



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

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

**Combined fifth and sixth periodic reports of States parties
due in 2011, submitted in response to the list of issues
(CAT/C/PRT/Q/6) transmitted to the State party pursuant to
the optional reporting procedure (A/62/44, paras. 23 and 24)**

Portugal*, **, ***

[29 August 2012]

* The fourth periodic report of Portugal is contained in document CAT/C/67/Add.6; it was considered by the Committee at its 795th and 798th meetings, held on 14 and 15 November 2007 (CAT/C/SR.795 and 798). For its consideration, see CAT/C/PRT/CO/4.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

*** Annexes can be consulted in the files of the Secretariat.

Articles 1 and 4

Reply to the issues raised in paragraph 1 of the list of issues (CAT/C/PRT/Q/6)

1. According to Portuguese Legislation, an act shall be considered torture whenever committed in the conditions described in article 243 of the Criminal Code. The definition found in article 243 of the Criminal Code is sufficiently broad to cover discrimination. This article does not refer to the motives behind torture, thereby allowing for a broad scope of application.

Reply to the issues raised in paragraph 2 of the list of issues

2. The Provedor de Justiça is both Portugal's Ombudsman and National Human Rights Institution, with A-status accreditation since 1999. His/her main function is to defend and to promote the rights, freedoms, guarantees and legitimate interests of the citizens, ensuring, through informal means, that public authorities act fairly and in compliance with the law. The Ombudsman's broad mandate includes the protection and promotion of all fundamental rights, in relation to all citizens, naturally with a particular attention to the most vulnerable. In order to carry out his/her mission, the Ombudsman has, among others, the power to issue legislative and administrative recommendations, the power to act on his/her own initiative, the power to request a review by the Constitutional Court and the power to carry out inspection visits, with or without prior warning, to any area of activity of the central, regional and local administration – including civil and military prisons.

3. In a case of torture, while the Ombudsman would not be able to intervene from a criminal law perspective (i.e. investigate or prosecute acts with criminal relevance), he/she would be competent to take all possible measures falling within his/her powers to ensure that the competent authorities acted in a timely and adequate manner, so as to prevent or halt the situation and to ensure that the offender was punished on a criminal and/or disciplinary level. The Ombudsman would also be competent to suggest or recommend to the public authorities concerned the means which he/she considered adequate to prevent or remedy the situation and to ensure compensation and rehabilitation of the victim. If sufficient evidence of criminal, disciplinary or regulatory offences arose in the course of the proceedings, the Ombudsman would inform, as the case may be, the Public Prosecutor or the hierarchically superior authority competent to initiate disciplinary or regulatory proceedings.

Article 2

Reply to the issues raised in paragraph 3 of the list of issues

4. Article 80 of the Criminal Code establishes that both the time spent in detention and in preventive imprisonment shall be deducted from the duration of the sentence.

Reply to the issues raised in paragraph 4 of the list of issues

5. According to the Portuguese Code of Criminal Procedure, a criminal enquiry is started following the reporting of a crime. Enquiries where there has been investigation of facts related to the behaviour of the police forces must be notified, on a monthly basis, to the General Prosecutor's Office, as imposed by Circular 3/93, which is mandatory to all Public Prosecutors.

6. According to article 28 (1) of the Constitution of the Portuguese Republic, any person deprived of his/her freedom shall be presented, within 48 hours, to a Public

Prosecutor or to an investigative Judge. If a situation of physical assault occurred during the custody period, it shall be communicated to the Public Prosecutor, at least up to 48 hours after the facts. This will lead to immediate physical examination of the detainee.

7. During the enquiry phase, the medical legal expertise (forensic examination) of a detainee having alleged mistreatments is mandatory, since such situation might lead to an indictment against the perpetrator for having committed facts punishable by criminal Law. This expertise is an essential means of evidence, indispensable to the effectiveness of the criminal enquiry. (Police forces and other authorities are also bound to perform immediately any examination aiming at the preservation and recording of any remains, traces and evidence). This expertise has to be requested by the Public Prosecution, under penalty of nullity of the proceedings. Moreover, the police forces are legally bound to ensure medical care of detained persons.

8. As a rule, a medical examination is ordered in all cases of bodily injury, including cases where the injuries inflicted have allegedly occurred during detention.

9. In case of complaints for crimes against the physical integrity, in which the complainant referred the existence of recent injuries; or when it arises from the proceedings that such injuries occurred and that the injured person was assisted at the hospital, the National Institute for Legal Medicine and Forensic Sciences (NILMFC) systematically undertakes a forensic examination of the detainee.

Reply to the issues raised in paragraph 5 of the list of issues

10. Pretrial detention covers both the coercive measure applicable prior to the formulation of the accusation of a person and the same measure applicable prior to sentencing or after sentencing but prior to the application of a definitive and enforceable sentence (whenever an appeal is pending or is possible).

11. The concept underlying pretrial detention as provided for in the Code of Criminal Procedure relies on the principle of the presumption of innocence. All types of imprisonment are considered preventive, thus temporary, until a definitive and enforceable sentence is issued.

12. Differences between pretrial detention and detention of persons who have been tried are made clear by the criminal procedure law, for instance the conditions for the maximum length of time admissible for these different of imprisonment and the different nature of both concepts.

Reply to the issues raised in paragraph 6 of the list of issues

13. The amendment of the Code of Criminal Procedure in 2007 introduced the most important changes in recent years in the pretrial detention regime (custody on remand). The most relevant changes affect the range of crimes for application of pretrial detention, the introduction of the principle of necessity and the maximum time-limit for pretrial detention (the maximum time limits were reduced).

14. As a result of these amendments, a person cannot remain in pretrial detention more than:

- (a) Four months without accusation being pronounced;
- (b) Eight months without a decision on whether the instruction phase will take place;
- (c) Fourteen months without conviction in first instance;
- (d) Eighteen months without a *res judicata* conviction.

15. However, a substantial difference was introduced in Article 215 (6) of the Code of Criminal Procedure, in order to deal with pretrial detention following a conviction at first instance. Pursuant to the referred paragraph, when an offender has been sentenced to an imprisonment penalty by a first instance court and this sentence has been confirmed by an ordinary (as opposed to extraordinary) appeal, the time limit for the pretrial detention shall be raised to half the penalty that has been fixed.

16. Another important amendment regarding pretrial detention is the possibility given to the offender to ask for civil compensation whenever, not only when he/she was detained, arrested or subject to the obligation to remain in his/her home, and the deprivation of liberty was considered illegal, that deprivation was due to noticeable error regarding the facts but also when the offender was considered not to be the actor of the crime or was considered to have acted justifiably.

17. Another important amendment was the deletion of the suspension of the length of time for pretrial detention when an expert opinion has to be asked. However, the hospitalization of the offender, whenever his/her presence is crucial to the continuity of the investigation remains a cause for suspension of the length of time of pretrial detention.

Reply to the issues raised in paragraph 7(a) of the list of issues

18. Portuguese law does not allow for incommunicado detention. There are however certain cases where the right of the detainee to contact some persons or to disclose/to have access to information can be limited due to security demands or due to the duty of secrecy during the criminal procedure (especially during the investigation phase).

19. In the cases of terrorism, violent and highly organized crime, article 143 of the Code of Criminal Procedure explicitly provides that, by order of a Public Prosecutor, the offender may be prevented from communicating with other persons before the first judicial interrogation, except for his/her lawyer.

Reply to the issues raised in paragraph 7(b) of the list of issues

20. Please refer to the response to Question 7 (a).

Reply to the issues raised in paragraph 7(c) of the list of issues

21. The right to appeal against any illegal act is guaranteed by the Portuguese Constitution and the criminal procedure Law. Any person who has not been allowed to exercise his/her right to communicate with others may appeal against such a measure.

22. For statistics, disaggregated by sex, age and ethnicity on the persons held in detention incommunicado and the number of cases of detention incommunicado that have taken place since the consideration of the previous report, please refer to the response to Question 7 (a).

Reply to the issues raised in paragraph 8 of the list of issues

23. The Portuguese juvenile justice system complies with international standards, namely the 1985 United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the Convention on the Rights of the Child and other international instruments on juvenile justice to which Portugal is bound (Beijing Rules, Riyadh Guidelines, United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Council of Europe Recommendation No. R (87) 20).

24. The Portuguese Government developed several initiatives in order to give substance to new guidelines in the field of the Administration of Juvenile Justice. The idea was to separate and give different treatment to children and youngsters at risk from that given to

youngsters who are starting or developing a criminal career. This led to the approval of Law nr. 147/99 on the Protection of Children and Youngsters at Risk, and Law nr. 166/99 on Educational Guardianship that entered into force on 1 January 2001.

25. Children aged 16 and over benefit from full protection of their rights in the context of juvenile justice proceedings. Decree-Law nr. 401/82 provides for full protection of their interests and is based on the need of their future reintegration.

26. Furthermore, efforts are being made to provide juvenile detention centres with adequate conditions to accommodate pregnant youngsters and those who give birth while in detention, and prepare them for their new role as mothers. According to the current Code on the Enforcement of Sanctions and Measures Involving Deprivation of Liberty, children up to three or, exceptionally, five years of age, may stay with the mother provided that the other parent consents thereto and that this is deemed to be in the best interest of the child.

Article 3

Reply to the issues raised in paragraph 9 of the list of issues

27. As a European Union member State, Portugal has implemented the European Arrest Warrant since 1 January 2004. The difference between this form of international cooperation in criminal matters and the traditional form – extradition – is the absence of political intervention, the entire procedure of surrender between Member States being fully judicial. Since most of the requests related to international surrender of persons are presented to and by other European Union member States, more than 90 per cent of international surrenders to and from Portugal are done in accordance with Framework Decision 2002/584/JHA. Portugal surrendered 89 persons in 2007, 60 persons in 2008, 61 persons in 2009 and 73 persons in 2010. Overall, there are around 15 extradition cases per year, most of them with Brazil.

28. In 2010, a total of 720 foreign nationals were removed by coercive measures. Because their stay was irregular, 418 were subject to an administrative process of expulsion (article 149 of Law nr. 23/2007 of 4 July) and 169 were conducted to the border (article 147 of Law nr. 23/2007). 133 foreign nationals were removed in compliance with judicial decisions based on an accessory sentence of expulsion (article 151 of Law nr. 23/2007).

29. In 2009, 779 foreign nationals were removed. Of this total, 423 foreign nationals were removed via a process of administrative expulsion and 189 were conducted to the border. Finally, 167 were removed within the scope of a judicial suit. In 2008, 784 foreign nationals were removed: 452 through administrative expulsion, 120 were conducted to the border and 212 were subject to judicial expulsion.

Reply to the issues raised in paragraph 10 of the list of issues

30. The facts pertaining to the alleged involvement of the Government of Portugal in the so called “renditions and secret detention” practice through the use of airports in Portugal by CIA operated planes transporting victims of rendition are the following:

- Apart from the usual overflight and landing authorisations issued to the aircraft operators upon their request, either under bilateral agreements, including those with the United States, or international conventions to which Portugal is party, the Portuguese authorities never issued nor did they receive any overflight or landing authorization requests for aircraft of the type allegedly used to transport victims of rendition in violation of national or international law;
- After checking all the relevant documentation and contacting the national technical services, it can be officially stated that we have no evidence of entry into or flight

within Portuguese airspace of any aircraft of the type allegedly used to transport victims of rendition in violation of national or international law.;

- The United States has, with regard to this matter, assured the Portuguese Government that there was never any offence of the Portuguese State's sovereignty within its national territory nor any violation of bilateral agreements or international law. The Portuguese Government has no reason to doubt the veracity of the declarations of the United States authorities.

31. Portugal has in place strict control mechanisms regarding transiting aircraft and has always fully complied with them. Such control mechanisms are effective in ensuring that airports in Portuguese territory are not used to transport victims of rendition. The procedures and the competent national authorities differ depending on the type of flights, whether they are State or military or simply civilian, but they comply with international law in all cases.

32. Besides the internal information-gathering efforts to reply to the Council of Europe and the European Parliament inquiries, which involved the Ministry of Home Affairs, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of National Defence, the Ministry of Justice and the Ministry of Public Works, Transport and Communications, a specific investigation was undertaken by the Public Prosecutor.

33. The Public Prosecutor is the State body entrusted with representing the State, prosecuting, as well as defending democratic legality and any other interests determined by law (Article 1 of the Statute of the Public Prosecution Service). Nowadays the Service is organised as a branch of the Judiciary that is autonomous in two senses: it is an independent body and thus shielded from interference by the political power as regards criminal prosecution; the concept of the Public Prosecutor as a separate branch of the Judiciary, guided by a principle of separation and parallelism in relation to the other branches of the Judiciary.

34. An inquiry was opened in February 2007 and conducted by the Central Department for Criminal Investigation and Prosecution, which is the body operating under the Office of the Attorney General, responsible for the coordination, investigation and prevention of violent, highly organised or particularly complex crimes. The aforementioned inquiry was concluded in June 2009 due to lack of evidence.

Reply to the issues raised in paragraph 11 of the list of issues

35. Preliminary note: Due to legal constraints Portugal does not collect data based on ethnicity. In order to meet the Committee's request, we have included data based on nationality wherever possible.

36. The data provided fully respects the principle of statistical confidentiality and the rules defined by EUROSTAT on public disclosure of asylum disaggregated data. The figures provided are rounded to the closest multiple of five and, therefore, global totals may not correspond to the sum of the disaggregated data disclosed (on nationality and gender).

Reply to the issues raised in paragraph 11(a) of the list of issues

37. The number of asylum applications registered: 2008 – 160; 2009 – 140; 2010 – 160. Please see Annex 1.

Reply to the issues raised in paragraph 11(b) of the list of issues

38. National legislation does not permit detention on the grounds of asylum request. The existing cases of arrest relate to individuals who are detained in temporary detention centres before they apply for asylum, on grounds of former expulsion proceedings for irregular

permanence and in cases where the relevant court decides to maintain detention until the moment when a final decision on the asylum application is reached. In any case, one must note that an expulsion decision cannot be executed before a final decision on the asylum application is reached.

39. The number of individuals in Temporary Detention Centres on grounds of former expulsion proceedings for irregular permanence who at a later stage presented an asylum request was the following: three in 2008, six in 2009 and five in 2010. Given the small number in these situations, disaggregation by nationality and/or gender is not disclosed because it could jeopardize the principle of statistical confidentiality.

Reply to the issues raised in paragraph 11(c) of the list of issues

40. Please see Annex 2. Refugee Status: 2008 – 15; 2009 – 5; 2010 – 5.

Subsidiary Protection Status: 2008 – 70; 2009 – 50; 2010 – 50.

41. Data on applications with a favourable decision encompass the granting of refugee status (in accordance with the principles of the Geneva Convention) and the granting of a residence permit on humanitarian grounds (in accordance with the legal framework of subsidiary protection beyond the scope of the Geneva Convention – article 7 of the Asylum Law). Additionally, and pursuing the national policy on hosting and supporting beneficiaries of international protection (Council of Ministers Resolution nr. 110/2007 of 12 July) Portugal has been receiving – for resettlement purposes – refugees under the protection of the United Nations High Commissioner for Refugees (UNHCR) who are in third countries: 2008 – 11; 2009 – 30; 2010 – 33.

Reply to the issues raised in paragraph 11(d) of the list of issues

42. Statistical data concerning the reasons leading to the acceptance of asylum applications are not available. Nonetheless, on an empirical basis, one may say that none of the accepted asylum applications were granted on the grounds of torture or fear of torture if returned to the country of origin.

Reply to the issues raised in paragraph 11(e) of the list of issues

43. There are no registered cases of refoulement or expulsion.

Articles 5 and 7

Reply to the issues raised in paragraph 12 of the list of issues

44. No such case has occurred.

Article 10

Reply to the issues raised in paragraph 13(a) of the list of issues

45. Portugal has a system in place that offers sufficient guarantees that all alleged cases of torture, ill-treatment and disproportionate use of force by police forces are fully and promptly investigated and that those found guilty are punished.

46. The Criminal Police and the Directorate General for Prison Services (DGSP) are monitored by the Inspectorate General of Justice Services (IGSJ). The Criminal Police established a Disciplinary and Inspection Unit which is responsible for the conducting of disciplinary enquires and internal investigations in the framework of the disciplinary

powers of the Criminal Police. This Unit is as well responsible for internal inspections, in order to submit proposals for appropriate measures in the field of the work organization, performance and professional skills of the criminal Police officials.

47. The Directorate-General for Prison Services has an Audit and Inspection Service (SAI), coordinated by Public Prosecutors. All the ill-treatment allegations are investigated and, being the case, those responsible are subject to punishment, which could be from disciplinary or criminal nature.

48. Within the Criminal Police since 2009, the experts in criminal identification in the Scientific Police Laboratory have instructions to signal all situations that may constitute torture or inhuman treatment in the framework of identification activities. The questionnaires they must fill in provide for reference to torture. Those experts have the duty to report any signs of abnormalities discovered during the mentioned identification procedure. On the other hand, all training provided to experts in the area of judiciary identification, either initial or continuing (such as the “criminalist week” that took place in 2010) is directed for the compliance of best practices, including the identification of specific signs of torture.

49. The Inspectorate General for Home Affairs (IGAI) is the central high level body of inspection and supervision of all the forces and entities under the Ministry of Home Affairs (MAI), namely the National Republican Guard (GNR – Guarda Nacional Republicana), the Public Security Police (PSP – Polícia de Segurança Pública) and the Immigration and Borders Service (SEF – Serviço de Estrangeiros e Fronteiras). It carries out inspections without prior notice of police stations and other sites in order to ensure the rights of citizens in detention and compliance with legal rules. (Please see Annex 3).

50. Between 2008 and 2011, inspection measures did not point to any violation of or non-compliance with the described legal obligations and the detentions which occurred were communicated, by fax, to the judge or the competent Public Prosecutor, as a rule within two hours, the time necessary to record all the mentioned documents relating to the detention.

51. On the whole, between 2008 and 2011, 504 inspections without prior notice were carried out and, in this context and for that period of time, no situation was detected where excessive use of force was exerted by the police.

52. The National Republican Guard (GNR) and the Public Security Police (PSP) are subject to the Code of Ethics of the Police Forces, published in the Official Gazette, I B-series nr. 50, dated 28 February 2002, where, under the heading “Respect for the fundamental rights of the human person”, article 3, nr. 2 prescribe: “Especially (the members of the Security Forces) must not, under any circumstances, inflict, instigate or tolerate cruel, inhuman or degrading acts.

53. The Ombudsman also carries out inspections of places of detention and investigates cases, either pursuant to complaints or on his own initiative. (See answer to question 2, Articles 1 and 4). Lastly, the Criminal Police is monitored by the Inspectorate General of Justice Services.

54. As regards the establishment of an independent institution responsible for supervising the acts of the police, we continue to consider that the above-mentioned IGAI performs this function with the necessary degree of independence. In order to ensure the necessary independence of these duties, the positions of Inspector-General and of Deputy Inspector-General are filled by a senior judge (Juiz Desembargador) or prosecutor (Procurador-Geral Adjunto). Inspectors are also recruited from judges and public prosecutors.

55. All Portuguese law enforcement officials are permanently subject to awareness-raising action regarding relevant human rights questions such as racial discrimination, the use of violence and the constitutional and legal principles of necessity, adequacy and proportionality in the performance of its tasks.

56. The Criminal Police devotes special attention to the training of its officials in matters such as human rights. Therefore, in the Criminal Police School (EPJ) "Ethics and Professional Conduct" is a subject of the initial training course. This subject has a duration of 30 hours and includes human rights matters such as the analyses of several international conventions and other legal instruments. Specific training sessions are also organized, including presentations and seminars where institutions and relevant personalities in the area are invited to deliver presentations, such as Amnesty International. In the continuing training, several regular sessions on human rights take place and include representatives of the Bar Association and the European Court. These sessions have a duration of 18 hours per year.

57. Such matters are included in the curricula of the training courses provided by the Criminal Police School (EPJ) both in the initial training and advanced training as well as in the permanent training sessions of the Criminal Police Inspectors. The knowledge of human rights issues is included in the evaluation and selection of candidates for the Criminal Police, as well as the training of officials.

58. A similar situation occurs in the Public Security Police (PSP), the National Republican Guard (GNR) and Immigration and Borders Service (SEF). In their respective training institutions, the respect for fundamental rights and for human rights is also included in the curricula for all training activities (initial and continuous). The constitutional and legal principles of necessity, adequacy and proportionality in the use of force are key to all training programmes. The Institute of Police Sciences and Internal Security (ISCPSI) was the first education institution to have a specific course on fundamental rights (60 hours of training) as a separate course.

Reply to the issues raised in paragraph 13(b) of the list of issues

59. Please see the answer to question 13 (a).

60. Matters related to the evaluation of cases of torture or ill-treatment are included in the curricula for all specialists in legal medicine. The four-year training period includes body damage evaluation and forensic pathology matters. The evaluation of cases of torture or ill-treatment is a matter of specific study and investigation.

61. All the forensic specialists are trained to detect and evaluate such situations and are prepared to deal with the specific issues of this problem. Also, all of them are obliged to do a post-graduation course, where the questions of torture or ill-treatment are fully analyzed. Scientific seminars are also organized by the National Institute of Legal Medicine and Forensic Sciences, mainly due to the experience of some of their specialists who are regularly invited to international missions to other countries. These forensic specialists frequently give conferences and organize scientific meetings about those matters.

62. The 1999 Istanbul Protocol is part of a handbook on fundamental rights which has been translated into Portuguese and is an integral part of the training provided to the physicians.

Reply to the issues raised in paragraph 13(c) of the list of issues

63. Please see the answer to question 13 (a).

64. All the forensic specialists are evaluated during and at the end of the four-year training period for the specialty of legal medicine. This training programme includes the

identification of situations of torture or ill-treatment. Furthermore, the post-graduation course that all the forensic specialists must undergo includes matters referring to torture and ill-treatment.

Reply to the issues raised in paragraph 13(d) of the list of issues

65. Please see the answer to question 13 (a).

Article 11

Reply to the issues raised in paragraph 14 of the list of issues

66. As previously reported the Code of Criminal Procedure establishes interrogation and inquiry rules (article 124 *et seq*).

67. The matter of enforcement of sentences and measures of deprivation of freedom was subject to a thorough reform resulting in the adoption of the new Code for the Enforcement of Sentences (Law nr. 115/2009), and complemented by the General Regulation for Prison Facilities (Decree-Law nr. 51/2011), and the Regulation on the Use of Coercive Measures (Order of the Director-General for Prison Services, of 3 September 2009).

68. This reform was based on recommendations issued by both domestic and international entities including those of the Committee against Torture. The main lines of this reform are the following:

- (a) Strengthening of the guarantees of the detainee;
- (b) Higher control of the acts practiced by the Prison Administration, through wider intervention of the Court for the Enforcement of Sentences;
- (c) Innovation of disciplinary proceedings against the detainees, reinforcing its defense guarantees;
- (d) Strengthening the individualization principle, that is based on the evaluation of the needs and risks inherent to each detainee in order to determine his/her specific prison treatment.
- (e) A clear and typified definition of the special means of security that can be used in prison facilities;
- (f) The evaluation of the needs to protect witnesses;
- (g) Raising awareness for more involvement of the community in the enforcement of sentences.

69. A new Regulation applicable to all detention facilities existing within the Judiciary Criminal Police and under its administration, within courts and public prosecution services was approved by the Minister of Justice (Order nr. 12786/2009). According to Article 3 of the above-mentioned Regulation, any person deprived of his/her liberty should be immediately informed in a comprehensible manner of the reasons for the detention and of his/her rights. It is mandatory to visibly post, in detention facilities, a panel with information on the rights and obligations of detainees.

70. This information must also be compiled in a leaflet available in different languages summing up those rights. This leaflet is handed out to anyone who is detained. The information on the right to a lawyer and to communicate with a family member, person of trust, embassy or consulate as well as the delivery of the above-mentioned leaflet must be documented. A statement is drafted indicating that the detainee has been informed. This statement must be signed by the detainee and the absence of such a signature should be

duly accounted for. All the information must be provided in a language understandable by the detainee and whenever necessary, an interpreter must be present.

Reply to the issues raised in paragraph 15(a) of the list of issues

71. Training is considered the main tool to prevent ill-treatment of detainees and therefore efforts have been made to improve it and the content of courses, particularly those targeted at Prison Guards.

72. Initial training for prison guards has been prolonged to six months and, inter alia, matters referring to the human rights of the detained person are addressed. External entities and organizations are invited to deliver presentations in these training sessions.

73. In the last Initial Training Course for Prison Guards, Human Rights issues were specifically addressed, for three hours, in a Seminar on “Relevant legal norms and international principles on Human Rights”. Human Rights, insofar as they influence, guide and find expression in our own national legal order, have also been addressed throughout the Course in the scope of different subjects. As a paradigmatic example, it should be referred that, as regards the coercive means used and prior to the development of such matters, Human Rights are usually contextualized and re-enhanced.

74. In the next Course, to begin this year and whose programme is not yet concluded, it is intended to increase the number of hours of this unit, so that this subject can be extensively covered and further developed.

75. The unit “Relevant legal norms and international principles on Human Rights” was delivered by a Portuguese Prosecutor, acting on behalf of Portugal on the European Committee for the Prevention of Torture. In the next Initial Training Course for Prison Guards, several lecturers from Amnesty International will address Human Rights matters.

76. In addition to other normative and international instruments, the European Prison Rules were also referred to and presented in the aforesaid Seminar.

77. The continuous training for all officials and prison guards covers many different fields and subjects. Such matters are contextualized, as a rule, in the legal order and in the international rules, especially if they refer, in particular, to human rights issues. In the near future, it is intended to carry out, with the collaboration of non-governmental organizations, such as Amnesty International, training courses specifically addressing Human Rights matters. It should be highlighted that, in the scope of the Conference of Ministers of Justice of Ibero-American Countries (COMJIB), Portugal, through the Directorate General for Prison Services (DGSP), is part of a Working Group entrusted to elaborate a training course on Human Rights, in a system of e-learning; the aim is provide, in this field, better and extensive training to all the staff belonging to the prison system as well as to other relevant professionals.

78. Regarding the prevention of ill-treatment against prisoners and the prosecution or sanction of the offender according to the case, the recommendations issued regarding those procedures aiming at regulating the situations of alleged ill-treatment, reset legality or improve both conditions and procedures may lead to the following consequences:

- (a) Opening an investigation procedure by DGSP;
- (b) Opening of a disciplinary procedure;
- (c) Change of proceedings in that particular prison facility;
- (d) Clarification of the situation reported;
- (e) Complaint not proven and/or filing (impossibility to produce evidence).

79. The Centre for Judicial Studies (CEJ) usually adopts a systematic approach on Human Rights issues in the annual plans of initial training for judges and prosecutors, in particular in its Fundamental Rights and Constitutional Law course. The continuous Training Plan and complementary courses for the year 2011/2012 also comprise several subjects in the Human Rights area.

80. The Ombudsman also carries out inspection visits to prisons, either pursuant to complaints or on his own initiative.

Reply to the issues raised in paragraph 15(b) of the list of issues

81. Studies that were carried out show that drug problems are one of the key reasons for violence among inmates. A first Programme for Combating the Entrance and Circulation of Narcotic Drugs and other Illicit Substances in Prison Facilities was launched in 2009 and has achieved positive results.

82. Since 2009 several specific programmes were created, namely the programme directed at sex offenders; the programme directed at detainees convicted for road offences; the programme for the prevention of relapse; the programme for emotional competences; and the programme for the prevention of suicide. In 2010, 522 detainees benefitted from these programmes.

Reply to the issues raised in paragraph 15(c) of the list of issues

83. Please see answers to question 14, 15a and 15b.

84. For updated information on the impact of these measures in reducing cases of ill-treatment by prison staff and inter-prisoner violence, please see answers to questions 14, 15 (a) and 15 (b). Considering that most of the measures taken to prevent ill-treatment and violence were launched in 2008/2009 their impact is not yet measurable.

Articles 12 and 13

Reply to the issues raised in paragraph 16 of the list of issues

85. The Inspectorate General of Home Affairs (IGAI) received two torture complaints in 2008 and the respective files were closed with the proposal of disciplinary punishment for the agents involved. In 2009, the IGAI received only one torture complaint which has not been proven; therefore the case was closed. In 2010 the IGAI received one complaint and forwarded it to the competent service for investigation.

86. Regarding the total number of complaints within the Ministry of Justice, the Inspectorate General for Judicial Services received 311 complaints in 2009 and 301 complaints in 2011. With regard to torture and ill-treatment complaints, the IGSJ received 29 complaints in 2009-2010, where the investigation carried out was concluded for lack of evidence of the alleged facts.

87. Within the Directorate General for Prison Services 55 complaints were received in 2009. Fifteen of them resulted in disciplinary procedures and 11 have been communicated to the Public Prosecution. Two sanctions have been applied – censure by writing. In 2011 48 were received, 9 resulted in disciplinary procedures and 9 were communicated to the Public Prosecution. Six procedures are still pending. The sanctions applicable were – one suspension of functions, one monetary fine.

88. The Criminal Police received in 2008 one complaint of torture and one complaint based on the conduct of police officials, which have been filed due to the lack of evidence. During 2009, there was one complaint of torture that was sent to the Public Prosecution.

Regarding the year of 2010 and the first six months of 2011 there were no complaints of torture or ill-treatment.

89. Please see Annex 4.

Reply to the issues raised in paragraph 17 of the list of issues

90. Law nr. 49/2008, on the organization of criminal investigation determines that the Criminal Police has exclusive competence to investigate crimes against personal integrity and that competence cannot be delegated to other police forces (Article 7 (2)).

91. The offence of torture provided for in article 243 et seq of the CC is included in the Chapter pertaining “Crimes against cultural identity and personal integrity”. Consequently, being a crime against personal integrity, torture is explicitly included in the list of crimes which the Criminal Police is exclusively responsible to investigate.

92. Law nr. 17/2006 approved the Framework Law of Criminal Policy and Law nr. 38/2009 defined the objectives, priorities and orientation of criminal policy for the years 2009-2011.

93. Article 3 of Law nr. 38/2009, identifies the crimes that are of priority for prevention. Within the crimes against cultural identity and personal identity, torture and cruel, degrading and inhuman treatment are considered to be priority crimes for prevention and investigation.

Article 14

Reply to the issues raised in paragraph 18 of the list of issues

94. There is no available data on redress and compensation measures especially disaggregated by crimes of torture. However, general data on compensation following requests filed within the Commission for the Support of Victims of Crime were 434.078,44 € in 2007, 1.046.496,00 € in 2008 , 729.911,05 € in 2009 and 506.011,98 € in 2010.

Article 16

Reply to the issues raised in paragraph 19 of the list of issues

95. The use of electric “taserX26” weapons and electric devices is regulated by Decree-Law nr. 457/99 on the use of firearms by police forces. This law establishes, inter alia, the principles of necessity and proportionality according to which the use of a firearm is only allowed in cases of strict necessity, as an extreme measure, whenever other less dangerous means are ineffective and as long as its use is proportionate to the circumstances. In those cases, the agent shall try to reduce the damage to the minimum possible and respect and preserve human life. All incidents with firearms shall be immediately communicated to a superior officer.

96. The Public Security Police (PSP) has defined the limits of coercive measures, providing a set of principles about the use of those means: respect for legality; necessity; adequacy; prohibition of excess, and proportionality. The reasonable and appropriate level of employment of coercion is always evaluated in accordance with rules of prudence, moderation and common sense and depends on the specific conditions that characterize a specific situation. Police staff have specific training on this issue, taught by specialists, and there is a certification for future operators. After the certification of the operators, the weapons are available in the Material Section, in the case of PSP, with specific rules for

withdrawal and deposit. Training by international experts is also held on the risks of using the weapons. These weapons are only used, in the case of PSP (which has 68 guns), in the Lisbon Metropolitan Command, the Intervention Group (25, 10 of which were assigned to detachments in Porto and Faro), the Special Operations Group and the Personal Security Group.

97. In the case of the National Republican Guard (GNR), the use of these weapons (18) is limited to the Company of Special Operations Unit, taking into account special care in its use and the high level of danger of these operations. The GNR has also defined specific rules on the situations and conditions under which these weapons may be used.

98. The Criminal Police has eight “taserX26” weapons and only four have been allocated and never used. The Directorate General for Prison Services is also entitled to use “TaserX26” weapons. It must be stressed that these weapons can only be used with prior authorization by the Director of the Prison Facilities, on a case-by-case basis. Prison guards do not use these weapons in their daily service. In any case, whenever this type of weapon is used, medical supervision is mandatory. Moreover, there is an electronic register to control the use of the weapon which is mandatory (namely to determine the length of the discharge).

Reply to the issues raised in paragraph 20 of the list of issues

99. The practice of “slopping out” has been eradicated. Nowadays, all penitentiary facilities are equipped with sanitary facilities in the housing spaces.

100. Within the Framework of the “Reform of the Penitentiary Setting” some prison facilities were closed. Due to budgetary constraints the “Reform of the Penitentiary Setting” was slowed down. Nevertheless there is a commitment to enhance prison conditions. At the moment extensive work is being carried out in five of the major prison facilities (Angra do Heroísmo, Caxias, Linhó, Alcoentre and Viseu) aiming at achieving better conditions as well as to increase prison capacities by around 1,000 places. In order to maintain an appropriate prison occupancy rate ongoing work is also taking place in three other prison facilities.

Reply to the issues raised in paragraph 21 of the list of issues

101. All custodial measures referred to in Article 145 of the Educational Guardianship Law are fulfilled in Educational Centres. In Portugal, young people between the ages of 12 and 16 years old who are indicted for having committed crimes are detained in their own facilities, separated from adults, with specific intervention for the right education and training and skills acquisition for integration into society.

102. Please see the answer given to question 8, regarding the special regime for the detention of minors in prison facilities.

103. The rule is the separation of juvenile offenders (16 to 21 years old) from adult offenders. In Leiria there is a prison facility especially for juvenile offenders and whenever possible there are special wings for those offenders in other prison facilities.

104. Moreover, a National Network of Educational Guardianship Centres was put in place with eight centres to enable the implementation of judicial decisions on juvenile detention measures in an enclosed environment.

Reply to the issues raised in paragraph 22 of the list of issues

105. The Code on the Enforcement of Sanctions and Measures Involving Deprivation of Liberty clearly establishes that the inmate is, for all purposes, a user of the National Health Service. Prison services have doctors and nurses among their staff and ensure the daily

presence of nurses, as well as the assistance of general practitioners and of doctors from various specialties. There is also a Prison Hospital.

Reply to the issues raised in paragraph 23 of the list of issues

106. In Portugal, Female Genital Mutilation (FGM) is a crime (although not autonomously) under Articles 144 (serious offence to physical integrity) and 145 (qualified offence to physical integrity) of the Portuguese Criminal Code. Article 144 b) of the Criminal Code punishes, inter alia, serious offences to the body or health of another person hindering or affecting in a serious way the capacity to procreate or sexual fruition, thus including female genital mutilation. The penalty for this crime may vary between 2 to 10 years imprisonment and the allegation of tradition or customs in defense of this practice does not hold.

107. On 6 February 2009 Portugal made a political commitment regarding the elimination of Female Genital Mutilation¹ and approved the I Programme of Action for the Elimination of FGM. The programme aimed to promote human rights, the right to health, the right to physical integrity, immunity from any form of torture or cruel treatment or punishment. The Action Programme also sought to mobilize and engage all relevant stakeholders (Government, Parliament, civil society and the media) for the elimination of FGM, both in Portugal and in other countries where FGM is practiced. The Commission for Citizenship and Gender Equality (CIG) was responsible for the overall coordination of implementation of the I Programme of Action.

108. On 8 February 2011, the II Programme of Action for the Elimination of Female Genital Mutilation (2011-2013) was adopted. This Programme of Action has identified the following five types of measures: Awareness Raising and Prevention; Victim Support and Integration; Training; Knowledge and Academic Research; Advocacy. Significant investment has been made in awareness-raising, information and training activities of several target-groups (health professionals, social workers, health, domestic violence, immigration, sexuality hotline professionals, teachers, students at secondary and superior levels, general public).

109. An information leaflet on FGM was drafted. This leaflet provides information on the medical and legal consequences of FGM and identifies the services and institutions prepared to assist victims and direct requests for medical and psychosocial support needed to protect those at risk. The leaflet was widely distributed amongst girls, women and families at risk, victims of FMG, health professionals, education services, social services, justice services, central government authorities and local religious and community leaders, among others. The issue of FGM was included in various information and training materials on gender equality and inter-culturalism.

110. The national law on the Protection of Children and Young People (Law nr. 147/99) requests the local Commissions for Protection of Children and Young People to act in FGM cases. FGM is included in the Asylum Legislation as a reason for granting asylum.

1 This programme was drafted by an Inter-Departmental Group that included the Portuguese Institute for Development Support (IPAD), the High Commissioner for Immigration and Intercultural Dialogue (ACIDI), the Commission for Citizenship and Gender Equality (CIG), the Institute of Employment and Vocational Training (IEFP), the Ministry of Health, the Directorate General for Innovation and Curriculum Development/ Ministry of Education, the International Organization for Migration (IOM), the Community of the Portuguese Speaking Countries (CPLP), the NGO Association for Family Planning (APF), the NGO Union of Women and Alternative Response (UMAR) and the NGO Uallado Folai Association.

111. There is no official data on FMG in Portugal. Nonetheless, national authorities are aware of this problem and the Portuguese Government plans to take measures to obtain such data.

Reply to the issues raised in paragraph 24(a) of the list of issues

112. The National Commission for Citizenship and Gender Equality (CIG) coordinates the implementation of the Fourth National Action Plan against Domestic Violence 2011-2013, approved the Council of Ministers' Resolution nr. 100/2012. This Plan focuses on violence inflicted on women, irrespective of their race or ethnic origin, age, religion, disability, sexual orientation or gender identity in their domestic environment and integrates policies to prevent and combat this phenomenon. It takes a cross-cutting approach with a particular emphasis on awareness and information campaigns to promote a culture for citizenship and equality, training, and support and shelter of the victims through reintegration and autonomy.

113. The Plan provides for concerted action between public authorities and NGOs and has five strategic areas of intervention: (1) Informing, raising awareness and educating; (2) Protecting victims and promoting social integration; (3) preventing future crimes intervention with offenders (4) Qualifying professionals; (5) Investigating and monitoring the domestic violence phenomenon.

114. In legal terms, it is also worth mentioning that with the 2007 revision of the Criminal Code, under Article 152 domestic violence became an autonomous and typified crime punishable by 1 to 5 years of imprisonment. This penalty can be further aggravated to a maximum of 10 years under certain circumstances. The revised criminal code clearly defines physical and psychological abuse. Furthermore, the concept of victim was widened in order to include violence against ex-spouses or persons with whom the aggressor maintains or has maintained a spousal relationship even if living in separate households.

115. The two laws set the framework of priorities and guidance of criminal policy (Law nr. 51/2007 for the period 2007-2009 and Law nr. 38/2009 for 2009-2011) and place domestic violence among the priorities of criminal investigation and prevention.

116. The legal framework was further enhanced and completed in September 2009 with the adoption of a Law on compensation to victims of violent crimes and domestic violence (Law nr. 104/2009) and another Law on the legal regime applicable to the prevention of domestic violence and to the protection and assistance to its victims (Law nr. 112/2009)

117. The objectives set forth in the latter are as follows:

(a) Develop awareness-raising policies in the areas of education, information, health and social support providing the public powers with adequate instruments to achieve these goals;

(b) Establish the rights of the victims, ensuring their speedy and efficient protection;

(c) Create protection measures with a view to prevent, avoid and punish domestic violence;

(d) Establish an integrated response from the emergency and victim support social services, ensuring quick and efficient access by the victim to these services;

(e) Ensure the rights of workers who are victims of domestic violence;

(f) Ensure the economic rights of the victim of domestic violence in order to facilitate her/his autonomy;

(g) Create public policies aimed at guaranteeing the protection of the rights of the victim of domestic violence;

(h) Ensure speedy and efficient police and jurisdictional protection to the victims of domestic violence;

(i) Ensure the application of restraining measures and criminal responses that are adequate to the perpetrators of the crime of domestic violence, promoting the application of complementary prevention and treatment measures;

(j) Encourage the creation and development of civil society's associations and organizations aimed at acting against domestic violence, promoting their cooperation with the public authorities;

(k) Ensure the delivery of adequate health care to the victims of domestic violence;

(l) Enlarge the concept of domestic violence to same-sex partners.

118. This new Law includes some innovative provisions, both in terms of victim protection and in terms of prosecution and conviction of perpetrators, namely:

(a) Grants judiciary support of an urgent nature, whenever the victim cannot afford to pay for a lawyer, in the terms of the law;

(b) Ensures that the victim will have, whenever possible, the same representative or public defender when the same fact leads to various legal processes;

(c) Gives an urgent nature to the legal processes for crimes of domestic violence;

(d) Allows the possibility for the police to arrest the aggressor even when not caught in the act whenever: (1) there is the danger of repeating the criminal activity or whenever it is deemed essential for the protection of the victim and (2) when it is not possible to wait for the intervention of the judiciary authority, due to the urgent nature of the situation and the danger of delaying the arrest;

(e) Establishes a maximum delay of 48 hours for the court to consider the application of several measures, in addition to those provided for in the Code of Criminal Procedure, to the aggressor who has been declared an "arguido" (person suspected of having committed a crime) for the crime of domestic violence, with the aim of guaranteeing the protection of the victim. These measures might include a prohibition on acquiring and using arms, the obligation to immediately hand over arms or other objects capable of facilitating the proceeding of the criminal activity, as well as a prohibition on contact with the victim and remain in the victim's house.

(f) Allows the possibility for the court to determine, whenever deemed essential for the protection of the victim, the enforcement of the monitoring of the offender by remote technical means (electronic bracelet). Following the assessment made on the appropriateness of the use of electronic surveillance methods to control offenders' movements and measures to keep them away from their family homes, an experimental programme to use these methods for perpetrators of domestic violence subject to legal restraining measures or sanctions is currently being carried out.

Reply to the issues raised in paragraph 24(b) of the list of issues

119. Awareness-raising initiatives aimed at the population and technical staff working with victims and aggressors have been ongoing in recent years as well as continuous qualification of security forces, judicial workers, health professionals and others, such as social action professionals and civil society organizations.

120. A resource guide was published in 2006 listing all existing public and private resources in the area of domestic violence to disseminate information about all forms of violence against women and measures to protect victims.² It was distributed to the entities and practitioners providing direct or indirect support in the area. A free domestic violence victim information helpline has also been in operation since 1998 to give victims information, support and advice. A leaflet addressed to victims of domestic violence providing advice on how to increase personal safety was produced and launched in June 2009.

121. Initial and ongoing multidisciplinary training of the target populations most directly involved in assisting and protecting victims of domestic violence, i.e. police officers, NGO experts, prosecutors, healthcare professionals, lawyers, social workers and shelter teams, has been a priority activity of the Commission for Citizenship and Gender Equality.

122. The III National Plan against Domestic Violence (2007-2010) called for the creation, on the websites of the security forces (GNR and PSP), of an area devoted to the issue of Domestic Violence, containing information, recommendations, and the possibility of filing an electronic complaint/accusation. This measure was implemented by the Ministry of Internal Affairs thus allowing for the victims to file a complaint/accusation by electronic form.

123. “Proximity and victim support teams” were created under the Integrated Programme of Proximity Policing developed by the security forces to protect especially vulnerable victims (women but also children and other vulnerable groups) and to control the origin of danger. Prevention, victim support and follow-up after domestic violence are among the objectives of these teams. In 2006, these teams had 240 agents, divided into 22 sub-units (one in each metropolitan and regional command). This pilot project will be extended to other sub-units. Under the sphere of the National Republican Guard, Centres of Investigation and Victim Support, as well as Teams for Investigation and Inquiry have been created.

124. Furthermore, there have been several annual campaigns on the subject of violence against women since 2005. These campaigns included many initiatives such as training, seminars and debates, distribution of campaign materials in events and to specific publics such as youngsters. To mention but one example which was particularly interesting, a nationwide one-year campaign targeted at teenagers and young adults and focusing on the “prevention of violence in dating relationships” was launched in November 2008.

Reply to the issues raised in paragraph 24(c) of the list of issues

125. As for shelters, Law nr. 112/2009 (legal regime on prevention, protection and assistance to victims) defines the organization and functioning of a public network of shelters for women victims of domestic violence.

126. In addition to the above-mentioned free domestic violence victim information helpline that has been in place since 1998 to give victims information, support and advice, a National Network of Domestic Violence Centres was set up in 2005 to provide an integrated response to cases of domestic violence. As this support network is complementary to the shelters network, priority was given to setting up crisis centres in the districts where there was no support for victims. National coverage was achieved in January 2009.

² This guide has been updated and will be available in June 2012.

127. As for the Shelters' Network, there are currently 37 shelters which include nearly 632 places for women victims of domestic violence and their children. These cover the entire national territory.

128. All shelters' internal regulations must be approved in advance by the National Commission for Citizenship and Gender Equality, so that their organization is standardized and validated. A guideline book for technical staff working in shelters for women victims of domestic violence is being prepared in order to standardize intervention procedures and regular meetings are held with the technical staff working in shelters for women victims of domestic violence.

Reply to the issues raised in paragraph 24(d) of the list of issues

129. Portugal is strongly committed to obtaining better results in law enforcement following the recent improvements in the legal treatment of the phenomenon of domestic violence. The Law on the legal regime applicable to the prevention of domestic violence and to the protection and assistance to its victims (Law nr. 112/2009, of 16 September) intends to prevent and repress Domestic Violence and to support and promote the autonomy and empowerment of the victims. It seeks to provide a more adequate answer unifying the laws regarding this matter and also to address the need to ensure adequate and timely prosecution and conviction of perpetrators.

130. Domestic violence has also figured consistently among the priorities of criminal investigation and prevention since 2007. These developments have led to an increase in the number of complaints in cases dealing with domestic violence. In 2009, compared with the same period in 2008, there were 1,750 more registered occurrences, which represents an increase of 12 per cent in the number of complaints filed. In 2008, there were 1,335 sentenced cases in courts of first instance, which resulted in 718 sentences.

Reply to the issues raised in paragraph 24(e) of the list of issues

131. Law nr.104/2009 provides for civil compensation of the victims of domestic violence. Law nr. 112/2009 established the legal regime on prevention, protection and assistance to victims, including the right of the victims to be compensated and several measures on judicial, medical, social and labour support. According to this law, the victim has the right to psychological and psychiatric support by multidisciplinary teams of professionals able to identify and treat the effects associated with the crime of domestic violence

132. In 2011, the Criminal Police and the Portuguese Association for Victim Support (APAV – Associação Portuguesa de Apoio à Vítima) signed a cooperation protocol. According to this Protocol, the Criminal Police can refer victims to the APAV in order for them to have psychological and other types of support. The Protocol establishes a set of guidelines for receiving and accompanying the victims. This Protocol includes victims of different types of crime and therefore also victims of domestic violence.

Reply to the issues raised in paragraph 24(f) of the list of issues

133. Awareness-raising and training of police and prosecutors on the subject of domestic violence has been an ongoing priority. This has led to considerable progress in police and judicial practices. During 2010, the Directorate-General of Internal Affairs (DGAI), in partnership with the National Commission for Citizenship and Gender Equality (CIG), was directly involved in 14 training activities on domestic violence for security forces (reception service and risk evaluation specific).

134. The Public Security Police (PSP), in partnership with other public and private organizations, has promoted training sessions for its agents on sexual and domestic violence

against women and endowed its police stations with special rooms for the care and support of victims of violence.

135. Under the sphere of the National Republican Guard (GNR), Centres of Investigation and Victim Support, as well as Teams for Investigation and Inquiry have been created. This initiative came about in the context of the reorganization of prevention and criminal investigation mechanisms, initiated in 2002, with reference to social problems and crimes that had not previously been subject to special and differential treatment. The training of the members of these centres and teams has been recently updated, taking into account the recent legislative changes. In 2011, in partnership with the CIG, the GNR implemented two training activities on police protection for victims of domestic violence through the new teleassistance tool. For 2012, 25 other training activities on receiving and evaluating the risk of victims of domestic violence are planned.

136. Finally, the Centre for Judicial Studies (CEJ), which provides the initial training for all magistrates (judges and prosecutors), has been promoting a pro-active approach on the subject of domestic violence and raising this issue among legal operators. A specialization activity on “violence against persons: domestic violence, violence against children, deficient and elders and in school environment” took place in February and March 2009. Other activities also took place, namely following the changes to the Criminal Code. In the CEJ magazine several articles on domestic violence were published. In February 2012 the CEJ and the Commission for Citizenship and Gender Equality (CIG) signed a protocol on furthering the training of magistrates on domestic violence.

137. For detailed information on the impact of these measures in reducing cases of domestic violence against women and children (including statistical data), please see Annex 5.

138. Throughout 2011, 11,485 incidents of domestic violence were registered, which represents a decrease of 1,256 in relation to 2010 (-9,86 per cent). The main crime committed was “Domestic Violence against Spouses or Analogues”, which represents 84 per cent of the total amount, followed by “Other Crimes of Domestic Violence,” which represents 14 per cent, and “Crimes of Domestic Violence against Minors,” representing 2 per cent. In relation to 2010, in 2011 there was a 10.3 per cent decrease in the number of cases of “Domestic Violence against Spouses or Analogues” and an 8.7 per cent decrease in the number of cases concerning “Other crimes of domestic violence”. There was a 4 per cent increase in crimes of domestic violence committed against children and minors under 16 years of age.

139. The above-mentioned crimes resulted in 11,589 victims, among which 10,198 were females and 1,391 were males. As for the ages of the victims, 10,819 were 25 or older; 656 aged between 18 and 24; 112 aged between 16 and 17 and 313 under 16 years of age.

140. In the great majority of the cases (approximately 89 per cent), the aggressor was male, 25 or older (95 per cent of the cases) and, in 84 per cent of the situations, they were the spouses or partners of the victims. As for the means used by the aggressor, the one most used was physical force (70 per cent of the cases), followed by threat/psychological coercion (23 per cent of the cases). Firearms were used in 46 cases, sharp-edged weapons in 123 cases, work tools in 23 and other tools in 92 situations. Poison or another chemical substance was used in 97 cases; a method which, in the year under review (2011), registered an increase of 36.6 per cent, following the tendency verified in 2010.

141. With regards to the geographical distribution of these types of crimes, the districts with more occurrences were Porto with 2,037, Aveiro with 1,192, Braga with 1,080, Lisbon with 972, and Setúbal with 851. When examining the number of crimes per 1,000 inhabitants, the districts with most cases were: Bragança, Vila Real and Faro.

Reply to the issues raised in paragraph 25(a) of the list of issues

142. In 2007, Portugal started implementing the I National Plan against Trafficking in Human Beings (2007-2010). The II National Plan against Trafficking in Human Beings (2011-2013) builds on the work started in the previous plan and is based on the four following main strategic areas: knowledge and dissemination of information, prevention, awareness-raising and training, protection, support and integration, criminal investigation and repression.

143. Portugal created in November 2009 an Observatory on Trafficking in Human Beings in the Ministry of Home Affairs which works as a monitoring mechanism of trafficking in human beings. The goal of this Observatory is to collect, process and disseminate quantitative and qualitative data from the various institutions working to prevent and combat trafficking in human beings.

144. The national legal framework is the following:

(a) Council of Ministers Resolution nr 94/2010, of 29 November – 2nd National Plan for the Fight against Trafficking in Human Beings;

(b) Law nr. 113/2009, of 17 September – Laying down the protection measures for minors pursuant to Article 5 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2nd amendment to Law nr. 57/98 of 18 August);

(c) Law nr. 38/2009, of 2 July – defining the goals priorities and general guidance to the crime police for the period 2009 – 2011, pursuant to Law nr. 17/2006 of 23 May (Framework-law of Criminal Policy);

(d) Law nr. 229/2008, of 27 November – Setting up the Portuguese Observatory on Human Trafficking;

(e) Law nr. 49/2008, of 27 August – approving the Law of the organization of criminal investigation. (Article 7, paragraph 4 subparagraph c) includes the crime of human trafficking).

145. A Single Registry for Victims of Human Trafficking was created and is managed by the Observatory. This registry has been improved to a more dynamic and global application encompassing data from the victims, but also data on the traffickers throughout the whole process, that is, from the moment a victim or Trafficker is identified until the moment of his/her social reintegration or return to the country of origin. This new application will only contain non-personal data of the victims and traffickers during the various stages of judicial proceedings, whereby information shall be stored and analysed by criminal police bodies, public prosecutor, judges and courts, and NGOs with regard to following up victims.

Reply to the issues raised in paragraph 25(b) of the list of issues

146. An evaluation report of the implementation of the I National Plan against Trafficking in Human Beings was performed, published and broadly disseminated. The II National Plan against Trafficking in Human Beings requires ongoing periodic monitoring which enables to confirm whether the objectives and targets are being achieved. Also, each measure of the Plan has a specific assessment of the indicators. In addition to the ongoing monitoring, a final evaluation will be conducted by an external entity giving credibility and legitimacy to evidence-based evaluation results. This includes data and information regarding its impact.

147. At international level, Portuguese work in the field of human trafficking is mentioned as best practice. In addition, the Observatory website provides new and updated information related to human trafficking in Portugal.

Reply to the issues raised in paragraph 25(c) of the list of issues

148. Please see Annex 6

149. As to what this type of crime is concerned (trafficking in persons), statistical data available in the Criminal Police refer to 37 in 2009, 35 in 2010 and 15 in the first semester of the current year. The statistical data is provided by the Observatory on Trafficking in Human Beings (OTSH). The OTSH carries out its mission in collaboration with the Coordinator of the National Plan against Trafficking in Human Beings. Its mission is to produce, collect, analyse and disseminate information and knowledge about Trafficking in Human Beings and other forms of gender violence and its attributions are to produce and collect information on trafficking in human beings and other forms of gender violence; to promote the development of software applications to support information collection and analyses; and, when requested, to support the political decision in its intervention areas.

Reply to the issues raised in paragraph 26(a) of the list of issues

150. According to article 13 of the Constitution of the Portuguese Republic, all citizens possess the same social dignity and are equal before the law and no one may be privileged, favoured, prejudiced, deprived of any right or exempted from any duty for reasons of ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation.

151. The High Commission for Immigration and Intercultural Dialogue (ACIDI) is a Public Institute that was established in May 2007, replacing the High Commission for Immigration and Ethnic Minorities. This replacement consolidated and reinforced the role of this body. The functioning and work of the High Commission demonstrates Portugal's firm objective and action to prevent and forbid all racial or religious discriminatory acts and to discourage all racial or religious discriminatory practices. It also represents an active engagement in improving the living conditions of persons belonging to minorities and immigrants.

152. The High Commission for Immigration and Intercultural Dialogue's mission is to promote the integration of immigrants and Roma, to promote intercultural dialogue and to combat all forms of discrimination based on race, colour, nationality, ethnic origin or religion through dialogue and integration policies.

153. In this respect, it is particularly important to mention the Choices Programme³, which targets children and young people between the ages of 6 and 24 from disadvantaged social backgrounds, many of them children of immigrants or members of ethnic minorities, in order to promote their social integration.

154. In 2005, ACIDI and the Portuguese Association for Victim Support (APAV) created the "Support Unit for Migrant Victims and Victims of Racial and Ethnical Discrimination" (UAVIDRE). This Unit provides legal and psychological support to immigrant victims of crime and of racial discrimination, helping them to cope with this new situation and focusing on the victims' empowerment. UAVIDRE's support is free and strictly confidentially.

155. The Portuguese law against racial discrimination (Law nr. 18/2004, which transposed the European Union Racial Equality Directive (2000/43/EC) provides for an administrative complaint procedure for cases of racial discrimination. This complaint mechanism is dealt with by the Commission for Equality and Against Racial

3 The Choices Programme was initially established in January 2001 and is currently in its 4th edition (2010-2012).

Discrimination (CICDR), which works closely with the High Commission for Immigration and Intercultural Dialogue.

156. The Commission for Equality and Against Racial Discrimination is chaired by the High Commissioner for Immigration and Intercultural Dialogue and includes representatives elected by the Parliament, representatives appointed by the Government and representatives of employers' associations, trade unions, immigrants associations, NGOs and civil society. The procedure is initiated by an individual complaint presented to the CICDR for a discriminatory act or practice by a public authority, service or by any individual person. The High Commissioner then sends the complaint to the Inspectorate-General of the competent Ministry, who reports back to the CICDR after seeking to establish the veracity of the alleged facts. The Standing Committee of the Commission for Equality and Against Racial Discrimination produces an advisory opinion, based on which a decision is taken by the High Commissioner for Immigration and Intercultural Dialogue. This decision may include the imposition of a fine that, regarding to individual person(s) can go up to 5 minimum wages, and for Public Bodies/Companies, the fine can go up to 10 minimum wages.

157. The main constraint faced by this process has been the difficulty of determining, in some cases, the competent Inspection authority which should instruct the case. The Government recognizes that this administrative complaint mechanism needs to be improved. Since the entry into force of Law nr. 18/2004, which transposed the European Union Racial Equality Directive, there have only been 149 Administrative Complaints, and only 7 convictions. The Portuguese Government has therefore committed itself to review the current law in order to be more effective in preventing and punishing discriminatory conduct.

158. It should also be noted that a discriminatory act or practice can constitute a crime in accordance with Article 240 of the Criminal Code.

159. The Commission for Equality and Against Racial Discrimination (CICDR) also makes public statements. One such statement was the recommendation that the official or ex officio communications of police operations avoid revealing the nationality, ethnicity, religion or documental situation of any target of police action or investigation.

160. The Criminal Police officers are under the obligation to perform their duties without discriminating against anyone for reasons of ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation or social circumstances according to article 14(a) of Law nr. 37/2008, which approved the organic law of the Criminal Police together with article 6 of the Disciplinary Regulation of the Criminal Police, published by Decree-Law nr.196/94. This is a special duty of all Criminal Police officers and its breach can lead to disciplinary liability.

Reply to the issues raised in paragraph 26(b) of the list of issues

161. In 2011 the Commission for Equality and against Racial Discrimination (CICDR) received 111 complaints. The number of complaints received by CICDR in previous years was 79 in 2010, 77 in 2009, 74 in 2008, 84 in 2007 and 85 in 2005/6. Please see Annex 7.

162. The number of victims helped by the "Support Unit for Migrant Victims and Victims of Racial and Ethnical Discrimination" (UAVIDRE) has increased since 2005:

<i>Year</i>	<i>Number of Victims</i>
2005	131
2006	249

<i>Year</i>	<i>Number of Victims</i>
2007	300
2008	372
2009	377
2010	404
2011	470
Total	2,303

163. The number of victims of racial discrimination that sought UVIDRE's support has also increased: from 13 victims in 2005 to 26 in 2009; 45 in 2010 and 61 in 2011.

Reply to the issues raised in paragraph 26(c) of the list of issues

164. The recruitment procedures for police forces forbid positive discrimination measures. The Constitution of the Portuguese Republic establishes the principle of equality and again reiterates this principle as one of the Fundamental Principles guiding Public Administration. This principle is therefore fully applied through a horizontal and legally binding approach, encompassing the recruitment and classification of police forces/officials.

165. In this regard, there is no specific programme for the selection/recruitment of ethnic minorities for the security forces, just as there are no barriers to their entry. All applicants are submitted to the defined requirements and criteria, equal for all citizens, in accordance with the general principles of Equality and Fairness.

Other issues

Reply to the issues raised in paragraph 27 of the list of issues

166. The information requested by the Committee in para. 22 of the previous concluding observations was forwarded by a note verbale of the Permanent Mission of Portugal to the United Nations Office and other International Organizations in Geneva on 4 January 2012.

167. The Ombudsman shall be appointed as the national preventive mechanism given its vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol

Reply to the issues raised in paragraph 28 of the list of issues

168. The Portuguese Government is firmly committed to the ratification of the Optional Protocol to the Convention against Torture. The internal ratification procedure is well under way. All Departments concerned have been consulted and have indicated their approval. In the coming weeks, it is foreseeable that the Council of Ministers will approve the aforementioned ratification, thereby concluding the Government's responsibility in this matter. Subsequently, the process will be sent to Portuguese Parliament for approval and to the President for promulgation.

169. It is therefore very likely that the ratification of the Optional Protocol to the Convention against Torture will occur before the end of 2012.

Reply to the issues raised in paragraph 29 of the list of issues

170. Regarding the fight against terrorism, in addition to the legal measures reported in the previous report, Portugal approved the following laws:

- Law nr. 25/2008, establishing measures of a preventive and repressive nature to fight against money laundering and terrorism financing;
- Law nr. 53/2008, Law on Domestic Security;
- Law nr. 17/2011, criminalizing public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism, in compliance with Framework Decision nr. 2008/919/JAI, amending Law nr. 52/2003 (Terrorism Law). As far as training and conduct duties are concerned there are no exceptions for the treatment of suspects or accused person regarding acts of terrorism or highly organized crime.

171. So far and regarding the years for which this information is sought, there were no convictions in Portugal for terrorism. The safeguards that can affect human rights are the general safeguards provided for in the law, namely in the criminal law framework, as there are no exceptions for the *arguidos* (persons suspected of having committed a crime) regarding the commission of acts of terrorism.

General information on national human rights situation, including new measures and developments relating to the implementation of the Convention**Reply to the issues raised in paragraph 30 of the list of issues**

172. On 8 April 2010, the Council of Ministers adopted Resolution nr. 27/2010 establishing the National Commission for Human Rights (NCHR). This is a coordination entity chaired by the Secretary of State for European Affairs, of the Ministry of Foreign Affairs, with representatives of several ministries. The Commission's main objective is to develop an integrated approach to human rights both in domestic and external affairs. The Commission also meets regularly with representatives of civil society to discuss matters of concern regarding human rights issues. The decision to set up this Committee/Commission arose from the commitment undertaken by Portugal at the Human Rights Council, in December 2009, during the presentation of the report on the overall situation in Portugal, within the framework of the Universal Periodic Revision, known as the UPR.

Reply to the issues raised in paragraph 31 of the list of issues

173. The above-mentioned National Commission for Human Rights adopted its first programme of action for the years 2011-2012.

Reply to the issues raised in paragraph 32 of the list of issues

174. Nothing to report beyond the information already provided.