



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**List of issues to be considered during the examination of the
fourth periodic report of PORTUGAL (CAT/C/67/Add.6)**

Article 2

1. Please indicate whether the Police Department Code of Ethics, adopted in 2002 by officials of the National Republican Guard (GNR) and the Public Security Police (PSP), explicitly prohibits torture and cruel, inhuman and degrading treatment.

Article 3

2. Please provide detailed information on Portuguese legislation on foreigners. In particular, please explain whether applicable domestic law provides an effective remedy against forcible return. In addition, please indicate whether an appeal made during the consideration of an asylum request has a suspensive effect.

3. Please furnish information on the treatment of persons detained under legislation on foreigners and provide a complete list of the places where such persons are held. Please also explain what measures, if any, have been taken to isolate such persons.

4. What guarantees exist for foreigners who are not admitted into Portuguese territory? In particular, how are such persons informed, in a language that they can understand, of the reasons for this measure, and of their right to be heard and to have the decision reviewed by an appropriate authority? Please indicate the maximum length of detention for persons arrested under Portugal's legislation on foreigners.

5. Please indicate if any complaints have been received since 2000 concerning acts of torture and cruel, inhuman or degrading treatment, including those resulting in unintentional homicide, committed during extradition, refoulement or expulsion procedures. If so, please provide

statistics and indicate what types of injuries the complainants sustained. What has been the outcome of the complaints in terms of prosecutions, sanctions, and compensation for the victims? Please give specific examples.

6. Please indicate in what cases Portugal may request diplomatic assurances from a third State to which it plans to extradite, return or expel an individual. Please also provide examples of cases in which the authorities were not able to extradite, return or expel individuals because there was a risk that they might be tortured. What information served as the basis for taking such decisions?

7. Please provide data, disaggregated by age, sex and nationality, for 2004, 2005 and 2006 concerning:

- (a) The number of asylum requests registered;
- (b) The number of requests granted;
- (c) The number of applicants whose requests were granted because they had been tortured or because they might be tortured if they were returned to their country of origin;
- (d) The number of forcible deportations or expulsions (please indicate how many of them involved rejected asylum-seekers);
- (e) The countries to which these persons were expelled.

8. Please provide information on the number of cases, if any, considered by the European Court of Human Rights, concerning the expulsion, return or extradition of foreigners from Portugal.

Article 4

9. Please indicate the number and nature of cases in which the provisions of criminal legislation concerning such crimes as attempted torture have been applied since 2000. Please also indicate the outcome of the consideration of such cases, the punishment imposed or the reasons for the acquittal decision.

Article 10

10. Please provide updated information on the instruction and training provided for law enforcement officers and other public officials with respect to human rights, in particular the treatment of prisoners and measures to prevent torture and other cruel, inhuman or degrading treatment. Please specify whether such instruction and training includes information on the Convention. How and by whom are such training and instruction programmes monitored and evaluated?

11. Please indicate whether there are specific programmes to train the medical personnel who are assigned to identify and document cases of torture and assist in the rehabilitation of victims.

Articles 11 and 16

12. Please provide information on legislation and practice concerning:

(a) The length of custody from the moment the person is arrested until he or she is brought before a judge;

(b) The registration of a person from the moment of his or her arrest until he or she is brought before a judge;

(c) The circumstances in which incommunicado detention may be ordered, the authorities competent to order it and the maximum length of such detention;

(d) The obligation of the public prosecutor to order, on his or her motion or at the request of the detainee, a forensic examination in cases where a detainee alleges to have been subjected to ill-treatment between the time of his or her arrest and his or her appearance before the judicial authority.

13. Following its visit to Portugal from 18 to 26 November 2003,¹ the European Committee for the Prevention of Torture indicated in its report that the right of every detained person to contact a close family member or a third party, as well as to have access to a lawyer and a doctor, from the beginning of his or her deprivation of liberty, was far from being guaranteed in practice. Please provide information on the measures taken with a view to guaranteeing this right to all detainees. Please also indicate if police officers are present when detainees meet with their lawyer, doctor or a member of their family.

14. Please provide information on any emergency or antiterrorist legislation that may limit the guarantees granted to detainees, particularly the rights referred to in the preceding paragraphs: the right to be heard by a judge as soon as possible, the right to contact family members and to inform them of the situation, and to have access to a lawyer and a doctor, from the outset of deprivation of liberty.

15. In its concluding observations of 17 September 2003 (CCPR/CO/78/PRT), the Human Rights Committee expressed its concern at the disproportionate use of force and ill-treatment by the police, occurring particularly at the time of arrest and during police custody and resulting, in some instances, in the death of the victim (para. 8). The Human Rights Committee also expressed concern that several persons have been shot dead by the police in recent years (para. 9). Please indicate the legislative, administrative and judicial measures that have been taken to eliminate police violence, prosecute the perpetrators of such acts and compensate the victims and, where appropriate, their families.

16. The Human Rights Committee also expressed concern at the excessive length of pretrial detention, which, in exceptional cases, can last for up to four years, and the fact that almost one

¹ Document issued under the symbol CPT/Inf (2007) 13 (Strasbourg, 25 January 2007).

third of the persons detained in Portugal are in pretrial detention. Please indicate what measures have been taken to amend legislation in order to ensure that persons in pretrial detention are tried within a reasonable time.

17. Both the European Committee for the Prevention of Torture in the aforementioned report² and the Human Rights Committee in its concluding observations (CCPR/CO/78/PRT, para. 10) expressed their concern at the ill-treatment and abuse of authority by prison staff against prisoners, as well as violence among prisoners, which in some cases have resulted in deaths. The European Committee for the Prevention of Torture has also drawn attention to the circulation of drugs in certain prison establishments, a factor that has contributed to the rise of violence among prisoners.³ Please indicate the measures taken to prevent both the ill-treatment of prisoners and violence among prisoners.

18. The two bodies referred to in paragraph 17 above have also expressed their concern at overcrowding in prisons⁴ and at the fact that pretrial and convicted detainees are not always held separately in practice (CCPR/CO/78/PRT, para. 11). Please provide information on measures taken to address these concerns.

Articles 12 and 13

19. Please indicate the number of cases in which officials responsible for enforcing the law have been subjected to judicial or administrative sanctions for ill-treatment of detainees.

20. Please indicate if persons placed in detention, in cases where their complaints of torture and ill-treatment are dismissed, have the possibility to submit their cases to the competent judicial authorities through private prosecution.

21. Please specify which independent body (bodies) is (are) responsible for visiting prison establishments in Portugal. Please indicate the frequency of visits since 2000, and the recommendations put forward by this body (these bodies) following such visits.

Article 14

22. Please indicate whether persons have received compensation following cases of torture or ill-treatment. If so, please indicate the number of such cases and describe the type of violence to which the persons in question were subjected.

23. Please indicate whether Portugal makes physical, psychological and social rehabilitation services available to victims.

² See CPT/Inf (2007) 13, paras. 42-44.

³ See CPT/Inf (2007) 13, paras. 49-51, 58, 136 and 139.

⁴ See CPT/Inf (2007) 13, paras. 67-69.

Other

24. Please provide information on the legislative, administrative and other measures that the Government has taken to respond to the threats of terrorism, and please describe if, and how, these measures have affected human rights safeguards in law and in practice.

25. Does Portugal envisage ratifying the Optional Protocol to the Convention against Torture? If so, has it established or designated a national mechanism to conduct periodic visits to places of detention in order to prevent torture or other cruel, inhuman or degrading treatment?

26. Please indicate whether Portugal has legislation to prevent and prohibit the production, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about the content and implementation of such legislation. If not, please indicate whether the adoption of such legislation is being considered.
