



CPT/Inf (2007) 11

**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 17 to 20 December 2002**

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 (2007) 12.

Strasbourg, 25 January 2007



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**Copy of the letter transmitting the CPT's report**

Strasbourg, 20 March 2003

Dear Mr Lucena,

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 Government of Portugal 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 17 to 20 December 2002. The report was adopted by the CPT at its 50th meeting, held from 4 to 7 March 2003.

I would draw your attention in particular to paragraph 28 of the report, in which the CPT requests the Portuguese authorities to provide within **three months** a response containing an account of action taken to implement the Committee's recommendations and setting out their reactions to its comments and requests for information, and within **six months** detailed follow-up information on action taken and on the prevailing situation at Oporto Central Prison.

The CPT would ask, in the event of the responses being forwarded in Portuguese, that they be accompanied by an English or French translation. It would also be most helpful if the Portuguese authorities could provide a copy of the responses in electronic form.

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

Yours sincerely,

Silvia CASALE  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

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## 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 17 to 20 December 2002. The visit was one which appeared to the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

The purpose of the visit was to review developments at Oporto Central Prison, in the light of the CPT's previously-made recommendations.

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

- Mario FELICE (Head of the delegation)
- Mario BENEDETTINI.

They were assisted by:

- Eric DURAND, Medical doctor, former head of medical services of Fleury-Mérogis Prison, France (expert)
- Sophie ENDERLIN (interpreter)
- Melanie ROE (interpreter)

and were accompanied by Jan MALINOWSKI of the CPT's Secretariat.

### B. Cooperation between the CPT and the Portuguese authorities

3. The cooperation received during the visit by the CPT was very good.

The CPT's delegation had fruitful talks with Luis MIRANDA PEREIRA, Director General of Prison Services, and Maria José MOTA de MATOS, Deputy Director General of Prison Services for Education, Sentences and Planning. The delegation also had an interesting meeting with Fernanda RODRIGUES, acting head of the northern region office of the prisons Audit and Inspection Service.

Cooperation from management and staff in Oporto Central Prison - the only establishment visited - was also very good.

4. In respect of more substantive aspects of cooperation, the CPT notes the positive measures which have been taken by the Portuguese authorities in response to the Committee's previous visit reports.

As regards in particular Oporto Central Prison, the Committee visited that establishment in May 1995, October 1996 and April 1999. On those occasions, the prison was overcrowded and prisoners' living areas were unhygienic, there was a high level of inter-prisoner intimidation/violence, illicit drugs were widely available in the prison and staffing levels on the wings were inadequate.

Following the 1999 visit, the CPT was informed of steps taken to evaluate the prison's problems and to address existing shortcomings (cf. *inter alia*, CPT/Inf (2001) 12, paragraph 51, second sub-paragraph, CPT/Inf (2001) 13, pages 22 to 24, and CPT/Inf (2001) 14, pages 15 and 16). In particular, the establishment's inmate population had been reduced to less than 1,000 (as compared to an all-time maximum of 1,350), custodial staff had been increased, as had supervision within the wings, CCTV had been installed in many parts of the prison, and steps had been taken to ameliorate and expand drug-treatment programmes and to curb the supply of illicit drugs in the prison. The CPT also noted that further progress was expected shortly when newly built detention facilities within the nearby Paços de Ferreira Central Prison would be brought into service.

However, the facts found during the December 2002 visit demonstrate that the situation at Oporto Central Prison remains far from satisfactory (cf. in particular, paragraph 27).



## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **A. Preliminary remarks**

5. Oporto Central Prison has been described in some detail in the reports on the CPT's 1995, 1996 and 1999 visits.

At the time of the December 2002 visit, the prison was accommodating 1,135 inmates (1,100 men and 35 women) for an official capacity of 720 (686 places for male and 34 places for female prisoners). Just over half of the prisoners were awaiting trial. There were some 30 minors (16 and 17 years old) in custody; however, they were not being held in a separate unit.

6. Both management and staff in Oporto Central Prison advanced that there had been an overall improvement since the CPT's previous visit. Particular reference was made to further increases in custodial staff, and to a decrease in inter-prisoner violence. The latter was explained by the reduction in overcrowding, enhanced control, less drug trafficking in the prison and improved drug-treatment programmes. Attention was also drawn to developments as regards activities offered to prisoners.

Nevertheless, the delegation was told that certain of the measures taken to tackle the establishment's problems had been short-lived, while others had not yet materialised. Following a temporary decrease, the inmate population had again risen, net staff increases had been modest because of the retirement of prison officers who had not (yet) been replaced, certain measures taken or envisaged in order to enhance control as regards the entry of drugs into the establishment were found to be impractical and had been abandoned, and the new detention facilities in Paços de Ferreira Prison remained unused for want of staff.

### **B. Situation found during the visit**

#### **1. Ill-treatment of prisoners by staff**

7. The CPT's delegation heard a few allegations of ill-treatment of prisoners by staff at Oporto Central Prison. Those allegations concerned mostly rough treatment, blows with hands and kicks, and frequently related to the opening of cells at night when prisoners attracted the attention of staff by banging on cell doors (in the absence of a proper call system). Some allegations of verbal abuse were also received.

The records examined in the prison also revealed that, during the months preceding the visit, a number of prisoners had complained of ill-treatment by staff, or had made known their intention to do so.

8. The persistence of allegations of ill-treatment of prisoners by staff highlights the need for the Portuguese authorities to remain particularly vigilant in this area.

9. The CPT has previously recommended (cf. CPT/Inf (2001) 12, paragraph 45) that the authorities deliver the clear message to prison officers that the ill-treatment - including verbal abuse - of prisoners is not acceptable and that it will be dealt with severely. **The Committee recommends that the authorities at both central and local level reiterate this message at the earliest opportunity vis-à-vis staff at Oporto Central Prison.**

10. In a few cases, the prison's health-care services had gathered medical evidence consistent with allegations of ill-treatment. However, the records made following the medical examination of the prisoners concerned were rather cursory and did not include the doctor's conclusions.

The CPT would recall that prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons (cf. CPT/Inf (96) 31, paragraph 120, and CPT/Inf (2001) 12, paragraph 98), through the systematic recording of injuries and, when appropriate, the provision of information to the relevant authorities. **It therefore reiterates its recommendation, as regards Oporto Central Prison, that instructions be issued to ensure that the record drawn up following a medical examination of a prisoner after a violent episode in prison include (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. A certificate containing the above-mentioned information should be made available to the prisoner and to the prisoner's lawyer.**

11. Certain of the prisoners interviewed during the visit expressed little confidence in the complaints system (cf. also in this connection, CPT/Inf (2001) 12, paragraph 45). Further, the delegation gained the impression that Oporto Central Prison's legal services, which are inter alia entrusted with the conduct of preliminary enquiries into prisoners' complaints, were unable to handle promptly all cases brought before them. Difficulties were also encountered in this respect by the Audit and Inspection Service.

**The CPT recommends that the procedures currently used to process complaints of ill-treatment made by prisoners held in Oporto Central Prison be reviewed, with a view to ensuring that complaints are dealt with promptly and that the procedures applied offer appropriate guarantees of independence, impartiality and thoroughness.**

12. Following previous visits, the CPT welcomed developments concerning inspection procedures in Portugal (cf. CPT/Inf (96) 31, paragraph 142).

However, the information gathered during the 2002 visit suggests that **the Audit and Inspection Service should take a more proactive approach in respect of their monitoring powers vis-à-vis Oporto Central Prison.** The officials concerned should carry out regular visits to the prison. During such visits, they should make themselves "visible" to both the staff and the inmates. They should not limit their activities to inmates who have expressly requested to meet them, but should take the initiative to visit the establishments' detention areas and enter into contact with inmates. Further, during their visits, Audit and Inspection Service officials should speak to prisoners in private.

The CPT has also noted in this context the adoption in July 2000 of legislation providing a legal framework for a new Inspectorate General with authority to control and review the operation of all Ministry of Justice services (cf. CPT/Inf (2001) 13, page 18). **The CPT would like to receive further information on the establishment and envisaged operation of this body.**

13. As regards the allegations of ill-treatment of prisoners at night, the CPT notes with concern that the systematic review by the prison's legal services of the circumstances of the opening of cells at night (cf. CPT/Inf (2001) 12, paragraph 48) had apparently been discontinued. **The CPT recommends that practice in this respect be reviewed.** It might be added that, according to the accounts given to the delegation, the opening of cells at night related mostly to inmates requesting assistance because they were suffering from withdrawal symptoms.

## **2. Inter-prisoner intimidation and violence**

14. Many prisoners complained of intimidation by fellow inmates, and some stated that they felt that their physical integrity or even their lives were at risk. Several of them had requested to be transferred to another wing in order to escape potential aggressors.

15. The number of assaults of prisoners by fellow-inmates recorded by the prison's legal services during the months preceding the visit was comparable to that registered during a similar period in 1999 (cf. CPT/Inf (2001) 12, paragraph 49).

However, as had been the case during the previous visit, the delegation was told that the majority of incidents of inter-prisoner violence were not reported to the establishment's central services or management. Thus, while the prison's health-care services estimated that, on average, they treated about three persons per week for injuries resulting from inter-prisoner violence, only eight cases of treatment in the infirmary and two referrals to hospital had been recorded by the prison's legal services during the four months preceding the visit. In a further case, in November 2002, a drug-intoxicated prisoner told health-care staff before dying that he had just been assaulted by fellow inmates. Less recently, in April 2002, a prisoner died as a result of stab wounds inflicted with a sharpened spoon by another inmate.

16. Inter-prisoner intimidation and violence at Oporto Central Prison remains a source of considerable concern. **The CPT recommends that the Portuguese authorities intensify their efforts to tackle effectively this problem in the establishment** (cf. CPT/Inf (2001) 12, paragraph 51).

In this context, **priority must be given to augmenting the establishment's staff complement.** As previously indicated by the CPT, **the objective should be to increase significantly the number of prison officers actually present within the detention facilities,** particularly in Wings A and B. This will place staff in a position to perform the duties which are properly those of prison officers; at the time of the visit, certain of those tasks continued to be performed by prisoners (cf. in this connection, CPT/Inf (98) 1, paragraph 13). The officers to be deployed in those wings should be placed in a position to exercise their authority in an appropriate manner; they should be sufficient in number, well trained, highly experienced and committed to their difficult task. This implies that additional staff assigned to those wings should be carefully selected; they should be chosen from amongst the ranks of experienced officers currently working in other sections of the prison or in other establishments in Portugal rather than from amongst newly recruited prison officers.

An effective risk reduction strategy would also require the assessment of prisoners by adequately trained staff, which would permit to identify potential problems at an early stage and to apply suitable criteria for the classification and allocation of prisoners to different accommodation units (or prisons).

### **3. Drug-related issues**

17. According to the prison's management and to representatives of staff, the circulation of illicit drugs in the prison had decreased. The information provided to the delegation concerning the seizure of drugs within the prison in 2002 (up until the time of the visit) would seem to support this view, e.g. 242 doses and 162 gr. of heroin (as compared to 625 doses and 380 gr. in 1998), as well as 56 doses and 378 gr. of cocaine (as compared to 546 doses and 496 gr. in 1998). Six doses of heroin (but no cocaine) were seized from visitors over the same period.

However, the delegation's own observations do not differ significantly from the situation described in the 1999 visit report (cf. CPT/Inf (2001) 12, paragraph 54), and suggest that drug trafficking in the prison remains an acute problem. Interviews with prisoners, and the information provided by the prison's health-care service concerning drug overdoses (around 12 per year), on occasion with fatal consequences (two suspected cases in 2002), tend to confirm that the circulation of drugs in the male part of the prison continued unabated. Moreover, due to the manner in which medication was distributed (cf. paragraph 26), prescription drugs easily entered the prison's illicit drug market.

Reference should also be made in this context to the fact that two prison officers had recently been found guilty of drug trafficking in the prison and sentenced to significant custodial sanctions.

18. In a drug-riddled establishment, tension between inmates will frequently lead to violence (cf. CPT/Inf (2001) 12, paragraph 52). Not surprisingly, the vast majority of the persons spoken to during the visit stated that most assaults were linked to dealings concerning drugs, e.g. as regards prisoners who failed to acquit themselves of their drug-related debts or of their undertaking to assist in drug trafficking; the latter had apparently been the cause of the death of a prisoner in April 2002 (cf. paragraph 15). **The CPT recommends that measures being taken to combat trafficking in drugs at Oporto Central Prison be reviewed and that a comprehensive strategy to address the problem be developed and implemented without delay.**

19. As regards assistance offered to persons with drug-related problems, the CPT is pleased to note that drug treatment programmes had been developed. In particular, the substitution programme for opiate dependents had been expanded (98 inmates were being treated with methadone, as compared to 45 in 1999), treatment by opiate antagonists had been introduced (two prisoners were receiving such treatment at the time of the visit) and the drug-free unit (with 14 inmates for 20 places) was functioning in a satisfactory manner (cf. CPT/Inf (2001) 12, paragraph 59). Inmates in both programmes were periodically subject to mandatory drug testing and had regular consultations with psychologists/psychiatrists. Prisoners in the drug-free unit were offered a range of rehabilitative activities (e.g. training in communication and relaxation techniques, art) and support (individual and group therapy).

Nevertheless, having regard to the proportion of prisoners who have drug-related problems (estimated at 60 to 70% upon admission), the number of persons involved in the above-mentioned programmes was very low. Further, screening procedures for the purpose of offering assistance to such prisoners remained underdeveloped and inmates in general were not being provided with adequate drug-awareness information or with information about disease transmission and methods of prevention (cf. CPT/Inf (2001) 12, paragraphs 61 to 64).

**The CPT therefore recommends that the Portuguese authorities step up their efforts to provide assistance to prisoners with drug-related problems at Oporto Central Prison, taking full account of the remarks made by the CPT concerning the management of drug-related problems in prison in the report on the 1999 visit (cf. CPT/Inf (2001) 12, paragraphs 56 to 66).**

#### **4. Conditions of detention**

20. There had been some improvements concerning material conditions at Oporto Central Prison. In particular, certain dormitories (in Wing D) had been refurbished to a good standard, as had the dining halls and the communal shower facilities, the renovation of the women's section had been completed (cf. CPT/Inf (2001) 12, paragraph 72), and some repair work had been carried out in other accommodation areas. Further, many prisoners stated that the quality of food had improved.

However, the problem of overcrowding has not yet been resolved. Although the number of prisoners held in the establishment, particularly in the male part of the prison, had diminished following the CPT's previous visit, it had again increased by the time of the 2002 visit. Occupancy levels in certain dormitories were even higher than in 1999 (e.g. 14 inmates in 35 m<sup>2</sup> and 18 in 45 m<sup>2</sup>), and 7 m<sup>2</sup> cells continued to be used to accommodate two - and often three - prisoners (cf. CPT/Inf (2001) 12, paragraph 71). At the time of the visit, the women's section offered sufficient living space to inmates; however, occupancy levels apparently fluctuate considerably and the section has also on occasion been severely overcrowded (e.g. 70 or more inmates for an official capacity of 34).

The negative effects of overcrowding were evident in the male part of the prison (e.g. cramped accommodation, lack of privacy, increased tension and hence more violence). Further, the pressure of overcrowding, coupled with the high turnover of inmates, had damaging effects on the fabric of the establishment, and repair work had not always kept up with the deterioration. In some parts of the prison, particularly in Wings A and B, cell walls were dirty or in need of painting, and broken sanitary appliances and lights had not been replaced. Further, the level of partitioning of in-cell lavatories remained insufficient. Notwithstanding the unfavourable conditions, inmates appeared to be making efforts to keep their cells reasonably clean.

21. As indicated in previous visit reports (cf. CPT/Inf (96) 31, paragraph 91, and CPT/Inf (2001) 12, paragraph 71), a 7 m<sup>2</sup> cell is of an acceptable size for one person, but represents cramped accommodation for two; such a cell should never be used to accommodate three inmates. Collective accommodation should offer at least 4 m<sup>2</sup> of space per prisoner. **The CPT recommends that immediate steps be taken to reduce Oporto Central Prison's inmate population, having regard to these remarks;** the objective should remain to bring occupancy levels into line with the criteria developed by the Inspection and Audit Service (cf. CPT/Inf (2001) 12, paragraph 80).

**The CPT also recommends that all parts of the prison be kept in a reasonable state of repair, that cells be painted at regular intervals, and that broken items be replaced without delay. It reiterates its recommendation that in-cell sanitary facilities be suitably screened/partitioned.**

22. Turning to activities, at the time of the visit, 581 prisoners (out of 1,135) were offered work or vocational training, and 188 participated in other educational activities. The establishment's workshops and industrial facilities (e.g. carpentry, bakery, market garden), which employed a significant number of prisoners, were of a high standard. However, certain of the activities offered to prisoners (e.g. cleaning duties or general services) involved only a small part of the day.

As had been the case at the time of previous visits, the premises accessible during out-of-cell time to inmates who did not participate in activities (mostly accommodated in Wings A and B), namely the wings' halls and exercise yards, were often poorly equipped and too small for the number of persons involved (cf. CPT/Inf (2001) 12, paragraph 76).

23. According to Oporto Central Prison's management, were it to operate within its official capacity, the establishment would be able to offer work or educational activities to all inmates. In this connection, **the CPT would recall that the objective should be to ensure that prisoners can spend a reasonable part of the day (i.e. eight hours or more) out of their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value)** (cf. CPT/Inf (96) 31, paragraph 103, and CPT/Inf (2001) 12, paragraph 83).

## 5. Health-care services

24. The organisation, staffing and facilities of Oporto Central Prison's health-care services remain largely as described in the report on the 1999 visit (cf. CPT/Inf (2001) 12, paragraphs 86 et seq.).

The delegation was informed that an expected increase of nursing staff (from 8 to 11) had not yet taken place, and that two nurses on prolonged leave had not been replaced. **The CPT recommends that the vacant nursing posts be filled without delay and that nurses on prolonged leave be replaced.**

25. The situation found in the infirmary left something to be desired. Dormitories were overcrowded (e.g. 6 beds in 22.5 m<sup>2</sup> and 9 in 33 m<sup>2</sup>) and certain of them were dirty.

In this connection, the CPT would underline that prison health-care facilities should meet hospital hygiene standards and that an infirmary should provide sufficient space per patient. **It recommends that steps be taken to remedy the above-mentioned shortcomings.**

26. Certain patients, especially in the infectious diseases dormitory, should have been cared for in a hospital setting, rather than a prison infirmary. This was particularly the case for a bed-ridden patient with advanced AIDS. In some cases, those patients were left unattended by staff; the care provided to them - by their fellow inmates rather than nurses - was haphazard.

The distribution of medicines in the prison is also a source of concern. It was regularly carried out by prisoners, with little control as regards the identity of the inmates who received medicines (including prescription drugs) and no supervision from nursing staff.

The CPT would underline once again that the use of prisoners to provide health care services (cf. CPT/Inf (94) 9, paragraph 122, and CPT/Inf (2001) 12, paragraph 88) and to distribute medicines are highly undesirable practices. **It recommends that the current approach in this connection be reviewed.**

## C. Conclusion

27. In view of the situation found during previous visits to Oporto Central Prison, the CPT has felt obliged in its visit reports to remind the Portuguese authorities of their duty to safeguard the physical and mental well-being of the persons they detain (cf. inter alia CPT/Inf (96) 31, paragraph 104). For their part, the Portuguese authorities have repeatedly expressed their commitment to address the situation, and the Committee recognises the efforts made in this respect.

However, the information set out in this report clearly shows that those efforts have had only marginal effects, and that significant problems persist (violence, drugs, insufficient staff, overcrowding). As had been the case at the time of previous visits, prisoners - particularly in wings A and B - were detained under conditions which were neither safe nor healthy; the treatment of many of them could fairly be described as inhuman and degrading.

Given the otherwise excellent cooperation that the Committee has received from the Portuguese authorities and their commitment to remedy existing shortcomings, as well as the efforts being made by the management of Oporto Central Prison itself, the CPT is reluctant at present to view this state of affairs as a failure to cooperate or refusal to improve the situation in the sense of Article 10, paragraph 2, of the European Convention for the Prevention of Torture<sup>1</sup>. Nevertheless, the CPT cannot overemphasise the gravity of the situation and the need for urgent, vigorous and effective action.

28. The CPT will therefore continue to monitor closely developments at Oporto Central Prison.

Consequently, the CPT requests the Portuguese authorities to provide within three months a response containing an account of action taken to implement the Committee's recommendations and setting out their reactions to its comments and requests for information. The recommendations, comments and requests for information are set out in **bold type** in the text of the report (cf. paragraphs 9, 10, 11, 12, 13, 16, 18, 19, 21, 23, 24, 25 and 26). The CPT also requests the Portuguese authorities to provide within six months detailed follow-up information on action taken upon its report and on the prevailing situation at Oporto Central Prison.

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<sup>1</sup> Article 10, paragraph 2, of the Convention reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."