

Paragraph 11

The Committee asks the Portuguese authorities to provide it with updated statistical information reflecting the number and nature of complaints of violence or abuse of any kind submitted by detainees in Portuguese prisons in 2007-2008, specifying how many were investigated and with what outcomes.

The Directorate-General of Prison Services¹ has an Audit and Inspection Service, 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.

In 2007 and 2008, the Audit and Inspection Service received 61 participations from detainees or their relatives. Of these complaints, 43 were filed; 1 gave rise to a disciplinary sanction; and 17 are still pending, some of those waiting for the closure of proceedings running on judicial courts for the same facts.

The General Inspectorate for Justice Services² can also receive complaints submitted by detainees in Portuguese prisons. In 2007 and 2008, 41 complaints were received for alleged abusive treatment or violence of detainees. Of these complaints, 10 were related with the detainees daily routine, 3 with the detainees' search procedures, 4 to alleged abusive punishments and 24 to alleged aggression (in 21 of these cases, the alleged aggressors were prison guards, and in 3 cases, other detainees).

All the complaints were carefully considered and 8 did not proceed (7 due to plaintiff's desistence and in 1 case the complaint was considered unjustified). Out of the 33 investigated complaints, 11 gave rise to inquiry or disciplinary proceedings; in 9 cases was not possible to confirm the complaint or the facts that originated it; in several cases the General Inspectorate for Justice Services addressed recommendations to the Prison Services, motivating, in 7 cases, changes in standard-procedures and/or the adoption of specific measures suitable for the concrete case.

The Prison Services are aware of the important role that appropriate training of professionals can play in the prevention of abuses. Thus, the training of prison guards on

¹ *Serviços de Auditoria e Inspeção da Direção-Geral dos Serviços Prisionais*
² *Inspeção-Geral dos Serviços de Justiça*

human rights issues has continuously been improved. In the most recent recruitment of prison guards, the initial training lasted six months and included, among others, a specific seminar on human rights - with the participation of the Portuguese Member of the European Committee for the Prevention of Torture - and training on professional deontology, the execution of imprisonment measures and human rights, the national and international mechanisms for the protection of detainees, the management of conflicts and interpersonal relationships. It should also be mentioned that the requirements to become a prison guard were recently changed and is now required the completion of Secondary School (12 years of studies).

The CAT requests further information reflecting the number and nature of deaths of prison inmates for 2007 and 2008, disaggregated by institution, cause of death, gender, age and length of time in detention. The CAT also wishes to be informed about the inquiries carried out into deaths of prisoners.

In 2007, 77 deaths¹ were registered in prison establishments. The prison population comprised at the time (31/12/2007) 11 587 detainees. Out of these, 67 were due to disease and 10 to suicide.

In 2008, 68 detainees died in prison establishments. The prison population comprised at the time (31/12/2008) 10 807 detainees. Of these deaths, 61 were due to disease and 7 to suicide.

This information is systematised in Annex I, disaggregated by prison establishment, the age of the detainee and criminal situation as well as the cause of death.

¹ Not 91, as by mistake was referred in the previous comments submitted by the Government of Portugal (CAT/CPRT/CO/4/Add.1).

Annex 1- Deaths occurred in regional Prison Establishments between 1 January and 31 December 2007

Prison establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
E. P. R. of Beja	59	Disease	Preventive	2
	41	Disease	Convicted 1 year 2 months	
E. P. R. de Bragança	47	Disease	Preventive	1
E. P. R. das Caldas da Rainha	76	Disease	Convicted 3 Years 6 months	1
E. P. R. of Faro	69	Disease	Preventive	2
	39	Disease	Convicted 4 Years 6 months	
E. P. R. of Guarda	46	Disease	Preventive	1
E. P. R. of Montijo	24	SUICIDE	Preventive	3
	50	SUICIDE	Preventive	
	30	Disease	Convicted 9 months	
E. P. R. of Setúbal	47	Disease	Convicted 4 Years	3
	25	Disease	Convicted 3 Years 3 months	
	38	Disease	Preventive	
E. P. R. of Vila Real	48	Disease	Convicted 1 year	1
E. P. R. By the Polícia Judiciária of Lisboa	76	Disease	Preventive	1
<i>Subtotal</i>				<i>15</i>

Deaths occurred in Central Prison Establishments between 1 January and 31 December 2007

Prison establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
E. P. of Alentejo	79 48 88	Disease Disease Disease	Convicted 21 Years Convicted 4 Years 3 months Convicted 17 Years	3
E. P. Of Casregueira	56 43	Disease Disease	Convicted 8 Years Convicted 5 Years	2
E. P. of Caxias	39 24	Disease Disease	Preventive Preventive	2
E. P. Of Coimbra	72	SUICIDE	Preventive	1
E. P. of Funchal	39	Disease	Convicted 9 Years 6 months	1
E. P. of Lihó	30	Disease	Convicted 2\1 Years 2 months	1
E. P. of Lisboa	55 33 53 38 41 31 31	Disease Disease SUICIDE Disease Disease SUICIDE Disease	Convicted 3 Years Preventive Waiting for extradition. Convicted 5 Years 6 months Preventive Convicted 1 year 10 months Convicted 6 Years 3 months	7
E. P. Of Monsanto	64	Disease	Convicted 8 Years	1
E. P. of Paredes de Fátima	39 44 52 37	SUICIDE Disease SUICIDE SUICIDE	Convicted 9 Years Convicted 12 Years Convicted 1 year 8 months Convicted 20 years	4
E. P. Of P. da Cruz	52 34 31 48	Disease Disease Disease Disease	Convicted 4 Years Convicted 20 years Convicted 8 Years Convicted 8 Years	

	38	Disease	Convicted 4 years 3 months	
	35	Disease	Convicted 6 Years 6 months	
	34	Disease	Convicted 4 Years	
	63	Disease	Convicted 17 Years	
	26	Disease	Convicted 4 Years	
	35	Disease	Convicted 1 year 7 months	
				10
E. P. of Porto	37	Disease	Convicted 1 year	
	34	Disease	Convicted 5 Years	
	36	Disease	Convicted 3 Years 3 months	
	33	Disease	Convicted 4 years 3 months	
	32	Disease	Convicted 1 year 6 months	
	74	Disease	Convicted 5 Years	
	39	Disease	Convicted 7 years 6 months	
	22	Disease	Convicted 8 Years	
	28	Disease	Preventive	
				9
E. P. de Santa Cruz of Bispo	83	Disease	Convicted 20 Years	
	43	Disease	Convicted 1 year	
	41	Disease	Convicted 4 Years 3 months	
	56	Disease	Preventive	
	36	Disease	Convicted 7 Years	
	45	Disease	Convicted 4 Years	
				6
E. P. of Braga	38	Disease	Convicted 15 Years 10 months	
	34	SUICIDE	Convicted 3 Years 3 months	
				2
E. P. of Vale de Judeus	38	SUICIDE	Convicted 16 Years 6 months	
	52	Disease	Convicted 2 Years 8 months	
	38	Disease	Convicted 20 Years	
				3
Subtotal				52

Deaths occurred in Special Prison Establishments between 1 January and 31 December 2007

Prison establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
E. P. of Tires	38	Disease	Convicted 5 Years 6 months	
	32	Disease	Convicted 6 Years 7 months	
	63	Disease	Convicted 8 Years	
	50	Disease	Convicted 5 Years	
	62	Disease	Convicted 5 Years 10 months	
	57	Disease	Convicted 14 years 3 months	
				6
Subtotal				6

Deaths occurred in Non Prison Psychiatric Establishments between January and 31 December 2007

Establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
Psychiatric Central Hospital of Lisbon	26	Disease	Non-imputable	2
	79	Disease	Non-imputable	
Agricultural colony of Ames	67	Disease	Non-imputable	1
Psychiatric Hospital of Loures	50	Disease	Non-imputable	1
<i>Subtotal</i>				4
Total deaths in 2007				77

Deaths occurred in regional Prison Establishments between 1 January and 31 December 2008

Prison establishment (EPR) to which the detainee was consigned	Detainee's Age	Death cause	Criminal Situation of the detainee	Number of deaths by prison establishment
E. P. Angra Heroismo	42	Disease	Convicted 5 months	1
E. P. R. Of Beja	39	Disease	Preventive	2
	34	Disease	Convicted 5 Years	
E. P. R. Of Caldas da Rainha	19	SUICIDE	Convicted 3 Years 6 months	1
E. P. R. of Faro	45	Disease	Convicted 5 Years	1
E. P. R. of Funchal	47	Disease	Preventive	1

E. P. R. of Setúbal	29 27	Disease Disease	Convicted 2 Years Preventive	1
E. P. R. of Silves	57	Disease	Preventive	2
E. P. R. Of Torres Novas	30 36	Disease SUICIDE	Preventive Preventive	1
E. P. R. Of Vila Real	37	Disease	Preventive	2
E. P. R. By the Policia Judiciaria of Lisbon	37 43 65	Disease Disease Disease	Preventive Preventive Preventive	1
				3
<i>Subtotal</i>				15

Deaths occurred in Central Prison Establishments between 1 January and 31 December 2008

Prison establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
E. P. of Alentejo	40 34 39 37	Disease Disease Disease Disease	Convicted 5 Years Convicted 9 Years 4 months Convicted 7 Years 6 months Convicted 12 Years	4
E. P. of Carregueira	68 49	Disease Disease	Convicted 9 Years Convicted 7 Years 6 months	2
E. P. of Coimbra	50	Disease	Convicted 9 Years	1
E. P. of Évora	57 43	Disease Disease	Convicted 5 Years 6 months Convicted 1 year 2 months	2
E. P. of Funchal	58	Disease	Convicted 12 Years 6 months	1
E. P. of	64	Disease	Convicted 17 Years	

Igida				1
E. P. of Linhó	30 30	Disease Disease	Convicted 16 Years Convicted 15 Years	
E. P. Of Lisboa	62 48 47 36 46	Disease SUICIDE Disease Disease Disease	Preventive Preventive Convicted 8 Years Convicted 4 Years Convicted 3 Years	2
E. P. of Paços de Ferreira	53 34 33 42 49 49	Disease SUICIDE Disease Disease Disease	Convicted 6 Years Convicted 8 Years 6 months Convicted 3 Years Convicted 9 Years 4 months Convicted 11 years Convicted 9 Years	3
E. P. Of P. da Cruz	90 51 59 71 30	Disease Disease Disease Disease Disease	Convicted 23 Years Convicted 7 Years Convicted 6 months Convicted 23 Years Convicted 7 Years	6
E. P. of Porto	48 50 37	Disease Disease Disease	Convicted 7 Years Convicted 1 year 1 month Convicted 1 year 9 months	5
E. P. de Santa Cruz of Bispo	50 35 47 37 44 64	Disease Disease Disease Disease Disease	Convicted 3 Years Convicted 10 Years 6 months Convicted 6 Years 6 months Convicted 20 Years Preventive Convicted 15 Years 6 months	3
E. P. of Sines	49 33 42	Disease Disease Disease	Convicted 4 Years 6 months Preventive Convicted 6 Years 6 months	6
E. P. of Vale de Jovens	54 41 32 44 32	Disease Disease Disease Disease Disease	Convicted 21 Years Convicted 3 Years 6 months Convicted 22 Years 5 months Convicted 7 Years Convicted 9 Years	5
Subtotal				46

Deaths occurred in Special Prison Establishments between 1 January and 31 December 2008

Prison establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
E. P. of Leiria	83	Disease	Convicted 15 Years	1
E. P. E. of Santa Cruz of Bispo	54	Disease	Convicted 5 Years 6 months	1
E. P. of de Tires	39 26 57	SUICIDE SUICIDE Disease	Convicted 4 Years Convicted 4 Years 8 months Convicted 15 months	3
<i>Subtotal</i>				5

Deaths occurred in Non Prison Psychiatric Establishments between January and 31 December 2008

Establishment to which the detainee was consigned	Detainee's Age	Death cause	Legal Situation of the detainee	Number of deaths by prison establishment
Hospital Sobral Cid	64 54	Disease SUICIDE	Non-imputable Non-imputable	2
<i>Subtotal</i>				2
TOTAL Deaths in 2008				68

It should be pointed out that the death rate in prisons has been continuously declining⁴, both by natural and unnatural causes.

All the deaths in prison environment of unknown cause gave rise to an internal investigation proceeding (aiming to determine possible negligence or responsibility of the services), as well as to a criminal proceeding conducted by the Public Prosecution (aiming to determine the cause of death and possible criminal responsibilities).

⁴ In 1997 were registered 167 deaths; in 1998, 119 deaths; in 2007, 77 deaths and in 2008, 68 deaths.

Among the deaths occurred in 2007 and 2008, 11 gave rise to disciplinary proceedings. Out of these, 7 were filed and 4 resulted in inquiry proceedings.

The legal regime on forensic expertise is provided by Law 45/2004, of 19 August. In accordance with section 16, in the case of deaths outside health institutions (applicable to "all deaths occurred by persons under detention at a prison establishment, police stations or other facilities belonging to police forces" - as referred in of section 16 §12), it is always necessary to: 1) carry out an inspection to the location and preserve its conditions; 2) the immediate communication of such fact to the competent judicial authority giving account of the relevant data for the investigation of the cause and circumstances of the death; 3) that the police authority promotes the presence of the forensic expert, in case of a felony or whenever there is such a suspicion. The forensic expert shall verify the death, in case no other doctor has previously done so. He shall also examine the location, without prejudice for the legal jurisdiction of the police authorities.

The judicial authority shall order, by routine, forensic autopsy whenever there are any signs of violent death (whether by suicide, homicide or accident), as well as in all cases in which the cause of death is unknown (that is, when it is not possible to draw any conclusion as to the cause of death from the victim's past life or from the examination of the body or the location), the body being then removed to the closest forensic services, for autopsy (see section 18, § 1). The National Institute of Forensic Medicine is scientifically and technically autonomous and independent.

In all cases of suicide, a police force was called and the removal of the body was preceded of authorization from the Public Prosecution's Office. Internal ascertainment proceedings were initiated under the responsibility of the Inspection Service.

It is also important to note that suicide prevention is a strong priority for the Prison Services. This is pursued by providing appropriate training to prison guards, privileging spaces that avoid risk situations, and through the development of intervention programs to be implemented in prison facilities. The Directorate-General of Prison Services has created, in 2009, a suicide prevention program which is already implemented in the prison establishment of Oporto. The most significant aspects of this program include the implementation of permanent observation teams (multidisciplinary teams composed of prison staff responsible for rehabilitation, guards and health staff), the systematic screening

of all detainees entering the system, the review of all the clinical files of detainees taking anti-depressives and other pharmacological products connected to pathologies that may induce suicidal tendencies and the increase in the intervention of experts (prison staff responsible for rehabilitation, psychologists, psychiatrists). It was also created an observation ward for detainees signalized with suicide risk and a specialized therapeutic help space. Additionally, the Audit and Inspection Service exhaustively investigated all cases of suicide and attempted suicide. The results of the evaluation of this program will be determinant in order to extend it to the other prison facilities, which is expected to happen soon.

It is also important to inform that, with the recent adoption of the new Penitentiary Code, it is underway the transfer to the National Health System of the responsibility for the health care provided to the detainees, in equal conditions to all other citizens.

The CAT requests updated information on the case of Albino Libânio, specifically whether the prison guard cited or any other individuals were sanctioned or otherwise held accountable for the injuries he sustained.

The prison guard was absolved in first instance trial. However, the trial was annulled by the second instance court (*Tribunal da Relação*) (because the first instance trial hadn't considered a request of indemnity for damages from the State presented by A. Libânio), so the trial has to be repeated.

The disciplinary proceeding running in the Audit and Inspection Service of the Directorate-General of Prison Services waits for the results of the repetition of the trial.

Paragraph 12

The CAT reiterates the recommendation to include the crime of torture as a separate and specific crime in article 4 of Act No. 21/2000.

According to the new law on the organization of criminal investigations, adopted in 2008, the judicial police is exclusively competent to investigate the crime of torture, cruel, inhuman or degrading treatments.

In fact, all crimes against cultural identity, personal integrity, and the crimes foreseen in the Penal Law on Humanitarian Law Offences are now the sole responsibility of the judicial police. The crimes of torture and other cruel, inhuman or degrading treatments are such type of crimes as they are included in the Criminal Code under the chapter "Crimes against cultural identity and personal integrity" and are also foreseen in the Penal Law on Humanitarian International Offences.

We should also mention that the law on the objectives, priorities and instructions of criminal policy for the years 2009-2011 lists the crimes of torture and other cruel, inhuman or degrading treatment among the types of crimes that shall be given priority, taking into account its seriousness and the need to prevent future acts.

Number of cases of torture that have been investigated by the judicial police under article 4 of Act no. 21/2009

As mentioned above, the reserved competence of the Judicial Police to investigate crimes of torture and other cruel, inhuman or degrading treatments is foreseen in the new Law on the Organization of Criminal Investigation (Law no. 49/2008, of 27 August, section 7 § 2 c).

Number of investigations of crimes of torture and other cruel, inhuman or degrading treatments (articles 243 and 244 of the Criminal Code) conducted by the Judicial Police (section 7 § 2 c) of the Law on the Organization of Criminal Investigation):

Year	Total number of offences
2007	2
2008	2
2009	1
2010	-

Paragraph 13

The CAT asks for additional information on efforts to raise awareness among police forces with respect to compliance with the provisions of the Convention; namely, whether such trainings and awareness-raising measures are carried out.

All Portuguese law enforcement personnel is permanently subject to awareness raising actions 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.

Such matters are included in the curricula of the training courses provided by the Superior Institute of Criminal Police and Criminal Sciences (ISPJCC) both in the initial training and advanced training as well as in the permanent training sessions of the Criminal Police Inspectors. The acknowledgement of human rights issues is included in the evaluation and selection of candidates to the Criminal Police.

Similar situation occurs in the PSP - Police of Public Order and GNR - National Republican Guard. In their respective training institutions, the respect for fundamental rights and for human rights is also included in the curricula and in all different training actions. The police forces are permanently made aware of the use of force and of the constitutional and legal principles of necessity, adequacy and proportionality.

It should also be noted that the Directorate-General of Prison Services (DGSP) has also its own vocational training school for all the staff and particularly for the initial and continuous training courses of prison officers.

The respect for fundamental rights and other matters regarding the legal principles of necessity, adequacy and proportionality are always included in the curricula of the training courses.

Information on training courses given to the elements of the Judicial Police related to the prevention of excessive use of force and awareness raising to legal the instruments against torture and other cruel, inhuman or degrading treatments:

Training provided to agents of the Judicial Police:				
Date	Nr. of hours	Training session	Entity	Nr. of attendees

May08 Feb09	no	240	Ethics and Police Deontology	PJ	144
10.Feb.09		7	Human Rights in Prevention and Criminal Investigation (International Amnesty)	PJ	28
02.March.09		7		PJ	28
09.March.09		7		PJ	28
16.March.09		7		PJ	28
23.March.09		7		PJ	32
16.June.09		3	Workshop of Ethics and Disciplinary Law	PJ	25
6.Oct.09		5	Human Rights Seminar	PJ	17
Training provided to other entities in the context of cooperation actions:					
Date		Nr. of hours	Training session	Entity	Nr. of attendants
11Nov to 19Dec08		8	Police Ethics and Deontology in the framework of the 1st Training Course for Inspectors	Guinea-Bissau	24
11Nov to 19Dec08		8	Police Ethics and Deontology in the framework of the 1st Training Course for Assistant Agents	Guinea-Bissau	49
14Set to 04Dec09		8	Police Ethics and Deontology in the framework of the 2nd Training Course for Assistant Agents	Guinea-Bissau	47
21Set to 09Oct09		4	Police Ethics and Deontology in the framework of the 1st Training Course for Security Personnel	Guinea-Bissau	28

The Committee requests information on the number of complaints of abuse by members of the police forces submitted since 2007, namely how many were investigated and with what outcomes.

The Judicial Police investigated 5 criminal inquiry proceedings for crimes of "torture and other cruel, inhuman or degrading treatments" (2 in 2007, 2 in 2008 and 1 in 2009). Out of these, 2 were filed and the other 3 are under investigation.

The Internal Unit for Discipline and Inspection of the Judicial Police (*Unidade Disciplinar e de Inspeção da Polícia Judiciária*) investigated, between 2007 and 2009, 22 proceedings (for alleged intimidation, aggression or abuse of power). Until now, 11 cases were filed and 2 gave origin to disciplinary proceedings.

In the period between 2007 and 2008, the Inspectorate-General of Justice Services received 1 complaint related to abuses committed by elements of the Judicial Police, but in the investigations carried out it was not possible to determine the facts.

Paragraph 14

Concerning the use of "Taser" weapons by the police forces, the Committee requests information on the number of officers carrying such weapons and on the regulations that limit their use.

The electric Taser guns are weapons with a low lethal potential. They strike power controlled electric shocks in order to incapacitate the suspects, instantly and temporarily. They are only used when strictly determined, particularly in extreme cases, where there is a risk to human lives.

The Public Security Police (PSP) has defined the rules on 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 has 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 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 this weapon.

These weapons are only used, in the case of PSP (which has 75 guns), in the Lisbon Metropolitan Command, the Intervention Group (25 guns), the Special Operations Group and the Personal Security Group.

In the case of GNR, the use of these weapons (40) is only limited to the Company of Special Operations Unit, taking into account the special care on its use and the high level of danger of this operations.

The Criminal Police has 8 weapons of this type, which use is subject to general legislation regarding the use of firearms by all law enforcement agents (the Firearms legislation).

The Portuguese Prison Service is also one of the entities that use electric Taser weapons. These weapons were acquired in December 2006, but their use has only been approved in

September 2009. These Services have 26 Taser weapons, of which 4 are distributed to the Prison Security Intervention Group (GISP - *Grupo de Intervenção e Segurança Prisional*) and the other 22 are distributed to the larger prison establishments: Alcoentre, Carregueira, Castelo Branco, Caxias, Coimbra, Monsanto, Especial Feminino of Norte, Funchal, Izeda, Leiria, Linhó, Lisboa, Paços de Ferreira, Pinhalco da Cruz, Porto, Monjufo, Ponta Delgada, Setúbal, Santa Cruz of Bispo, Sintra, Tires and Vale de Judeus.

However, it should be stressed that these weapons are only used when the Director of the Prison facilities determines/authorizes so; Guards do not wear these weapons in their daily service; When being used, a doctor/surgical aid should be present and, if that is not the case, the person to which the weapon has been used against will be immediately taken before a doctor; A strict auditing of their use takes place: there is an electronic register of their use and a control of these records (namely to determine the length of the discharge). The Directorate-General of Prison Services verified all records related to the use of these weapons in 2009.

The use of these weapons is carried out under the observation of the *Regulation on the Use of Coercive Measures in Prison Establishments*. This Regulation, in general and with some adaptations, subjects that use to the legal regime and guarantees of the use of fire weapons in police actions (Decree-Law no. 457/99, of 5 November).