

## IHF FOCUS: Torture and ill-treatment; conditions in prisons.<sup>1</sup>

### Torture and Ill-Treatment

In May, the UN Committee Against Torture (CAT) reviewed the third periodic report of Portugal on its implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On the positive side, the Committee noted, *inter alia*, the restructuring of the police agencies, which was designed to emphasize the civil features of policing; the creation of a database to streamline information relating to cases of abuse of public power; and the enactment of regulations governing police use of firearms that reflect UN standards. Also, the CAT welcomed the adoption of regulations relating to conditions of detention in police lockups, setting out the minimum standards to be upheld.<sup>2</sup>

However, the CAT noted that it continued to receive reports of a number of deaths and cases of ill-treatment "arising from contact between members of the public and the police."<sup>3</sup>

One of the cases reported in 2000 involved the death of two men after they were allegedly ill-treated by Public Security Police (PSP) officers in Oporto when they were taken into custody in January.<sup>4</sup>

◆ Amnesty International reported that Álvaro Rosa Cardoso, an ethnic Rom, was severely beaten when police brought a street disturbance under control. He died in hospital, where he was taken only after being held in custody for several hours. According to the police, the cause of death was one, or possibly two, heart attacks. However, the autopsy report referred to a number of external and internal injuries, stating that the cause of death had been a ruptured spleen.

◆ Paulo Silva died of the same internal injuries in hospital on the same night. He had gone to the Cero area of Oporto to buy drugs, but did not get any. He returned home around 1 a.m., unable to stand up-

right and complaining of pains in his stomach and kidneys. Silva told his mother that he had been badly beaten by the police. Suspicion fell upon eight PSP officers of the 4<sup>th</sup> Division, but the police denied any responsibility for the death.

In the case of Cardoso, the authorities reacted promptly. A judicial inquiry was opened and the Interior Ministry's General Inspectorate (IGAI) initiated investigations. IGAI's preliminary report found sufficient evidence to link the death to physical abuse by PSP officers. The Ministry ordered the opening of a disciplinary inquiry into the conduct of two officers. They were detained in April, under investigation for homicide. The general commander of the Oporto PSP was removed from his post.

The police reaction to the investigations into the death of Álvaro Cardoso gave rise to serious concern. There was widespread anger and emotion in police ranks and many officers surrendered their weapons. Moreover, a number of police officers gathered at the entrance of the courthouse (TIC) in Oporto, awaiting the decision of a judge regarding the extension of detention for their two colleagues or their release. When the police officers heard that the two colleagues were to remain in custody, they behaved menacingly towards a prosecuting magistrate as she left the courthouse. She was forced to ask for a Judicial Police escort to leave the house safely, and PSP police officers reportedly surrounded her car and threatened her life.

In the case of Silva, the homicide branch of Oporto's Judicial Police questioned the suspected police officers, but no charges had been raised by June and the officers continued working. Investigations were also initiated into a police report of that night because it made no reference to the presence of the suspects' unit in the Cero area, although it did refer to its presence in other areas of the city. Moreover, the report was signed by an officer who had not been on duty that night.

In its comments, the CAT urged the Portuguese Government to continue to engage in vigorous measures, both disciplinary and educative, to maintain the momentum of moving the police culture in Portugal towards one that respects human rights. It should particularly ensure that the criminal investigation and prosecution of public officers be carried out where appropriate as a matter of course where the evidence revealed that police officers had resorted to torture, or other cruel, inhuman or degrading treatment or punishment.<sup>5</sup>

According to Amnesty International, one reason why many cases of ill-treatment by police officers may not go to court was the fact that the Penal Code made a distinction between “public crimes” and others. Cases of police brutality were more likely to be considered under Article 143, covering crimes such as common assault, than under Article 243 (“public crimes”), which dealt with torture and other cruel, inhuman or degrading treatment. In the first case, the victim had to file a complaint, whereas a “public crime” did not require a complaint from the victim in order to initiate investigation.<sup>6</sup>

Amnesty International also noted that IGAI had made a positive contribution as a relatively new police observation agency whose task was to monitor and supervise the activities of the PSP and National Repub-

lican Guard (GNR), and to insure a speedy implementation of disciplinary inquiries into alleged police abuse. Nevertheless, it noted that questions remained over the thoroughness of some of the investigations.<sup>7</sup>

### Conditions in Prisons

The CAT cited in its comments the acknowledgement by the European Committee for the Prevention of Torture (CPT) (as a result of its 1999 inspection) that improvements in prisons had taken place, including plans to set up an Inspectorate of Prisons, to create a national drug unit for prisons as well as to set up new prison health units. Magistrates had begun visiting prisons on a monthly basis to receive complaints from prisoners on their treatment. Also, measures had been taken to reduce inter-prisoner violence in Portuguese prisons although reports of such violence continued.<sup>8</sup>

According to information received by Amnesty International from the Portuguese Justice Ministry, the overcrowding had diminished between 1998 and 1999 by 12.3 percent, while at the same time there had been an increase in prison capacity. As a result, the rate of overcrowding had decreased by 13.1 percent from the 1996 rate by June 2000. Portuguese authorities admitted to some cases of ill-treatment by custodial staff, but claimed that such incidents were always investigated.<sup>9</sup>

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### Endnotes

<sup>1</sup> Due to the absence of a Helsinki Committee in Portugal to provide the IHF with information on human rights issues on a broader scale, this chapter focuses only on two areas of concern.

<sup>2</sup> *Conclusions and Recommendations of the Committee against Torture: Portugal*. 08/05/2000. CAT/C/24/2.

<sup>3</sup> Ibid.

<sup>4</sup> The source of information on the two cases: Amnesty International, *Concerns in Europe, January-June 2000*, September 2000.

<sup>5</sup> CAT, op.cit.

<sup>6</sup> Amnesty International, op.cit.

<sup>7</sup> Ibid.

<sup>8</sup> CAT, op.cit.

<sup>9</sup> Amnesty International op.cit.