http://www.dgrs.mj.pt/web/rs/estat>).

- 38. Total number of deaths in juvenile penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example, in ambulances, in hospitals, etc.): N/A**
- 39. Total number of suicides in juvenile penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example in ambulances, in hospitals, etc.): N/A**

## GENERAL DESCRIPTION OF THE PORTUGUESE PENITENTIARY SYSTEM

Portugal has 51 prisons of different types: 15 penitentiaries (“central prisons”, normally larger ones) for inmates condemned to serve more than 6 months; 31 penitentiaries (“regional prisons”) for inmates condemned to serve less than 6 months; and five penitentiaries (“special prisons”) for inmates who need special attention, such as women, youths, policeman, and the sick (hospital).

The first type of penitentiary has security wings to provide stricter isolation for problematic prisoners out of disciplinary regime. There are three types of general security regimes: medium, high and special. Monsanto Prison being the only special regime penitentiary – meaning a kind of North-American supermax regime.

Almost all prison buildings are old. A renewal programme began in 2001, and in 2004 an official assessment of the prison system was presented to the public with the declaration that, with the progress being made, it would be possible to have an up-to-date “European-style” prison system within 12 years (2016). This programme included the concentration of facilities and population in just a few much larger high-tech buildings. However, due to the financial crisis, except for Caxias and Carregueira, which are new buildings (Caxias built into an older complex), all the plans to build new prisons were halted and the decommissioning of old prison sites reversed. In its place is now a renovation programme of old buildings, meaning later 19th century, first half of the 20th century.

Starting in the 80’s, the Portuguese penitentiary system is characterized by the growing political weight of the guards’ union, the introduction of organized distribution of illegal drugs into the prisons resulting from the intensification of the “war on drugs,” and the fragility of the administrative system with its tendency to hide behind justifications. These issues, among others, make for a prison system which, forgotten and left to its own devices by an ignorant and pretentious political class, has become inward looking and aggressive in its defensiveness. A problematic dynamic that has led to the stigmatisation not just of the inmates but also of the people working in prison.

The problems continue with a chain of command broken at various levels, most significantly between the Ministry and the director-general, between the director-general and the guard corps and between prison directors and guards. Disconnected from the Ministry, the Directorate General is frequently left to both draw up prison policies and to be publicly accountable for what goes on in prison. The prison directors, out of touch with the DG, are left at the mercy of securitism (the prioritisation of security), which is the responsibility of the chiefs of the guards, whose power basis is long standing. The chiefs of the guards tend to get assigned to specific prisons on a long term basis, in contrast to the mobility of the directors<sup>3</sup>. This increases the likelihood that a director may not even get to fully comprehend the power dynamics in the prison, even when these are arrayed against her/him. There are also those directors who are afraid of getting to know the wings and talk to the prisoners, something that the DG

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<sup>3</sup> See “Competencies and Prison Directors”, Appendix A

does not appear to think it makes them unsuitable for the position. There is the informality that develops between guards and prisoners that can grow into a sort of intimacy where the exchange of favours and privileges are used as management tools. And, perhaps most glaringly, inspection entities who fear that their actions might disturb the status quo, the informal outlines of which they do not know nor want to know. The inspectors' argument being that they need to have the trust of the local agents under inspection because they are dependent upon the information that these may be willing to proffer, and that penitentiary powers must not be challenged, for those who would suffer the consequences, as retaliation, would be the prisoners.

The fact is that each prison has its own rules defined locally, and neither attempts at standardization via administrative nor legislative means can bear results in a system in which respect for legality is not assured by either regulatory entities, the courts or police forces.

## CONDITIONS OF IMPRISONMENT<sup>4</sup>

### ADMISSION

**a. At admission many details concerning the prisoner shall be immediately recorded (for example, the identity of the prisoner, the reason for commitment, etc.). What kinds of data are recorded? Among the information collected are any visible injuries and complaints about prior ill-treatment also recorded?**

The pertinent statutes stipulate that all relevant data, such as general personal information, reason for incarceration, religious affiliation, physical characteristics, next of kin, desired visitors, dietary and medical needs, etc., are to be recorded along with any evidence of physical injuries (which are also to be photographed) and/or complaints of abuse. In reality, although much of the bureaucratic data are recorded, complaints are not noted nor are injuries sought out. Even when clearly visible, injuries are not necessarily recorded, much less photographed. The CPT Report issued subsequent its inspection to only three of the nation's prisons in 2012, states at ¶165 that, "...injuries observed upon arrival as well as those sustained in prison were often not correctly recorded—or even not recorded at all—in the prisons visited. Specific examples were found of cases of prisoners who, in the light of information gathered from other sources, certainly would have displayed injuries on their arrival in prison but whose medical records contained no such evidence. Even in the case of the person referred to in paragraph 10 above, the record made of the injuries borne by the prisoner was superficial in the extreme. Both the Audit and Inspection Service (Serviço de Auditoria e Inspeção – SAI) and Inspectorate General of Justice Services told the CPT's delegation that lack of proper recording of injuries represented a critical gap, which undermined the ability to investigate cases of alleged ill-treatment".

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<sup>4</sup> Most of the laws and related statutes cited herein can be found in the Code on Execution of Criminal Sanctions (Law Código da Execução das Penas e Medidas Preventivas da Liberdade 115), and the new General Prison Regulations (Decree Regulamento Geral dos Estabelecimentos Prisionais 51/2011). Other laws are specifically noted.

We have also cited extensively from the report issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit of February 2012.

The questionnaire was submitted to the Direcção-Geral dos Serviços Prisionais (General-Directorate of the Prison Services), Inspeção Geral dos Serviços de Justiça (IGSJ – General Inspection of the Ministry of Justice [Prison System functions under the supervision of Ministry of Justice]), Provedor de Justiça (Ombudsman), and both of the Guards' Unions. To date no responses have been received, except for the IGSJ and the Ombudsman sympathetically informing of their unavailability to respond for reasons of lack of competency (IGSJ) and the fact of their being in the process of preparing a very complete report that will soon be promulgated with detailed and objective information about the situation of the Portuguese prisons (Ombudsman). 16 replies to the questionnaire were collected under conditions of anonymity.



**b. At admission all prisoners shall be informed in writing and orally, and in a language they understand, of the regulations governing prison discipline as well as of their rights and duties within prison. Do the institutions in Portugal follow this rule?**

By statute prisoners are to be informed in printed form of all their rights and duties, as well as disciplinary and other institutional regulations, all of which should be explained and translated whenever necessary. However, there are detention facilities (including pre-trial facilities) where nothing of the sort is given or said to the prisoners, and where the new arrivals are immediately placed in isolation. In some prisons the information is offered, although rarely translated.

**c. Upon admission to prison, in the event of a prisoner's death, serious illness, serious injury, or the transfer to a hospital, the authorities shall, unless that prisoner expressly requested them not to do so, immediately inform the spouse or partner of the prisoner, or, if the prisoner is single, the nearest relative or any other person previously designated by the prisoner. Do the institutions in Portugal follow this rule?**

The law requires that either the contact person indicated by the prisoner or the attorney of record be informed. Generally prison staff do inform, but there are cases in which they do not, as when it happens that the injuries have been caused by the use of violence on the part of the guards, or there is intention to minimize treatment of medical issues.

**d. As soon as possible after admission, the information about the health of the prisoner on admission shall be supplemented by a medical examination (in accordance with rule 42 of EPR). Does this examination really happen in Portugal? How long does it take for the medical examination to be accomplished?**

Regulations state that the prisoner shall be interviewed by a nurse for preliminary information gathering within 24 hours of intake, and by a doctor for a complete physical evaluation within 72 hours of intake. Many of the respondents say that this process is not followed, with examinations and tests never being done. There are however respondents who speak of the exams being done within 15 days, one month, and even five months. There is yet someone else who explains that the process is as slow as on the outside, except when some particular diseases are recognized. One interviewee complained of negligence in the face of clear evidence of symptoms (allergies or asthma were the examples given). The CPT Report of February 2012, states at ¶64 that, "In most of the prison establishments visited in the course of the 2012 visit, policies were in place to ensure that all newly admitted prisoners were screened by a nurse on the day of, or the day after, their arrival. Thereafter, prisoners would normally be seen by a doctor within 72 hours. However, the initial screening consisted merely of a few oral questions and did not include a comprehensive physical examination; in addition, the results were not always fully recorded. Further, in some prisons, such as Setúbal, the initial screening did not appear to take place for several days after admission or even longer".

**e. In Portuguese prison are there measures in place aimed at the prevention of prisoner self-injury and suicide?**

By statute, a risk-of-suicide evaluation is to be made within 72 hours of intake; further, each institution is to develop and implement a plan of suicide-prevention measures. In fact, there are measures periodically activated in case of public alarm; otherwise the requirements of the statute are ignored. There are instances when the identification of a suicidal prisoner leads to pressures, on the part of the

guards, being placed upon that at-risk prisoner. Trying to avoid the problem, staff end up multiplying the risk. According to the information gathered, the prison hospital is where the highest rate of suicides is registered. Description of one admission to prison: “the first five days are spent locked-in 23 hours a day, without anything in the cell, completely isolated, and during which you are expected to remain completely silent. If you speak out loud the guards come into the cell and assault you physically. It is not clear why they do this. A person can easily fall into a depression and attempt suicide, as it happens”.

**f. In Portuguese detention facilities are there some sections used for solitary confinement of the prisoners? What is it used for (for example, punishment, protection etc.)? Are there different kinds of solitary confinement?**

For protection prisoners can be locked in their normal cells. Solitary confinement is used for punishment. Corporal punishment (beatings) by the guards often happens on the way to solitary confinement. In some cases, when there are open cells, prisoners commit themselves to isolation regime citing the need for protection and arguing lack of alternatives.

## ALLOCATION AND ACCOMMODATION

**a. Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation. Allocation shall also take into account the requirements of continuing criminal investigations, safety and security and the need to provide appropriate regimes for all prisoners. Does this happen in Portugal?**

Guidelines require that such criteria be considered in determining final placement, but this is not generally the case. In one report, a complaint as to placement was punished with a transfer to a high-security facility (near the centre of Lisbon). Almost all respondents report that, in practice, there is no clear policy of attempting to place prisoners close to their homes.

**b. As far as possible, prisoners shall be consulted about their initial allocation and any subsequent transfers from one prison to another. Does this happen in Portugal?**

The law does not stipulate any such requirements; and in practice there is neither consultation nor prior information; there is only communication of the decision from above, sometimes at the very moment of being taken from the cell for transport, without so much as time to pack up personal property.

**c. Do the accommodations of penitentiary institutions respect human dignity and, as far as possible, privacy, as well as meet the requirements of health and hygiene, with due regard being given to climatic conditions and especially to floor space, cubic air space, lighting, heating and ventilation?**

The statutes lay out guidelines and minimum requirements concerning all that is necessary for the conditions of detention to meet the basic standards of human dignity. In fact, prisons suffer from poor hygiene and health conditions, as well as being overcrowded. The facilities are dilapidated and uncared for. The inmates have to clean their cells with their own cleaning products purchased from the prison store (when they can afford them). The CPT Report of 2012, points out, among many other problems,

that at the Lisbon Central prison, for example, ¶150, “most of the standard 9m<sup>2</sup> cells, initially designed for single occupancy, were accommodating two or three prisoners”. Going on to relate that, “the cells in the admission unit in the basement of D wing had damp walls, with flaking paint and crumbling plaster, and were cold (13°C); many of the windows were missing one or more panes of glass. The mattresses were generally thin, worn and dirty. The floor-level toilets in many of these cells emitted a foul stench and inmates complained about rats coming out of them. The situation in the basement areas of B, C, D, and E wings of the prison could be considered as akin to inhuman and degrading treatment”. Of course the CPT visited only three prisons; in fact conditions like these, and worse, are not uncommon throughout many of the nation’s outdated and dilapidated penal institutions.

**d. In all buildings where prisoners are required to live, work or congregate, are there alarm systems that enable prisoners to contact the staff without delay?**

The statute requires that such systems be present in every cell, but in fact there are no alarms in most cells nor elsewhere; and where there are, they typically do not work (a failure noted by the CPT in its 2012 Report at ¶150). The guards do not generally respond promptly to the calls (screams) for help. In the hospital there are buzzers to call for assistance from the nurses.

**e. Prisoners shall normally be accommodated in individual cells during the night, except where it is preferable for them to share sleeping accommodations. Does this happen in Portugal?**

The law requires that prisoners be housed in individual cells, except in special cases where the individual’s own needs make it preferable that s/he be housed with another prisoner, or, temporarily, if there are no individual cells available. The reality is that there is a serious overcrowding problem and individual cells are rare, a problem highlighted by the CPT in its 2012 inspection report at ¶29: “At the time of the visit, the prison population in Portugal stood at 12,793 for an official capacity of 12,077. The downward trend observed in Portugal from 2002 to 2009, during which time the prison population decreased by some 20% to 10,941, has been reversed and the upward spiral since the end of 2009 shows no signs of abating, according to the quarterly figures produced by the Portuguese Prison Administration. Moreover, in a number of establishments, the overcrowding has reached serious levels; for example, the occupancy rate at Setúbal Prison stood at 225% of the official capacity and a further 19 prisons had occupancy levels in excess of 130%”. The guards choose who stays in individual or common cells. Depending on the facilities, there are more or less individual cells available, typically with special wings dedicated to such cells.

**f. Are untried prisoners separated from sentenced prisoners?**

The statutes are mute on this point, and in practice there is no separation between the pre-trial detainees and condemned prisoners.

**g. Are male prisoners separated from females prisoners?**

The law requires that female prisoners be housed in institutions or units separate from male prisoners and specifically set up to meet their needs, and in fact there is always separation of the sexes.

**h. Are young adults prisoners separated from older prisoners?**

The statutes do not speak on this point, and, as it happens, there is no separation between youths and adult prisoners. The CPT Report of 2012, states at ¶64 that “At the Lisbon Central Prison, juvenile

prisoners (younger than 18) on remand were being accommodated separately in single-occupancy cells. However, the cells were located on the wing holding young adults”.

## HYGIENE

**a. When prisoners are admitted to prison, the cells or other accommodation to which they are allocated shall be clean. Does this happen in Portugal?**

Cleanliness is better in the individual and punishment cells. The more occupants there are in one cell the less clean it is. The common areas have the same problem. The humidity and broken windows (which are broken during the summer to ventilate and are not replaced for the winter in spite of the cold that comes through them) do not help with the lack of cleanliness. There is a dearth of cleanliness in general.

**b. Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy. Does this happen in Portugal?**

The statute states that the “the prisoner is guaranteed access to sanitary installations in proper hygienic conditions and which, within reason, ensure his/her privacy”. In fact there are facilities where privacy and accessibility are respected, but in many others they are not, namely where the sanitation facilities are collective, or in situations such as that cited by the CPT Report of 2012 at ¶150, where “the toilets in the cells were not partitioned, which was particularly degrading for those inmates sharing a cell with one or two other persons”.

**c. Do prisoners have access to a bath or shower, at a temperature suitable to the climate, daily, if possible, but at least twice a week (or more frequently if necessary) in the interest of general hygiene?**

The Statutes guarantee access to at least one shower per day, but in reality it can happen that the access to the showers is restricted – there are established times for showers, always at least once a day – and the water temperature is often cold in winter.

**d. Do prison authorities provide inmates with the necessary means to maintain personal hygiene and sanitation, including toiletries and general cleaning implements and materials?**

Regulations stipulate that such needs will be met by the institutions as necessary, but the reality falls quite short. Generally, on a monthly basis, each prisoner may be provided two rolls of toilet paper, two pieces of soap, and some bleach to clean the cell. The personal hygiene products have to be purchased by the prisoner at the prison store (those who do not receive money are subject to the kindness of other inmates or to whatever they may demand in exchange for such essentials).

## CLOTHING AND BEDDING

### **a. Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate. Does this happen in Portugal?**

There are statutory provisions for personal clothing to be provided to prisoners immediately upon admission if what is worn does not meet hygiene requirements, and later also if the prisoner does not have the means to acquire it. In reality, personal clothing is not supplied by the prison authorities. It can be supplied by inmates or charitable organizations. Bedding is to be provided and cared for by the institution as necessary, but here too the practice falls far short of the legal requirements.

### **b. Is this clothing degrading and humiliating?**

In the hospital inmates are obliged to wear striped uniforms. In general there are inmates who have no alternative but to wear worn-out and otherwise inappropriate clothing for the season, marking the difference between those who have and those who do not have the means to purchase clothing. There can be shortages of bedding for long periods of time, compelling some prisoners to use floor rags as makeshift bedding with which to protect from the cold during the night.

## NUTRITION

### **a. Prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work. Does this happen in Portugal?**

There are statutory provisions for nutrition and quality, as well as the reasonable medical, religious and philosophical dietary requirements of each prisoner. In reality there is a standard dish and a diet dish (which are often similar). To have access to the diet dish it is necessary to obtain an order to that effect from the doctor. The quantity of the food is inadequate and the quality is very poor. €4 per prisoner per day is the quantity allocated for the contracts of the food-services companies that provide the meals, which are then left without any type of standards/quality control checks. Those prisoners who work go to the mess halls where the meals tend to be hot; those who do not work stay and eat in their cells where the meals, as a rule, arrive cold. Generally there are no dietary allowances made for religion or culture, although there are exceptions.

### **b. How many meals a day are prisoners served? How many of those are warm meals?**

The statute stipulates three meals and a supplement. These generally are served as two hot meals plus breakfast (09:00h), and a supplement, usually consisting of two pieces of bread and something else to add flavour, at 18:00h (which must satisfy until 09:00h the next morning).

### **c. How are the requirements of a nutritious diet decided?**

The management of each (privatized) dietary-services provider decides on the make-up of the menu. There is one nutritionist, for all 50 prisons in the system, who travels around evaluating the caloric content of those local choices.

## LEGAL ADVICE

### **a. Is there a recognized scheme of free legal aid?**

The statutes exist, and the forms do too, but there is no practical scheme of free legal aid. The prison lawyers exist for administrative purposes including to organize and conduct inquiries and disciplinary proceedings against the inmates. The only legal aid available to the prisoners is the possibility of resorting to appointed lawyers for representation in legal proceedings (these are paid by the state through the Bar Association according to the respective legal action), but this does not extend to anything else other than the criminal cases with which they have been charged. The shortfalls of even this limited system of legal aid are significant, as pointed out by the CPT in its investigation report of 2012, where it states at ¶22 that, “(...) However, the findings of the visit in 2012 clearly indicate that the right of access to a lawyer is, in fact, still not effective for the majority of persons detained by law enforcement officials. At present, if a detained person cannot afford a private lawyer, he or she will only have access to an ex officio lawyer at the court hearing before a judge. This hearing could take place up to 48 hours after the moment of apprehension. As regards more specifically the Judicial Police, many persons deprived of their liberty stated that they had only been informed of their rights following an initial period of questioning”. And, at ¶23, “As regards juveniles, Article 64 of the CCP states that the assistance of a lawyer is compulsory for any defendant under the age of 21. Further, Law 166/99 on Educational Guardianship, which applies to children between the ages of 12 and 16, provides in addition for a child to be accompanied by a parent or guardian whenever he or she is detained by law enforcement officials (see Article 45). However, notwithstanding the above provisions, the delegation encountered a 16-year-old (see paragraph 12 above) who alleged that he was interrogated by Judicial Police officers in Lisbon without a lawyer being present. A similar allegation was made by the juvenile apprehended by the PSP referred to in paragraph 15 above”.

### **b. Where there is a recognized scheme of free legal aid, do the authorities bring it to the attention of all prisoners?**

They do not bring any such thing to the attention of the prisoners, given that in practice there is nothing recognizable as free legal aid.

### **c. Are the consultations and other communications (including correspondence about legal matters) between prisoners and their legal advisers confidential?**

By statute they are confidential. All such mail is opened in the presence of the inmate; but there are exceptions registered, and the complaints against those abuses, beyond provoking retaliation against the complainant, have no effect.

### **d. Do prisoners have access to, or are allowed to keep in their possession, documents relating to their legal proceedings?**

The statutes are silent on this question. Sometimes the prisoners are authorized to have legal documents in their cells, but this is not an established rule.

## CONTACTS WITH THE OUTSIDE WORLD

### **a. How many phone calls can a prisoner make per week? Is there a limit to the number of letters that can be sent out? Are there other forms of communication that prisoners can use?**

The statute specifies one five-minute call per day, with exceptions to be authorized by the director. In practice there are prisoners who have calling cards and others who cannot afford to purchase them. Those who cannot afford to pay can request phone calls paid by the state, but this depends on their being able to get in contact with their respective institutional counsellors and then convincing them to grant each phone call. There are periods of a few minutes (in the morning and in the afternoon) to use the few public phones available. There is pressure to hurry from those queuing on those making the phone calls (that rarely exceed five minutes), as a consequence of which disputes between the prisoners often arise. There are prisons where access to contraband cell phones resolves these problems – with which comes a thriving black-market cell phone business.

There is no limit on how many letters may be sent or received. There is a limit of one 5-kilogram package to be received per month. Although the statute does permit the director to authorize the use of fax or e-mail for exceptional situations, in practice there are no other means of communication available to the prisoners.

### **b. How many visits can a prisoner receive per week? Do the arrangements for visits allow prisoners to maintain and develop family relationships?**

The statute stipulates visits twice per week, of one hour each time, which in practice can be reduced to 15 minutes by the entry and screening procedures through which the visitors must first pass. In the hospital there is the possibility of visits five days per week. Three (sometimes four) adults are permitted to enter for each visit. There is very little privacy. There are often cases of guards intruding by listening to private/intimate conversations. The statute also provides for conjugal visits, but these are only granted for exceptional cases, and are often used as prizes or as a symbol of the power of those who “offer” that possibility.

Visiting procedures and conditions are inadequate for maintaining familial bonds. The process of entry into the prison can be intentionally humiliating, and tends to be so as a matter of course. There are complaints of abuses during the physical searches of the visitors (which may rise to complete denuding, in clear violation of the law which strictly prohibits even partial denuding of visitors during the screening process), which are conducted in a closed room with just the visitor and the guard conducting the search. These violations continue without any kind of corrective measure on the part of the competent authorities, who limit themselves to allege such as the need to control the passing of drugs.

### **c. Whenever circumstances allow, can prisoners be authorized to leave prison, either under escort or alone, in order to visit a sick relative, attend a funeral or for other humanitarian reasons?**

The statute permits the director to grant authorization for a prisoner to leave the institution under escort for any reason s/he believes to warrant it. In practice prisoners are only authorized to leave the prison for funerals. There are inmates who are punished with denial of access to the funerals of family members. There are also disputes about proof of relationship when the legal and affective relationships do not match.

**d. Can prisoners keep themselves regularly informed of public affairs by subscribing to and reading newspapers, periodicals and other publications, and by listening to radio or television transmissions?**

The statute stipulates that institutional libraries must offer a wide variety of reading materials, including periodicals, in all of the major languages spoken within the institution. The prisoners are also to be permitted the purchase of reading materials to be received by post and/or to have them brought in by visitors. In fact the libraries do offer some newspapers and magazines, although generally only in Portuguese. Publication subscriptions are generally not accepted. In some facilities the visitors are permitted to bring newspapers and magazines to the prisoners, but this is not always true. Radios and televisions are permitted for those who can purchase them. There is no access to the internet.

**e. Can prisoners communicate with the media (unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff)?**

The law foresees contact with the media only with special authorization and under very exceptional circumstances (an excerpt from the statute may give some idea of how this sort of communication is viewed by the state: “the interviews are to take place in the presence of an institutional employee and can be interrupted when the prisoner’s conduct or declarations to the journalist are deemed to pose a risk to discipline...”). In practice, direct contact with the media is not permitted, and suspicion that such contact was attempted may result in corporal punishment, as well as other types of retaliation and intimidation. This does not mean that phone calls are not made to TV stations and tabloids.

**f. Can prisoners participate in elections and referenda?**

There is an early-voting procedure established for those prisoners whose sentence has not deprived them of voting rights; but the procedure is so cumbersome and dependent upon the collaboration of the institutional authorities that very few avail themselves of it. In fact, encouragement to exercise political rights is rare, and the discouragement on the part of the pertinent services of whatever will to participate there may be is the rule. Therefore, although there is a right to participate in the political process, the opportunity is never offered nor always provided when requested.

## PRISON REGIME

**a. Does the prison regime offer a programme of activities?**

The statute foresees the possibility of the directors determining such activities programmes. The statute also sets forth a rather impressive set of such activities to be prescribed and provided for each inmate (either in group activity or individually) as part of her/his rehabilitation programme. In practice there are routines of gymnasium, yard and television, without any organized activity. Occasionally there may be isolated activities programmes, namely those offered by volunteers from outside of the prison system.

**b. How many hours a day do prisoners spend outside their cells to improve human and social interaction?**



The statute establishes one hour per day of access to a gym or another area for physical activity, as well as to an area for table games and other recreational group activities, and two hours per day of access to open sky. In reality the practice varies between institutions; 1, 2, 3 or 4 hours daily outside. When it rains these practices may not be respected. For those who work the practice is different, with more time outside the cell.

**c. Is there any particular attention given to the needs of prisoners who have experienced physical, mental or sexual abuses?**

The statutes are silent on this point. There may be something in the procedures manuals, but the fact is that not only there is no special attention given, but the more obvious cases may result in the victim being placed in an isolation cell, allegedly for his/her own protection. On the other hand, abuses inside the prison can be tolerated by the security services, which often ignore such abuses even when they witness them.

## WORK

**a. Do prison authorities provide work opportunities (either on their own or in co-operation with private contractors, inside or outside prison)?**

Pre-trial detainees are excluded from any work opportunities. As to sentenced prisoners, the statutes lay out an extensive employment programme to occupy prisoners in areas of their particular interests as well as meet their treatment plan and economic needs. The reality is that most of the work available is in institutional housekeeping, and those who do it are viewed as collaborators (informers) because the method of selection for employment is arbitrary and can be used as punishment. There is also recruitment of prisoners by private companies that organize work both inside and outside of the prison facilities; but, even with these, employment opportunities are insufficient. The proportions of this problem vary from facility to facility, but the findings of the CPT visit of 2012 give some idea of its extent at ¶152, when the report relates that, “more than one-third of the inmate population without any purposeful activity. The situation was even less favourable at Lisbon Central Prison, where 236 inmates were involved in a work activity within the prison and 259 were enrolled in educational courses. In other words, other than some sporting activities, the majority of inmates spent their day in idleness, loitering in their wings”.

**b. Are work opportunities encompassing vocational training provided for prisoners able to benefit from them (especially for young prisoners)?**

The statutes layout a broad vocational training programme designed to meet all types of needs and rehabilitation goals, but what vocational training does exist is independent of any available work, very limited as to areas of training, and only offered at a few facilities. Such vocational training programmes are not appreciated by the guards – perhaps because they are seen as a workload increase – and there are methods of obstructing enrolment or of boycotting participation, such as alleging disciplinary misconducts in order to force prisoners to drop out. Student withdrawals from such training programmes are in fact very high. There was a time when there were opportunities to train in various

trades – electrical services, maintenance of buildings and automotive repair, for example – within the prison facilities, before the outsourcing of those services put an end to related programmes.

**c. The organization and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life. Does this happen in Portugal?**

The organization and methods of the work done by prisoners in no way resemble those of work on the outside.

**d. Are prisoners remunerated fairly in relation to the outside world? Are there some restrictions in the use of remuneration?**

The statute stipulates that the inmate worker is to be “remunerated in a manner corresponding to the productive activity performed,” which in reality translates to inmates being paid from €60,00, to a maximum of €100,00 per month. These earnings are divided into quarters, one going to a reserve account to be made available when the prisoner is released, another going to a disposable-fund account that can be used to purchase goods in the prison store, another to pay for any imposed restitution, fines, costs or other obligations, and a final quarter to pay for alimentation costs if imposed (these two latter quarters revert to the former two if not applicable).

**e. Are there any health and safety precautions for prisoner workers in order to protect them adequately? Are these the same precautions that are applied to workers outside?**

The statute States that prisoner workers have a right to “moral and physical integrity and adequate labour risks prevention policies in accordance with legislation in effect” for all the nation’s workers, but nothing in practice resembles this. There is no labour insurance, which causes difficulties (and eventually negligence) in securing the necessary resources to treat and rehabilitate prisoners who suffer work accidents. There are also no safety measures being implemented in the workplace, namely due to lack of adequate protection equipment.

**f. Are prisoners who work included in the national social security system?**

No. Once released from prison they are automatically covered by the national Social Security System.

## EXERCISE AND RICREATION

**a. Does every prisoner have opportunity for at least one hour of exercise every day in the open air, weather permitting?**

The legislation requires at least two hours of “open sky” and one hour of exercise and/or recreation time per day, and this generally does happen (there are complaints of exceptions, such as during the recent guards’ strikes, when prisoners were denied the normal time out of the cell, as well as due to other situations when there are tensions leading to informal punishments).

**b. Are there appropriate installations and equipment, in order to facilitate such activities?**

There are facilities with good installations, but not all. The gymnasiums can be dilapidated and too small for all the prisoners, and yards are often completely devoid of any equipment and lacking shelter for inclement weather, as pointed out in the CPT Report of 2012, at ¶148: “The large exercise yards in Linhó and Paços de Ferreira Prisons were devoid of any equipment and should, at a minimum, each be equipped with a means of rest and a shelter from inclement weather”

## EDUCATION

### **a. What kind of educational programmes are there in Portuguese institutions?**

Pre-trial detainees do not have access to educational programmes. For all other prisoners the legislation requires it, and there are elementary, preparatory and secondary school programmes, as well as technical and adult formation courses that are equivalent to the ninth grade. The teachers come from outside to the institution. Prisoners can also apply to universities offering remote studies programmes. Nevertheless, there seems to be a lack of interest on the part of many inmates. What interest there is, such as in the vocational training programmes, is minimized by the security services that regularly use their authority to boycott such study efforts.

### **b. How many prisoners are attending an educational programme (for each kind of educational program)?**

There is no information available.

### **c. Do these educational programmes take place under the auspices of external educational institutions?**

All the teachers come from outside of the prison services – Education Ministry and the various entities promoting study programmes.

### **d. Does every institution have a library? Is it adequately stocked with a wide range of both recreational and educational resources, books and other media? Are books available in different languages? Is it connected with public libraries in the outside community?**

As required by law, there is a library in almost every facility. Their frequency is, in general, very limited. Books are the least used, with most interest centring on magazines and newspapers. Although the law requires it, the offers in languages other than Portuguese are very limited or non-existent. There is at least one example of a library that is networked with other libraries.

## FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

**a. Is the prison regime organized so far as is practicable to allow prisoners to practice their religions and follow their beliefs, to attend services or meetings led by approved representatives of such religions or beliefs, to receive visits in private from such representatives of their religions or beliefs and to have in their possession books or literature relating to their religions or beliefs?**

The Law of Religious Freedom nº16/2001, of July 22nd requires that not only prisoners' religious beliefs and pursuits be respected but also facilitated, unless demonstrated in public hearing to pose a serious security risk. These principles were further cemented as rights for all prisoners with the law-decree nº252/2009, of September 23rd, which sets forth the Regulations of Spiritual and Religious Assistance in Prison Establishments, but the practice changed little. Books they can have, but the only religion that is facilitated is Catholicism. There are no special allowances made for any other religion.

## INFORMATION

### **a. Are all prisoners informed about any legal proceedings in which they are involved and, if they are sentenced, the time to be served and the possibilities of early release?**

The statutes require that prisoners be informed within specific time limits both as to internal and external proceedings. Generally they are informed, although, occasionally, beyond the time limit which would permit them to intervene. However, although the information may be given, there is no preoccupation with ensuring that it is understood as to its practical use and implications. There are known cases of suicides resulting from the failure of having adequately grasped the implications of criminal legal proceedings.

## PRISONERS' PROPERTY

### **a. Are prisoners entitled to purchase or obtain goods, including food and drink for personal use? Are the prices of these goods similar to those charged for comparable goods in free society? Is the quality of these goods the same as that of comparable goods in free society?**

The statutes require that stores with goods at prices "as close as possible" to those found on the outside be made available, but the practice varies. Also per statute, the families can bring up to one kilo of foodstuffs per week (in some facilities this is not permitted). The existing practices result in severe limitations of the types of products available. There are also serious problems as to the prices charged: there can be the inflation natural to monopolies, be it by the sale of products of lesser quality at prices of similar products of better quality, or by charges imposed at pretext of the monopoly. Fights for acquisition of the better deals are known to happen.

## RELEASE OF PRISONERS

### **a. Are released prisoners provided with immediate means of subsistence; are they suitably and adequately clothed with regard to the climate and season, and are they afforded sufficient means to reach their destination?**

The statute requires that the prisoner be given any personal property and moneys s/he may have saved for the process of social reinsertion; and also that transportation be provided if necessary. In

practice, on the occasion of a prisoner's release, the prison workers may calculate the cost of transport to her/his declared destination and provide that amount (more or less); but this only when there are resources available, which may not be the case. The authorities do not offer anything else, such as clothing, etc.

**b. Are released prisoners assisted in finding suitable accommodations and work?**

There are rare and insufficient solidarity associations that can offer some orientation, nothing else.

## WOMEN

**a. Are special provisions made for the sanitary needs of female prisoners?**

The statute requires that needs particular to female prisoners be considered, as well as that products specific to those needs be supplied to those who cannot afford to purchase them. In practice the sanitary conditions are not adequate and women are not always supplied with the hygiene products they need.

**b. Are prisoners allowed to give birth outside prison?**

Yes, the law requires that "all diligence be employed to ensure that births take place in public hospitals", and in fact this happens.

## JUVENILE PENITENTIARY SYSTEM

**a. Are minors (aged less than 18) detained in establishments specially designed for the purpose?**

In Portugal, Children between 12 and 16 years of age accused of a criminal offense can be committed by a special court to an Education Centre of the Justice Ministry, under the jurisdiction of the General-Directorate of Social Reinsertion, at a daily cost of €153 (youths may be condemned to stay in said education centres up to their 20<sup>th</sup> birthday). Once having turned 16, children suspected of having committed a crime are processed through the adult criminal justice system and can be condemned to be incarcerated in an adult penitentiary. This is true in spite of the fact that, as a legal concept, adulthood in Portugal is reached at 18 years of age. There is one "school-Prison" at Leiria (housing prisoners from 16 to 21 years of age, who often end up staying there up to their 25th birthday), developed from conception to house youthful offenders, but the segregation by age is not perfect. The complaints of brutality received from this facility, such as dogs being used to intimidate children forced to line up naked, and a programme that keeps them, for the first few months, locked in their cells 22 hours a day without any activities, do not inspire much confidence as to its school-like characteristics. In the other penitentiaries there can also be youths as young as 16, who are typically treated even more severely than the adult prisoners with whom they are housed. Some of these problems are noted in the CPT Report of 2012, which, at ¶179, declares that, "(...) at Lisbon Central Prison, the CPT's delegation met a 17-year-old who had been placed in provisional isolation for 30 days following which he received a disciplinary sanction of 21 days of solitary confinement. Such a period of solitary

confinement for disciplinary purposes is totally unacceptable, all the more so for a juvenile". These and many other problems encountered by minors and other juvenile prisoners are exacerbated by the fact that staff receives no training on how to deal with this most vulnerable and volatile sector of the prison population; again a problem pointed out by the CPT in its 2012 Report, stating at ¶159 that, "As regards staff working with juveniles, the CPT has emphasized in the past that the custody and care of this age-group is a particularly challenging task... None of the staff working with juveniles at Lisbon Central and Lisbon Judicial Police Prisons had received any specialised training for working with prisoners of this age-group."

**b. Does every prisoner young enough to yet be subject to compulsory education have access to such education?**

The statutes require it, but there is a lack of sufficient openings in the school programmes and many are excluded, a fact noted by the CPT in its report of 2012, at ¶155, where it relates that "at Lisbon Central Prison, there was no proactive approach by staff (educators) to offer juveniles any purposeful activities. Education was the only potential activity available other than some sport but the juveniles met by the delegation stated that the classes were fully subscribed, and that they would have to wait until the next academic year in September 2012. Such a state of affairs is certainly not conducive to the well-being of juveniles. Although a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation".

## INFANTS

**a. How many infants are there in Portuguese detention facilities?**

There is no information available.

**b. How many years after birth can the infants stay in the institution?**

In the women's prisons in Tires and Santa Cruz do Bispo there are, as stipulated by statute, conditions for children up to 3 years old (or up to 5 years old with special permission) to remain living with their mothers. In the other women's prisons there are no such conditions.

**c. Are there nurseries, staffed by qualified personnel, where the infants may be placed when the parents are involved in activities which do not permit for the infants to be present?**

The statutes require that areas specially equipped for infants be set up, and in fact there are such areas as well as specialized staff to stay with the children. Legally, the fathers also can have their children remain with them, but in practice this does not happen.

**d. Are there special accommodations in the prison to protect the welfare of the infants?**

The statutes require such accommodations, but the reality of these is disputed: there are those who say yes, and those who hesitate in answering, in reference to Tires prison.

## FOREIGN NATIONALS

**a. Can prisoners who are foreign nationals request contact, and be granted reasonable means to communicate with the diplomatic or consular representatives of their state?**

The relevant statute requires that immediately upon intake all foreign inmates be informed of the right to contact their embassies or consulates and be offered a free phone call to do so. The statute further requires that inmates who avail themselves of this right be kept informed of the results of said communication. In practice inmates have to request contact with their diplomatic or consular representatives, which can possibly happen, but is very difficult.

**b. Are prisoners who are foreign nationals informed of the possibility of requesting that the execution of their sentence be transferred to another country?**

The statute requires that foreign inmates be informed of the possibility of said transfers and of how to go about processing such a request, as well as that they be kept informed of the status of their request once filed. In fact inmates are not informed. When resorting to the extradition process they can have difficulty in finding out the status of their request. And when they are extradited they may not know what is going to happen until the moment of the actual transfer.

**c. Are prisoners who are foreign nationals divided by country of origin within the sections of each institution?**

Foreign nationals and natives are all together.

**d. Are interpreting services available to foreign nationals?**

The law states that, among many other specific considerations, translation and interpreter services will be provided. In practice there are no interpreter services at the institutional level. Theoretically, an interpreter can be requested to the General-Directorate, but for budgetary or other reasons that may not be facilitated.

## ETHNIC MINORITIES

**a. Are there any particular ethnic minorities among the prison population? What is their percentage of the total prison population?**

There is a large presence of immigrants (20% of the total prison population while less than 5% of the nation's population). There are many Luso-Africans (i.e. with roots in a Portuguese speaking African nation), descendants of the immigrants, many naturalized Portuguese, and more yet born in Portugal, the number of which is difficult to calculate because the Portuguese government does not collect statistics on ethnicity and race. There is also a large contingent of Roma

## HEALTH

### **a. Are medical services in prison organized in close relation with the general health services of the community or nation?**

The law states that a prisoner has the right of "access to the National Health Services in conditions identical to those guaranteed to all citizens". The relevant statutes also grant prisoners the right to, at their own expense, be seen by any physician of their choice who may travel to the prison for that purpose (a two-tier system thus being established). In 2007 a process of integration of prison health services into the National Health Services was enacted. In practice this integration has been a drawn out, complex process with practical results that are difficult to define due to the lack of any reporting, official or otherwise, of its progress. To make matters worse, lately the trend has been toward the outsourcing of health care to private contractors. The CPT Report of 2012, at ¶60, notes that, "at the time of the visit, the Ministry of Justice had recently completed the process of outsourcing a substantial part of the provision of health care services to a private company (Sucesso 24 Horas), with other contractors also providing health care services in some prisons (for example, IAP in Setúbal Prison). In the prisons visited, some medical personnel were employed by the Ministry of Justice, but an increasing number were provided by the private contractor. The outsourcing has led to cost-efficiency gains, but it has also resulted in high levels of staff fluctuation within a prison establishment as the contractor often sends different people to work the various shifts. This could lead to a lack of continuity in the provision of health-care, negatively impacting on information sharing and on staff-patient relationships".

### **b. Are all necessary medical, surgical and psychiatric services (including those available in the community) provided to the prisoners?**

The more specialized medical services are theoretically available, but, in practice, sick prisoners have great difficulty gaining access to them due to the security and administrative obstacles that are placed in their way.

### **c. Is there at least one qualified general medical practitioner in every institution?**

In general there is a doctor inside each prison facility; however, typically, during the night and on weekends, s/he may not be present. There are always nursing personnel present.

### **d. Are the services of qualified dentists and opticians available to every prisoner?**

Normally no. Optician rarely. Dentist can have waiting list of 3 months. Those who have money to pay for eyewear and dental prosthetics can be seen sooner.

### **e. Are prisoners suspected of infectious or contagious diseases isolated for the period of infection and provided with proper treatment?**

The statute foresees this specific issue and sets out a process of evaluation and establishment of specific contagion-prevention measures to be followed by the institutional authorities. In fact this process is rarely followed and the infectious sick are not isolated. At best there may be some sort of control as to who may enter the cells occupied by those sick.



**f. Are sick prisoners who require specialised treatment transferred to specialty institutions or to civil hospitals, when such treatment is not available in prison?**

They are transported to a prison hospital, not to a civil hospital. In exceptional circumstances they may go directly to a civil hospital.

**g. Are persons who are suffering from mental illness and whose state of mental health is incompatible with detention in a prison detained in an establishment specially designed for the purpose?**

The law sets forth various provisions for the special care of mentally ill prisoners, including internment in public mental health institutions or in prison mental-health units specifically set up for that purpose. In practice there is very little in the way of therapeutic attention for the mentally ill, except for methods of calming patients when their behaviour grows intolerable to staff, which typically means making them spend a few days in the prison hospital, where they often are indiscriminately restrained with drugs; an issue pointed out in the CPT Report of 2012, at ¶118, in that “most patients at the Psychiatric Hospital of Santa Cruz do Bispo Prison had an authorisation for the use of “SOS-medication” in their files. In many cases, the prescription of “SOS-medication” was perceived as providing authorisation for the application of chemical restraint. The CPT underlines that every resort to means of restraint, including chemical restraint, should be expressly ordered by a doctor or immediately brought to the attention of a doctor; a system whereby doctors give advance “blank” authorisation for the chemical restraint of certain patients is not acceptable”.

Beyond the poor medical treatment that these patients receive, the conditions in which they can be held while at the mental-health hospital prison (depending upon their placement) defy belief as to how primitive they are – see CPT Report of 2012, ¶¶ 114 – 118, such as, “...The CPT’s delegation noted that the practice of entirely undressing a patient before placement in a seclusion cell had not been discontinued...”, “...cells still had no call bell system despite being located some distance from the nurses’ offices. They also had no heating and patients complained to the CPT’s delegation that they had been very cold throughout their time in the seclusion cells...”, “...Further, none of the cells possessed toilets and patients were still obliged to use a bucket and slop out every morning; access to natural light was insufficient (the windows were opaque and covered with a metal grill) and there was only a mattress on the floor....”.

**h. What is the treatment available for drug users and for drug addicts in prison? Are there harm reduction programmes?**

The statute sets out a requirement of therapeutic intervention for prisoners suffering from addiction. In fact there are methadone programmes and, in exceptional cases, as in the drug-free wings, there are programmes adapted for the prison. These programmes do not meet the best medical criteria. For treatment, often nothing more than tranquilizers are given. The shortfalls of the available programmes were clearly noted in the CPT Report of 2012, after visiting just three prisons which are not among those with the most severely deficient programmes. As noted at ¶72, “Drug abuse and drug dependency remains a problem in all the prisons visited, but was particularly pronounced in Paços de Ferreira Prison, where medical staff estimated that 70% of inmates used drugs, with around 30% being drug dependent. Methadone drug-substitution programmes are available in prisons, in conjunction with the National Institute for Drugs and Drug Addictions (Instituto da Droga e da Toxicodependência - IDT), which is responsible for initiating persons onto the programme. However, at Linhó Prison, only

prisoners already enrolled in a methadone programme prior to their arrival at Linhó could access the programme”.

## ORDER

**a. Are there any special commissions composed of prisoners with the aim of discussing issues related to detention conditions? How are they constituted?**

No.

## SECURITY

**a. What are the main security measures applied to individual prisoners? How are they applied?**

Cuffs, POA (“Permanência Obrigatória no Alojamento” or mandatory permanence in cell), solitary confinement, cell searches, monitoring and strip-searching of visitors, and strip-searching of the prisoners before and after receiving visits. There are complaints of sexual abuses during these strip-searches, both by prisoners and visitors. There are security cameras in the corridors, outside rest rooms and searching rooms. There is also the placement in security units, which often is a “limbo” status designed both to punish the prisoner well beyond what the law permits and neutralize the security problem that s/he is perceived to represent, a practice cited by the CPT in its 2012 inspection report, at ¶44, inter alia, in that, “All the prisoners in the security units with whom the CPT’s delegation spoke stated that they had been told that the length of time they had to spend in the security unit depended on their behaviour. At the same time, they all claimed that they were provided with no information as to the criteria on which they would be assessed, and that no interviews were organised with any staff members to discuss their behaviour. Apparently, the only communication occurred when a prison officer handed over the decision of the Director General. The decision provided no information as to the reasons for an extension of the period in high security. Many prisoners expressed their frustration at not knowing why they continued to be held in the security unit. Signs of resentment towards prison staff were evident”.

**b. According to the training course of the prison staff, how should security measures be applied?**

We have not yet been able to secure the specific course information. In practise they are applied on a case-by-case basis. The complaints of the inmates are systematically devalued (often with those who make them being ignored and/or persecuted).

## SEARCHING AND CONTROLS

**a. How are visitors (such as legal representatives, social workers, volunteers, etc.) controlled by the prison staff? Is special equipment, such as metal detectors, used?**

The statute lays out what can and cannot be done to process visitors for entry into the institution, stating in part that security checks may be “effected at the moment of entry into the establishment by security elements of the same sex, and may include: a) passage through the walk-through metal detector or by the portable metal detector; b) intensive palpation of clothing; c) palpation of hair and visual examination of mouth; d) search of footwear and other accessories which may involve the removal of shoes and belts; e) search of handbag or like item;” going on to say that, “all objects transported by the visitors, including handbags or like objects and/or footwear can be submitted to an x-ray scan”. But this same statute also specifically prohibits the use of any kind of strip searching, stating that “the search of visitors does not involve denuding even if only partially”; and “it is prohibited to denude visitors in the search process”. In practice there is the use of walk-through as well as handheld metal detectors, with pat-downs eventually rising to strip-searches (complete or partial denuding). There is also the use of dogs, and the intrusive palpation of the body including the genitals. The visitors complain of being treated without any kind of dignity, of being touched in their private parts, but do so discretely, under threat of being prohibited to visit.

## DISCIPLINE AND PUNISHMENT

### **a. Are disciplinary procedures used as a mechanism of last resort?**

The statutes lay out a detailed disciplinary system, with various procedural levels to be applied accordingly to the severity of the infraction and designed to ensure that the prisoner has a chance to challenge any accusation as well as, if found guilty, a chance to appeal both the finding and the sanction. The sanctions may be any of the following, according to the severity of the infraction: a) written reprimand; b) temporary confiscation of non-essential personal items for a period not to exceed 60 days; c) Prohibition to use earned wages for no more than 60 days; d) restriction of, or prohibition of socio-cultural activities for no more than 60 days; e) reduction of daily period of open-sky time; f) mandatory stay in cell for no more than 30 days; g) commitment to solitary cell for no more than 21 days (only for severe infractions). In practice punishments are used daily according to the “case by case” (i.e. arbitrary) evaluations of the guard on duty. The punishment may be solitary, for a maximum of 30 days, but the panoply of punishments is vast, for there is a whole list of privileges that are used to give and take, according to the will of each guard: to have visits, access to the prison store, participate in activities – including education or work – transfers to other wings (including the security wings, with much harsher regulations) or to other prisons (such as the maximum security prison of Monsanto), etc. However, the most commonplace, and likely the most damaging punishment is disrespect, the yelling and provocations by the authorities. In fact, “I want, I can, and I will” is the security staff’s motto, sometimes expressed in public. As a result of these practices any notion of what may be punishment, as well as the proportion of the punishment relative to the act that it is intended to condemn, is lost. The procedural aspects of the disciplinary system are equally devoid of meaning, as pointed out in the CPT Report of 2012, at ¶176, in that “prisoners are still not heard by the prison director before he or she decides on the disciplinary measure to be imposed; there is no opportunity for prisoners to cross-examine evidence given against them as all persons are heard separately; time spent in provisional isolation is not explicitly taken into consideration when a sanction of solitary confinement is decided”.

**b. What are the main types of punishment of prisoners? How are they applied?**

The most common of the sanctioned punishments is for the prisoner to be locked in his/her own cell 23 hours per day for various days. There is also placement in Solitary/High Security Unit, a process often disguised as something other than punishment, as indicated by the CPT in its 2012 inspection report, at ¶145, in that, “An examination of a number of files pertaining to prisoners in the security units appeared to indicate that continued placement was punitive in nature. To begin with, the assessments were extremely brief with no analysis of the individual but merely an opinion by each prison department. In one typical case, both the officers’ and the educator’s report stated “good behaviour but given seriousness of offence and short time of stay in the unit, should remain”. The director of the prison concurred and, subsequently, the Deputy Director General prolonged the prisoner’s stay in the security unit by a further six months. Not surprisingly, the behaviour of a number of inmates deteriorated the longer they were held in the security unit as they felt trapped”.

**c. Can a prisoner who is found guilty of a disciplinary offence appeal to a competent and independent higher authority?**

Prisoners can appeal to the regionally distributed Tribunal de Execução de Penas (Court of Sentence Enforcement). They have five days to appeal after being found guilty of a misconduct, but appeals are often not filed, and when they are, very rarely are the sanctions overturned by the appeals court. Problems that can be better understood in light of the findings of the CPT’s inspection report of 2012, when it states at ¶176, that “many prisoners met by the delegation stated that the procedures merely served to confirm whatever the prison officer had reported and complained that they had not been given access to the statements of prison officers or of witnesses. The investigator in one prison stated that where the facts of the incident were disputed, he felt he had to take the majority opinion which resulted in the prison officer’s version of events being taken on board. Further, allegations were received of prisoners being discouraged from lodging an appeal”.

## INSTRUMENTS OF RESTRAINT

**a. What are the main instruments of restraint used in prison? How are they used?**

Cuffs and immobilization by brute force. Often used for intimidation. Deaths have occurred in the process of immobilization. There is also the problem of indiscriminate use of chemical restraints, which can happen at the psychiatric-hospital prison, and any of the mental health wings of any other of the nation’s prisons, a problem noted in the CPT Report of 2012, at ¶111, in that, “As regards “chemical restraint”, most of the patients had an authorisation from a doctor for the application of “SOS-medication” in their files, allowing nurses to administer sedatives to agitated patients without prior consultation of a doctor. Such measures had to be recorded in the medication chart. There appeared to be frequent recourse to “SOS-medication”, placing a considerable amount of responsibility and discretion on the nurses, and such use was not always properly recorded. In addition, in some cases examined by the delegation, the application of “SOS-medication” was used as a chemical restraint in emergency situations.”

## WEAPONS

### a. Can prison staff hold and use lethal weapons within the prison perimeter?

By statute, firearms are explicitly prohibited inside the institutions except in the context of an emergency police action. Of course that this leaves space for many other modes of lethality: assaults with punches and kicks by groups of guards on prisoners isolated in cells, usually during the night, is an example of a common, potentially lethal practice (examples of this practice can be found throughout the CPT Report of 2012). Then there are actual weapons that the guards can use inside the prison, from nightsticks, to tasers, and up to shotguns that fire beanbags. They can also call for dogs to be brought in. In the guard towers they have pistols, rifles, and assault rifles.

## USE OF FORCE

### a. Under which conditions can prison staff use force against prisoners?

The statute on the use of coercive means, which include various levels of force, states that: “The use of coercive means is permitted to prevent an actual threat to the order and security of the institution when this cannot be done by any other means; such as: a) to impede individual or collective acts of insubordination, rebellion, riot or escape; b) to stop an inmate from inflicting violence upon property of the state, of his/her own, of a third party, or patrimonial; c) to overcome the active or passive resistance of an inmate; d) to impede de removal of an inmate or the illegal entry or permanence of individuals in the institution”. However, in practice the use of force is indiscriminate, without any sort of professionalism or respect for the physical integrity of the prisoners; force becomes legitimated whenever institutional order is arbitrarily declared to be at risk. The CPT noted this problem and the inefficacy of any existing oversight in its 2012 inspection report at ¶134, in that “At each of the three last-mentioned prisons, inmates on different wings alleged that ill-treatment often occurred at or after lock-up at night and appeared to constitute punishment for an act of insubordination committed earlier in the day. For example, at Linhó Prison, several allegations were received of inmates being punched and struck with batons following an incident in the dining room in December 2011. At Lisbon Central Prison, several inmates stated that they had been visited in their cell by two or three guards at lock-up (6.30 p.m.) and had been slapped in the face and punched in the stomach and ribs apparently because they had spoken during meal time, a number of inmates interviewed separately also alleged that they had been taken to the waiting cell (sala d’espera) on the main corridor where they had been subjected to slaps and punches from one or two officers, either in the cell or in the officer’s room across the hallway. At Linhó and Paços de Ferreira Prisons, allegations of ill-treatment were particularly prevalent in the security units. One inmate at Paços de Ferreira Prison claimed that on 24 July 2011, two days after he had apparently started a hunger strike, three prison officers entered his cell, ordered him to strip down to his boxer shorts and proceeded to punch and kick him. He alleged that he was thrown to the ground, his wrists cuffed behind his back, and he was dragged along the floor to another cell, where he was left cuffed for about an hour. His medical record contained an entry on 25 July 2011, which states “bruises on right arm” and another one the following day “bruising on right arm and back; says he was beaten by guards.” The inmate claimed that he had complained to the chief officer

about the beating. Another inmate in the Paços de Ferreira security unit, who wanted to express his frustration at being held in conditions of high security for seven years by setting fire to the mattress in his cell at 10.30 p.m. on 25 July 2011, claimed that he was subsequently punched, kicked and subjected to truncheon blows by several prison officers. He was taken to hospital for treatment where he had to have three stitches for a wound to the head and claimed that he had visible bruises along his left leg and tramline marks on his back. The entry in the inmate's medical record of 27 July states "he has been beaten by guards after setting fire to cell". The inmate also said that he had discussed the ill-treatment with the chief officer. However, no further action was taken. The CPT's delegation also received many complaints of beatings by members of the Prison Security and Intervention Group (GISP) and certain prison officers from other establishments during a search operation in Paços de Ferreira Prison on 10 July 2011," see ¶35 also. Further, at ¶36, the report goes on to note the implications of the complicity (whether or not intentional) of medical staff as to their failure to properly record the injuries they observe, in that "The importance of having proper medical documentation was highlighted by both the SAI and Inspectorate General of Justice Services (IGJS); they stated that whenever investigating allegations of ill-treatment in prisons, they were met with a wall of silence that was difficult to penetrate without objective evidence. This state of affairs was confirmed by the statistics provided by SAI and IGJS. For the SAI, of the 100 complaints received in 2009 and 2010, one resulted in a suspension from work (concerning facts that occurred in 2005), one resulted in a fine and two in a written warning; of the remainder, 87 were closed and eight were pending. For the IGJS, all 31 complaints received in 2009 and 2010 specifically related to ill-treatment by prison staff were classified as either "unproven" or "impossibility of findings. (...)". See also ¶37 and ¶38.

**b. Can other law enforcement agencies be involved in dealing with prisoners inside prison? If so, under which circumstances?**

Yes. The statutes foresees the possibility of any number of other forces and security services entering the prisons in case of severe altercation until order is restored. Beyond this, the "Law of Internal Security" foresees the complete takeover and running of the prison system by militarized/police forces, the army and/or private security forces in case of "national emergency". In practice, there is no memory of such an event, except for December 2009 when a big group of militarized police (GNR) entered Santa Cruz do Bispo prison. There was no official explanation for this action. It seems to have had nothing to do with the prisoners (likely a training exercise relating to the LIS).

## REQUESTS AND COMPLAINTS

**a. Do prisoners (and their families) have the opportunity to make requests or complaints to the director of the prison or to any other competent authority?**

The statute lays out a wide range of avenues of complaint, from secured boxes placed throughout the institution for de prompt presentation of complaints to the facility's director, through submission of complaints via post to all the various courts and levels of authority nationally, all the way to the EU and its various bodies etc. Of course they can also complain to the guard, to the chief of the guards, to the counsellor, to the judge, and in the book of reclamations mandatory in all state institutions. In practice any complaint is implicitly or explicitly discouraged by the double tradition of not hearing the

complainant (many such proceedings are conducted hearing only the accused person) and her/his incurring the risk of having a process lodged against them for offenses to the accused. In any case, those who complain, independently of the outcome of the process (likely to have no practical effects, regardless) must be prepared to suffer retaliation – at best, constant harassment.

The CPT in its report of 2012, although having only briefly visited three institutions, noted in this respect, at ¶183, that, “As regards the internal complaints system, in some prisons (such as Linhó and Lisbon Central), boxes existed for making complaints/requests to the director of the establishment. However, complaints were not registered and many inmates complained that a response was rarely provided and, if it was provided, was always in an oral form. More specifically, a number of prisoners stated that they had informed the chief prison officer about incidents of alleged ill-treatment by prison officers, but that they had received no feedback. Numerous inmates expressed a lack of confidence in the complaints system”.

## MANAGEMENT AND STAFF

**a. Give number of administrative staff, prison officers, and educational staff (per prisoner) that work inside prison facilities.**

Administrators 699 (0,05 per inmate). Guards 4.414 (0,32 per inmate). Educators 560 (0,04 per inmate). Total 5.673 (0,42 per inmate).

**b. Give percentage of staff gender per function (i.e. administrative, officers, educational).**

Data not available.

**c. Are there some special units among prison officers?**

Yes, Grupo de Intervenção dos Serviços Prisionais (GISP, intervention group of the prison services).

## SENTENCED PRISONERS

**a. Are there individual sentence plans for sentenced prisoners (including work, education, other activities, and preparation for release)?**

The statutes lay out two different types of plans to be designed and adapted around each individual's specific needs after a rigorous evaluation process. The first is a treatment plan and the second is rehabilitation programme. In practice there are inmates who have an individual rehabilitation plan drawn up on paper, as stipulated by law, but there are no known cases of that document having any practical effect.

**b. Are sentenced prisoners encouraged to participate in drawing up their individual sentence plans (that should include work, education, other activities, and preparation for release)?**

The statutes require that the drawing up of individual plans be made in consult with the subject and her/his family members. In fact there are many requests on the part of the prisoners for access to the

sort of activities that would constitute such individual programmes, but the facilities do not have the capacity to meet those requests.

**c. Is there a system of prison leave as an integral part of the overall regime for sentenced prisoners?**

The statutes stipulate application procedures for various types of leave, including activities, medical reasons, preparation for liberty, and so on. But although on paper the process of approval is streamlined, in practice, for most prisoners, approvals are not common.

**d. Can prisoners be involved in programmes of restorative justice and in making reparations for their offences?**

No.

**e. How many prisoners are serving sentences of more than 10 years of imprisonment?**

We only have numbers calculated for those serving more than 9 years (as of December 2012): a total of 2.296. Of those, 1.873 are Portuguese male nationals; 89 Portuguese female nationals; 331 foreign male nationals; and 3 foreign female nationals.

## LIFE SENTENCE

**a. Is the sentence of “life in prison” available in the penal code?**

No, according to the law there is no sentence of life imprisonment in Portugal. The maximum sentence that can be imposed being 25 years. Nevertheless, there are complaints of effective life sentences: be they due to a sentencing scheme of consecutive, aggregated sentences that in effect far exceed the 25 years stipulated by law, the super-imposition of more sentences incurred while serving the original sentence, or the age of the prisoner at the time of the conviction, many are those who see themselves as serving a “life sentence” (even if they, theoretically, can be appealed, reduced and do admit leaves).

**b. Are there any alternative measures for prisoners serving life sentence provided in the criminal justice system?**

Not applicable.

**c. Are there prisoners serving *actual life sentence* (i.e. a life sentence without any possibility of reduction or admission to leaves or any measure alternative to life imprisonment)?**

Not applicable.

**d. How many inmates with life sentence are there (and their percentage of the total prison population)?**

Not applicable.

**e. Are special sentence plans (regarding work, education and other activities) provided for prisoners serving life sentence? Are these sentence plans drawn up individually, taking into account the needs of each inmate serving such a sentence?**



Not applicable.

**f. Do prisoners serving life sentence stay in a single cell or share it with other inmates?**

Not applicable.

## ALTERNATIVE MEASURES

**a. How is the notion of “alternative” to detention defined?**

The law stipulates various alternatives to detention, broadly defined as measures not depriving of liberty, which can be imposed as a substitute to pre-trial detention and/or as a substitute to sentences of incarceration for crimes of lesser magnitude, these being granted by judicial decision at request of the accused or condemned.

**b. What are the main alternative measures to detention being used (give absolute numbers)?**

The main alternative measure is electronic monitoring, with a total of 724 individuals under that programme according to the following categories:

For cases of (DV) domestic violence – prohibitions of contact: 116

(MEPP) modification of execution of prison sentence: 10

(ALC) adaptation to conditional liberty: 13

(PPH) in-house arrest: 96

(OPH) duty of remaining in the residence: 489

Other alternatives at: <http://www.dgrs.mj.pt/web/rs/penal/mcom>;

[http://www.dgrs.mj.pt/c/portal/layout?p\\_l\\_id=PUB.1001.17](http://www.dgrs.mj.pt/c/portal/layout?p_l_id=PUB.1001.17)

**c. Are they imposed before (as alternative to punishment) or during conviction (as alternative to prison)?**

Alternative measures are mainly used to moderate pre-trial detention, or, from another point of view, to augment the options of coercive measures available to the state, and, secondly, to cope with the new problem (for the institutions) of dealing with domestic violence offences.

## INSPECTION AND MONITORING

**a. Has Portugal signed/ratified/acceded the OPCAT? If yes - when?**

Yes, Portugal signed it in 2004, and ratified it in 2013.

**b. Is the National Preventive Mechanism (NPM) set up, designated or maintained? If yes - when?**

In 2013, an ombudsman position was instituted and an ombudsman appointed as NPM.

**c. If the NPM exist, which type of the NPM is it (a separate body; a separate department within the National Human Rights Institution (NHRI)/Ombudsman's Office; NHRI or Ombudsman's Office itself;**

**NHRI or Ombudsman's Office together with non-governmental organisations/experts; several separate bodies etc.)?)**

The NPM is an ombudsman position included in the existing department for penitentiary complaints and ombudsman assessment initiatives.

**d. Are the mandate and powers of the NPM clearly set out in a constitutional or legislative text?**

Until now there has been no other legislative action to introduce the text of OPCAT as a binding national document.

**e. Is the visiting mandate of the NPM extended to all places of deprivation of liberty?**

This is not yet clear.

**f. Does the NPM have its own budget? If yes - please, indicate its annual amount. If not - please, specify how the NPM is financed.**

It is not yet known how the newly appointed ombudsman will operate. It is known that the last person who held the already existing ombudsman's office offered ombudsman services for NPM purposes at zero cost, arguing that, given the nation's financial crisis, any further expense would not be justified, and that the resources for the work were already available in the established office structure. The same individual also argued that there was no need for the participation of civil society organizations with any of the work on the ground. It is known that the Spanish NPM experience is the reference being used.

**g. Does the NPM have its own staff? If yes, how many people are employed there, and what is their professional background? If not, please, specify who fulfils the duties of the NPM?**

There are no new staff being hired for this specific function. It is expected to be an added function of the Ombudsman's Office staff already working on matters pertaining to the penitentiary system within a department called Outros Direitos Fundamentais (Other Fundamental Rights). The department includes one coordinator and several assessors. What is publically known is that there are places for 6 coordinators and 40 assessors for all six ombudsman assessment departments. All staff members have college degrees, probably with law-related background.

**h. Are there any other inspection and monitoring bodies dedicated to prisons, and if so what are they?**

There is the inspection service of the penitentiary system (SAI – Serviços de Auditoria e Inspeção), the inspection service of the Ministry of Justice (IGSJ – Inspeção Geral dos Serviços de Justiça) and the Outros Direitos Fundamentais, Department of Ombudsman Services (which now includes the NPM).

## ILL-TREATMENT

**a. Who investigates prisoners' complaints of ill-treatment by prison staff or by other prisoners (inter-prisoner violence) in Portugal (internal investigative body of the prison; external investigative body; prosecutor's office, etc.)?)**

All three bodies mentioned above (SAI, internal to the prison system; IGSJ and Ombudsman, external) investigate every event called to their attention as a matter of process. The Prosecutor's Office can be called to open processes when there are criminal allegations. Within the administrative structure of each prison establishment, there are legal staff working on disciplinary matters for the facility's director. These staff conduct inquiries concerning any alleged event or complaint by guards or inmates and present a proposal to the director as to how the matter should be dealt with.

**b. Is it possible for a prisoner to appeal the decision of the investigative body? If yes - to whom?**

When there is a sanction imposed against an inmate s/he can appeal to the director of the prison facility. There are many complains about the partiality of their judgments. This problem led to the reform of 2007 which introduced a formal appeal process to a special judge (Juiz de Penas) appointed to the institution. In this proces the inmate has the right to call a lawyer to represent him/her. The tensions created inside prisons as a result of this new procedure are, in part, eased by the use of informal penalties: for example, the use of administrative decisions that the individual (prisoner or staff) knows to be a punishment even though there is nothing formally said nor written about it; thus avoiding further formal proceedings and the involvement of lawyers and judges.

**c. Are statistics available on the number of prisoner complaints of ill-treatment by the prison staff and by other prisoners (inter-prisoner violence)? If yes, please provide the numbers.**

No public statistics are known concerning these particulars. Complaints are treated at the institutional level (possibly, not every establishment does that) and at the level of Direccção-Geral (head of prison system). From time to time same information about complains is released to the press. For example, for 2009 the Ombudsman let out to the press that 142 complaints were received (17 of them on "security and discipline" and 13 on "violence"). This kind of information is not available in any known website or annual report.

**d. Are statistics available on disciplinary/criminal proceedings initiated with regard to ill-treatment by the prison staff and by prisoners (inter-prisoner violence)? If yes, please provide the numbers.**

Data not available.

**e. Are statistics available on the outcome of disciplinary/criminal proceedings with regard to ill-treatment by the prison staff and by prisoners (inter-prisoner violence)? If yes, please provide how many proceedings have resulted in disciplinary/criminal sanctions. If possible, please specify which kinds of sanctions (fines, suspended sentence, imprisonment, etc.) are most applied.**

Data not available.

## EFFECTS OF THE ECONOMIC CRISIS

2008 was the last of a 6 year decreasing prison population trend. From then on prison population grew steadily by 31%, to the point where today the system is 20% over capacity. The austerity measures put in place to address the economic crisis brought on shortages of available health care and hygiene

products. Demands from prison officers unions for more personnel resulted in the termination of the practice of permitting inmates to have food packages sent in by family and friends. Claims of hunger as a consequence of bad quality and insufficient quantity of food are heard. Decreasing budgets and increasing numbers of prisoners shrunk the amount allocated for food per prisoner from 4 euros to 3,5 euros per day. At one prison the bread has been rationed because the last inmates to arrive to the messhall get nothing. There are claims of growing violence both between inmates themselves, and security staff and inmates. The slow transfer of responsibility for inmate health care from the penitentiary system to the national health care system continues, while shrinking budgets result in some medical staff not being paid and others being fired. No information about what is going on is available to the public or to inmates.

# APPENDIX

## Appendix A

### <sup>1</sup>Prison Directors, Chiefs of Security and Responsibilities

In Portugal there is a traditional rivalry between prison directors and chiefs of security. The former have a much higher transfer-rate from prison to prison than the latter. The financial crisis has even led to some directors running several prisons at the same time. On the other hand, the typical chief of security is fulltime at the same prison. The cooperative strength of security staff is very clear. This is not the case when it comes to the prison directors. Director and chief of security have different powers which require them to cooperate if the process is to work, but this rarely happens. The importance of this cooperation, and thus the root of so many problems when it fails, can better be understood upon consideration of the fact that prison directors are responsible for: a) reporting any ill conditions presented by inmates at entry; b) supporting solutions to inmates' personal problems when staff are not able to do it; c) personally managing the process and conditions of commitment of each inmate; d) proposing whatever solutions may seem adequate to an inmate's specific situation; namely, proposing transfer to other prisons; e) deciding, via report, to forego the use of handcuffs in transportation of an inmate and authorizing the use of ambulance for the propose; f) confirming a judge's order of release and managing all proceedings; g) authorizing security search of the inmates' belongings without their presence; h) authorizing each inmate to keep personal belongings in the cell; i) authorizing inmates to clean; l) controlling the way inmates are dressed; m) authorizing ill inmates to eat in the cell; n) controlling canteen activities; o) regulating access to health care system; p) dealing with consequences of violent confrontations; q) giving access to healthcare files to the inmates, when requested; r) authorizing access to healthcare outside prison; s) deciding if coercive medical tests are to be administered when there is suspicion of contagious disease; t) managing the process of dealing with deaths inside prison; u) managing the process of dealing with hunger strikes; v) approving rehabilitation, training and scholastic proceedings proposed by the staff; x) determining what labour and occupational activities should be available to the inmates and who is able to participate; z) controlling the conditions of the working areas; aa) controlling of the circulation of documents in the library; ab) controlling the private social activities with the inmates; ac) directing, when necessary, access between lawyers and inmates; ad) controlling time of visit to inmates as well as materials that can be delivered to inmates; ae) controlling letters and other mail materials and telephone communications; af) deciding if and when to suspend a judge's leave authorization under suspicion of

illicit acts by the inmate; ag) proposing leave authorization upon request by inmates needing to deal with special personal problems outside the prison; ah) authorizing inmate to be given money to aid reintegration process upon release from prison; ai) deciding when to, and ordering a special count of the inmates; aj) authorizing strip searches (denuding) of inmates or searches of inmates' living areas by the security staff; al) authorizing the use of search dogs; am) regulating the way security staff develop special observation proceedings during the night; an) deciding separation of inmates, under justification; ao) deciding whether to use the security room for sick persons for 10 days, after which time the inmate should be transferred to a healthcare unit outside the prison; ap) receiving and dealing with inmates' infractions presented by the guards; aq) managing inquiries and disciplinary procedures; ar) reducing the minimum open air time from 2 to one hour per day when the situation inside prison requires it; as) receiving and dealing with inmate complaints, suggestions, and messages; at) deciding to promote an inmate to the lighter regime inside prison (RAI); au) proposing to promote an inmate to the lighter regime outside prison (RAE); av) proposing security regime for an inmate; ax) deciding to control the communication of an inmate with people on the visit or by telephone; az) regulating inmates' sport activities; and aaa) responsibility and control of the security regime, all of which are in part or completely dependent upon close collaboration with the chief of security. Thus it is easy to see how within the typical Portuguese penitentiary the factual power dysfunction between the director, who must exercise all of the listed duties, and the chief of security, who tends to actually control what goes on inside the prison, makes for a very compromised management dynamic.

<http://www.dgpi.mj.pt/sections/noticias/regulamento-geral-dos>

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With financial support from the  
Criminal Justice Programme of  
the European Union