CPT/Inf (2013) 4

Report

to the Portuguese Government on the visit to Portugal carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 7 to 16 February 2012

The Portuguese Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2013) 5.

Strasbourg, 24 April 2013

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Copy of the letter transmitting the CPT's report

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Strasbourg, 25 July 2012

Dear Madam,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Portuguese Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Portugal from 7 to 16 February 2012. The report was adopted by the CPT at its 78th meeting, held from 2 to 6 July 2012.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the national authorities to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Portuguese authorities to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the recommendations in paragraphs 50 and 81, the CPT requests a response within **two months**.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseynov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Portugal from 7 to 16 February 2012. The visit formed part of the CPT's programme of periodic visits for 2012 and was the Committee's eighth visit to Portugal.

2. The visit was carried out by the following members of the CPT:

- Wolfgang HEINZ (Head of the delegation)
- Georg HØYER
- Julia KOZMA
- Marzena KSEL
- Anna MOLNÁR
- Vincent THEIS.

They were supported by Hugh CHETWYND (Head of Division), Thobias BERGMANN and Stephanie MEGIES of the CPT's Secretariat, and assisted by:

- Andres LEHTMETS, Head of the Centre of Psychiatry, West-Tallinn Central Hospital, Estonia (expert)
- Lara DUARTE (interpreter)
- Sophie ENDERLIN (interpreter)
- Louis KEIL (interpreter)
- Garry MULLENDER (interpreter)
- Manuel SANT'IAGO RIBEIRO (interpreter).

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of the Interior

Public Security Police

Coimbra District

- District Headquarters, Avenida Elísio de Moura, Coimbra
- Rua Olímpio Nicolau Rui Fernandes Police Station, Coimbra

Lisbon Metropolitan Area

- Estrada de Alfragide Police Station, Amadora
- Estrada da Brandoa Police Station, Amadora
- Praca Felix Correia Police Station, Amadora
- Rua André Resende Police Station, Benfica
- Avenida Doutor Nuno Alvares Pereira Police Station, Cacém
- Rua Virgílio Ferreira Police Station, Caneças
- Bairro Alto Police Station, Lisbon
- Rua Capelo Holding Facilities, Lisbon
- Avenida Capitães de Abril Police Station, Mem Martins
- Rua de St. Antonio TransPorto Publica Police Station, Oeiras

Setúbal District

- Rua Direita do Pragal Police Station, Almada
- District Headquarters, Avenida Luisa Todi, Setúbal

Establishments under the authority of the Ministry of Justice

- Judicial Police Headquarters, Lisbon
- Judicial Police Prison, Lisbon
- Judicial Police Prison, Porto
- Linhó Prison
- Lisbon Central Prison
- Paços de Ferreira Prison
- Psychiatric unit at Santa Cruz do Bispo Prison

The delegation also interviewed remand prisoners at Setúbal Prison.

Establishments under the Ministry of Health

- Central Psychiatric Hospital, Lisbon
- Sobral Sid Hospital, Coimbra

Establishments under the Ministry of Solidarity and Social Security

- Casa do Lago Social Care Home for Juveniles, Lisbon

C. Consultations held by the delegation

4. In the course of the visit to Portugal, the delegation had discussions with Fernando Santo, State Secretary of the Ministry of Justice, Juvenal Peneda, State Secretary of the Ministry of Interior, Leal da Costa, State Secretary of the Ministry of Health, Marco António Costa, State Secretary for Solidarity and Social Security, and Rui Sá Gomes, Head of the Portuguese Prison Service, as well as with other senior officials from the relevant Ministries. Discussions were also held with Mário Manuel Varges Gomes, Inspector-General of Internal Administration, and Manuel Eduardo Matos Santa, Inspector-General of Justice Services. In addition, the delegation met Alfredo José de Sousa, Ombudsman, and representatives of civil society active in areas of concern to the CPT.

A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II.

D. Cooperation between the CPT and the Portuguese authorities

5. With one main exception, the cooperation provided by the national authorities in facilitating the visit was, on the whole, good. The delegation was granted immediate access to the detention facilities it wished to visit and to the persons it wanted to interview, and most of the information required to carry out its task was promptly provided. In particular, the delegation would like to thank the CPT liaison officers for the assistance provided during the visit.

The main exception concerned an initial denial of access to the privately-run Casa do Lago home for juveniles in Lisbon. The management of the establishment had apparently received no prior information on the CPT's mandate and powers from the Portuguese authorities and was not satisfied with the credentials issued by the Ministry of Social Solidarity. The question of access was only resolved following the intervention of the liaison officer. Further, the CPT was not provided with a complete list of all places where persons may be deprived of their liberty (i.e. privately-run homes for juveniles or elderly persons) until after the visit had begun.

The CPT's delegation was also unable to access the premises of the National Republican Guard station in Sintra despite waiting for 20 minutes, as the duty officer was apparently busy with other duties. The Operational Commander of the GNR later apologised for the misunderstanding and stated that every effort would be made to ensure that all officers were clearly aware of the Committee's mandate in the future.

The CPT trusts that the Portuguese authorities will take the necessary steps to ensure that in future visiting delegations are provided in good time with full information on all places where persons may be deprived of their liberty by a public authority and that all such establishments are made aware of the CPT's mandate.

E. Development of a National Preventive Mechanism

6. Portugal signed the Optional Protocol to the United Nations Convention against Torture (OPCAT) on 15 February 2006. The CPT noted that the Portuguese authorities announced at the 10th Human Rights Council session in February 2012 that the process of ratification should be completed soon and that the Ombudsman would be nominated as the National Preventive Mechanism (NPM).

The CPT attaches great importance to the setting up of independent and properly resourced national preventive mechanisms which are endowed with the necessary expertise (as provided for by the OPCAT). Such bodies are capable of making a crucial contribution to combating torture and other forms of ill-treatment.

The Committee would like to be updated on the OPCAT ratification process and subsequent nomination of a NPM.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

7. In the course of the 2012 visit, the CPT's delegation visited ten Public Security Police (PSP) stations in the Lisbon metropolitan area and two stations in each of the districts of Coimbra and Setúbal. It also interviewed a number of persons in prison, both sentenced and on remand, who had been apprehended and detained in the recent past by either the PSP or the National Republican Guard (GNR). The PSP and GNR come under the responsibility of the Ministry of the Interior. In addition, the delegation examined the treatment of persons detained by the Judicial Police (PJ), which is subordinated to the Ministry of Justice.

8. The legal framework governing the deprivation of liberty by law enforcement officials remains the same as that in place at the time of the 2008 visit. In brief, Article 28(1) of the Constitution and section 254 of the Code of Criminal Procedure (CCP) limit the time for which a person suspected of a criminal offence may be detained in a police station to 48 hours. In practice, other than over the weekends, persons are rarely kept longer than 24 hours in detention and the vast majority are released on police bail after a few hours.

2. Ill-treatment

9. Many persons met by the delegation stated that they had been correctly treated by law enforcement officials both at the time of their apprehension and while in police custody. However, the delegation did receive a number of allegations of ill-treatment at the time of apprehension, after the persons concerned had been brought under control, and prior to arrival at police detention facilities; these allegations concerned the PSP, GNR and JP. Some allegations of ill-treatment by the judicial police during the interrogation process were also received. In both situations, the ill-treatment was said to consist primarily of slaps, punches and kicks to the body and/or head.

The CPT wishes to highlight the following cases of alleged ill-treatment.

10. In one case, the alleged ill-treatment was said to have taken place early on the morning of 24 June 2011 by the side of a road near Santiago do Cacém. A vehicle containing suspected stolen goods was stopped by a GNR patrol and the four occupants were arrested and handcuffed. After some 15 minutes a GNR officer of the rank of Captain arrived on the scene. Apparently, he was extremely angry that the four persons had carried out a burglary on "his" territory and, using a whip (known as a "piche de boi" and some 50 cm in length) proceeded to beat two of the arrested persons. Subsequently, the officer allegedly pulled out a serrated knife from his belt and stabbed one of the same persons in the right buttock. The four suspects were taken to the police station, where one of them alleged that he was again assaulted by the Captain in the car park and received several truncheon blows to the right side of his upper body and to his legs. Meanwhile, due to the profuse bleeding of the suspect who had been stabbed, the person concerned was taken to hospital where he received some ten stitches. However, no medical certificate was supplied.

On 26 June 2011, the suspects were brought before the court and remanded into custody. Upon arrival at Setúbal Prison, the duty officer in charge apparently photographed the injuries of the person who had been stabbed, but there was no record of the photos in the prison at the time of the visit. The prison health care staff also took very cursory note of the presence of marks but without providing any description or information on their origin. The inmate provided a statement to the prison lawyer on the incident which was forwarded to the Director of the Prison and thereafter to the Internal Audit Service (SAI) of the Prison Administration. However, it was not until 1 December 2011 that two GNR officers from Setúbal took down a statement from the inmate in relation to the incident of 24 June 2011; moreover, they did not seek witness statements from the other suspects who had been apprehended at the same time.

At the time of the visit, the person who was allegedly stabbed still displayed a clearly visible lateral scar (6cm in length with 10 stitch marks) in the middle of the right buttock, consistent with a stab wound. The CPT's delegation was provided with photographic evidence concerning both of the persons allegedly assaulted, taken two days after the incident of 24 June 2011. The photos show that the inmate who claimed to have been stabbed had visible extensive bruising to the upper buttocks, the back, the right flank and the right inner upper arm. The other detained person also displayed multiple bruises (tramline in nature) on the upper buttocks and the right flank. The injuries in the photographs were consistent with the allegations of having been whipped.

By letter of 13 April 2012, the Portuguese authorities informed the CPT of the steps taken to date with regard to this case. It is noted that the internal investigation by the GNR was closed on 22 March 2012 on the grounds that the light injuries inflicted on the detainee were caused by the handcuffs, and that no intention on the part of the Captain to inflict harm could be proved. Such a conclusion is clearly not convincing given the objective evidence described above. However, the authorities also informed the CPT that the Inspector-General of Home Affairs (IGAI) had now opened an urgent inquiry into this case.

The CPT would like to be kept informed of the outcome of the investigation by the IGAI and of any subsequent actions taken in respect of this case.

11. One person, apprehended outside a restaurant in Porto by the Judicial Police, alleged that he was kicked in the ribs and the head when he was lying on the ground with his hands cuffed behind his back. He stated that he was taken to the 5th floor of the Judicial Police headquarters in Porto where he was forced to kneel on the floor and bend forward until his head touched the floor while still cuffed behind his back, and that he received multiple slaps to the back of his head. The officers were apparently urging him to confess to a crime of theft. He said that the treatment only ceased after a senior officer had entered the room and told the other officers to stop. Thereafter, he said he was well-treated. The injuries to his head were noted and photographed upon arrival in the Porto Judicial Police Prison by the prison staff and the person in question had to sign a form stating that the injuries had existed prior to his admission to the prison. However, no further steps were taken.

12. In another case, a 16-year-old was arrested at his school in Lisbon by two PSP officers, one of whom allegedly slapped him in the face. The juvenile was taken to the Judicial Police Headquarters where he was apparently interviewed for one hour by officers without the presence of a lawyer or trusted adult, and in the course of which he alleged that he was slapped once on his right ear by an officer. Subsequently, he was informed of his rights and a court appointed lawyer arrived to assist him.

13. Reference should also be made to an allegation of excessive use of force made by a person detained at the Public Security Police Holding Facilities at Rue Capelho in Lisbon; he claimed that he had been punched in the face and received multiple truncheon blows at the time of his apprehension. According to the registers, he had been brought to the detention facility at 7.20 a.m. on 12 February 2012 after having been taken to St. Jose Hospital. However, there was no medical or other document explaining the reason for the detainee being taken to hospital or a description of injuries. The handover form from the arresting officers merely stated that due to an incident he had some scratches on his cheek. The delegation's doctors were able to obtain a certificate from the hospital which noted that he had been brought to the hospital at 1.50 a.m. and discharged at 3.49 a.m. and that the person alleged he had been assaulted by a police officer. The certificate refers to a black eye and swollen nose, with signs of recent bleeding, swollen lips and scratches. In addition to the injuries described in the hospital certificate, the delegation's doctors noted that the detained person displayed bruising to his upper right arm (5 cm x 3 cm), to his right thigh (10 cm x 2.5 cm) and to his back (12 cm x 1.5 cm), consistent with his allegation of having been struck several times with a truncheon. He also appeared to have a fracture of the 8^{th}-9^{th} rib on the left mediclavicular line. By letter of 2 May 2012, the Ministry of Internal Affairs informed the CPT that the injuries sustained by the detained person had resulted from his violent resistance to attempts by officers from the PSP to arrest him, one of whom had required medical treatment, and that the force used was strictly necessary and proportionate.

14. The CPT recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for their being struck by police officers.

In light of the information gathered during the 2012 visit, **the CPT recommends that police officers be regularly reminded of these basic principles. Further, every use of force by law enforcement officials should be properly documented (description of facts; any injuries sustained; whether the detained person was brought to hospital, etc.). The Committee would also like to be informed of the investigative steps taken in relation to the case referred to in paragraph 13 above.**

15. The delegation also received a few complaints of handcuffs being applied too tightly by PSP officers in the Lisbon area, and in the case of one juvenile observed for itself the clearly reddened marks left by the handcuffs. **The CPT recommends that appropriate measures be taken to put an end to this misuse of handcuffs.**

16. In parallel with the powers of public prosecutors to institute criminal procedures, the investigation of complaints relating to alleged ill-treatment by the police is carried out by the internal investigation services of the PSP and GNR, respectively, or by the Inspectorate-General of Home Affairs[1] (IGAI). In principle, whenever an action of the police results in allegations of grievous bodily harm or death, the facts should be communicated to the Minister of Internal Affairs who will request IGAI to carry out an investigation. The IGAI may also take up cases ex officio. The delegation was informed all cases of criminal conduct should be reported to the public prosecutor who is thereafter in charge of investigating and bringing charges. Also, only the prosecutor may order a forensic examination to be performed.

In 2011, the number of administrative proceedings opened by the IGAI in relation to offences against the physical integrity of the person was 349, out of which some 16 inquiries were launched but only two disciplinary proceedings initiated. And, at the time of the visit, no case of alleged ill-treatment by police officers investigated by the IGAI had resulted in a disciplinary sanction for the previous three years.

17. As regards more specifically the Judicial Police, investigations into allegations of ill-treatment are conducted by the Discipline and Inspection Unit of the Judicial Police, which is headed by a seconded public prosecutor. The head of the unit admitted that it was difficult to obtain evidence in cases of alleged ill-treatment and that all the cases (12 in total) opened in 2009 and 2010 had been closed due to lack of evidence.

18. From all the information provided to the CPT's delegation during its talks with relevant authorities and the facts gathered on the ground, it would appear that both the IGAI and the Judicial Police Discipline Unit are hampered in their efforts to effectively investigate allegations of ill-treatment in a timely manner. The CPT is concerned that a perceived lack of action by the authorities in cases where there is *prima facie* evidence that police officers have engaged in ill-treatment will encourage a climate of impunity.

The CPT recommends that the Portuguese authorities pursue their efforts to ensure that investigations into allegations of ill-treatment are effective[2].

Further, officers under investigation (criminal or disciplinary) for an act of alleged ill-treatment should, while the case is ongoing, be assigned to duties which do not involve direct contact with the public or detained persons.

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1 *Inspecção-Geral da Administração Interna.*

2 On this subject, see the CPT's 14th General Report (CPT/Inf (2004) 28, paragraphs 31 to 36).

3. Safeguards against ill-treatment

19. In the course of this visit, the CPT's delegation reviewed the safeguards afforded to persons deprived of their liberty by the PSP, GNR and JP; namely, the rights of such persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor. It also examined whether such persons were informed without delay of all their rights and whether the custody records were properly filled out.

At the outset, the CPT wishes to welcome the adoption on 19 May 2009 of Order no. 12786/2009 regulating the Conditions of Detention in Judicial Police facilities and in the Courts and Public Prosecution Service, which provides detailed rules both on the rights to be enjoyed by persons deprived of their liberty by the JP and the material conditions to be found in these establishments[3].

a. notification of custody

20. The right of detained persons to notify a family member or a person of confidence of their situation is clearly provided for in law (see Article 250 of the CCP). Further, Regulation 8684/99 which applies to both the GNR and the PSP, states that detainees must be permitted to inform their families immediately about their situation and must be provided with all reasonable facilities to this end. In the response of the Portuguese authorities to the report on the 2008 visit, it is expressly stated that the rules laid down in the Regulation apply to all persons deprived of their liberty and not only to an "arguido" (i.e. a person who has been formally charged with a criminal offence).

As regards the Judicial Police, Article 3 of Order no. 12786/2009 states that every person deprived of his or her liberty shall be informed immediately of the reasons for the detention and of their rights, and that these rights may be exercised from the outset of the deprivation of liberty. And Article 5 states that the detainee has the right to inform a family member or trusted person of his or her situation.

However, the CPT's delegation met a number of persons, including those detained by the Judicial Police, who claimed that they had not been able to inform a member of their family while in police custody. **The CPT reiterates its recommendation that the Portuguese authorities ensure that the right of persons deprived of their liberty by law enforcement officials to notify their detention to a third party, as from the outset of custody, is effective in practice.**

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[3] As regards the PSP and GNR, analogous rights had already been laid down in Regulation 8684/99 on Material Conditions in Police Premises.

b. access to a lawyer

21. As the CPT has stated in the past, its objective of guaranteeing an effective right of access to a lawyer during police custody is not primarily linked to issues of due process or the right to a defence; it is aimed at preventing ill-treatment. In the CPT's experience, it is during the period immediately following the deprivation of liberty - and, *a fortiori*, during which the individual is subjected to police questioning - that the risk of intimidation and ill-treatment is at its greatest.

It follows that to be effective as a safeguard against ill-treatment, access to a lawyer must be guaranteed as from the very outset of deprivation of liberty. The right of access to a lawyer must include the right to talk to him/her in private; the detained person should also in principle be entitled to have the lawyer present during any interview with law enforcement officials.

22. The right of access to a lawyer is guaranteed in the Portuguese Code of Criminal Procedure (CCP) to a person once he or she has formally become the subject of an investigation by law enforcement officials by being declared an "arguido". However, the CCP does not guarantee the right of access to a lawyer for persons arrested by the police who have not yet acquired the "arguido" status, or for other persons obliged to remain in police premises (e.g. for identification or as a witness).

In their response to the report on the CPT's 2008 visit, the Portuguese authorities refer to both Regulation 8684/99 on Material Conditions in Police Premises and Decision no. 10717/2000 of the Minister of the Interior as the basis for providing all persons deprived of their liberty the right of access to a lawyer as from the outset of the deprivation of liberty. As regards the Judicial Police, Article 5 of Order no. 12786/2009 states that the detained person has the right to immediately contact a lawyer.

However, the findings of the visit in 2012 clearly indicate that the right of access to a lawyer is, in fact, still not effective for the majority of persons detained by law enforcement officials. At present, if a detained person cannot afford a private lawyer, he or she will only have access to an ex officio lawyer at the court hearing before a judge. This hearing could take place up to 48 hours after the moment of apprehension. As regards more specifically the Judicial Police, many persons deprived of their liberty stated that they had only been informed of their rights following an initial period of questioning.

The CPT calls upon the Portuguese authorities to ensure that the right of access to a lawyer, including the right to talk to the lawyer in private, is enjoyed by all persons obliged to remain with the police, as from the very outset of the deprivation of liberty. From a practical point of view, this will require putting in place an arrangement with the local Bar Association to ensure that there is a duty roster of ex officio lawyers who can visit police stations when required.

23. As regards juveniles, Article 64 of the CCP states that the assistance of a lawyer is compulsory for any defendant under the age of 21. Further, Law 166/99 on Educational Guardianship, which applies to children between the ages of 12 and 16, provides in addition for a child to be accompanied by a parent or guardian whenever he or she is detained by law enforcement officials (see Article 45). However, notwithstanding the above provisions, the delegation encountered a 16-year-old (see paragraph 12 above) who alleged that he was interrogated by Judicial Police officers in Lisbon without a lawyer being present. A similar allegation was made by the juvenile apprehended by the PSP referred to in paragraph 15 above.

The CPT recommends that appropriate steps be taken to ensure that juveniles are not required to make any statements or sign any documents concerning the offence of which they are suspected without benefiting from the presence of a lawyer and, in principle, of a trusted adult person to assist them.

c. access to a doctor

24. Article 21 of Regulation 8684/99 relating to the PSP and GNR provides for the right of access to a doctor, including a doctor of one's own choice at the detained person's expense. Article 29 of Order no. 12786/2009 provides for an analogous provision in relation to persons deprived of their liberty by the Judicial Police. And the CPT was pleased to note that its delegation received almost no complaints about access to a doctor by persons deprived of their liberty by the police.

However, there was no register in the police stations visited of persons who had been taken to hospital for treatment. Nor were detained persons provided with a copy of the medical information from the hospital or doctor's consultation. **The CPT recommends that a register of all medical interventions concerning detained persons be kept in each police station and that a copy of any medical documentation be made available to the detained person.**

d. information on rights

25. The Portuguese Constitution clearly lays down that any person deprived of his or her liberty must be immediately and clearly informed of the reason of the arrest or detention and of their rights (Article 27.4). In addition, Regulation 8684/99 on Material Conditions in Police Premises explicitly states in Article 14.1 that a notice explaining the rights and duties as contained in Article 61 of the CCP should be prominently displayed in every police station and a leaflet laying out these rights, in several languages, be made available. Further, the Regulation states that the information must be supplied in a language understood by the detained person and recorded in the official registers. However, unlike the more recent 2009 Regulation concerning Judicial Police facilities (see Article 4.3), Regulation 8684/99 does not provide for detained persons to sign a statement indicating that they have been informed of their rights in a language they understand.

In the course of the visit, a number of detained persons stated that they had not been informed of their rights during the first few hours of their detention and, in certain cases, not at all.

The CPT recommends that law enforcement officials are reminded of their obligation to immediately inform detained persons of their rights. In addition, Regulation 8684/99 should be amended to ensure that all persons obliged to remain with the PSP and GNR are requested to sign a statement indicating that they have been informed of their rights in a language they understand. If necessary, the absence of a signature should be duly accounted for. Further, all detained persons should be provided with a written explanation of their rights.

e. custody records

26. In the police stations visited, the CPT's delegation noted that the custody records were not always filled out fully or accurately. For example, at the Rua de St. Antonio TransPorto Publica Police Station in Oeiras, the register stated that a person was kept in detention from 19 to 21 November 2011 and yet the station contained no holding cells, and in Estrada de Brandoa Police Station in Amadora the records were poorly maintained. **The CPT recommends that officers in all law enforcement establishments be reminded to maintain custody registers meticulously.**

4. Conditions of detention

27. In the course of the 2012 visit, the CPT's delegation visited 14 PSP stations and three Judicial Police detention facilities. As was the case during the previous visit, it was clear from interviews with staff and detainees and from consulting the relevant registers that overnight detention in most police stations remains a relatively infrequent occurrence.

The material conditions in the GNR and PSP stations are governed by Regulation 8684/99 and regularly inspected by IGAI. As regards detention facilities under the Judicial Police, Order no. 12786/2009 cited above provides detailed rules on the material conditions that should pertain in these establishments and they are subjected to inspection by the Inspectorate General of Justice Services[4] (IGSJ) and the Discipline and Inspection Unit of the Judicial Police.

28. The majority of the police cells visited were in an adequate state of repair, suitably equipped and with access to natural light and artificial lighting. However, at the Rua Capelho PSP Holding facilities in Lisbon, the three basement cells had no access to natural light and were not equipped with mattresses (detained persons were only provided with a blanket), and the largest of the three ground-floor cells in operation (measuring some 17m²) was in a state of dilapidation. The two cells at Benfica Police Station were dirty, had no functioning artificial lighting and detained persons were not provided with a mattress.

There was also a lack of access to natural light and an absence of functioning call bells in the cells of the Coimbra and Setúbal District Police Headquarters, Brandoa Police Station in Amadora and Rua Direita do Pragal Police Station in Almada.

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4 *Inspecção-Geral dos Serviços de Justiça.*

Further, none of the police stations visited possessed an exercise yard, not even the PSP Holding Facilities at Rue Capelho in Lisbon where persons were regularly held longer than 24 hours at weekends.

The CPT recommends that the Portuguese authorities take the necessary steps to remedy the deficiencies highlighted in the above remarks. In particular:

- **anyone obliged to stay in custody overnight should be provided with a mattress;**
- **persons detained for 24 hours or more should have access to outdoor exercise;**
- **all police cells should have adequate artificial lighting and enjoy access to natural light.**

B. Prison establishments

1. Preliminary remarks

a. recent developments

29. At the time of the visit, the prison population in Portugal stood at 12,793 for an official capacity of 12,077. The downward trend observed in Portugal from 2002 to 2009, during which time the prison population decreased by some 20% to 10,941, has been reversed and the upward spiral since the end of 2009 shows no signs of abating, according to the quarterly figures produced by the Portuguese Prison Administration. Moreover, in a number of establishments, the overcrowding has reached serious levels; for example, the occupancy rate at Setúbal Prison stood at 225% of the official capacity and a further 19 prisons had occupancy levels in excess of 130%.

The steady increase in the prison population comes in spite of efforts by the Portuguese authorities to have greater recourse to alternative measures to imprisonment, and notwithstanding the entry into force of new Criminal and Criminal Procedure Codes on 15 September 2007, which introduced a number of measures designed to reduce the prison population.

Further, in the current economic environment the plans to build new prisons have been put on hold; the consequence of this approach is most vividly illustrated by the continued operation of Lisbon Central Prison, which was supposed to have been closed down in 2007. In any event, the building of additional accommodation would always be unlikely, in itself, to provide a lasting solution to the challenge of prison overcrowding. Instead, the promotion of policies to limit and/or modulate the number of persons being sent to prison can be an important element in maintaining the prison population at a manageable level. The mooted abolition of the PDL[5] system (i.e. persons committed to prison during weekends only) would be a positive first step as their imprisonment uses up scarce resources and alternatives to imprisonment for this category of offender exist.

The CPT recommends that the Portuguese authorities pursue a multi-pronged approach towards eradicating prison overcrowding, having regard *inter alia* to the principles set out in Recommendations Rec (99) 22 concerning prison population inflation and Rec (2006) 13 on the use of remand in custody as well as other pertinent Recommendations of the Council of Europe's Committee of Ministers[6]. The Committee would like to receive updated information on the measures being taken.

30. The legal framework governing the prison system has been revised since the 2008 visit, with the adoption in October 2009 of Law 115/2009 on the Code on Execution of Criminal Sanctions and Measures and, subsequently, the entry into force on 10 June 2011 of the new General Prison Regulations (legislative decree 51/2011). The updating of the legal framework governing prisons in Portugal is to be welcomed.

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5 *Por dias livres.*

6 See, for example, Recommendation Rec (2000) 22 of 29 November 2000 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules .

b. prisons visited

31. The CPT's delegation visited for the first time Paços de Ferreira Prison, and carried out follow-up visits to the Judicial Police Prisons in Lisbon and Porto and to Linhó and Lisbon Central Prisons; these last two prisons had not been visited by the Committee since 1995 and 1999, respectively.[7]

32. **Linhó Prison**, located near the town of Sintra, was built in 1954 and the establishment holds sentenced male prisoners, primarily young adults aged between 20 and 30. It also hosts one of the two high security units in the Portuguese prison system. The establishment has an official capacity of 584 but, at the time of the visit, half of A wing was closed for refurbishment and it was holding 439 inmates, 28 of whom were placed in the open regime. It also accommodated 61 PDL prisoners.

Lisbon Central Prison, which is situated close to the city centre, was brought into service in 1895. In 2007, the prison was sold to private developers as it was planned to build a new prison for the Lisbon area. However, due to the unfavourable economic environment, no new prison has yet been constructed and Lisbon Central Prison will remain in service for the coming years. With an official capacity of 886, it was holding 1,204 male inmates at the time of the visit, of whom 579 were on remand.

Paços de Ferreira Prison, located some 30 km north of Porto, accommodates prisoners sentenced to more than six months. The prison also hosts the second high security unit. At the time of the visit, the establishment was accommodating 612 inmates for an official capacity of 548.

The **Judicial Police Prisons of Lisbon and Porto** accommodate remand prisoners usually for periods of up to three months, although at the time of the visit some persons had been in these establishments for over a year. The Lisbon Prison has 140 beds in 76 cells but at the time of the visit was holding 144 male remand prisoners, including two juveniles[8]. The Porto establishment was holding 39 adult males for a capacity of 43.

2. Ill-treatment

33. Many prisoners met by the delegation in the establishments visited stated that they were treated fairly by prison officers and it is noteworthy that no allegations of ill-treatment by staff were received at Lisbon and Porto Judicial Prisons.

Nevertheless, a number of allegations of ill-treatment of inmates by prison officers were received at Linhó, Lisbon Central and Paços de Ferreira Prisons[9]. The ill-treatment was said to consist of slaps, punches, kicks and blows with truncheons to the body and/or head.

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7 In addition, the delegation paid a targeted visit to Sétubal Prison for the purpose of interviewing persons recently remanded in custody.

8 The occupancy was 159 when the delegation paid a follow-up visit to the facility a few days later.

9 Detailed allegations of ill-treatment by prison officers were also received in respect of certain prison establishments not visited by the CPT's delegation in the course of the 2012 visit.

34. At each of the three last-mentioned prisons, inmates on different wings alleged that ill-treatment often occurred at or after lock-up at night and appeared to constitute punishment for an act of insubordination committed earlier in the day. For example, at Linhó Prison, several allegations were received of inmates being punched and struck with batons following an incident in the dining room in December 2011. At Lisbon Central Prison, several inmates stated that they had been visited in their cell by two or three guards at lock-up (6.30 p.m.) and had been slapped in the face and punched in the stomach and ribs apparently because they had spoken during meal time;[10] a number of inmates interviewed separately also alleged that they had been taken to the waiting cell (*sala d'espera*) on the main corridor where they had been subjected to slaps and punches from one or two officers, either in the cell or in the officer's room across the hallway.

At Linhó and Paços de Ferreira Prisons, allegations of ill-treatment were particularly prevalent in the security units. One inmate at Paços de Ferreira Prison claimed that on 24 July 2011, two days after he had apparently started a hunger strike, three prison officers entered his cell, ordered him to strip down to his boxer shorts and proceeded to punch and kick him. He alleged that he was thrown to the ground, his wrists cuffed behind his back, and he was dragged along the floor to another cell, where he was left cuffed for about an hour. His medical record contained an entry on 25 July 2011, which states "bruises on right arm" and another one the following day "bruising on right arm and back; says he was beaten by guards". The inmate claimed that he had complained to the chief officer about the beating.

Another inmate in the Paços de Ferreira security unit, who wanted to express his frustration at being held in conditions of high security for seven years by setting fire to the mattress in his cell at 10.30 p.m. on 25 July 2011, claimed that he was subsequently punched, kicked and subjected to truncheon blows by several prison officers. He was taken to hospital for treatment where he had to have three stitches for a wound to the head and claimed that he had visible bruises along his left leg and tramline marks on his back. The entry in the inmate's medical record of 27 July states "he has been beaten by guards after setting fire to cell". The inmate also said that he had discussed the ill-treatment with the chief officer. However, no further action was taken.

The CPT's delegation also received many complaints of beatings by members of the Prison Security and Intervention Group (GISP) and certain prison officers from other establishments during a search operation in Paços de Ferreira Prison on 10 July 2011. The CPT understands that the SAI is carrying out an inquiry into this matter and **would like to receive a copy of the final report.**

35. In the light of the information gathered during the 2012 visit, **the CPT recommends that the Portuguese authorities deliver a clear message to all prison managers and custodial staff that all forms of ill-treatment are not acceptable and will be the subject of severe sanctions. More specifically, prison officers must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all prison officers are provided with training in recognised control and restraint techniques** (see also paragraph 57).

The CPT also recommends that the Prison Administration and the management of Linhó and Paços de Ferreira Prisons monitor closely the situation in the security units of these establishments.

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[10] At Lisbon Central Prison, meals were eaten communally on each wing but officers enforced a strict silence and inmates were under pressure to eat rapidly.

36. Effective investigations, capable of leading to the identification and punishment of those responsible for ill-treatment, are essential to give practical meaning to the prohibition of torture and inhuman or degrading treatment or punishment. It follows that whenever there are grounds to believe that an inmate may have been ill-treated, either within the prison concerned or by law enforcement officials prior to being remanded to prison, this matter should be brought rapidly to the attention of the relevant investigatory authorities, notably the Prison Inspection and Audit Service (SAI) and the public prosecutor's office.

In order to promote the effectiveness of investigations, it is imperative for a thorough medical examination to be conducted on prisoners following a violent incident or use of force within an establishment as well as on all newly admitted inmates.

The importance of having proper medical documentation was highlighted by both the SAI and Inspectorate General of Justice Services (IGJS); they stated that whenever investigating allegations of ill-treatment in prisons, they were met with a wall of silence that was difficult to penetrate without objective evidence. This state of affairs was confirmed by the statistics provided by SAI and IGJS. For the SAI, of the 100 complaints received in 2009 and 2010, one resulted in a suspension from work (concerning facts that occurred in 2005), one resulted in a fine and two in a written warning; of the remainder, 87 were closed and eight were pending. For the IGJS, all 31 complaints received in 2009 and 2010 specifically related to ill-treatment by prison staff were classified as either "unproven" or "impossibility of findings".

However, the information gathered during the visit indicated that prisoners against whom force had been used were not always examined by a doctor, and that in those cases where they were seen by a member of the health-care staff, a full examination did not take place and the injuries were not properly recorded (allegations not noted down in full and injuries observed not described in detail). The authorities should take the necessary steps to ensure that doctors are provided with the appropriate training to fulfil these specific tasks. Further, it is important to recall that all medical examinations of prisoners should be conducted out of the hearing – and unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.

The CPT recommends that the Portuguese authorities reinforce the capabilities of the relevant bodies to investigate allegations of ill-treatment. In this context, particular attention should be given to ensuring that medical examinations are carried out in accordance with the requirements advocated by the Committee (see also paragraph 66).

37. At Paços de Ferreira Prison, the delegation came across one case dating from 14 November 2010 in which medical evidence did exist. Following an exchange of words with a prison officer at the entrance to the disciplinary unit, an inmate alleged that the officer punched him twice on the mouth and a second officer delivered several blows with a truncheon to his head and his legs which made him fall over. Once on the ground and handcuffed, the two officers apparently continued to subject him to kicks and blows with a truncheon to different parts of his body. The entry in the inmate's medical record of 14 November 2010 contains a diagram with indications of injuries to the left cheek and bruising to the right flank and on the back, and the prisoner was promptly sent to hospital. Further, an entry by the prison psychologist of 16 November notes bruising on the face, on the back and on one foot, and states "he doesn't understand why the guards have beaten him". The SAI was informed about the case and a criminal complaint was lodged with the public prosecutor. **The CPT would like to be informed of the outcome of the investigations into this case.**

38. Prison officers who are under investigation for possibly inflicting ill-treatment on prisoners should not continue to carry out duties which bring them into daily contact with inmates while the matter remains under investigation. Unfortunately, this was not the practice in Portugal at the time of the visit. **The Committee recommends that when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation.**

39. As regards inter-prisoner violence, the CPT is particularly concerned about the situation encountered by its delegation in the basement of F Wing of Lisbon Central Prison, where persons sentenced for sexual offences were accommodated. The information gathered clearly indicated that a group of "stronger" prisoners were exploiting and physically abusing other prisoners. For example, one inmate had had money extorted from him and had been slapped, punched and kicked by a number of prisoners belonging to the group. These actions had resulted in the "leader" of the group being disciplined but word had been delivered to the inmate that he should "already book his hospital bed". At the time of the visit, the inmate said that he feared for his life. Other prisoners in this unit also alleged that they had been physically assaulted by the group of "stronger" prisoners.

It should be noted that the absence of any permanent presence of prison officers in the basement unit meant that prisoners were left unsupervised in the unit for much of the day, and the prison management was not in a position to properly monitor instances of bullying or intimidation. Further, as the unit was totally cut off from the rest of the wing, access to the unit required passing through the dining room and several locked doors, which meant officers only visited the unit when absolutely necessary.

As regards the above-mentioned prisoner, the CPT's delegation insisted that the authorities take immediate steps to protect this inmate's life. By letter of 2 May 2012, the Portuguese authorities informed the CPT that several inmates had been transferred out of the basement of F Wing to other wings and an internal investigation opened. **The CPT would like to be informed of the outcome of that investigation.**

Further, the CPT recommends that there be a permanent staff presence in the basement unit of F Wing whenever inmates are unlocked from their single cells.

3. High security units

40. The CPT's delegation examined the conditions in the high security units located within Linhó and Paços de Ferreira Prisons. These two units, together with Monsanto Prison, comprise the high security estate within the Portuguese prison system.

The reasons for placement in a high security unit are set out in Article 15 of the Code on Execution of Criminal Sanctions of October 2009 (Law 115/2009), notably: evidence of links to serious organised crime or offences of a terrorist nature; for good order and security of the prison; and for serious fraud. The decision to place a person in a high security unit is taken by the Director General of Prison Administration, usually upon a proposal from the director of the prison in which the inmate is located. The initial placement is made for a period of six months (or for three months if the inmate is under 21 years of age) and may be renewed for an additional period of six months by the Director General based upon an assessment by the high security unit team of the prison in which the inmate is placed. Every placement and extension thereof in a high security unit is reported to the Public Prosecutor attached to the Court for the enforcement of sentences but the prisoner concerned has no right to appeal to an independent authority.

41. Linhó Prison high security unit consisted of 31 single-occupancy cells, with 21 cells along a first floor landing and beneath them, on the ground floor, ten cells as well as a small exercise room, a doctor's consultation room and a room for interviews with treatment staff (social worker, educator, psychologist). The control room was located at the entrance to the unit and there was also a separate room with four partitioned cubicles for closed visits. Six of the unit's cells were reserved for prisoners from throughout the establishment serving a disciplinary sanction (see section 8a below). At the time of the visit, the unit was accommodating 23 inmates, two of whom were serving a disciplinary punishment.

The high security unit in Paços de Ferreira Prison was accommodating 22 prisoners at the time of the visit. The unit's layout was the same as that in Linhó Prison, except that it contained two cells designated for inmates located in the high security unit who had to serve a disciplinary punishment of solitary confinement[11]; these two cells measured a mere 4.5m², which is totally unsuitable for accommodating prisoners overnight, and the CPT's delegation requested that the inner barred gate of these cells should be left unlocked, thus affording each prisoner some 6.5m² of living space. By letter of 2 May 2012, the Portuguese authorities stated that it would be a security risk to leave this inner barred gate unlocked and that no international standards existed for the size of solitary confinement cells. The CPT is not convinced by this response and, moreover, at Linhó Prison which accommodates a similar profile of prisoner such security concerns were not raised. Further, the CPT has consistently stated in its visit reports that cells of less than 6m² should be withdrawn from service as prisoner accommodation. If the two disciplinary cells in the security unit of Paços de Ferreira Prison continue to be used, **the CPT recommends that the inner barred gate be left unlocked.**

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[11] Inmates from other accommodation wings within Paços de Ferreira Prison would be transferred to a separate unit for disciplinary purposes (see section 8a below).

Each cell in the high security units was furnished with a bed, a plastic chair, a concrete table and a shelving unit and, at the back of the cell, a toilet, wash basin and shower which was partially partitioned from the remainder of the cell. Access to natural light was adequate and artificial lighting and ventilation were sufficient. The cells were rather small (7m² including the sanitary annexe); however, the main deficiency at the time of the visit, particularly at Paços de Ferreira Prison was the coldness of the cells (on average 11°C). **The CPT recommends that the necessary steps be taken to ensure that the cells in high security units are adequately heated.**

42. Inmates placed in the security unit were offered two hours of outdoor exercise every day in reasonably sized yards and the possibility to go to the unit's exercise room three times a week for one hour; these activities took place in association with other inmates. No other activities were offered; consequently, prisoners were confined alone to their cells for 21 or 22 hours every day of the week. Further, inmates had no sentence plan or programme designed to assist them improve their behaviour and prepare them for reintegration into an ordinary regime wing. An educator was assigned to the unit, and inmates could see a psychologist and a social worker if they wanted. However, there was no multi-disciplinary approach whereby the inmates would be provided with a clear progressive programme of activities and behavioural goals towards which they could work and which, over time, would enable them to spend more of the day out-of-cell engaged in purposeful activities.

43. In the CPT's view, prisoners who have been placed in the high security units of Linhó and Paços de Ferreira Prisons should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. Further, a satisfactory programme of diverse activities should be offered (education, sport, work of vocational nature, etc.). In sum, there should be a proactive positive process designed to address the prisoner's problems and permit his return to the mainstream prison population.

It is clear from the information set out in paragraph 42 that such an approach was not in evidence at either the Linhó or the Paços de Ferreira high security units. **The CPT recommends that the Portuguese authorities review the regime at these units, in the light of the above remarks. In particular, a purposeful programme of activities should be put in place for each inmate, elaborated upon arrival in the unit by a multi-disciplinary team and which is the subject of monthly reviews.**

44. In Portugal, prior to the completion of the initial six month placement period in a security unit, an assessment is carried out by each service working in the unit (prison officers, educator, health care personnel), based upon which the Director of the prison provided his or her opinion. These opinions are forwarded to the Director General of Prison Administration, who formulates a decision on whether to extend the period in the high security unit or reintegrate the inmate into an ordinary regime.

All the prisoners in the security units with whom the CPT's delegation spoke stated that they had been told that the length of time they had to spend in the security unit depended on their behaviour. At the same time, they all claimed that they were provided with no information as to the criteria on which they would be assessed, and that no interviews were organised with any staff members to discuss their behaviour. Apparently, the only communication occurred when a prison officer handed over the decision of the Director General. The decision provided no information as to the reasons for an extension of the period in high security. Many prisoners expressed their frustration at not knowing why they continued to be held in the security unit. Signs of resentment towards prison staff were evident.

45. An examination of a number of files pertaining to prisoners in the security units appeared to indicate that continued placement was punitive in nature. To begin with, the assessments were extremely brief with no analysis of the individual but merely an opinion by each prison department. In one typical case, both the officers' and the educator's report stated "good behaviour but given seriousness of offence and short time of stay in the unit, should remain". The director of the prison concurred and, subsequently, the Deputy Director General prolonged the prisoner's stay in the security unit by a further six months. Not surprisingly, the behaviour of a number of inmates deteriorated the longer they were held in the security unit as they felt trapped.

The CPT recommends that the Portuguese authorities institute rigorous procedural safeguards regarding the placement of prisoners, and any extension thereof, in the security units (including a written reasoned decision of placement/extension and the possibility to appeal the decision). Further, there should be a regular multi-disciplinary review of each placement every three months.

46. As regards contacts with the outside world, prisoners in high security units were permitted two closed visits (i.e. in a cubicle separated from their visitors by a Perspex screen) of one hour every week. Further, twice a year they were permitted an open visit of two hours. In the CPT's view, as part of the process to reintegrate prisoners back onto an ordinary regime, **the weekly visits of inmates in the high security units should, as a rule, take place under open conditions, with closed visits being the exception based upon an individual risk assessment.**

4. Conditions of detention

47. The material conditions in the renovated parts of A and C wings of *Linhó Prison* were of an acceptable standard. Single-occupancy cells (7.5m²) were suitably equipped, had access to natural light and possessed sufficient artificial lighting and ventilation. The cells in B Wing were of a similar layout but many of them showed signs of dilapidation; however, the progressive renovation of the prison was on hold following the bankruptcy of the building contractor.

At *Paços de Ferreira Prison*, the cells were of a similar layout to those in Linhó Prison and in an adequate state of repair. However, due to the overcrowding in the prison many of the 7.5m² cells were accommodating two persons.

The CPT recommends that the Portuguese authorities pursue their plans to renovate the accommodation wings in Linhó Prison. Further, cells of 7.5 m² should cease to be used to accommodate more than one prisoner (see also the recommendation in paragraph 29).

48. The large exercise yards in *Linhó* and *Paços de Ferreira Prisons* were devoid of any equipment and should, at a minimum, each **be equipped with a means of rest and a shelter from inclement weather.**

49. Material conditions of detention in *Porto Judicial Police Prison* remained of a good standard and action had been taken to install a shelter in the yard for protection against inclement weather. However, the window-panes in the cells were still opaque, preventing remand prisoners from seeing outside; **the CPT reiterates its recommendation that the design of the cell windows be reviewed so as to allow inmates to see outside of their cells.**

As regards *Lisbon Judicial Police Prison*, the cells were generally suitably equipped, had access to natural light and adequate artificial lighting and ventilation. However, many of the cells were overcrowded (four persons in 11 m² and two persons in 7m²) and showed signs of wear and tear. Prisoners accommodated in multi-occupancy cells should each have at least 4m² of living space and cells of 7m² should not accommodate more than one person. **The CPT recommends that the Portuguese authorities take the necessary steps to bring cell occupancy rates in line with the above requirements and to maintain cells in a proper state of repair.**

50. *Lisbon Central Prison* was in a state of dilapidation, made worse by the chronic overcrowding in the establishment. Most of the standard 9m² cells, initially designed for single occupancy, were accommodating two or three prisoners. The conditions were particularly poor in the basement areas of the prison; for example, the cells in the admission unit in the basement of D wing had damp walls, with flaking paint and crumbling plaster, and were cold (13°C); many of the windows were missing one or more panes of glass. The mattresses were generally thin, worn and dirty. The floor-level toilets in many of these cells emitted a foul stench and inmates complained about rats coming out of them. The situation in the basement areas of B, C, D and E wings of the prison could be considered as akin to inhuman and degrading treatment.

Material conditions in other parts of the prison were not much better, with cells generally in a state of disrepair. The toilets in the cells were not partitioned, which was particularly degrading for those inmates sharing a cell with one or two other persons. Many cells throughout the prison did not possess any artificial lighting which plunged the cells into total darkness after sundown (circa. 6.30 p.m.), and in a number of cells inmates had manufactured their own makeshift lighting devices. Further, in general, the call bells did not function. Only the basement unit of F Wing, which had been completely renovated in 1999, offered decent material conditions.

In 1999, the CPT had been told that the prison would be closed down. Thirteen years later it remains in service and is still operating well over capacity and holding many prisoners in very poor conditions. The act of depriving someone of his or her liberty carries with it the responsibility for detaining that person in conditions which are consistent with the inherent dignity of a human being; as far as many prisoners in the Lisbon Central Prison are concerned, the authorities have failed to live up to that responsibility. Assuming Lisbon Central Prison is not to be closed in the near future, urgent action should be undertaken to renovate the different wings, starting with the basement areas mentioned above, to the same standard of conditions as those found in the basement of F Wing.

The CPT recommends that the Portuguese authorities take urgent steps to improve the material conditions in Lisbon Central Prison in the light of the above remarks, starting with the basement units. To this end, the Committee would like to receive a timetable for the upgrading of the different areas of the prison. Further, the number of inmates held in the prison should be reduced so as to avoid placing three prisoners in the 9 m² cells; preferably, these cells should be used for single occupancy. The toilet in any cell holding more than one prisoner should be fully partitioned to the ceiling.

51. As was the case in 2008, the delegation noted that there was a lack of heating in the accommodation areas of the prisons visited. This made for cold and damp conditions during winter months. The effects were most pronounced in Paços de Ferreira Prison where average temperatures were 11.5°C in the cells; for prisoners in the security and disciplinary units, who were confined to their cells for 21 to 23 hours every day, the cold was particularly debilitating. **The CPT reiterates its recommendation that the Portuguese authorities take appropriate measures to ensure cells are adequately heated.**

52. As regards activities, inmates in the prisons of Linhó, Lisbon Central and Paços de Ferreira could spend much of the day out of their cells (i.e. between 8 a.m. and 7 p.m.). At Linhó Prison, 128 prisoners were involved in various work activities within the establishment (cleaning, bakery, kitchen, maintenance, etc.), 83 were regularly attending educational classes and 53 were following a vocational course (painting, cooking, motor maintenance). Leaving aside the weekenders (PDL), some 70% of inmates were engaged in an activity.

At Paços de Ferreira Prison, 154 inmates were enrolled in educational courses, 178 prisoners were involved in various work activities within the establishment and 109 were occupied in workshops (leather, cork, vehicle maintenance, building, metalwork, farming). However, this still left more than one-third of the inmate population without any purposeful activity. The situation was even less favourable at Lisbon Central Prison, where 236 inmates were involved in a work activity within the prison and 259 were enrolled in educational courses. In other words, other than some sporting activities, the majority of inmates spent their day in idleness, loitering in their wings.

At the Lisbon and Porto Judicial Police Prisons, no purposeful activities were offered to remand prisoners at all, notwithstanding the fact that some of them had spent more than 18 months in these establishments. Prisoners spent their time watching television, playing board games or walking in the yard.

The CPT recommends that the Portuguese authorities take the necessary steps to develop purposeful activities for remand prisoners in the Judicial Police Prisons and that they pursue their efforts to offer an appropriate range of constructive activities to all prisoners in Linhó, Lisbon Central and Paços de Ferreira Prisons. The goal should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside of their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education, sport; recreation/association.

5. Juveniles

53. One of the cardinal principles enshrined in the United Nations Convention on the Rights of the Child is that juveniles should only be subjected to a measure of deprivation of liberty as a last resort and for the shortest possible period of time. The CPT's basic position is that those juveniles who do have to be deprived of their liberty should be held in facilities specially designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with young persons.

54. In the course of the visit, the delegation met two juveniles (aged 15 and 16 years) in Lisbon Judicial Police Prison, each of whom was accommodated in a dormitory together with adults. This is a matter of considerable concern to the CPT. To accommodate a juvenile and unrelated adults together inevitably brings with it the possibility of domination and exploitation[12]. In order to avoid a juvenile being placed in a situation akin to isolation, the Committee acknowledges that there can be arguments in favour of juveniles associating during the day with selected adults (on the strict condition that there is appropriate supervision by staff). However, the CPT believes that the risks inherent in juveniles sharing accommodation with unrelated adults are such that this should not occur. The CPT's delegation was pleased to note that when it returned to the facility some days later, the Director had taken action to ensure that the four juveniles currently being held in the prison were placed together in separate accommodation from adult prisoners.

At Lisbon Central Prison, juvenile prisoners on remand were being accommodated separately in single-occupancy cells. However, the cells were located on the wing holding young adults.

The CPT recommends that the Portuguese authorities take the necessary steps to ensure that any juveniles detained in an establishment for adults are accommodated separately from adult prisoners, in a distinct unit. The medium-term goal should be to ensure that all juveniles deprived of their liberty are held in facilities specifically designed for this age group.

55. The CPT considers that regardless of their period of detention, juveniles should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme. This was not the case at either Lisbon Judicial Police Prison or Lisbon Central Prison.

At Lisbon Judicial Police Prison, no specific measures had been taken by staff to provide the juveniles referred to above with any support or activities since their arrival in the establishment; indeed, all the information they had received on how the prison functioned came from the adult prisoners with whom they were sharing their accommodation. Nor were they offered any purposeful activities.

At Lisbon Central Prison, there was no proactive approach by staff (educators) to offer juveniles any purposeful activities. Education was the only potential activity available other than some sport but the juveniles met by the delegation stated that the classes were fully subscribed, and that they would have to wait until the next academic year in September 2012. Such a state of affairs is certainly not conducive to the well-being of juveniles. Although a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.

The CPT recommends that the Portuguese authorities put in place a programme of purposeful activities for all juvenile prisoners held on remand.

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[12] See also Article 37(c) of the Convention on the Rights of the Child and General Comment No. 10 of the Committee on the Rights of the Child (paragraphs 85 to 89).

6. Staff matters

56. In general, it appeared that the number of staff in the prisons visited was not sufficient to cope with the size and type of the inmate population in the establishments concerned.

For example, Paços de Ferreira Prison, with an inmate population of 612, had a complement of 175 prison officers divided into shifts of 60 during weekdays and 42 on weekends. This meant that Wing A with 334 inmates was staffed by six prison officers during the day, as was Wing B with its 220 prisoners. At Linhó Prison a similar situation prevailed; there were 156 prison officers for an inmate population of 500, with weekday shifts of 50 officers and weekend shifts of 37 officers.

At Lisbon Central Prison, the staffing situation was the least favourable. 221 prison officers were responsible for some 1,200 prisoners, with weekday shifts of some 75 to 80 officers and some 60 officers on duty at weekends. The actual numbers on the wings were often reduced to two or three officers due to the demand on staff to assist with escorts. A consequence of the lack of staff resulted in certain units having either no permanent staff presence (such as the basement of F Wing) or only a sporadic presence (such as the basement units of D and E Wings).

57. An inadequate staff/prisoner ratio generates an insecure environment for both staff and prisoners. In addition to creating a potentially dangerous situation for vulnerable prisoners, it also poses dangers for staff, whose position can be compromised by their inability to exert proper control over - and develop a constructive dialogue with - prisoners.

Further, the CPT wishes to emphasise the great importance it attaches to the adequate recruitment and training of prison staff. There is arguably no better guarantee against ill-treatment than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners. In this regard, developed interpersonal communication skills are an essential part of the make-up of such staff. Such skills will often enable them to defuse a situation which could otherwise turn into violence. More generally, they will lead to a lowering of tension and raising of the quality of life in the institution concerned, to the benefit of all concerned. However, from the information gathered on the ground, staff were not being offered ongoing training courses to develop such skills, and many prison officers expressed their frustration at this state of affairs.

The CPT recommends that the Portuguese authorities carry out a review of the current staffing levels in the prisons visited and, in the light of that review, make provision to recruit additional staff. In carrying out this review, regard should be had to the role and duties of prison staff as they relate to the purpose of sending people to prison. Further, high priority should be given to the development of prison staff training, both initial and ongoing.

58. The CPT's delegation observed prison officers on the wings of Linhó and Lisbon Central Prisons openly carrying batons; one officer explained that the truncheon was part of the uniform and expressly approved by the Directorate General for Prison Services. In contrast, at Paços de Ferreira Prison, only the officers on duty in the security and disciplinary units openly carried batons.

The open display of batons is not conducive to developing positive relations between staff and inmates; if it is considered necessary for prison officers to carry truncheons, **the CPT recommends that they be hidden from view.**

In fact, the visible wearing of batons in a prison setting could well be seen as a sign of weakness rather than one of strength, demonstrating a lack of confidence in the ability of prison officers to control a situation without possible recourse to a weapon. In this context, the CPT constantly stresses the importance of providing prison officers with appropriate training in control and restraint techniques (i.e. manual control). The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to prisoners and staff. Moreover, such skills will complement and reinforce the confidence of prison officers to interact with prisoners.

The CPT recommends that training in control and restraint techniques be made widely available to prison officers.

59. As regards staff working with juveniles, the CPT has emphasised in the past that the custody and care of this age-group is a particularly challenging task. The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the juveniles in their charge. All such staff should undergo a specific juvenile awareness training programme, with frequent follow-up courses, and benefit from appropriate external support and supervision in the exercise of their duties

None of the staff working with juveniles at Lisbon Central and Lisbon Judicial Police Prisons had received any specialised training for working with prisoners of this age-group. For as long as these two establishments continue to accommodate juvenile prisoners, **the CPT recommends that the necessary steps be taken to ensure that a rigorous selection and training programme is in place for all staff allocated to work with them.**

7. Health care

a. introduction

60. At the time of the visit, the Ministry of Justice had recently completed the process of outsourcing a substantial part of the provision of health care services to a private company (*Successo 24 horas*), with other contractors also providing health care services in some prisons (for example, *IAP* in Setúbal Prison). In the prisons visited, some medical personnel were employed by the Ministry of Justice, but an increasing number were provided by the private contractor. The outsourcing has led to cost-efficiency gains, but it has also resulted in high levels of staff fluctuation within a prison establishment as the contractor often sends different people to work the various shifts. This could lead to a lack of continuity in the provision of health-care, negatively impacting on information sharing and on staff-patient relationships.

The new arrangements for the provision of health care in prisons require the Ministry of Justice to put in place robust oversight and audit mechanisms to ensure that private contractor(s) provide a quality service to the standards required. **The CPT recommends that the Portuguese authorities ensure that the new prison health care arrangements are properly monitored, taking into account the above remarks.**

61. In this context, the CPT's delegation was again informed about the planned transfer of responsibility for health care in prisons from the Ministry of Justice to the Ministry of Health. **The Committee would like to receive more details on the proposed timing of this transfer and the likely impact that such a transfer will have on the provision of health care services in prison.**

b. staff and facilities

62. The health-care facilities in the prisons visited were, on the whole, of a good standard. Staffing levels, however, were not always adequate.

At *Linhó Prison*, the health care team consisted of three medical doctors (one full-time and two part-time) and five nurses (with two nurses on duty during the day and one at night). There was also a full-time psychologist, an infectious diseases specialist, a part-time pharmacist, and a psychiatrist who visited one day per week. In addition, a dentist and a dental assistant were present in the establishment twice a week for three hours each. The above-mentioned number of nurses for an establishment of this size was inadequate. Further, it was evident that the high number of inmates with psychological and/or psychiatric problems were not receiving the necessary counselling and care.

At *Lisbon Central Prison*, the medical unit was staffed by one full-time and three half-time general practitioners; this is not sufficient for an establishment holding some 1,200 inmates. The number of nurses (11) was also inadequate.[13] Dental care is available every week-day, for a few hours; an infectious diseases specialist is present three hours a week; three psychiatrists provide a total presence of 27 hours per week; and two psychologists work full-time. However, as the psychologists work primarily with inmates in the "drug-free programme", there is a lack of counselling available for other prisoners.

At *Paços de Ferreira Prison*, two part-time general practitioners are present for a total of three and a half days per week; this is clearly insufficient for an inmate population in excess of 600. The situation was better as regards other categories of health care staff. There were eight nurses, with an additional 63 hours of contracted nursing care per week[14]. A dentist and a psychologist were present every weekday for a number of hours, and a psychiatrist visited three times per week. There was also a full-time infectious-diseases specialist. However, given the size and type of the inmate population, there appeared to be a lack of psychological support.

In the *Judicial Police Prison Porto,* medical care was provided by one general practitioner, who was present three times a week, and two nurses working for two hours on weekday mornings and one hour on Saturday evenings. This arrangement could be considered sufficient, given the capacity. On the other hand, no psychologist or psychiatrist visited the establishment regularly.

In the *Judicial Police Prison Lisbon,* a doctor was present six hours a week and two nurses, one of whom was on call each night, worked on a part-time basis. This is not sufficient; an establishment with a capacity of 140 inmates and high weekly turnover should benefit from the daily presence of a general practitioner for at least the equivalent of two days a week as well as from two full-time nurses. On a more positive note, a psychiatrist regularly visited the establishment.

In the light of the above, **the Committee recommends that steps be taken to reinforce health-care staffing levels in order to ensure:**

- **the presence of general practitioners for the equivalent of at least three full-time posts at Lisbon Central Prison and of one and a half full-time posts at Paços de Ferreira Prison;**
- **the presence of a general practitioner on a daily basis at Lisbon Judicial Police Prison;**
- **the recruitment of additional qualified nurses at Linhó and Lisbon Central Prisons, as well as at Lisbon Judicial Police Prison;**
- **an increase in the provision of psychological counselling at Linhó, Lisbon Central and Paços de Ferreira Prisons;**
- **the services of a psychologist and a psychiatrist are available to remand prisoners at Porto Judicial Police Prison.**

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13 One nurse works from midnight to 8 a.m.; three nurses work from 8 a.m. to 1 p.m. from Monday to Friday, and two on Saturday and Sunday; two nurses work from 1 p.m. to 9 p.m. every day and one nurse is on duty 9 p.m. to midnight every day.

14 Prior to the outsourcing of medical services, the health care service employed 15 nurses on a full-time basis.

c. medical screening on admission and recording of injuries

63. The CPT has consistently stressed the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

64. In most of the prison establishments visited in the course of the 2012 visit, policies were in place to ensure that all newly admitted prisoners were screened by a nurse on the day of, or the day after, their arrival. Thereafter, prisoners would normally be seen by a doctor within 72 hours. However, the initial screening consisted merely of a few oral questions and did not include a comprehensive physical examination; in addition, the results were not always fully recorded. Further, in some prisons, such as Setúbal, the initial screening did not appear to take place for several days after admission or even longer. Similar complaints were also received in the Judicial Police Prison Lisbon, where some prisoners had only been seen by a nurse some two to five days after their admission and who did not carry out a physical examination.

The CPT recommends that the relevant authorities ensure that every newly arrived prisoner is properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, during the initial screening and that the results are recorded in full.

65. The CPT remains concerned that injuries observed upon arrival as well as those sustained in prison were often not correctly recorded - or even not recorded at all - in the prisons visited. Specific examples were found of cases of prisoners who, in the light of information gathered from other sources, certainly would have displayed injuries on their arrival in prison but whose medical records contained no such evidence. Even in the case of the person referred to in paragraph 10 above, the record made of the injuries borne by the prisoner was superficial in the extreme. Both the Audit and Inspection Service (*Serviço de Auditoria e Inspecção* – SAI) and Inspectorate General of Justice Services told the CPT's delegation that lack of proper recording of injuries represented a critical gap, which undermined the ability to investigate cases of alleged ill-treatment.

66. The CPT recalls that prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities.

The CPT reiterates its recommendation that steps be taken to ensure that any signs of violence observed when a prisoner is medically screened upon admission are fully recorded, together with any relevant statements by the prisoner and the doctor's assessment (namely, as to the consistency between any allegations made and the injuries observed); this information should be made available to the prisoner and to his or her lawyer. The same approach should be followed whenever a prisoner is medically examined following a violent episode in the prison.

Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made by the prisoner concerned (or which even in the absence of an allegation, are clearly indicative of ill-treatment), the relevant form should be systematically completed and transmitted to the supervisory judge and SAI.

d. medical confidentiality

67. While special security measures may be required during the medical examination of a prisoner, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of trust and of a proper doctor - patient relationship and is usually unnecessary from a security standpoint. Moreover, the presence of security staff may well deter prisoners from providing accounts of the origins of any injuries they have sustained.

The CPT is pleased to note that prison officers were generally not present during medical examinations in the prisons visited. However, a number of prisoners who made allegations of having been ill-treated by staff claimed that prison officers were present during the consultations with medical staff when their injuries were being examined (including the same officers who had allegedly inflicted the ill-treatment).

Likewise, inmates transferred to outside hospitals for treatment stated that prison officers were always present during the consultations. The CPT acknowledges the need to take suitable account of security requirements. However, the confidentiality principle requires medical examinations and treatment to be conducted out of the hearing and – unless otherwise requested by the doctor in specific cases – out of the sight of the escort staff (prison or police officers). In order to preserve the confidentiality of medical examinations and treatment, it is vital for all health-care structures liable to receive prisoners to have an appropriate room designated for this purpose. This room should, inter alia, be secure, i.e. it must be fitted out in such a way as to limit risks of escape; this should help to address the security concerns. Moreover, examining or treating prisoners while they are subject to coercive measures is a highly disputable practice from both ethical and clinical angles; the final decision on this point should rest with the health-care staff involved.

The CPT calls upon the national authorities to take steps to ensure that all medical examinations of prisoners are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers. In this connection, **secure rooms for examinations/consultation should be established in outside hospitals to which prisoners are routinely sent, as outlined above; this will remove any need for the systematic presence of prison officers.**

68. The principle of confidentiality applies equally to medical files, the keeping of which should be the doctor's responsibility. When not being consulted, such files should be locked away in a place to which neither prison staff nor prisoners have access. The situation at Linhó, Lisbon Central and Paços de Ferreira Prisons showed that confidentiality of medical data was, on the whole, respected. However, at Lisbon Judicial Police Prison and Setúbal Prison, the confidentiality of such data was not guaranteed; t**he CPT recommends that steps be taken to remedy this shortcoming.**

e. transmissible diseases and drug abuse

69. New arrivals in the prison system are routinely screened for various infectious diseases, including for HIV. However, many prisoners with whom the delegation met stated that they had not been asked for their consent or even informed what diseases the tests concerned. There was no record of any signed consent forms. Further, not all prisoners were informed of the results of the tests if there was a negative result.

The CPT recommends that Portuguese authorities introduce a system of written informed consent for the screening of infectious diseases, and that all prisoners be informed in person of the results of such testing.

70. As regards more specifically HIV testing, the CPT recalls that, in accordance with international standards, such tests should be offered together with relevant information and accompanied, where necessary, by psycho-social counselling because of the potential negative psychological consequences and exposure of the inmate to stigma and discrimination in the event of positive test results. **The CPT recommends that steps be taken to ensure that HIV testing conforms to these standards.**

71. The Portuguese prison system has a good tuberculosis screening-programme in place and the very few positive cases (for example, in Paços de Ferreira Prison, two cases had been detected in 2011) are immediately isolated and sent for treatment in specialised hospital units.

For HIV-positive prisoners, access to anti-retroviral treatment (ART) was available in all prisons and counselling on the importance of adherence and regular follow-up was done. Default rates appeared to be generally very low.

72. Drug abuse and drug dependency remains a problem in all the prisons visited, but was particularly pronounced in Paços de Ferreira Prison, where medical staff estimated that 70% of inmates used drugs, with around 30% being drug dependent. Methadone drug-substitution programmes are available in prisons, in conjunction with the National Institute for Drugs and Drug Addictions (*Instituto da Droga e da Toxicodependência* - IDT), which is responsible for initiating persons onto the programme. However, at Linhó Prison, only prisoners already enrolled in a methadone programme prior to their arrival at Linhó could access the programme. **The CPT recommends that all prisoners fulfilling the criteria for subscribing to methadone drug-substitution programmes at Linhó Prison be permitted to do so. Further, the CPT reiterates its recommendation that more effective steps be taken to implement a three-pronged strategy: to put an end to the supply of drugs, to reduce as far as possible the demand for drugs and to provide appropriate assistance to prisoners with drug-related problems. Further, substitution and detoxification programmes should be available to all prisoners fulfilling the relevant criteria and such programmes should be accompanied by social and psychological support and educational training.**

f. psychiatric and psychological care

73. The CPT would recall that, in comparison with the general population, there is a high incidence of psychiatric symptoms among prisoners. Consequently, a doctor qualified in psychiatry should be attached to the health-care service of each prison, and some of the nurses employed there should have had training in this field. The provision of medical and nursing staff, as well as the layout of prisons, should be such as to enable regular pharmacological, psychotherapeutic and occupational therapy programmes to be carried out.

74. As noted above, the provision of psychiatric and psychological care should be increased in several of the prisons visited. Inadequate staffing was resulting in the therapeutic needs of prisoners suffering from psychological disturbances and/or psychiatric illnesses not being met.

Further, in the high security unit and the vulnerable prisoners' section at Linhó Prison, as well as at Paços de Ferreira Prison, the CPT's delegation met a few inmates with severe psychiatric disorders. Medical staff working in these establishments were of the opinion that prison could not provide the appropriate therapeutic environment for these prisoners and that they ought to be transferred to a psychiatric hospital to receive the necessary treatment and care for their condition. However, apparently due to an insufficient capacity in the relevant psychiatric hospitals, the prisoners had to remain in prison.

The CPT has emphasised in the past that the transfer of mentally ill prisoners to an adequately equipped and properly staffed psychiatric facility should be treated as a matter of the highest priority. **The Committee recommends that prisoners with severe mental disorders who require in-patient treatment be transferred without delay to an appropriate facility, where they can receive proper treatment and care.**

8. Other issues

a. discipline

75. The disciplinary system has undergone a considerable change since the 2008 visit following the adoption of the Code on Execution of Criminal Sanctions (Law 115/2009) and the new General Prison Regulations (decree 51/2011). The new legislative framework addresses some of the deficiencies noted by the CPT in its previous visit reports.

The revised procedure provides that following a report from a prison officer relating to a breach of discipline, the director of a prison will appoint an investigator (usually the establishment's lawyer) who has 10 working days to complete the disciplinary procedure. The prisoner is informed of the charges, of the date of the examination by the investigator, of his/her right to legal assistance and that he/she can produce any evidence he considers useful for his/her defence[15]. After hearing the prisoner, the reporting prison officer and other witnesses, the investigator makes a proposal for a disciplinary sanction to the director of the establishment. The director may make a reasoned decision ordering a different disciplinary measure from the one recommended; however, in most instances the director appeared to follow the proposal of the investigator. The prisoner is provided with a document notifying him/her of the decision and its reasoning and of the fact that the decision may be appealed. An appeal has a suspensive effect.[16]

76. Nevertheless, many prisoners met by the delegation stated that the procedures merely served to confirm whatever the prison officer had reported and complained that they had not been given access to the statements of prison officers or of witnesses. The investigator in one prison stated that where the facts of the incident were disputed, he felt he had to take the majority opinion which resulted in the prison officer's version of events being taken on board. Further, allegations were received of prisoners being discouraged from lodging an appeal.

Certainly, there remain a number of recommendations put forward by the CPT in the past that have not been taken up, notably:

- prisoners are still not heard by the prison director before he or she decides on the disciplinary measure to be imposed;
- there is no opportunity for prisoners to cross-examine evidence given against them as all persons are heard separately;
- time spent in provisional isolation is not explicitly taken into consideration when a sanction of solitary confinement is decided.

The CPT recommends that the disciplinary system be further improved, taking into consideration the above remarks.

77. Provisional isolation may be imposed on a prisoner suspected of being implicated in a disciplinary offence for a period of up to 30 days. This period is supposedly used by the prison authorities to gather evidence with a view to bringing official charges against the individual concerned. However, its use appeared at times to be an extended informal punishment pending the imposition of a disciplinary sanction.

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15 See Article 110 of Law 115/2009 on the Code of Execution of Criminal Sanctions and Articles 163, 165 and 166 of Decree 51/2011 on the General Prison Regulations.

16 See Article 114 of Law 115/2009 and Article 167 of Decree 51/2011.

For example, the CPT's delegation met several prisoners at Linhó Prison who had been given a 30-day "precautionary measure" of provisional isolation after an incident in the prison dining hall on 20 December 2011. The prisoners had been transferred to the admission unit (C wing) but as there were no cells available on the ordinary accommodation wings at the end of the 30-day period, the provisional isolation had been extended to 50 days. Another prisoner had been placed in provisional isolation for 33 days, one week after an altercation with a prison officer, during which time he did not associate with any other prisoners and was offered only one hour of outdoor exercise every day. Subsequently, he was transferred to the high security unit at Linhó Prison where, following the rejection of his appeal, he was serving a punishment of 26 days of solitary confinement at the time of the delegation's visit. In Lisbon Central Prison, several prisoners who had allegedly been involved in a fight in D Wing had been placed in provisional isolation for 30 days, following which they had to serve a 21-day disciplinary sanction of solitary confinement.

In the CPT's opinion, the placing of prisoners in provisional disciplinary isolation following a suspicion that they may have committed a disciplinary offence, and prior to a formal charge being brought, should not last longer than a few hours, which should be sufficient time for a prisoner to "cool down" after a violent incident. Confinement to a cell for longer than a few hours, in relation to an incident giving rise to a disciplinary procedure, should not occur without the prisoner being charged and being given an opportunity to be heard on the matter and to explain his behaviour to a senior prison officer reporting to the director.

The CPT recommends that the Portuguese authorities take the necessary steps to ensure that placement in provisional disciplinary isolation is in line with the above precepts.

78. According to Law 115/2009 on the Execution of Criminal Sanctions (Article 105), the sanction for a given disciplinary offence may not exceed 21 days of solitary confinement or 30 days in total when it concerns more than one serious offence that has taken place at the same time.

Solitary confinement can have an extremely damaging effect on the mental, somatic and social health of those concerned. Therefore, it should only be imposed as a disciplinary sanction in exceptional cases and as a last resort, and for the shortest possible period of time. In the Committee's view, a continuous period of up to 30 days of solitary confinement as a punishment is excessive. The Committee considers that the maximum period of solitary confinement as a punishment should be no more than 14 days for a given offence, and preferably lower.[17] Further, there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of that maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system. **The CPT recommends that Law 115/2009 be revised accordingly.**

79. Article 105 of Law 115/2009 applies equally to juveniles of 16 and 17 years old placed in a remand prison. And, at Lisbon Central Prison, the CPT's delegation met a 17-year-old who had been placed in provisional isolation for 30 days following which he received a disciplinary sanction of 21 days of solitary confinement. Such a period of solitary confinement for disciplinary purposes is totally unacceptable, all the more so for a juvenile. The CPT has very strong reservations as concerns any form of solitary confinement of juveniles as it may certainly compromise their physical and/or mental integrity.

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17 See the 21st General Report of the CPT – CPT/Inf (2011) 28, paragraph 56 (b).

The CPT recommends that the Portuguese authorities take immediate steps to amend the current legal provisions in order to substantially reduce the period during which a juvenile can be placed in solitary confinement for disciplinary purposes; the Committee has already indicated its preference for a time-limit not exceeding three days.[18]

80. The Committee also wishes to stress that medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. The 2009 Code on Execution of Criminal Sanctions (Article 92) and the 2011 Prison Regulations (Article 160) recognise that prison health care staff should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement). However, in several of the prisons visited, prison doctors appeared to certify that prisoners were fit to undergo a disciplinary punishment prior to their placement in a solitary confinement cell; this is scarcely likely to promote a doctor-patient relationship. On the other hand, prison doctors and health care staff should be very attentive to the situation of prisoners placed in disciplinary isolation/segregation cells, and should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary isolation/segregation.

The CPT recommends that the Portuguese authorities issue clear guidelines about the role of prison doctors in relation to disciplinary matters; in so doing, regard should be had to the revised European Prison Rules and the comments made on this subject by the CPT in its 21st General Report[19].

81. As regards material conditions, the cells used for disciplinary measures at Linhó Prison were located in the Security Unit and were generally adequate (see paragraph 41 above); In Paços de Ferreira Prison, the disciplinary unit consisted of ten cells, six cells (each measuring some 8m²) on the raised ground floor and four cells (each measuring some 6m²) on the lower floor. The cells were all suitably furnished, with adequate access to natural light and sufficient artificial lighting; however, **the mattresses in the four cells on the lower floor of the disciplinary unit in Paços de Ferreira Prison were not suitable for the beds and should be replaced.**

At Lisbon Central Prison, prisoners undergoing a sanction of solitary confinement in a disciplinary cell were placed in one of the basement cells in C Wing. These cells were extremely dilapidated, dirty, damp and cold, and inmates with whom the delegation spoke alleged that rats and cockroaches entered the disciplinary cell through the floor-level toilet. In some of the cells, a number of window panes were missing and the artificial lighting was not functioning. The ground floor of E Wing was accommodating prisoners undergoing a disciplinary sanction of confinement-to-cell; these cells were also damp, cold and in a poor state of repair.

At Santa Cruz do Bispo Prison, in the basement of the hospital building, the delegation visited four cells used for the purpose of solitary confinement as a disciplinary measure. These cells all measured some 6m² and were in a state of dilapidation, cold, damp and with poor access to natural light and little ventilation. Further, prisoners held in these cells were not offered outdoor exercise.

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18 See the 18th General Report of the CPT – CPT/Inf (2008) 25, paragraph 26.

19 See CPT/Inf (2011) 28, paragraphs 62 and 63.

The CPT recommends that the Portuguese authorities take the necessary steps to improve the material conditions in the cells used for disciplinary sanctions at Lisbon Central and Santa Cruz do Bispo Prisons. Further, prisoners held in solitary confinement as a disciplinary punishment should be offered at least one hour of outdoor exercise everyday.

b. contact with the outside world

82. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature[20].

In general, the situation observed in the prisons visited in the course of the 2012 visit was satisfactory. Prisoners were permitted one outside telephone call per day of five minutes, in addition to a call to his or her lawyer. Remand prisoners were offered three visits of 45 minutes every week and sentenced prisoners two visits of one hour's duration every week. The visits were usually of an open nature; in Linhó and Paços de Ferreira Prisons the visits took place in the dining halls. However, prisoners serving a disciplinary sanction of solitary confinement or confinement to cell were not allowed visits. In the CPT's view, disciplinary punishment of prisoners should not involve a total prohibition of family contact and that any restrictions on family contact should be imposed only where the offence relates to such contact[21]. **The CPT recommends that steps be taken to amend the relevant rules and practice accordingly.**

c. complaints and supervision

83. At present, prisoners can address complaints to a number of outside bodies: the court responsible for the enforcement of the sentence, the Inspector-General of Judicial Services (IGJS), the Inspection and Audit Service of the Prison Administration or the Ombudsman. Just over 25% of the complaints received by the IGJS in 2009 and 2010 concerned prison issues (84 and 97 respectively). Priority was given to dealing with complaints relating to cases of alleged ill-treatment. As for the Ombudsman's Office, the main complaints received from prisoners concerned inter alia access to health care, violence in prisons and allegations of abuse by prison staff. However, the number of complaints relating to disciplinary issues had decreased following the entry into force of the 2009 Code on Execution of Criminal Sanctions.

As regards the internal complaints system, in some prisons (such as Linhó and Lisbon Central), boxes existed for making complaints/requests to the director of the establishment. However, complaints were not registered and many inmates complained that a response was rarely provided and, if it was provided, was always in an oral form. More specifically, a number of prisoners stated that they had informed the chief prison officer about incidents of alleged ill-treatment by prison officers, but that they had received no feedback. Numerous inmates expressed a lack of confidence in the complaints system.

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20 See also European Prison Rule 24.2.

21 See also Rule 60.4 of the European Prison Rules and Rule 95.6 of the European Rules for juvenile offenders subject to sanctions or measures, as well as the commentaries on these Rules.

84. The CPT considers that the current arrangements need to be reinforced by an uniform internal complaints machinery applied throughout the prison system of Portugal: for example, prisoners ought to be able to make written complaints at any moment and place them in a locked complaints box located in each accommodation unit (forms should be freely available); and all written complaints should be registered centrally within a prison before being allocated to a particular service for investigation or follow up. In all cases, the investigation should be carried out expeditiously (with any delays justified) and prisoners should be informed within clearly defined time periods of the action taken to address their concern or of the reasons for considering the complaint not justified. In addition, statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison.

The CPT recommends that the Portuguese authorities introduce a uniform internal complaints system, taking into account the above remarks.

85. In the course of the visit, the CPT's delegation met with the Inspector General of Judicial Services and the Ombudsman, both of whose offices carry out regular visits to prison establishments and interview prisoners.

As regards more particularly the IGJS, in recent years a thematic approach had been adopted. For example, thematic visits on inter-prisoner violence had been carried out in 2009/2010 while in 2012, the focus would be on health care and food, an analysis of the 2009 Code on Execution of Criminal Sanctions and a financial audit of prisons. **The CPT would like to receive, in due course, a copy of these thematic reports.**

C. Psychiatric institutions for forensic patients

1. Preliminary remarks

86. It is recalled that under Portuguese legislation, persons deemed to be irresponsible for their crime can be placed by a court in an "institution for care, treatment or security", when there is a serious risk of re-offending, having regard to the mental illness and the seriousness of the person's acts[22]. Such measures can also be applied to persons on remand if they are expected to be found irresponsible[23]. Further, persons who are found to be responsible at the time the crime was committed but who subsequently developed a mental health problem may be transferred by court order from a prison to a psychiatric hospital facility[24].

87. The CPT's delegation carried out follow-up visits to three facilities for forensic psychiatric patients: the forensic departments at Sobral Sid Hospital (near Coimbra)[25] and at Lisbon Central Psychiatric Hospital[26], both of which are under the Ministry of Health as well as the Psychiatric Hospital of Santa Cruz do Bispo Prison near Porto, which is part of the prison system under the Ministry of Justice[27].

88. The *forensic department at Sobral Sid Hospital*, located in a three-storey building dating from the 1960s (Pavilion 16), had increased its capacity since the CPT's visit in 1999, following the closure of a second forensic psychiatric department in Arnes (near Coimbra) with 20 beds. At the time of the visit, it had 112 beds (20 beds for female and 92 for male patients) and was accommodating 15 female and 74 male patients, all of whom had been declared irresponsible and ordered to undergo compulsory treatment by a criminal court.

89. The *forensic department of Lisbon Central Psychiatric Hospital*, located in a one-storey building on the grounds of the former Julio de Matos Hospital (Pavilion 21 B)[28], had a capacity for 32 male patients. It was accommodating 31 patients at the time of the visit, all of whom had been declared irresponsible and ordered compulsory treatment by a criminal court.

90. The *Psychiatric Hospital of Santa Cruz do Bispo Prison* had an official capacity of 104 (male) patients. At the time of the visit, the hospital was accommodating 123 patients, 96 of whom had been declared irresponsible and ordered to undergo compulsory treatment by a criminal court; of the remainder, four were remand prisoners and 23 were sentenced prisoners who had developed a mental health problem.

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22 So-called "security measure of internment"/medida de seguranca de internamento, see Sections 20 and 91 of the Criminal Code (CC).

23 See Section 202 (2) CC.

24 See Sections 104 and 105 CC.

25 See paragraph 99 et seq. of the report on the 1999 CPT visit to Portugal (CPT/Inf (2001) 12).

26 See paragraph 107 et seq. of the report on the 2008 CPT visit to Portugal (CPT/Inf (2009) 13).

27 See paragraph 99 et seq. of the report on the 2003 CPT visit to Portugal (CPT/Inf (2007) 13).

28 The forensic department, which was formerly on the premises of the Miguel Bombarda Psychiatric Hospital, was moved in 2010 to its current location following the administrative merger of the two Lisbon psychiatric hospitals; see paragraph 110 of the report on the 2008 CPT visit (CPT/Inf (2009) 13).

91. The CPT wishes to state at the outset that the Psychiatric Hospital of Santa Cruz do Bispo Prison is unsuitable for providing the necessary care and treatment to forensic psychiatric patients. Indeed, the hospital should be closed down, as the Portuguese authorities themselves have stated in the past. Further, the authorities should revise their conceptual approach towards forensic psychiatric patients, taking into account the needs of different categories of patients and ensuring that there is a unified approach towards such patients.

The CPT recommends that the Ministries of Health and Justice devise a common approach towards the care and treatment of forensic psychiatric patients which encompasses both civil psychiatric hospitals and the prison psychiatric hospital.

2. Ill-treatment

92. The CPT's delegation received no credible allegations of deliberate physical ill-treatment of patients by staff at the forensic departments of Sobral Sid and Lisbon Central Psychiatric Hospitals, and gathered no other evidence of such treatment. On the contrary, relations between staff and patients appeared to be generally positive.

93. However, at the psychiatric prison hospital of Santa Cruz do Bispo Prison, several allegations were received of physical ill-treatment of patients by prison officers. The alleged ill-treatment consisted of punches, kicks and blows with batons to the body, which apparently was often followed by placement in one of the hospital's seclusion cells.

The delegation spoke for example to one patient who alleged that he had been subjected to ill-treatment 11 days prior to the delegation's visit. He said that he had been handcuffed, forced to lie down on the floor and forcibly medicated; during this incident he allegedly received slaps, kicks and blows with batons to various parts of the body from the prison officers involved, following which he was taken to a seclusion cell, where he was stripped naked and left for 2-3 days with only two blankets. When examined by one of the delegation's doctors he had small haematomas on his back/shoulders, buttocks and upper leg consistent with his allegations of ill-treatment. His stay in the seclusion cell during the period in question was confirmed by an entry in the register for these cells, however, there was no record of him being forcibly medicated or of any injuries.

94. Once again[29], the CPT's delegation noted the highly visible presence of uniformed prison officers on the hospital's wards, openly carrying truncheons, which could only have an intimidating effect on patients. This combined with the fact that the officers concerned had not received any specific training on working with psychiatric patients not only had a negative impact on attempts to create an adequate therapeutic environment, but also generated tensions which could result in incidences of ill-treatment.

[29] See CPT/Inf (2007) 13, paragraph 105.

The CPT calls upon the Portuguese authorities to give a firm reminder to prison officers called on to intervene in the Psychiatric Hospital of Santa Cruz do Bispo Prison, that ill-treatment of patients is unacceptable and will be the subject of severe sanctions. Further, all use of force should be recorded and every patient against whom force is employed should be examined by a doctor.

The CPT also recommends that prison officers should not openly carry truncheons in the prison psychiatric hospital; preferably they should not carry them at all.

95. As regards inter-patient violence, no allegations were received at Lisbon Central Psychiatric Hospital. However, at Sobral Sid Hospital and at the Psychiatric Hospital of Santa Cruz do Bispo Prison, the delegation received some reports from staff and patients about inter-patient violence. The management in both institutions was taking appropriate action when confronted with such cases (inquiries, therapeutic measures or transfer of the perpetrator to another institution etc.). However, at Santa Cruz do Bispo, violent incidents among patients appeared to occur on a frequent basis, sometimes resulting in serious injuries.[30] Several factors contributed to an environment within the hospital which appeared to foster inter-prisoner violence, such as an inadequate infrastructure, overcrowding, a lack of health-care and therapeutic staff as well as a lack of alternative therapeutic approaches.

The CPT recommends that the Portuguese authorities step up their efforts to combat inter-patient violence at the Psychiatric Hospital of Santa Cruz do Bispo Prison. In this respect reference is also made to the recommendations below in paragraphs 98 and 99.

3. Patients' living conditions and activities

a. forensic psychiatric departments of Sobral Sid and Lisbon Central Psychiatric Hospitals

96. Living conditions were generally good at the forensic department of Lisbon Central Psychiatric Hospital and, on the whole, acceptable at the forensic department of Sobral Sid Hospital.

At Lisbon Central Psychiatric Hospital, patients were accommodated in adequately sized double or triple-occupancy rooms (measuring some 18 m²). At the forensic department of Sobral Sid Hospital, the accommodation consisted of dormitories of sufficient size (from 18 m² for rooms with three beds to some 55 m² for those with nine beds). The CPT welcomes the efforts made at Sobral Sid Hospital to reduce, as far as possible, the number of beds in the larger dormitories and to use some of the rooms originally intended for segregation purposes for individual accommodation.

In both establishments rooms were equipped with beds, bedside tables and wardrobes (lockable) for each patient; they were in a good state of repair and cleanliness, well ventilated and had good access to natural light. Further, patients had unlimited access to communal facilities and showers on the wards.

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[30] The delegation spoke for example to a patient whose leg had been broken when he was attacked by another patient in the bathroom in October 2011.

However, patient's rooms and common areas were rather impersonal and austere and were deprived of personal items or decoration (such as photographs, pictures and plants). Further, at Sobral Sid Hospital, due to recent cost-saving measures, the central-heating system had to be turned off during the day; with outside temperatures below 10 degrees centigrade at the time of the visit, most of the patient's rooms and common areas were uncomfortably cold.

The CPT recommends that efforts be made to offer patients a more congenial and personalised environment at the forensic departments of Sobral Sid and Lisbon Central Psychiatric Hospitals. At Sobral Sid Hospital, immediate measures should be taken to ensure adequate heating during cold periods; it would also be desirable to find an architectural solution to split the dormitories into smaller units, which would allow for more individualised accommodation.

97. As regards outdoor exercise, patients in both departments had unlimited access to the outdoor yards during daytime. At the forensic department of Lisbon Central Psychiatric Hospital, patients had access to a fenced garden with trees and at the forensic psychiatric department of Sobral Sid Hospital, most patients were even allowed to walk around freely on the larger, park-like hospital grounds.

98. The situation with regard to purposeful activities was less favourable. Only about one third of the forensic psychiatric patients at Sobral Sid Hospital and about half of the forensic psychiatric patients at Lisbon Central Psychiatric Hospital were offered some structured occupational or recreational activities, in most cases only for a few hours per week.[31] Further, at Sobral Sid Hospital only four out of the 15 female patients were engaged in any activities. A few patients in both forensic psychiatric departments were following educational and/or professional training outside the hospital. Otherwise, most patients spent their days sitting or walking around in the common rooms, gardens or in the corridors, watching television, reading or playing games. The delegation observed that there was a lack of space and resources to offer occupational and recreational activities to patients.

In this connection, the delegation was informed that the forensic ward at Lisbon Central Psychiatric Hospital would be relocated before the end of 2012 to a new building, which was currently under construction, where more rooms and facilities for leisure time and sport activities would be available. At Sobral Sid Hospital, staff and management acknowledged the need to refurbish the existing building in order to create adequate facilities for forensic psychiatric patients and informed the delegation that a request to this end had been submitted to the Ministry of Justice, the owner of the building.

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[31] At Sobral Sid Hospital some 30 forensic patients were taking part in activities organised by the rehabilitation service of the entire hospital (such as gardening, pottery, horticulture, book binding). At Lisbon Central Psychiatric Hospital some 15 patients were involved in occupational activities organised on the wings (cafeteria service, reading and writing, computer classes, cooking, creative arts, paper atelier).

The CPT recommends that the Portuguese authorities pursue their efforts to establish an adequate therapeutic environment for forensic patients at both Lisbon Central Psychiatric Hospital and Sobral Sid Hospital. This should include:

- **provision of adequate facilities for occupational and recreational activities;**
- **increasing the number and variety of day-to-day activities offered to patients, including female patients.**

The Committee would like to receive information on the relocation of the forensic psychiatric department to the new building at Lisbon Central Psychiatric Hospital, and in respect of any refurbishment measures at the forensic psychiatric pavilion of Sobral Sid Hospital.

b. Psychiatric Hospital of Santa Cruz do Bispo Prison

99. Material conditions in the medical unit of the hospital (mainly used for somatic care) and for psychiatric patients occupying individual rooms were acceptable. However, many patients were accommodated in cramped conditions; some of the dormitories were overcrowded, with beds almost touching each other and allowing less than 4 m² of living space per person (for example a dormitory for five persons of 17 m² or a dormitory of 10 m² for three persons). Further, the dormitories were dirty and dilapidated (for example broken windows, holes in the floor or flaking plaster) and in-cell toilets were not fully partitioned.

Communal facilities, such as the cafeteria ("bar"), the refectory and the chapel were also dilapidated and in need of repair. Further, there was no heating system at all and the temperature in the dormitories and communal facilities hovered around 8 degrees centigrade; patients complained that they were "freezing". It should also be noted that the courtyard lacked a shelter from inclement weather. Generally speaking, the overcrowded, dilapidated prison-like, austere and impersonal atmosphere of both patient's rooms and communal facilities is, in the CPT's view, unsuitable for the care and treatment of patients with mental disorders.

As regards daily activities, patients were allowed unlimited access to a large courtyard during the day. Moreover, efforts have clearly been made since the CPT's previous visit in 2003 to increase the range and number of activities offered to patients; at the time of the visit, more than half of the patients were benefitting from some kind of structured activity for a few hours several times a week. [32] However, from the information gathered on the ground, the numbers engaged in activities was far lower. Limitations in terms of both socio-therapeutic staff and facilities still meant that for most days of the week, the majority of patients were not engaged in any meaningful activity. As dormitories were locked during the day, patients were obliged to spend their days walking around in the corridors and the yards, which was a contributing factor to the tensions between the inmates (see paragraph 95 above).

[32] 75 out of 123 patients had at least one or more activities: A very small number had work in the prisons workshops, others were involved in occupational therapy (mainly cleaning /maintenance - 22 patients), 46 attend educational classes (English, arts, music physical education, revalidation of skills), 67 were enrolled in classes about personal and social competencies (for about one to three hours per week - communication and social interaction, hygiene classes, alcohol abuse, conflict resolution, relaxation techniques, reading classes, assertiveness training) and 47 in sport activities in the educational centre.

To sum up, the poor material conditions and very limited daily regime are unlikely to improve the mental health of patients.

The CPT recommends that the Portuguese authorities take urgent steps to upgrade the material conditions and to improve the range and number of purposeful activities offered to patients at the Psychiatric Hospital of Santa Cruz do Bispo Prison, with a view to fostering a truly therapeutic environment. As this would involve a major restructuring of the current building –which was designed to serve as a prison– the authorities should examine possibilities for relocating the entire hospital to more suitable premises.

100. The fact that only patients' numbers, not their names, were indicated on cell doors at the Psychiatric Hospital of Santa Cruz do Bispo Prison was already criticised by the CPT in its report on the 2003 visit[33]. Despite the government's commitment at the time to revise this practice[34], the situation had not changed at the time of the 2012 visit. Moreover, the delegation noted that patients were also called by their numbers over loudspeakers, for example for visits or other appointments. Even during interviews, patients and staff were referring to other patients by their number instead of using their names. By contrast, at the two forensic departments under the authority of the Ministry of Health referred to above, psychiatric patients were addressed by their names.

In the view of the CPT, referring to patients only as numbers is not conducive to strengthening personal identity and self-esteem and could even be considered as degrading. **The CPT recommends that the Portuguese authorities put an end to this practice; all patients should be referred to by their names.**

4. Treatment

101. Treatment for forensic psychiatric patients should involve a wide range of therapeutic, rehabilitative and recreational activities - including appropriate medication and medical care - and should be aimed at both controlling the symptoms of the illness and reducing the risk of reoffending. Rehabilitative psycho-social activities should prepare patients for an independent life or return to their families; occupational therapy - as an integral part of the rehabilitation programme - should aim at raising motivation, developing learning and relationship skills, supporting the acquisition of specific competences and improving self-image. It is also desirable to offer the patients education and suitable work.

102. In all three of the forensic psychiatric institutions visited, there was an evident lack of structured therapeutic and rehabilitative activities for patients and the treatment was largely limited to pharmacotherapy. Only a few patients benefited from individual or group therapy and many had no access to occupational or vocational training, which was a result of limited staff resources as well as a lack of adequate facilities. Further, despite a legal obligation to draw up a treatment and rehabilitation plan for each patient[35], many patients did not possess such a plan.

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33 See CPT/Inf (2007) 13, paragraph 109.

34 See CPT/Inf (2007) 14.

35 See Article 128 of the 2009 Code of Execution of Criminal Sanctions and Measures ("Código da execução das penas e medidas privativas da liberdade").

The CPT recommends that the Portuguese authorities develop the range and number of therapeutic and psycho-social rehabilitative activities available to patients in all the institutions visited. Further, steps should be taken to ensure that an individual treatment and rehabilitation plan is drawn up for each forensic patient. This will clearly necessitate a considerable reinforcement in the number of health-care staff and specialists qualified to provide therapeutic and psycho-social activities, in particular at Sobral Sid Hospital and at the Psychiatric Hospital of Santa Cruz do Bispo prison (see paragraphs 104 and 105.).

5. Staff

103. Health-care staffing levels at the forensic department of *Lisbon Central Psychiatric Hospital* were satisfactory with three psychiatrists, 10 nurses and eight orderlies for a capacity of 32 patients. Nurses and orderlies were working on a duty roster with two nurses and two orderlies present during the day, and one nurse and one orderly present from 3 p.m. until 8.30 a.m. the next morning. One doctor remained on call at night for the entire hospital. Further, there were four psychologists, one occupational therapist and one social worker.

104. The situation was less favourable at the forensic department of *Sobral Sid Hospital*, which had the equivalent of only two full-time psychiatrists (four psychiatrists were assigned to the forensic department for about 50 % of their working time). This is scarcely adequate having regard to the department's capacity of 112 patients.

The complement of 53 nurses and 24 orderlies was sufficient. During daytime, there were four nurses and two orderlies present on each of the two male wards (with respective capacities of 44 and 48 patients) and three nurses and one orderly present on the female ward with a capacity of 20 patients. At night there was one nurse on duty on each ward and at least one doctor on duty for the entire hospital.

However, with only one part-time psychologist there was a clear lack of staff qualified to offer psycho-social rehabilitative activities to psychiatric patients who were not engaged in occupational activities at the rehabilitation centre of the hospital.

In the view of the CPT, the limited presence of psychiatrists and the lack of staff qualified to provide therapeutic activities clearly precluded the emergence of a therapeutic milieu based on a multidisciplinary approach.

The CPT recommends that the Portuguese authorities increase the presence of psychiatrists at the forensic department of Sobral Sid Hospital and reinforce the number of specialists qualified to provide therapeutic and rehabilitative psycho-social activities (e.g. psychologists, occupational therapists, psychotherapists and social workers).

105. The health-care staff at the *Psychiatric Hospital of Santa Cruz do Bispo Prison* was also responsible for the 399 prisoners held in the establishment, and therefore could not devote all of their time to the psychiatric hospital, with its 123 patients.

Since the CPT's visit in 2003, the number of psychiatrists had been reduced from four to three. The psychiatrists met by the delegation expressed the view that they could not adequately meet the needs of the patients in the psychiatric hospital, as they also had to devote much of their time to consultations with prisoners and to administrative work, such as preparing assessment reports for the judicial authorities (in connection with the review of placement measures).

There were 11 nurses and four orderlies employed by the prison, supplemented by three nurses from the company "successo 24 horas" who were each contracted to work 25 hours per week in the prison. The nurses worked on a shift system with three nurses present during the day (8 a.m. to 8 p.m.) and one nurse present at night (for the entire prison). This nursing complement was clearly not sufficient, illustrated by the fact that prison officers or even other patients were occasionally helping out with care duties (such as washing and dressing patients).

The company "successo 24 horas" was also contracted to provide one full-time psychologist, two part-time occupational therapists and one psycho-moto specialist (30 hrs per week). However, as acknowledged by the staff themselves, such a complement was clearly inadequate to provide a sufficient number and variety of psycho-social rehabilitative activities to patients. The CPT also noted that a comprehensive therapeutic approach was undermined by a lack of regular staff meetings of health-care and socio-therapeutic staff.

The CPT calls upon the Portuguese authorities to take steps at the Psychiatric Hospital of Santa Cruz do Bispo Prison to reinforce the staffing complement and, in particular:

- **to increase substantially the number of psychiatrist posts and of nursing staff;**
- **to reinforce the team of qualified specialists responsible for running therapeutic and rehabilitation activities.**

These measures should also make it possible to avoid prison officers and patients being involved in any care-related duties.

Further, regular team meetings of health-care and socio-therapeutic staff should be introduced.

106. It is also regrettable that, despite the CPT's recommendation after the 2003 visit, prison officers assigned to the hospital had received no specific training on working with mentally-ill patients before being assigned to the psychiatric hospital. Working with the mentally-ill will always be a difficult task for all categories of staff involved. Bearing in mind the challenging nature of this work, it is of crucial importance that staff performing security-related tasks in a psychiatric prison hospital be carefully selected and that they receive both appropriate training before taking up their duties as well as refresher courses and in-service training. **The CPT recommends that for so long as prison officers continue to perform security-related tasks inside the psychiatric prison hospital, they should be specifically selected and trained to work with the mentally-ill and always work under the control and supervision of the healthcare staff.**

The supervision of patients in a psychiatric hospital should, in principle, be entrusted to health-care staff. **The CPT invites the Portuguese authorities to consider replacing the prison officers assigned to the Psychiatric Hospital of Santa Cruz do Bispo Prison with specifically trained nursing staff.**

6. Seclusion and means of restraint

a. policy on the use of means of restraint

107. In its reports on the 2003 and 2008 visits, the CPT recommended that a policy for the use of means of restraint be adopted. The adoption of guidelines in June 2011 by the Ministry of Health on the use of means of restraint[36] is a step forward. They cover seclusion, mechanical and chemical restraint, and replace an earlier protocol of 2007 on mechanical restraint.[37] However, it is regrettable that the guidelines do not explicitly address many important aspects, such as: the types of cases in which means of restraint may be used; the requirement that any application of means of restraint must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval; the duration of restraint and the need for frequent review, appropriate human contact and increased supervision by staff; the establishment of a specific register for the use of means of restraint (in addition to recording the measure in the patient's file or nurses journal). The 2011 guidelines were yet to be implemented in the forensic psychiatric hospitals visited and they did not in any event apply to the Psychiatric Hospital of Santa Cruz do Bispo Prison, which was under the authority of the Ministry of Justice.

The CPT recommends that the Portuguese authorities take the necessary steps to ensure that all forensic psychiatric hospitals - including those under the Ministry of Justice - establish a written policy on the use of means of restraint, in line with the Committee's earlier recommendations on this subject. [38]

b. forensic departments of Sobral Sid and Lisbon Central Psychiatric Hospitals

108. There was no comprehensive central register or documentation of incidences of use of restraint (seclusion, mechanical and chemical restraint) at the forensic departments of Sobral Sid and Lisbon Central Hospitals, thereby rendering it difficult to make a reliable assessment of the extent of resort to such means. That said, as far as the delegation could ascertain, there was not an excessive use of seclusion or mechanical restraint. It appeared that nurses had regular recourse to the use of "SOS-medication" on patients for the purposes of chemical restraint without any individual authorisation by a medical doctor (see paragraph 111).

109. Mechanical means of restraint, such as straps were rarely resorted to in either forensic department, according to both staff and patients; when used, they were applied in observation or single accommodation rooms and the period of restraint usually only lasted the time necessary to administer a sedative injection and for it to take effect. The delegation was informed that a staff member would be present in the room or would verify the patient's condition at regular intervals. However, the delegation could not verify the actual practice as there was no record of those regular check-ups. **The CPT recommends that patients subject to mechanical restraint have at all times their mental and physical state continuously and directly monitored by a member of the health-care staff.**

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36 Orientação da Direção-Geral da Saúde número 021/2011, data 06/06/2011 "*Prevenção de comportamentos dos doentes que põem causa a sua segurança ou da sua envolvente - Contenção de Doentes*".

37 May 2007 Ministry of Health protocol on the use of means of mechanical restraint (Circular Normative Nr 08/DSPSM/DSPCS), see footnote 59 of CPT/Inf (2009) 13.

38 See CPT/Inf (2007) 13, paragraph 119 and CPT/Inf (2009) 13, paragraph 130.

110. According to both patients and staff, seclusion was rarely used in the two forensic departments visited. However, the delegation interviewed one female patient at Sobral Sid Hospital who was - as a security measure - locked in an individual room every night (whilst all the dormitories remained unlocked). As there was no in-built toilet she was compelled to use a bucket inside her room and slop out every morning. This (regular) seclusion measure was not recorded as a restraint measure. **The CPT recommends that steps be taken at Sobral Sid Hospital to ensure that patients in seclusion who need to use a toilet facility are able to do so without undue delay at all times (including at night).** As regards the recording of restraint measures, see paragraph 113 below.

111. As regards "chemical restraint", most of the patients had an authorisation from a doctor for the application of "SOS-medication" in their files, allowing nurses to administer sedatives to agitated patients without prior consultation of a doctor. Such measures had to be recorded in the medication chart. There appeared to be frequent recourse to "SOS-medication", placing a considerable amount of responsibility and discretion on the nurses, and such use was not always properly recorded. In addition, in some cases examined by the delegation, the application of "SOS-medication" was used as a chemical restraint in emergency situations. **The CPT reiterates its recommendation that every resort to restraint, including chemical restraint, must always be expressly ordered by a doctor or immediately brought to the attention of a doctor. The prescription of "SOS medication" can never justify such medication being used as a chemical restraint.**

112. Another restriction of freedom of movement applied to patients in both forensic departments was a surveillance measure, known as the "pyjama" regime. Patients under that regime had to remain dressed in pyjamas during the entire day and were not allowed access to the courtyard. The "pyjama" regime was applied at Lisbon Central and Sobral Sid Hospitals during the first two weeks following the patient's admission to the institution. It could also be applied at Sobral Sid Hospital to patients who had shown aggressive behaviour or violated certain house rules (i.e. smoking indoors) for periods of one or more days; in these cases, the decision of the application of the special surveillance regime was taken on an ad hoc basis by the staff on duty and was not surrounded by clear procedures and safeguards.

In the the CPT's view, the systematic use of pyjamas as a means of surveillance of newly arrived patients is highly questionable. Other supervision methods for newly arrived patients should be applied without restricting their freedom of movement. **The Committee recommends that the necessary steps be taken to put an end to the practice of newly arrived patients at Lisbon Central and Sobral Sid Hospitals having to wear pyjamas.**

113. As regards registers, it is noteworthy that a centralised electronic register of the use of mechanical restraint had been introduced at Lisbon Central Psychiatric Hospital. However, it only included statistical information on the frequency of restraint measures in the different wards and no specific details on, for example, the duration or type of measure applied. At Sobral Sid Hospital, there was no specific register for recording cases of resort to means of restraint. In both hospitals visited, references to the use of mechanical restraint were made in the nurses' journal and occasionally in the patient's file; however, these references were often cursory and there was no mention of the time of beginning and ending the measure.

The CPT has raised this matter on several occasions[39]; it is regrettable that the 2011 guidelines by the Ministry of Health on the use of means of restraint (see paragraph 107 above) do not provide for a centralised register for all forms of use of restraint - including seclusion, mechanical and chemical restraint - in every psychiatric establishment. **The CPT calls upon the Portuguese authorities to take the necessary steps to ensure that every instance of restraint of a patient is recorded in a specific register in every psychiatric establishment. The entry in this register should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to such a measure, the type of measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.**

c. Psychiatric Hospital of Santa Cruz do Bispo Prison

114. As was the case in 2003, mechanical means of restraint were not applied at all in the psychiatric hospital. However, the seclusion cells were used on a regular basis and often for several days or even up to one week.

The CPT's delegation noted that the practice of entirely undressing a patient before placement in a seclusion cell had not been discontinued. In the view of the CPT, to keep a patient naked in a cell constitutes degrading treatment.[40] **The CPT recommends that the practice of placing patients naked in a seclusion cell be stopped immediately.** Specially adapted clothing exists which permits the patient to keep a minimum amount of clothing while taking into account any risk of suicide.

115. The material conditions in one of the four seclusion cells had been slightly improved since the 2003 visit; that cell had been equipped with CCTV, a call bell system and a heating unit. The three other cells still had no call bell system despite being located some distance from the nurses' offices. They also had no heating and patients complained to the CPT's delegation that they had been very cold throughout their time in the seclusion cells.

Further, none of the cells possessed toilets and patients were still obliged to use a bucket and slop out every morning; access to natural light was insufficient (the windows were opaque and covered with a metal grill) and there was only a mattress on the floor. In short, the material conditions of seclusion remained far from acceptable. **The CPT recommends that the Portuguese authorities take immediate steps to improve the material conditions in the cells used for seclusion purposes, in the light of the remarks made above.**

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39 Similar observations on this matter have been made after the CPT's visits in 1999, 2000 and 2008 to Portugal, see CPT/Inf (2009)13, paragraph 129.

40 See also the case law of the ECtHR. In the judgment of Hellig v Germany of 7 July 2011, the Court considered that to deprive an inmate of clothing during his placement in a security cell was capable of arousing feelings of fear, anguish and inferiority capable of humiliating and debasing him. The Court found a violation of Article 3 ECHR for depriving a prisoner of his clothes for his entire period of placement of seven days in a security cell.

116. As regards supervision of patients placed in seclusion cells, the recently adopted general prison regulations explicitly provide for continuous direct supervision by medical staff.[41] In interviews with the delegation, nursing staff at the Psychiatric Hospital of Santa Cruz do Bispo Prison stated that they carried out regular checks of patients placed in seclusion cells. However, the delegation could not verify the practice of supervision, as the nurses' registers and patients' files contained no entries of such checks. **The CPT recommends that direct supervision of patients placed in the seclusion cells by nursing staff be documented.**

117. Following the CPT's recommendation in the report on the 2003 visit, a central registration book for the use of the seclusion cells has been introduced. Further, in accordance with the 2011 general prison regulations, every placement had to be decided by the director on the basis of a recommendation by a doctor or nurse. However, as was the case in 2003, the delegation received some allegations from patients that placement was on occasion decided by prison officers as a punitive measure, for example after fights between patients. The CPT is of the view that seclusion cells for psychiatric patients should only be used for medical purposes; placement in such a cell should never be used as a punishment. **The CPT recommends that placement in a seclusion cell only occurs on the basis of a recommendation by health-care staff and only for medical purposes, as laid down by the 2011 general prison regulations.**

118. As was the case in the forensic departments of Sobral Sid and Lisbon Central Psychiatric Hospitals, most patients at the Psychiatric Hospital of Santa Cruz do Bispo Prison had an authorisation for the use of "SOS-medication" in their files. In many cases, the prescription of "SOS-medication" was perceived as providing authorisation for the application of chemical restraint. The CPT underlines that every resort to means of restraint, including chemical restraint, should be expressly ordered by a doctor or immediately brought to the attention of a doctor; a system whereby doctors give advance "blank" authorisation for the chemical restraint of certain patients is not acceptable. **The CPT recommends that steps be taken to ensure that the practice at the Psychiatric Hospital of Santa Cruz do Bispo Prison is in line with this requirement.** Further, **all instances of chemical restraint should be recorded in a central, specific register on use of means of restraint.**

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41 See Article 255 of Decree n 51/2011, together with Article 88 paragraph 3 (f) of the 2009 Code of Execution of Criminal Sanctions and Measures.

7. Safeguards

a. placement and discharge

119. The relevant provisions governing the procedures for placement and discharge for persons deemed irresponsible under the Criminal Code (CC), have not changed since the CPT's previous visit in 2008. As noted in that visit report, they are in principle surrounded by sufficient safeguards.[42]

It is recalled that the minimum period of placement in a forensic psychiatric establishment is three years if the committed offence was punishable with a sentence of more than five years, while the maximum period is the equivalent to the full term of imprisonment for the committed offence (Article 91, 92 CC). It falls to the competent court[43] to review at least every two years, whether the reasons for the continued placement of a person in a forensic psychiatric establishment persist (Article 93 CC). After the maximum period has elapsed, the competent court can extend the placement order for two years at a time, if the committed offence is punishable with a sentence of more than eight years and if there is a serious risk of reoffending (Article 92 CC).

120. In practice, it appeared from the files that regular reviews of the forensic patient's situation were carried out by the Courts for the Execution of Criminal Sanctions and Measures. However, as was noted already in 2003, the review of some cases took place at intervals of three years or even longer.

The information gathered from files and interviews with staff and patients, indicated that in most cases the review hearing by the court took place in the presence of the patient, as provided for in Article 504 Code of Criminal Procedure (CCP).[44] However, the presence of a lawyer at that hearing was apparently not covered by legal aid and therefore - contrary to Article 504 of the CCP - a lawyer's presence was the exception rather than the rule.

Further, the delegation was informed that there was a backlog of 3,000 cases pending before the courts concerning parole decisions, which was resulting in considerable delays.

The CPT would like to receive the Portuguese authorities' comments on the above matters.

121. As regards independent forensic expertise, it appeared from the files and interviews with staff that the practice differed from court to court. Certain courts requested systematically independent forensic assessments for every review, while other courts were in most cases satisfied with a psychiatric assessment report from the hospital in which the patient was accommodated. The CPT is aware that patients and their representatives do have the right to request an independent forensic assessment (Article 159 of the CCP). Nevertheless, **the Committee invites the authorities to introduce a provision in the Code of Criminal Procedure that requires the competent court to seek the opinion of a psychiatrist who is independent from the institution accommodating the person concerned when reviewing the placement of a forensic patient.**

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42 See CPT/Inf (2009)13, paragraph 133 and CPT/Inf (2007) 13, paragraph 123.

43 The Court for the Execution of Criminal Sanctions and Measures.

44 As amended by Lei n 11/2009 Article 3.

122. In many cases, particularly concerning those patients who had spent more than a decade in forensic psychiatric institutions, the reasons given for extending the "internment" measure were repetitive. They often referred to the lack of family support and an absence of adequate community structures or residential facilities outside the forensic psychiatric hospital that could ensure a continuation of the patient's treatment and thereby ensure that he or she would no longer pose a danger to society. Staff members at the hospitals acknowledged that the mental condition of a number of patients no longer required them to be detained in a psychiatric establishment; for example, one patient at Lisbon Central Pyschiatric Hospital had been held in forensic psychiatric institutions since 1969 (over 42 years). However, due to a lack of adequate care and/or accommodation in the outside community no alternative existed.

For persons to remain deprived of their liberty as a result of the absence of appropriate external facilities is a highly questionable state of affairs. **The CPT invites the Health and Justice Ministries of Portugal to make joint efforts to offer long-term forensic patients the perspective of release by establishing adequate outside structures to ensure a continuation of therapy and care.**[45]

b. safeguards during placement

123. As regards consent to treatment, the situation encountered did not differ from the one noted in previous visit reports;[46] there is still no legal requirement to obtain consent to treatment from forensic psychiatric patients. The court sentence imposing a treatment measure on a patient in a psychiatric establishment is itself considered as an authorisation for administering treatment without the patient's consent.

The CPT must recall once again its position that the admission of a person to a psychiatric establishment on an involuntary basis, whether the person concerned be a civil or a "forensic" patient, should not be construed as authorising treatment without his/her consent. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. **The Committee calls upon the Portuguese authorities to take the necessary steps to review the relevant legislation in the light of these remarks.**

124. In respect of contacts with the outside world, there were no limitations on correspondence in any of the three forensic psychiatric departments visited.

Visiting arrangements and access to telephone were satisfactory at the forensic departments of Sobral Sid and Lisbon Central Psychiatric Hospitals. Patients could in principle receive visitors at any time during the day and they could use - within certain limits - an office phone. Further, most patients had access to their own mobile phones or could use the pay phones located on the wider hospital grounds.

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45 See also the United Nations Convention on the Rights of Persons with Disabilities, which Portugal ratified on 23 September 2009.

46 See CPT/Inf (2009)13, paragraph 136 with further references.

At the forensic Psychiatric Hospital of Santa Cruz do Bispo Prison, those patients deemed irresponsible could receive visitors at any time, whilst those who were sentenced or on remand could receive visitors every weekend. It was positive that arrangements were made at the prison to facilitate family and intimate visits for patients/prisoners. However, there was only one pay phone in the hospital, which apparently created problems of access. **The CPT invites the Portuguese authorities to improve access to a telephone at the Psychiatric Hospital of Santa Cruz do Bispo Prison.**

125. Most forensic psychiatric patients were regularly granted leaves for administrative reasons (up to 48 hours) as well as home leaves by the court to visit their families (for up to 15 days per year). It was particularly positive that the administration of Santa Cruz do Bispo Prison had made contacts with a volunteer organisation which organised for patients who had no family members to be accompanied for day leaves by volunteers.

126. By law, forensic psychiatric patients could send complaints to a number of outside bodies, including the Court of Execution of Criminal Sanctions and Measures, the Inspection and Audit Service of the Prison Administration, the Inspector-General of Judicial Services or the Ombudsman (see Article 116 Code of Execution of Criminal Sanctions and Measures). In addition, patients at the forensic departments of Sobral Sid and Lisbon Central Hospital could lodge confidential complaints with the hospital's "Patients Office"[47] or with the Ministry of Health.

Patients at the forensic Psychiatric Hospital of Santa Cruz do Bispo Prison appeared to be well aware of the avenues to lodge formal complaints. In contrast, at the forensic departments of Sobral Sid and Lisbon Central Psychiatric Hospitals, many patients seemed to be unaware of the possibility to make written complaints and in practice complaints were made orally to the nurses. In fact, there appeared to be a general lack of information of patients about their rights and duties, including avenues for complaints. Despite a long standing CPT recommendation to draw up a brochure containing patients' rights and obligations[48], patients at Sobral Sid Hospital were only informed orally upon admission about their rights and obligations. At Lisbon Central Hospital, patient's rights and duties were posted at the walls of the corridor of the clinic and there was a special leaflet available; however there were no specific explanations about the complaints procedure. [49]

The CPT calls upon the Portuguese authorities to draw up an information brochure for forensic psychiatric patients, available in an appropriate range of languages, setting out the facility's routine and patients' rights - including information on legal assistance, review of placement and avenues for appeal, consent to treatment and complaints procedures. This brochure should be issued to all patients on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance.

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47 *Cabinete de Utente*.

48 See CPT/Inf (2009) 13, paragraph 137.

49 At Santa Cruz do Bispo Prison, a general information brochure for new arrivals was available, but it did not include any specific information for forensic psychiatric patients.

127. As regards inspections, the CPT was informed that the forensic psychiatric department at Sobral Sid Hospital was not inspected by an independent body. Santa Cruz do Bispo Prison did receive inspections from the Inspector-General of Judicial Services and the Central Psychiatric Hospital Lisbon was inspected by the Inspector General of Health Services. However, it remained unclear whether these bodies were also charged with the inspection of patient's care at the forensic psychiatric departments of these institutions. Further, the Committee noted that forensic psychiatric institutions still fall outside the mandate of the Monitoring Commission for psychiatric hospitals established under Section VIII of the Mental Health Act.[50]

The CPT would like to receive clarification of whether there is any independent outside body responsible for the inspection of patient's care in the forensic psychiatric departments visited, in accordance with Article 16(3) of the United Nations Convention on the Rights of Persons with Disabilities. If so, it would like to receive a copy of the latest inspection reports of this body in respect of the institutions visited by the CPT in 2012.

[50] Moreover, the delegation was informed during the visit, that the Monitoring Commission has not yet become active regarding patients placed involuntarily under the Mental Health Act.

D. Casa do Lago Social Care Home for Juveniles

128. Casa do Lago, located in a two-storey building in the Benfica district of Lisbon, receives juveniles with a difficult family background in emergency situations for periods of up to six months on the basis of a court order. The establishment has been managed since 2011 by "Santa Casa da Misericordia", a private social welfare organisation.

Juveniles under the age of 18 who are "in danger" [51] can be referred to the establishment by the Committees for Protection of Children and Young Persons with the consent of their legal representative; without such consent they have to be placed by order of a family court. Placement orders were usually for six months, and if a court assessed the necessity for continued placement the juveniles were transferred to care homes specifically designed for longer placement periods.

With an official capacity of 12 male juveniles between the ages of 16 and 18 the social care home was fully occupied at the time of the visit. However, four juveniles had recently absconded and the police had not yet returned them.

129. The atmosphere at Casa do Lago appeared relaxed and the CPT's delegation received no allegations of ill-treatment by staff; on the contrary, the juveniles spoke very positively about staff.

As regards violence between the resident juveniles, the delegation did not gain the impression that this was a matter of concern. However, a few juveniles spoke about fights between inmates. **The CPT trusts that the management of the Casa do Lago establishment will remain vigilant in this respect.**

130. Living conditions were generally of a reasonable standard. All the boys were accommodated in single occupancy rooms which were adequate in size (approximately 7 m²), given the fact that they were only used for night-time accommodation. The rooms were appropriately furnished, well-lit, ventilated and had heating; further, juveniles were allowed to decorate them with personal items. Rooms remained unlocked at night and juveniles had access to the sanitary facilities at all times.

The common area was equipped with several sofas and chairs, books, games and a large television set; there was also a dining room where meals were eaten communally. Further, juveniles had access to the garden and to a small gym for recreational activities.

That said, the delegation noted that the bedrooms were each equipped with one set of bunk-beds. It was explained that prior to the privatisation of the establishment the capacity had been double. The CPT considers the current official capacity rate as appropriate and **trusts that the rooms will not be used to accommodate two juveniles in the future.**

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[51] According to Article 3 of the Law on the Protection of Children and Young Persons *(Lei de proteccao de crancas e jovens em perigo)*, juveniles "in danger" are for example those that have been abandoned or that suffer from physical ill-treatment. Those juveniles under 16 (age of criminal responsibility) who commit a crime can be placed by order of a judge in a specific educational center according to the provisions of the "Educational Tutelary Law" (*Lei Tutelar Educativa)*, Article 17, Article 143.

131. All residents attended school or went to work outside the establishment during weekdays, reporting back in the evenings. After doing their homework, they could associate freely among themselves. On weekends, some juveniles were allowed to return to their families and the others could participate in activities organised by the educators, such as outings. With a view to developing a more long-time perspective for the juvenile, the "technical team" (social worker and psychologist) established a "life plan" together with each juvenile, corresponding to his individual development needs.

132. There was an educational reward system in place to motivate the juveniles to demonstrate good behaviour and reliability; privileges such as an increase in the weekly monetary allowance or permission to borrow a DVD were being granted. Poor behaviour could result in a loss of certain privileges, such as watching television or permission to leave the social care home.

Internal order was in practice maintained through this educational reward system. As regards the formal sanctions provided for by the internal regulations such as reprimand, reparation of damage caused and house arrest[52], the delegation did not gather any information of excessive use of such disciplinary measures.

133. The staff complement at Casa do Lago consisted of a director, one psychologist, one social worker, twelve educators and six security guards.

Educators and security guards worked on a shift system, with at least three educators present during the day and one at night (from midnight to 8 a.m.). At weekends, the number of educators present during the day was reduced to two. Two security guards were always on duty[53].

134. Health care was provided by the community health-care services and a visiting general practitioner. Juveniles could be referred to outside specialists and emergency services could be called in case of need. According to the information gathered by the delegation, all new arrivals underwent a medical examination in the course of their first week following admission. Further, the delegation noted that the majority of the resident juveniles were on psychotropic medication and/or had drug addiction problems.

In the view of the CPT, all juveniles should be properly interviewed and physically examined by a medical doctor as soon as possible after their admission to Casa do Lago; save for in exceptional circumstances, the examination should be carried out on the day of admission. However, a newly-arrived juvenile's first point of contact with the health-care services could be a fully-qualified nurse who reports to a doctor.

If properly performed, such medical screening on admission should enable the establishment to identify young persons with potential health problems (e.g. drug addiction, suicidal tendencies). The identification of such problems at a sufficiently early stage will facilitate the taking of effective preventive action within the framework of the establishment's medico-psycho-social programme of care.

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[52] See Article 33 of the *Regulamento Interno of Casa do Lago.*

[53] Security staff remained outside the building except for emergency situations; they did not carry truncheons, handcuffs or any other means of coercion.

The Committee recommends that all children/juveniles should benefit from an appropriate interview and a physical examination by a doctor (or a nurse reporting to a doctor) as soon as possible after their admission.

135. As to contacts with the outside world, the arrangements were satisfactory. Juveniles were allowed daily phone calls to their families; family visits or week-end and holiday leave were arranged on an individual basis.

136. Complaints at Casa do Lago were dealt with through an informal and in-house approach, juveniles could speak directly with the manager of the social care home about any complaints. Further, juveniles had the right to make confidential complaints to the Ministry of Solidarity and Social Affairs and to the National Commission for child protection and young persons at risk. However, it remained unclear whether there was any independent outside body carrying out inspections to the establishment. **The CPT would like to be informed about which bodies carry out independent inspections of privately run social care homes for juveniles. The Committee would like to receive a copy of the most recent inspection reports of those bodies concerning Casa do Lago.**

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Cooperation between the CPT and the Portuguese authorities

comments

- the CPT trusts that the Portuguese authorities will take the necessary steps to ensure that in future visiting delegations are provided in good time with full information on all places where persons may be deprived of their liberty by a public authority and that all such establishments are made aware of the CPT's mandate (paragraph 5).

Development of a National Preventive Mechanism

requests for information

- the CPT would like to be updated on the OPCAT ratification process and subsequent nomination of a National Preventive Mechanism (paragraph 6).

Law enforcement agencies

Ill-treatment

recommendations

- police officers to be regularly reminded that no more force than is strictly necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for their being struck by police officers. Further, every use of force by law enforcement officials to be properly documented (description of facts; any injuries sustained; whether the detained person was brought to hospital, etc.) (paragraph 14);

- appropriate measures to be taken to put an end to the misuse of handcuffs by PSP officers in the Lisbon area (paragraph 15);

- the Portuguese authorities to pursue their efforts to ensure that investigations into allegations of ill-treatment are effective (paragraph 18);

- officers under investigation (criminal or disciplinary) for an act of alleged ill-treatment to be assigned to duties which do not involve direct contact with the public or detained persons, while the case is ongoing (paragraph 18).

requests for information

- the outcome of the investigation by the Inspector General of Home Affairs (IGAI) and of any subsequent actions taken in respect of the case described in paragraph 10 (paragraph 10);

- the investigative steps taken in relation to the case referred to in paragraph 13 (paragraph 14).

Safeguards against ill-treatment

recommendations

- the Portuguese authorities to ensure that the right of persons deprived of their liberty by law enforcement officials to notify their detention to a third party, as from the outset of custody, is effective in practice (paragraph 20);

- the Portuguese authorities to ensure that the right of access to a lawyer, including the right to talk to the lawyer in private, is enjoyed by all persons obliged to remain with the police, as from the very outset of the deprivation of liberty. From a practical point of view, this will require putting in place an arrangement with the local Bar Association to ensure that there is a duty roster of ex officio lawyers who can visit police stations when required (paragraph 22);

- appropriate steps to be taken to ensure that juveniles are not required to make any statements or sign any documents concerning the offence of which they are suspected without benefiting from the presence of a lawyer and, in principle, of a trusted adult person to assist them (paragraph 23);

- a register of all medical interventions concerning detained persons to be kept in each police station and a copy of any medical documentation to be made available to the detained person (paragraph 24);

- law enforcement officials to be reminded of their obligation to immediately inform detained persons of their rights (paragraph 25);

- Regulation 8684/99 to be amended to ensure that all persons obliged to remain with the Public Security Police and National Republican Guard are requested to sign a statement indicating that they have been informed of their rights and understood them. If necessary, the absence of a signature should be duly accounted for (paragraph 25);

- all detained persons to be provided with a written explanation of their rights (paragraph 25);

- officers in all law enforcement establishments to be reminded to maintain custody registers meticulously (paragraph 26).

Conditions of detention

recommendations

- the Portuguese authorities to take the necessary steps to remedy the deficiencies highlighted in paragraph 27. In particular:
  - anyone obliged to stay in custody overnight should be provided with a mattress;
  - persons detained for 24 hours or more should have access to outdoor exercise;
  - all police cells should have adequate artificial lighting and enjoy access to natural light

(paragraph 27).

Prison establishments

Preliminary remarks

recommendations

- the Portuguese authorities to pursue a multi-pronged approach towards eradicating prison overcrowding, having regard *inter alia* to the principles set out in Recommendations Rec (99) 22 concerning prison population inflation and Rec (2006) 13 on the use of remand in custody as well as other pertinent Recommendations of the Council of Europe's Committee of Ministers (paragraph 29).

requests for information

- the measures being taken to eradicate prison overcrowding (paragraph 29).

Ill-treatment

recommendations

- the Portuguese authorities to deliver a clear message to all prison managers and custodial staff that all forms of ill-treatment are not acceptable and will be the subject of severe sanctions. More specifically, prison officers must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all prison officers are provided with training in recognised control and restraint techniques (paragraph 35);

- the Prison Administration and the management of Linhó and Paços de Ferreira Prisons to monitor closely the situation in the security units of these establishments (paragraph 35);

- the Portuguese authorities to reinforce the capabilities of the relevant bodies to investigate allegations of ill-treatment. In this context, particular attention should be given to ensuring that medical examinations are carried out in accordance with the requirements advocated by the Committee (paragraph 36);

- when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned to be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 38);

- a permanent staff presence to be ensured in the basement unit of F Wing of Lisbon Central Prison whenever inmates are unlocked from their single cells (paragraph 39).

requests for information

- a copy of the final report by the Prison Inspector and Audit Service (SAI) into complaints of beatings by members of the Prison Security and Intervention Group (GISP) and certain prison officers during a search operation in Paços de Ferreira Prison on 10 July 2011 (paragraph 34).

- the outcome of the investigations into the case of alleged ill-treatment of an inmate by prison staff at Paços de Ferreira Prison referred to in paragraph 37 (paragraph 37);

- the outcome of the investigation into the case of inter-prisoner violence in the basement unit of F Wing of Lisbon Central Prison, referred to in paragraph 39 (paragraph 39).

High-security units

recommendations

- the inner barred gate to be left unlocked in the two cells in the security unit of Paços de Ferreira Prison used for the disciplinary measure of solitary confinement (paragraph 41);

- the necessary steps to be taken to ensure that the cells in the high security units of Linhó and Paços de Ferreira Prisons are adequately heated (paragraph 41);

- the Portuguese authorities to review the regime in the security units of Linhó and Paços de Ferreira Prisons, in the light of the remarks in paragraph 43. In particular, a purposeful programme of activities should be put in place for each inmate, elaborated upon arrival in the unit by a multi-disciplinary team and which is the subject of monthly reviews (paragraph 43);

- the Portuguese authorities to institute rigorous procedural safeguards prior to and during the placement of prisoners in the security units (including a written reasoned decision of placement/extension and the possibility to appeal the decision). Further, there should be a regular multi-disciplinary review of each placement every three months (paragraph 45).

comments

- the weekly visits of inmates in the high security units of Linhó and Paços de Ferreira Prisons should, as a rule, take place under open conditions, with closed visits being the exception based upon an individual risk assessment (paragraph 46).

Conditions of detention

recommendations

- the Portuguese authorities to pursue their plans to renovate the accommodation wings in Linhó Prison (paragraph 47);

- cells of 7.5 m² should cease to be used to accommodate more than one prisoner (paragraph 47);

- the exercise yards in Linhó and Paços de Ferreira Prisons to be equipped with a means of rest and a shelter from inclement weather (paragraph 48);

- the design of the cell windows at Porto Judicial Police Prison to be reviewed so as to allow inmates to see outside of their cells (paragraph 49);

- the Portuguese authorities to take the necessary steps to bring cell occupancy rates in line with the requirements mentioned in paragraph 49, and to maintain cells in a proper state of repair (paragraph 49);

- the Portuguese authorities to take urgent steps to improve the material conditions in Lisbon Central Prison in the light of the remarks in paragraph 50, starting with the basement units (paragraph 50);

- the number of inmates held in Lisbon Central Prison to be reduced so as to avoid placing three prisoners in the 9 m² cells; preferably, these cells should used for single occupancy (paragraph 50);

- the toilet in any prison cell holding more than one prisoner should fully partitioned to the ceiling (paragraph 50);

- the Portuguese authorities to take appropriate measures to ensure prison cells are adequately heated (paragraph 51);

- the Portuguese authorities to take the necessary steps to develop purposeful activities for remand prisoners in the Judicial Police Prisons and to pursue their efforts to offer an appropriate range of constructive activities to all prisoners in Linhó, Lisbon Central and Paços de Ferreira Prisons (paragraph 52).

requests for information

- a timetable for the upgrading of the different areas of Lisbon Central Prison (paragraph 50).

Juveniles

recommendations

- the Portuguese authorities to take the necessary steps to ensure that any juveniles detained in an establishment for adults are accommodated separately from adult prisoners, in a distinct unit. The medium-term goal should be to ensure that all juveniles deprived of their liberty are held in facilities specifically designed for this age group (paragraph 54);

- the Portuguese authorities to put in place a programme of purposeful activities for all juvenile prisoners held on remand (paragraph 55).

Staff matters

recommendations

- the Portuguese authorities to carry out a review of the current staffing levels in the prisons visited and, in the light of that review, make provision to recruit additional staff. In carrying out this review, regard should be had to the role and duties of prison staff as they relate to the purpose of sending people to prison (paragraph 57);

- high priority to be given to the development of prison staff training, both initial and ongoing (paragraph 57);

- if it is considered necessary for prison officers to carry truncheons, they should be hidden from view (paragraph 58);

- training in control and restraint techniques to be made widely available to prison officers (paragraph 58);

- the necessary steps to be taken to ensure that a rigorous selection and training programme is in place for all staff allocated to work with juveniles (paragraph 59).

Health care

recommendations

- the Portuguese authorities to ensure that the new prison health care arrangements are properly monitored, taking into account the remarks in paragraph 60 (paragraph 60);

- steps to be taken to reinforce health-care staffing levels in order to ensure:

  - the presence of general practitioners for the equivalent of at least three full-time posts at Lisbon Central Prison, of one and a half full-time posts at Paços de Ferreira Prison, and on a daily basis at Lisbon Judicial Police Prison;
  - the recruitment of additional qualified nurses at Linhó and Lisbon Central Prisons, as well as at Lisbon Judicial Police Prison;
  - an increase in the provision of psychological counselling at Linhó, Lisbon Central and Paços de Ferreira Prisons;
  - the services of a psychologist and a psychiatrist are available to remand prisoners at Porto Judicial Police Prison.

  (paragraph 62);

- the relevant authorities to ensure that every newly arrived prisoner is properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, during the initial screening and that the results are recorded in full (paragraph 64);

- steps to be taken to ensure that any signs of violence observed when a prisoner is medically screened upon admission are fully recorded, together with any relevant statements by the prisoner and the doctor's assessment (namely, as to the consistency between any allegations made and the injuries observed); this information should be made available to the prisoner and to his or her lawyer. The same approach should be followed whenever a prisoner is medically examined following a violent episode in the prison (paragraph 66);

- whenever injuries are recorded which are consistent with allegations of ill-treatment made by the prisoner concerned (or which even in the absence of an allegation, are clearly indicative of ill-treatment), the relevant form to be systematically completed and transmitted to the supervisory judge and SAI (paragraph 66);

- the national authorities to take steps to ensure that all medical examinations of prisoners are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 67);

- secure rooms for examinations/consultation to be established in outside hospitals to which prisoners are routinely sent; this will remove any need for the systematic presence of prison officers (paragraph 67);

- steps to be taken to ensure the confidentiality of medical data at Lisbon Judicial Police and Setúbal Prisons (paragraph 68);

- the Portuguese authorities to introduce the use of written consent forms for the screening of infectious diseases, and all prisoners to be informed in person of the results of such testing (paragraph 69);

- steps to be taken to ensure that HIV testing is offered together with relevant information and accompanied, where necessary, by psycho-social counselling (paragraph 70);

- all prisoners fulfilling the criteria for subscribing to methadone drug-substitution programmes at Linhó Prison to be permitted to do so (paragraph 72);

- more effective steps to be taken to implement a three-pronged strategy: to put an end to the supply of of drugs, to reduce as far as possible the demand for drugs and to provide appropriate assistance to prisoners with drug-related problems (paragraph 72);

- substitution and detoxification programmes to be available to all prisoners fulfilling the relevant criteria and such programmes to be accompanied by social and psychological support and educational training (paragraph 72);

- prisoners with severe mental disorders who require in-patient treatment to be transferred without delay to an appropriate facility, where they can receive proper treatment and care (paragraph 74).

requests for information

- the proposed timing of the transfer of responsibility for health care in prisons from the Ministry of Justice to the Ministry of Health and the likely impact that such a transfer will have on the provision of health care services in prison (paragraph 61).

Other issues

recommendations

- the disciplinary system to be further improved, taking into consideration the remarks in paragraph 76 (paragraph 76);

- the Portuguese authorities to take the necessary steps to ensure that placement in provisional disciplinary isolation is in line with the precepts set out in paragraph 77 (paragraph 77);

- Law 115/2009 to be revised so as to lower the maximum period of solitary confinement as a punishment (paragraph 78);

- the Portuguese authorities to take immediate steps to amend the current legal provisions in order to substantially reduce the period during which a juvenile can be placed in solitary confinement for disciplinary purposes; the CPT has already indicated its preference for a time-limit not exceeding three days (paragraph 79);

- the Portuguese authorities to issue clear guidelines about the role of prison doctors in relation to disciplinary matters; in doing so, regard should be had to the Revised European Prison Rules and the comments made on this subject by the CPT in its 21st General Report (paragraph 80);

- the Portuguese authorities to take the necessary steps to improve the material conditions in the cells used for disciplinary sanctions at Lisbon Central and Santa Cruz do Bispo Prisons (paragraph 81);

- prisoners held in solitary confinement as a disciplinary punishment to be offered one hour of outdoor exercise everyday (paragraph 81);

- steps to be taken to amend the relevant rules and practice towards visits so that disciplinary punishment of prisoners does not involve a total prohibition of family contact and that any restrictions on family contact are imposed only where the offence relates to such contact (paragraph 82);

- the Portuguese authorities to introduce a uniform internal complaints system, taking into account the remarks in paragraph 84 (paragraph 84).

comments

- the mattresses in the four cells on the lower floor of the disciplinary unit in Paços de Ferreira Prison were not suitable for the beds and should be replaced (paragraph 81).

requests for information

- a copy of the thematic reports produced by the Inspector General of Judicial Services concerning health care and food, the 2009 Code on Execution of Criminal Sanctions and a financial audit of prisons (paragraph 85).

Psychiatric institutions for forensic patients

Preliminary remarks

- the Ministries of Health and Justice to devise a common approach towards the care and treatment of forensic psychiatric patients which encompasses both civil psychiatric hospitals and the prison psychiatric hospital (paragraph 91).

Ill-treatment

recommendations

- the Portuguese authorities to give a firm reminder to prison officers called on to intervene in the Psychiatric Hospital at Santa Cruz do Bispo Prison, that ill-treatment of patients is unacceptable and will be the subject of severe sanctions (paragraph 94);

- all use of force to be recorded and every patient against whom force is employed to be examined by a doctor (paragraph 94);

- prison officers not to openly carry truncheons in the prison psychiatric hospital; preferably they should not carry them at all (paragraph 94);

- the Portuguese authorities to step up their efforts to combat inter-patient violence at the Psychiatric Hospital of Santa Cruz do Bispo Prison (paragraph 95).

Patients' living conditions and activities

recommendations

- efforts to be made to offer patients a more congenial and personalised environment at the forensic departments of Sobral Sid and Lisbon Central Psychiatric hospitals (paragraph 96);

- immediate measures to be taken at Sobral Sid Hospital to ensure adequate heating during cold periods (paragraph 96);

- the Portuguese authorities to pursue their efforts to establish an adequate therapeutic environment for forensic patients at both Lisbon Central Psychiatric Hospital and Sobral Sid Hospital. This should include:
  - provision of adequate facilities for occupational and recreational activities;
  - increasing the number and variety of day-to-day activities offered to patients, including female patients

  (paragraph 98);

- the Portuguese authorities to take urgent steps to upgrade the material conditions and to improve the range and number of purposeful activities offered to patients at the Psychiatric Hospital of Santa Cruz do Bispo Prison, with a view to fostering a truly therapeutic environment. As this would involve a major restructuring of the current building - which was designed to serve as a prison - the authorities might wish to examine possibilities for relocating the entire hospital to more suitable premises (paragraph 99);

- the Portuguese authorities to put an end to the practice at the Psychiatric Hospital of Santa Cruz do Bispo Prison of referring to patients by their numbers; all patients should be referred to by their names (paragraph 100).

comments

- it would be desirable at Sobral Sid Hospital to find an architectural solution to split the dormitories into smaller units, which would allow for more individualised accommodation (paragraph 96).

requests for information

- on the relocation of the forensic psychiatric department to the new building at Lisbon Central Psychiatric Hospital, and in respect of any refurbishment measures at the forensic psychiatric pavilion of Sobral Sid Hospital (paragraph 98).

Treatment

recommendations

- the Portuguese authorities to develop the range and number of therapeutic and psycho-social rehabilitative activities available to patients in all the institutions visited (paragraph 102);

- steps to be taken to ensure that an individual treatment and rehabilitation plan is drawn up for each forensic patient (paragraph 102).

Staff

recommendations

- the Portuguese authorities to increase the presence of psychiatrists at the forensic department of Sobral Sid Hospital and reinforce the number of specialists qualified to provide therapeutic and rehabilitative psycho-social activities (e.g. psychologists, occupational therapists, psychotherapists and social workers) (paragraph 104);

- the Portuguese authorities to take steps at the Psychiatric Hospital of Santa Cruz do Bispo Prison to reinforce the staffing complement and, in particular:
  - to increase substantially the number of psychiatrist posts and of nursing staff;
  - to reinforce the team of qualified specialists responsible for running therapeutic and rehabilitation activities.

  (paragraph 105);

- regular team meetings of health care and socio-therapeutic staff to be introduced at the Psychiatric Hospital of Santa Cruz do Bispo Prison (paragraph 105);

- prison officers to be specifically selected and trained to work with the mentally-ill and to always work under the control and supervision of the health care staff, for as long as they continue to perform security-related tasks inside the psychiatric prison hospital (paragraph 106).

comments

- the recommended reinforcement of the staff at the Psychiatric Hospital of Santa Cruz do Bispo Prison should make it possible to avoid prison officers and patients being involved in care-related duties (paragraph 105);

- the Portuguese authorities are invited to consider replacing the prison officers assigned to the Psychiatric Hospital of Santa Cruz do Bispo Prison with specifically trained nursing staff (paragraph 106).

Seclusion and means of restraint

recommendations

- the Portuguese authorities to take the necessary steps to ensure that all forensic psychiatric hospitals - including those under the Ministry of Justice - establish a written policy on the use of means of restraint, in line with the Committee's earlier recommendations on this subject (paragraph 107);

(forensic departments of Sobral Sid and Lisbon Centre Psychiatric Hospitals)

- patients subject to mechanical restraint to have at all times their mental and physical state continuously and directly monitored by a member of the health-care staff (paragraph 109);

- steps to be taken at Sobral Sid Hospital to ensure that patients in seclusion who need to use a toilet facility are able to do so without undue delay at all times (including at night) (paragraph 110);

- every resort to restraint, including chemical restraint, must always be expressly ordered by a doctor or immediately brought to the attention of a doctor. The prescription of "SOS medication" can never justify such medication being used as a chemical restraint (paragraph 111);

- the necessary steps to be taken to put an end to the practice of newly arrived patients at Lisbon Central and Sobral Sid Hospitals having to wear pyjamas (paragraph 112);

- the Portuguese authorities to take the necessary steps to ensure that every instance of restraint of a patient is recorded in a specific register in every psychiatric establishment. The entry in this register should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to such a measure, the type of measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 113).

(Psychiatric Hospital of Santa Cruz do Bispo Prison)

- the practice of placing patients naked in a seclusion cell to be stopped immediately (paragraph 114);

- the Portuguese authorities to take immediate steps to improve the material conditions in the cells used for seclusion purposes, in the light of the remarks in paragraph 115 (paragraph 115);

- direct supervision of patients placed in the seclusion cells by nursing staff to be documented (paragraph 116);

- placement in a seclusion cell to occur only on the basis of a recommendation by health care staff and only for medical purposes, as laid down by the 2011 general prison regulations (paragraph 117);

- steps to be taken to ensure that the practice at the Psychiatric Hospital of Santa Cruz do Bispo Prison is in line with the requirement that every resort to means of restraint, including chemical restraint, should expressly be ordered by a doctor or immediately brought to the attention of a doctor (paragraph 118);

- all instances of chemical restraint to be recorded in a central, specific register on use of means of restraint (paragraph 118).

Safeguards

recommendations

- as regards obtaining consent to treatment from forensic patients, the Portuguese authorities to take the necessary steps to review the relevant legislation in the light of the remarks in paragraph 123 (paragraph 123);

- the Portuguese authorities to draw up an information brochure for forensic psychiatric patients, available in an appropriate range of languages, setting out the facility's routine and patients' rights - including information on legal assistance, review of placement and avenues for appeal, consent to treatment and complaints procedures. This brochure should be issued to all patients on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance (paragraph 126).

comments

- the CPT invites the authorities to introduce a provision in the Code of Criminal Procedure that requires the competent court to seek the opinion of a psychiatrist who is independent from the institution accommodating the person concerned when reviewing the placement of a forensic patient (paragraph 121);

- the CPT invites the Health and Justice Ministries of Portugal to make joint efforts to offer long-term forensic patients the perspective of release by establishing adequate outside structures to ensure continuity of therapy and care (paragraph 122);

- the CPT invites the Portuguese authorities to improve access to a telephone at the Psychiatric Hospital of Santa Cruz do Bispo Prison (paragraph 124).

requests for information

- the Portuguese authorities' comments on the matters referred to in paragraph 120 concerning the regular reviews of the placement of forensic psychiatric patients, the presence of a lawyer during hearings and the backlog of 3,000 cases pending before the courts concerning parole decisions (paragraph 120);

- clarification of whether there is any independent outside body responsible for the inspection of patient's care in the forensic psychiatric departments visited, in accordance with Article 16(3) of the United Nations Convention on the Rights of Persons with Disabilities. If so, it would like to receive a copy of the latest inspection reports of this body in respect of the institutions visited by the CPT in 2012 (paragraph 127).

Casa do Lago Social Care Home for Juveniles

recommendations

- all children/juveniles to benefit from an appropriate interview and a physical examination by a doctor (or a nurse reporting to a doctor) as soon as possible after their admission (paragraph 134).

comments

- the CPT trusts that the management of the Casa do Lago establishment will remain vigilant concerning violence between juvenile residents (paragraph 129);
- the CPT trusts that the Home's rooms will not be used to accommodate two juveniles in the future (paragraph 130).

requests for information

- which bodies carry out independent inspections of privately run social care homes for juveniles (paragraph 136);
- a copy of the most recent inspection reports of those bodies concerning Casa do Lago Social Care Home for Juveniles (paragraph 136).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS

A. Ministerial authorities

Ministry of Justice:

Dr. Fernando SANTO	Secretary of State of Property and Equipment of the Ministry of Justice
Dra. Luísa Verdasca SOBRAL	Head of the Cabinet of the Secretary of State
Dra. Patrícia FERREIRA	Deputy Director-General for Political Affairs in the Ministry of Justice
Dr. Rui Sá GOMES	Director-General of the Prison Service
Antonio BEIRÃO	Coordinator of the Prison Service Auditing and Inspection Service – North
Manuela CASTRO	Coordinator of the Prison Service Auditing and Inspection Service – South
Dr. Pedro do CARMO	Assistant National Director of the Judicial Police
Dr. Manuel Eduardo SANTA	Inspector-General of the Justice Service
José André VAZ	Prosecutor, Director of the Disciplinary Unit and the Inspectorate of the Judicial Police

Ministry of Internal Administration:

Eng. Juvenal PENEDA	Secretary of State, Assistant to the Minister of Internal Administration
Dr. Ricardo Carrilho	Director of the Department for International Relations of the Directorate-General of Internal Affairs / Liaison officer for the CPT in the Ministry of Internal Administration
Paulo Gomes	National Director of the Public Security Police (PSP),
Paulo Lucas	Assistant National Director of the Public Security Police (PSP)

José Romão Mourato CALDEIRA	Operational Commander of the National Republican Guard (GNR)
Rogério Copeto	Major, National Republican Guard (GNR)
Dr. Francisco Marques Alves	Assistant National Director of the Service for Aliens and Borders
António Patrício	Senior Inspector, Service for Aliens and Borders
Mario Vargas GOMEZ	Inspector-General of the Inspectorate General of Internal Affairs (IGAI)
Claudia Oliveira PORTO	Inspector, Inspectorate General of Internal Affairs (IGAI)
Euriko Nunes SILVA	Inspector, Inspectorate General of Internal Affairs (IGAI)
Rogerio Mateus SOARES	Inspector, Inspectorate General of Internal Affairs (IGAI)

Ministry of Health:

Dr. Fernando Leal da Costa	Secretary of State Assistant to the Minister of Health
Dr. João Nabais da Tereza	Chief of the Cabinet of the Secretary of State Assistant to the Minister of Health
Dra. Ana Veiga Correia	Member of the Cabinet of the Secretary of State Assistant to the Minister of Health
Dr. Álvaro de Carvalho	Director of the National Programme for Mental Health
Dra. Eva FALCÃO	

Ministry of Solidarity and Social Security:

Dr. Tiago Pessoa	Head of Cabinet of the Minister of Solidarity and Social Security
Dr. Diogo Beresford Henriques	Adviser at the Cabinet of the Minister of State and Foreign Affairs
Dra. Odete Severino	Head of Unit of the International Relations Coordination Unit, Strategic and Planning Office

Dr. Manuel Branco MENDES	Child and Youth Unit Director, Social Development Department, Social Security Institute

Ministry of Foreign Affairs:

Teresa ADEGAS	CPT Liaison Officer, Department of Political Multilateral Organizations /Directorate-General for External Policy
Filipa Cornélio da SILVA	CPT Liaison Officer, Department of Political Multilateral Organizations /Directorate-General for External Policy

B. Other authorities

Office of the Portuguese Ombudsman:

Alfredo José de SOUSA	Ombudsman
Helena Vera-Cruz PINTO	Deputy Ombudsman
João PORTUGAL	Department Coordinator, Fundamental Rights

C. Non-governmental Organisations

Portuguese Bar Association

Portuguese Society of Psychiatry and Mental Health