



## **Response**

### **of the Portuguese Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Portugal**

**from 27 September to 7 October 2016**

The Portuguese Government has requested the publication of this response. The CPT's report on the September/October 2016 visit to Portugal is set out in document CPT/Inf (2018) 6.

Strasbourg, 27 February 2018

Table of Contents

Comments by the Ministry of Internal Administration to the CPT report  
on its visit to Portugal in 2016 .....3

Reply from the Ministry of Justice to the recommendations and observations encompassed  
in the CPT Report related to the visit carried out to Portugal  
from 27 September to 7 October 2016.....12

## **Comments by the Ministry of Internal Administration to the CPT report on its visit to Portugal in 2016**

On March 10, 2017, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) adopted the report of the visit that, from September 27 to October 7, 2016, was made to Portugal by a Delegation of that Committee.

This document gathers the comments, information and responses that we consider pertinent to be given to certain paragraphs of this report, referring of course to matters where an express reference is made to the Ministry of Home Affairs (*Ministério da Administração Interna – MAI*) or where issues that relate to this Ministry's competences are dealt with, namely:

- Chapter II, Section A, entitled "Law enforcement agencies", and the five topics into which that section is divided:
  1. Preliminary remarks (page 12);
  2. Ill-treatment (page 13);
  3. Effective investigation of ill-treatment (page 16);
  4. Safeguards against ill-treatment (page 20);
  5. Conditions of detention (page 22).

Specifically, the report addresses questions regarding the scope of competences of this Ministry in paragraphs 8 to 33.

- Paragraphs 8, 9 and 10

In what concerns the excessive use of force by police officers, we reiterate what has always been emphasized in all contexts: in the scope of disciplinary procedures, by means of recommendations, through participation in training actions, in informal contacts with officials responsible for the security forces and services, and in all other scenarios of action conferred to IGAI by the law, we always stated that abusive practices related to the use of coercive means by police forces are unacceptable in a democratic State based on the rule of law, fighting, without any margin for hesitation, for a firm and strict application of the law.

It must be noted that, regardless of their source and origin, IGAI pays special attention to all reports of ill-treatment of citizens by elements of the security forces and services and, where deemed necessary, considering the reported facts and the seriousness thereof, inquiry proceedings always take place by initiative of the Inspector General.

It is worth mentioning that this Ministry is especially focused on the control of legality and defence of the citizens' rights, and it is incumbent on it to investigate all reports of serious violations of the citizens' fundamental rights (Article 2, paragraph 2, subparagraphs (c) and (d) of Decree-Law No. 58/2012), but its mission is not limited to this specific function.

According to the provisions of Decree-Law No. 58/2012, of March 14, 2012 (amended by Decree-Law No. 146/2012, of July 12, 2012), IGAI continues its mission of ensuring the high level functions of audit, inspection and control regarding all entities, services and bodies, under the authority of or whose activity is legally regulated by the Minister of Home Affairs (Article 2, paragraph 1).

Reports of a disciplinary offence always lead to the opening of a procedure to establish if there is any liability that may be involved in the case, and the disciplinary action is of an informal nature, not depending on participation, complaint or denunciation (according to Articles 71 and 72 of the Disciplinary Regulation of the GNR, which find some correspondence in Articles 20 and 61 of the Disciplinary Regulation of the PSP and in Article 194 of the General Labour Law in Public Functions).

It is also necessary to consider the Regulation of the Inspection and Control Proceedings (RAIF), (Regulation No. 10/99, of April 29, 1999, published in the Official Gazette No. 106, Series II, of May 7, page 6888 and seq.) that define the procedural rules of the actions conducted by IGAI.

The preamble to the RAIF states: *"... The scope of action of IGAI is extensive and includes services and organisations whose organic realities of legal frameworks and internal cultures show, among them, significant differences.*

*It is therefore important to concentrate on a single legal text the procedural rules of the inspection and control actions, harmonising the procedures and improving the performance of the Inspectorate General, to provide the required legal certainty to all persons involved, inspectors and those subjected to inspection/control actions..."*

The RAIF establishes that *"Whenever, as a result of the action or failure to act by the security officers and other services within the scope of action of IGAI, it ensues to anyone the violation of personal property, namely death or serious bodily harm, or there is evidence of serious abuse of authority or property damage of high value, the forces or services must immediately report the facts, by fax, to the Minister of Home Affairs and wait for the decision regarding the opening of disciplinary procedures."* (Article 2).

The criteria established in the RAIF were reinforced by Decision of the Minister of Home Affairs No. 10529/2013, of July 29, 2013, from which we must highlight the following:

*"... 1. When there is a violation of personal assets, namely the death or serious bodily harm, or there is evidence of serious abuse of authority or property damage of high value, the Security Forces, the Immigration and Borders Service and other Departments of the Ministry of Home Affairs must immediately inform, by the quickest means available, the Minister of Home Affairs and the Inspectorate General of Home Affairs;*

*2. The Inspectorate General of Home Affairs shall immediately carry out the analysis of the paperwork received and initiate investigation or enquiry procedures, regarding to which it has specific legal competence, or suggest to the Minister of Home Affairs the opening of disciplinary procedures, if the necessary conditions are met;*

*3. Whenever the Inspectorate General of Home Affairs decides to open procedures, that fact must be communicated to the Minister of Home Affairs and to the highest rank official of the security force, of the Immigration and Borders Service or of the addressed department which, if he/she has already begun an internal procedure of the same or less important nature, must order its closure and immediately send the file to the Inspectorate General of Home Affairs for inclusion in the corresponding procedure;..."*

It is therefore considered that, from a normative point of view, IGAI has at its disposal legal instruments that guarantee that it may intervene and act as a police control body, including taking the initiative to investigate reports of ill-treatment of citizens committed by elements of the security forces and services.

However, we could not agree more with the suggestions made in the report, in particular with regard to measures to strengthen the independence of IGAI, given its specific physiognomy in the general context of the inspection entities (an issue which will be dealt with below).

Indeed, as an inspection body in a particularly sensitive area of State action, where fundamental values such as authority and security, on the one hand, and fundamental rights, on the other hand, sometimes in a very fragile balance, are at stake, the role of IGAI is a factor of reinforcement of that balance and it seems relevant to the strengthening of the democratic State based on the rule of law to adopt measures that, in terms of independence, strengthen the role of IGAI as an essential guarantor of the fundamental rights of all the citizens.

#### - Paragraph 11

In paragraph 11 of the report, there are six cases - i to vi - that the CPT presents as an example to support its assessment of ill-treatment of citizens by elements of security forces and services.

In the preliminary remarks (paragraph 9), it is stated: *"... the CPT wishes to convey its concern that ill-treatment by law enforcement officials is not infrequent ..."* and then it immediately (paragraph 10) says that *"...the CPT's delegation received a considerable number of allegations of ill-treatment (...). It should be noted that the delegation heard in particular many allegations of ill-treatment made by persons of colour, both Portuguese citizens and foreign nationals; in addition to physical violence, they alleged that police officers (PSP and GNR) insulted them verbally ..."* and, further on (paragraph 12.): *"... In the CPT's view, the number of reported cases would appear to represent only a fraction of the cases of ill-treatment by the police."*

Among the six cases presented in paragraph 11 there is one - the case vi - that falls within the scope of action of other inspection services (those of the Justice), reason why about it there is nothing to comment.

As for the remaining five cases, we may say that point i refers to a specific process that is pending in IGAI.

Regarding this process, the CPT asks to be kept informed on the results of the investigation, both the investigation being conducted by IGAI and the one conducted by the Public Prosecutor's Office, and also to be informed of any subsequent actions taken in this case.

With regard to the process under way in IGAI, what can be said is that this process is waiting for the performance of a recognition procedure by the entities responsible for the criminal case.

Regarding the cases mentioned in points ii, iii, iv and v, given the limited identification elements indicated by the CPT, it is not possible at present to provide any concrete information.

Considering the contents of the report, and bearing in mind that it was made clear that the case mentioned in point i is a case that is the object of an investigation pending in IGAI, we assume that the other four cases (those referred to in points ii, iii, iv and v) are not the object of proceedings initiated by (now still open in) IGAI.

Nevertheless, and because this is, in some cases, a matter that falls within the competences of IGAI, we will seek, through the proper means, to determine if there are (or not) any procedures and, if they really exist, what are the type of the procedures and what stage they are in, considering however that in relation to points ii, iii, iv and v the CPT does not ask for any kind of information.

#### - Paragraph 12

In paragraph 12 of the report another case is mentioned, that the CPT presents as an additional example of ill-treatment of a citizen inflicted by elements of a PSP Intervention Unit (GOE), in the Algarve (in an unspecified place), in the scope of an arrest carried out in the street, on August 4, 2016.

Although in this case the CPT already provides more data and informative elements, compared to the cases previously mentioned, the truth is that, nonetheless, the identification elements that the CPT indicates are insufficient to allow a search in the database of the procedures that are in progress in IGAI; so, it is also not possible, at this stage, to provide any concrete information.

Considering the approach that is made to the case, the CPT will be in possession of information that is not available in the report, since it refers to the fact that the citizen's lawyer has filed a complaint, which suggests that there may be an ongoing investigation process in the Public Prosecutor's Office.

Strictly in the light of the data provided in the CPT report, in this case it is also assumed that it is not the object of a process that was initiated (is pending) in IGAI; in addition, in the IGAI database there is no record of any case that has Involved the GOE, in the Algarve, on the specified date.

However, because this is a matter that falls within the competences of IGAI, and because the CPT asks for it to be informed of the results of the investigation (we presume that the CPT is referring to the investigation possibly underway in the Public Prosecutor's Office), also asking to be informed of subsequent measures taken in this regard, we will be sought, through our own means, to determine whether there is a procedure (or not) and, if so, what kind of process it is and at in what stage it is.

- Paragraph 13

In what concerns the contents of paragraph 13 of the report, we reiterate, *mutatis mutandis*, what has been said above, adding that it has been the object of particular attention of IGAI, in the scope of its disciplinary procedures, the matter concerning the correct preparation of the cases, both in what regards their completeness and the accuracy of their contents in the respect for the truth of the events.

- Paragraphs 14 and 15

Paragraph 14 of the report does not deserve a specific answer since we agree with the comments therein.

We must however correct the information gathered by the CPT regarding the Inquiry File 300/13.OT3.ST3C, mentioned in paragraph 15 of the report.

IGAI has been following the aforementioned criminal procedure and knows that on December 19, 2016, an accusation was made, contrary to what is stated in the said paragraph 15 of the report, which says that the case was dismissed.

Moreover, it is important to suggest, taking into account the issues addressed in the report, that future visits should also include contacts with the Public Prosecutor's Office.

Furthermore, IGAI always communicates to the Public Prosecutor's Office all the facts that come to its knowledge by virtue of the exercise of its functions and which may assume a criminal relevance. And the relations with the Public Prosecutor's Office, within the scope of the procedures initiated by the two entities, have always been exemplary.

Finally, we must inform that regarding the Enquiry File 300/13.OT3.ST3C, a preliminary decision was rendered in which it was decided to accuse the GNR officer on all counts stated in the indictment dated 19/12/2016; he must now wait for trial with a security measure of statement of identity and residence.

- Paragraph 16

The position of the IGAI referred to in paragraph 16 of the report is the one that has always been and will be in the future.

- Paragraph 17

Paragraph 17 refers to matters related to the activity of the Public Prosecutor's Office; so, no considerations are necessary about this paragraph, besides what is mentioned above.

#### - Paragraph 18

IGAI has insisted, on a daily basis, with the entities responsible for the security forces and services in the sense of a prompt and comprehensive communication of all the facts that may assume disciplinary relevance within the scope of action of this Inspectorate General.

This constant concern has been supported by the authority to which is subordinated. This will continue to be a concern of IGAI.

IGAI, both in the processes it handles and with the entities with disciplinary competence, seeks to develop and promotes the development of an exhaustive reasoning in the processes that are handled, so that the decision to be rendered is clear and transparent. It is also a daily work that will continue to be undertaken.

It has also been a concern of IGAI the reinforcement of its human resources, to face the complexity of the processes to be handled. This concern has been shared with the authority to which IGAI is subordinated who, within its possibilities, has sought to respond in an appropriate way. This is another pressing and daily concern.

#### - Paragraph 19

The promptness in the handling of disciplinary procedures by IGAI, an issue addressed in paragraph 19 of the report, has been a constant concern of this Inspectorate General. This is a matter that is basically related to the scarcity of human resources. Nonetheless, the efforts undertaken have produced results, and it can be said that at the moment the body of inspectors have a consequent concern with issues related to procedural swiftness.

#### - Paragraph 20

Returning to the issues related to the reinforcement of the independence of IGAI, we entirely agreed with the suggestion of the granting of competences to open disciplinary procedures without the need of a formal intervention of the authority to which IGAI is subordinated.

In fact, it is a measure that strengthens the activity of IGAI, giving it a fundamental instrument to assert its role as guarantor of the fundamental rights when confronting the performance of the security forces in a democratic State based on the rule of law.

A legislative process to amend the Organic Law of IGAI is underway. The timing could not be more accurate to introduce this change.

Regarding the attribution of competences for requesting forensic medical examinations, also suggested in paragraph 20 of the report, the following issues must be taken into consideration.



The performance of forensic medical examinations is regulated by Law No. 45/2004, of August 19, 2004.

Pursuant to Article 3, paragraph 1, of the said Law, the performance of the examinations in question may be requested by the judicial authority.

According to Article 1, subparagraph (b), of the Code of Criminal Procedure, a judicial authority is the Judge, the Investigating Judge and the Public Prosecutor.

IGAI does not, of course, fall into this definition.

The attribution of competences to IGAI to require the performance of examinations in the scope of disciplinary procedures, and notwithstanding the fact that it may have access to the examinations that are carried out in criminal procedures (as well as to other medical elements produced by health care institutions), would imply an amendment to the said legal framework, which would also imply an increase of work for the institutions responsible for carrying out the examinations.

We would have to be very careful to avoid the possibility of duplication of efforts.

Having in mind what has been said and aware of the amendments which would be necessary to undertake, since then from a legislative point of view, this is a suggestion to which IGAI naturally adheres, bearing in mind that it is a matter which is not on the agenda of the legislative amendments in progress.

#### - Paragraph 21

Paragraph 21 of the report proposes increased competences to IGAI in order to give it the authority to investigate all situations relating to the excessive use of force by police officers, including in criminal matters.

It is a proposal that, in the first place, stems from the recognition of the relevant role that IGAI has been developing.

No doubt, it is a suggestion that would involve a paradigm shift in what concerns the role of IGAI and the framework of the criminal system, to begin with in the constitutional field.

As a matter of fact, according to the provisions of Article 219, paragraph 1, of the Constitution of the Portuguese Republic, it is the responsibility of the Public Prosecutor's Office to carry out criminal proceedings.

The report, quite understandably, does not materialize the suggestion made.

In this answer, this task will also not be undertaken, since it is not for IGAI to present its vision on options that fall within the competence of the legislature and even the constituent power, considering the form in which it was presented by the CPT.

We can only highlight the profound significance of the proposal, in the sense that IGAI becomes an entity, so to said, parallel to the Public Prosecutor's Office, to investigate the infractions (disciplinary and criminal) committed by the security forces and services (regarding the excess use of coercive means), or, in a mitigated form of the proposed, a criminal police body.

This is an unthinkable possibility with the current means, so here too (with regard to the means) the proposal would imply a profound modification of the existing system.

We understand that this is an issue that is not on the agenda for the on-going legislative changes (here, the amendment would have to rise to the constitutional level).

However, it should be noted that the two suggestions above mentioned point to the independence of the IGAI, a path which, without going as far as the one proposed, can still be made, certainly with more modest but nonetheless relevant effects. We also have in mind, as suggested in the report, the attribution of competences for opening disciplinary procedures without the intervention of the authority to which IGAI is subordinated. It can start there, without major changes in the physiognomy of the current system.

#### - Paragraphs 22 to 33

In the scope of its activity, IGAI maintains constant vigilance regarding the safeguard of the rights of citizens detained by police officers, both in relation to the communication of the detention to a third party, and in relation to ensuring the right of access to a lawyer, the right to medical care, the elaboration of the corresponding custody record, the information in a language they understand, as suggested in paragraphs 22 et seq. of the report.

With regard to the conditions of the detention facilities in police premises, IGAI is also carrying out surveillance and monitoring actions, in particular through visits without previous notice that each year are made to a significant number of police stations (PSP) and units (GNR) throughout the country.

The issues raised by the CPT regarding the lighting and ventilation of the detention cells are precisely two of the points, among many others, that are the object of interest and evaluation during the visits without previous notice that IGAI makes every year.

In addition, as expressly provided for in Article 23 of the Regulation on the Material Conditions of Detention in Police Premises (RCMDEP), "*The detention areas will be the object of systematic verification by the Inspectorate General of Home Affairs.*"

Article 4, paragraph 6, of the RCMDEP states that "*The cell shall have artificial lighting consistent with the size of the interior space, the luminous point being fixed on the wall above the door and protected by a metal grid with intervals of no more than 0.5 cm, accessed and controlled from the outside.*"

It must be recognized that there is a certain degree of subjectivity when one evaluate a space as being sufficiently or insufficiently illuminated.

The CPT associates this sufficiency with the condition that allows the reading.

What IGAI can sustain is that when, during visits without previous notice, it is faced with situations in which a certain cell has poor lighting conditions, whether in terms of natural or artificial light, the practice has been to recommend that, in the case of artificial light, a more powerful lamp be placed in the cell. In the case of natural light, the situation is more complicated, considering that some police premises are located in old buildings and the increase of natural light may imply construction works of adaptation, which the security force is not always able to execute immediately. In any case, the reports produced as a result of the inspection visits always refer to the deficiencies encountered and include recommendations to the security forces to correct them.

With due adaptations, the same is true regarding the matter of the ventilation of the detention cells.

In addition, we will only say that on this matter also Article 4, paragraph 15, of the RCMDEP provides, in terms that are not very strict, that "*Adequate natural lighting and ventilation will be provided through a hopper window with a minimum area and height of 0.35 square metres and 0.40 m, respectively.*"

The norm in question includes a qualitative (appropriate) evaluation element and an objective assessment element (the minimum size that the hopper window must have).

Regarding the matter of cell ventilation, it is this normative reference that IGAI has always in mind during its visits without previous notice and with which, with balance, coherence and equity, it seeks to evaluate each detention area and, in this specific case, the ventilation of each detention cell, while making the recommendations that each case justifies; it may even go as far as to express the need to carry out construction works or even the closure of the cell or the restriction of the use of that space until such works are carried out; there are several examples of reports where such recommendations were made.

Regarding the storage of firearms, we must inform the CPT that an extraordinary inspection is now under way in IGAI.

Reply from the Ministry of Justice to the recommendations and observations encompassed in the CPT Report related to the visit carried out to Portugal from 27 September to 7 October 2016

With regard to the aforesaid issue, I herewith forward a proposal with the replies to the recommendations and observations encompassed in the Report related to the Visit to Portugal by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in what concerns, obviously, the matters related to DGRSP.

#### Preliminary Questions

As already mentioned in previous replies, the Portuguese authorities are deeply committed to solving the problem of overcrowding (*paragraph 34*), deploying their action (as advocated by CPT) by measures designed to reduce the prison population (e.g. of a legislative nature) and by actions designed to increase the housing capacity of the prison system. Both are intended to improve the material conditions in which the detainees are found.

Before going any further, it is important to underline that, despite the serious economic crisis that our country has gone through and from which it is now just getting out, such commitment has already produced - as will be shown below - very significant results, which in the near future (e.g. in 2108) will be even more important.

In the scope of the legislative measures, designed to reduce the size of the prison population, in November 2016, (as referred to the CPT delegation that visited Portugal), the Government has set up a working group, chaired by Professor Figueiredo Dias, which purported to establish a re-socializing alternative focused on reinforcing the prevention of new crimes and on the integration of convicted persons in their own environment.

This group has already submitted its final report to the Government, which has, last 18 May, approved a draft law based on the proposals put forth. This draft law was presented to the Parliament that has, through the Law 94/2017, amended the Criminal Code as recommended by CPT.

According to Law 94/2017 – which was published in the Official Journal on 23 August, and entered in force on 21 November 2017 (Annex 1), - a significant change was introduced in the system of house arrest, eliminating the prison sentences related to free days and to the semi-detention regime and creating the house arrest as a form of complying with an effective prison sentence, not exceeding two years.

This legislative amendment aims, in particular, by electronic surveillance means, not only to decongest the prison system - by preventing the entry into prison of inmates who do not require such intense levels of control - but also to increase the control of certain community penalties by avoiding the entry into prison of revoked probative sentences.

Meanwhile, and as already mentioned to the CPT Delegation, DGRSP which is competent to execute and follow up on this new penalty, has set up a multidisciplinary working group within the scope of Electronic Surveillance with the purpose to ponder and evaluate the path taken, up to the present moment, as well as the new challenges posed in this domain. The works of this group have already been concluded and its Final Report was submitted on June 16, 2017.

Hence, at the end of 2017, due to the aforementioned legislative changes and the adjustments introduced in the Electronic Surveillance System, we have already registered a very significant increase in the application of the regime on house arrest with electronic surveillance.

In fact, the previous regime on house arrest (PPH), introduced by the criminal reform of 2007, had had so far little statistical expression, given that during the whole year of 2017 only 131 PPH were applied and only an average of 70 penalties were simultaneously carried out.

However, after a little more than 1 month of the implementation of the new legislative amendment, this trend is significantly changing given that between November 21 and December 31, 42 new penalties were applied. If we consider the average PPH applied between January and October 2017 (average of 8 PPH) these 42 penalties applied represent an increase of 425%.

In conclusion, this preliminary analysis allows us to anticipate the great impact that the application of this new regime of PPH will have on the National System of Electronic Surveillance and, in parallel, to support in a very significant way the process of decongestion of the Prison System.

At the same time, it is also important to highlight that this penalty brings benefits from the social and humanizing point of view of the System for the Enforcement of Sentences. Not only it allows the convicted person not to sever his/her family and social ties but, should the court authorizes it and in order to promote the criminal withdrawal, the convicted person may perform activities useful and appropriate to his process of resocialization.

On the other hand, since taking up office, both the Minister of Justice and the Director General for Reintegration and Prison Services have repeatedly pointed out, in public occasions and in the media, the need to reduce the prison population in Portugal, a discourse that has also been publicly assumed by the President of the Supreme Court of Justice.

Subsequently, DGRSP drew up a plan to raise the awareness of the Magistrates - Judges and Public Prosecutors -, which, in particular, aims to draw attention to this new approach on the problem of overcrowding.

In a first phase, the President Judges of all the judicial counties of Portugal and all the Coordinating Prosecutors of these same counties were summoned (with authorization and, above all, with the approval of the General Prosecutor and of the High Council of the Judiciary). The meetings were held in Lisbon on 21 and 22 November 2017.

The meetings took place in a very positive atmosphere and were held at the place where the Electronic Surveillance System operates. The Judges and the Prosecutors were able to not only see how the surveillance equipment works but also contact the technicians who operate them, with whom they have kept a lively dialogue which, we are sure, will provide a better understanding and, as a consequence, a greater application of alternative measures to imprisonment.

Finally, and in this first phase, the General Prosecutor and the High Council of the Judiciary were asked to include in their *intranet* pages all the information that was made available in these meetings, and which has become available to the magistrates throughout the country.

In a second phase - foreseen for the first quarter of 2018 - a meeting shall be held with all the Judges and Prosecutors who work in all the Courts for the Enforcement of Sentences.

Las but not least, the plan will enter into a third phase, which will be developed at the regional level, through a meeting with the Judges and the Prosecutors that work in the criminal areas of the criminal investigation and trials, and also in the Juvenile Justice scope, having been identified the following thematic areas:

- Application of structured programs and activities in the scope of the Provisional Suspension of the Procedure;
- Technical support for decision-making in the pre-sentential phase;
- Enforcement of sentences and measures in the community (intervention in the suspension of the enforcement of the prison sentence and community work issues);
- Enforcement of sentences and measures supervised by remote control means (Electronic Surveillance);
- Specific rehabilitation and social reintegration programs (in particular those provided for in article 13 of Law 96/2017, of August 23<sup>1</sup> – aimed at young adults convicted of crimes of

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<sup>1</sup> Legal diploma that defines the criminal policy objectives, priorities and orientations for the biennium 2017-2019.

domestic violence, against sexual freedom and self-determination, forest fire and road crimes);

- Educational Tutorial Intervention.

In brief, this is a work plan that aims to create a platform for structural articulation with the magistracies at central, regional and local level, creating "extra-procedural" work routines able to give greater agility, effectiveness and confidence in the Justice System response.

To conclude this part of the reply, it is important to underline that, as a result of the articulation of these various measures and approaches, and since the visit of CPT to Portugal, we have registered a steady and very significant decrease in the prison population.

In fact, and on a national basis, on 31 December 2017, we have registered (including those who are in detention for free days, which in a very short term will cease this regime because such penalty has been extinguished by the Law 94/2017<sup>2</sup>) a total of 13 318 inmates, plus 147 inmates hospitalized in non-prison institutions.



Moreover, as of 31 December, the overcrowding rate, at national level, was 3% and, if we do not count the individuals serving a semi-detention sentence (regime removed from the Criminal Code), the occupancy rate was 99.4%, that is the system was no longer overcrowded.

Article 13, under the heading "Preventing recidivism" confers upon DGRSP the competence to apply the programs both in a prison and community context.

<sup>2</sup> The application of this new regime is not automatic in relation to cases already tried, requiring a new judicial decision.

However, in order not to conceal the reality, it is true that, at that time, some prisons continued to register overcrowding rates.

However, even in this area and since its visit, we have noticed a very significant change in its occupancy rate that cannot and should not be minimized by the CPT.

In fact, on 31 December 2017:

- Of the 21 high complexity prisons, only 9 are overcrowded and in all of them the rate continues to decline in a sustained manner;
- In the 28 medium-complexity prisons (designated by CPT as "smaller regional prisons"), none of them were operating at 200% and only 7 registered a overcrowding higher than 140%;
- In all the establishments specifically mentioned by CPT, we have registered a significant decrease in the prison population and of its occupancy rate. In fact

	Date of the visit	31 December 2017
o <u>Caxias</u>	160%	145,5%
o <u>Central Lisbon</u>	150%	111,5%
o <u>Porto</u>	180%	166%
o <u>Setúbal</u>	200%	185%

Finally, it should be underlined, once again, that the reduction of the overcrowding rates in all the prisons, where it is still registered, corresponds to a trend sustained over two years and that, based on concrete facts (the application of Law 94/2017 only started at the end of 2017 ...), we can affirm that it will be strengthened in the following months.

On the other hand, as regards the investments in the penitentiary park, and due to the exceptional rule that was included for the first time in the State Budget Law - article 289 of the State Budget Law for 2017 -, the Government was entrusted by Parliament with the task of defining a multi-annual strategy for the requalification and modernization of the prison system during the current year. To this end, it was determined that, within six months, the Government should present a report identifying the needs for infrastructure rehabilitation and human resource development.

Additionally and according to the Government's Program, this plan shall have a decade in view and the objective of rationalizing and modernizing the prison establishments' network and the national network of Educational Centres.

In compliance with these commitments, the Government approved, at the Council of Ministers, a Report on the Penitentiary and Juvenile System, in which it defines a Strategic Vision for the System on the Enforcement of Sentences and Criminal Procedures and Educational Tutorial Measures, for the next 10 years, as well as an Account on the Needs of Human and Material Resources (Annex 2).



In the scope of this Report - *which has considered the CPT report very seriously* - the Lisbon Prison is part of a set of eight prisons that the Government proposes to close<sup>3</sup>.

With regard to the prisons that were visited (paragraphs 36 and forth of the CPT report) and in addition to what has already been mentioned, the following should be noted:

As concerns the Lisbon Prison, we must emphasize once again that (for the reasons given by CPT itself in paragraph 34 of its report), between 1 January 2016 and 31 December 2017, the size of the population it has hosted has gone from 1327 to 989, which means a decrease of 25%.

Moreover, despite the decision to close it, we will continue with the requalification of its facilities, and we are in the process of carrying out significant works to improve its conditions.

Thus, and albeit the fact that there were some unforeseen negative events, as we shall later explain, the works in the kitchen, laundry and thermal power station, as well as the necessary procedures to improve the roofing and the lodging conditions of the basement areas of wings B, C, D and E, as recommended by CPT, shall begin this year.

In fact, the so-called "basements" of this prison are now practically deactivated.

Indeed, those of Wings A, B, D and F are actually closed and those of Wings C and E are exclusively used for the compliance with disciplinary sanctions. Wing E is designed to comply with disciplinary sanctions of Compulsory Confinement in the Accommodation for short periods (in average 12 days), although, simultaneously, there are never more than 10 inmates in this wing. With regard to Wing C, the basements are used to comply with measures of confinement in a disciplinary cell, never exceeding the number of 4 inmates, that are serving, in average, 8 days of internment.

And a last note to clarify that, before long, rehabilitation works on the "basements" of Wing A shall begin (it is necessary to create a bathhouse on the upper floor for the inmates of Wing A and to place grilles in 4 cells that will serve as disciplinary cells). Once these works have been completed, all the disciplinary measures will be complied with in this space. The basements of Wings C and E will then be deactivated.

On the other hand, as far as the Caxias Prison is concerned, it should be referred that it is also the intention of the Government to close it, as stated in the aforementioned Plan for the decade.

In any case, in this prison, works to improve the conditions were also carried out, as it shall be better explained later on.

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<sup>3</sup> Lisbon, Caxias, Ponta Delgada, Setúbal, Leiria (regional), Viseu (regional), Odemira and Silves

As far as the Setúbal Prison is concerned, it should be emphasized that this prison will also be closed in accordance with the aforementioned Plan for the Decade. A new one will be built to replace it, which, of course, will put an end to all the (fair) criticisms of CPT.

Meanwhile, there is a decrease in its prison population, which, from 1 January 2016 to 31 December 2017, has gone from 343 inmates to 250: a decrease of 27%.

Finally, it should be noted that, in any case, in this prison, works were also carried out to improve its conditions, as it shall be better explained later on.

To conclude this and as a final note, we believe that the CPT recommendations have been fully respected, that the results obtained are very significant and that, above all, they show that, in the very near future, the (correctly) formulated criticisms shall become pointless.

Moreover, in the timely response we will give to the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - which announced a visit to Portugal in the first quarter of 2018 - we shall confirm what we are now affirming.

#### 1 – Allegations of ill-treatment

We reaffirm the emphasis put in previous replies regarding the fact that the Portuguese authorities pay particular attention to the good relationship between the inmates and the staff who, in the different fields, work for the prison administration.

It must also be referred that the Minister of Justice as well as the General Director for Reintegration and Prison Services have repeatedly and publicly expressed – either in internal documents or in the media and even in Parliament - that there is zero tolerance towards this type of conducts.

That is why, in the training courses provided to the prison guards, disciplines on the protection of human rights, on multiculturalism, on interpersonal and intercommunication techniques as well as on control and restraint techniques are always included.

Just to give an example and to express better our commitment and the importance we give to this subject, in the training course of prison guards that will soon end (attended by 400 elements), two conferences, in their theoretical phase, were held:

- One, under the theme "Multiculturalism and Confinement", in which, in addition to the Director General for Reintegration and Prison Services who served as mediator, the President of the Religious Freedom Commission, the Imam of the Central Mosque of Lisbon, the President of the Cape-Verdean Association (largest community of foreigners in confinement) and a representative of the High Commission for Migration have participated;

- Another on Human Rights - Guarantee and Control Instruments", in which, in addition to the Director General for Reintegration and Prison Services who served as mediator, representatives of the International Amnesty, the Human Rights Commission of the Portuguese Bar Association and the CPT member elected on behalf of Portugal have participated.

With regard to the control and restraint means, it should be mentioned that their use by the prison guards is compulsory communicated to the central services and subject to review by the Audit and Inspection Service ("SAI") whose delegations in Porto, Coimbra, South and in the Islands are coordinated, respectively, by two Prosecutors and a Law Judge.

On the other hand, DGRSP activity is under continuous scrutiny, given that the Prison Establishments can be and have been regularly visited by sovereign bodies – mainly by Prosecutors, members of Government and Deputies of the Assembly of the Republic -, by the Justice Ombudsman (either in that capacity or as a National Prevention Mechanism (MNP) under OPCAT) and by representatives of international organizations with responsibilities in matters related to the promotion and protection of the inmates' rights (art. 66 of "CEPMPL").

It must also be referred that the inmates have the right to correspond, without any control, with lawyers, notaries, solicitors, with diplomatic and consular entities, with sovereign bodies, with the Justice Ombudsman, with the Justice General Inspectorate and with the Bar (art. 68(4) of CEPMPL).

Inmates may also call, free of charge, several telephone numbers, such as the Aids Hotline, Abraço, SOS Voz Amiga, the Commission for Equality and Women's Rights, the Ombudsman's Office - Child Line and General Line, SOS Emigrant, Elderly Line, Life Line and Citizen with Disability Line.

On the other hand, it has already been agreed between the Directorate-General for Reintegration and Prison Services and the Bar Association to set up legal counselling offices in the prisons where the lawyers may provide free information and legal advice to inmates on various issues concerning their lives, such as, and in particular, how to make a complaint about less appropriate treatments, as well as to challenge decisions that are not favourable to them. Right now, talks are taking place with a view to solving logistical problems. We do believe however that in a very short term such Offices will become a reality.

Last but not least, the Audit and Inspection Service (SAI) of this Directorate General for Reintegration and Prison Services – which is, as already referred to, coordinated by a Law Judge and by two prosecutors from the Public Prosecution -, has continued to carry out its inspective and disciplinary activity, which can be initiated on the basis of complaints submitted by the inmates and/or their families, by the media or even on its own initiative. In this scope, any allegation of ill-treatment gives always rise to the opening of an investigation proceeding and, if the facts configure a public nature crime, such is conveyed to the Public Prosecution so that a criminal procedure be initiated.

**Sanctions applied to the prison guards in 2016-2017 (October)**

Sanction	SAI North			SAI Centre			SAI South			Total
	Effective	Suspended	Total	Effective	Suspended	Total	Effective	Suspended	Total	
Written reprimand	2	1	3	5	2	7	8	8	16	26
Fine	2	1	3	6	4	10	34	11	45	58
Suspension	0	0	0	3		1	17	4	21	22
Dismissal	1	0	1	1		1	11	0	11	13

As to possible cases of ill-treatment, and because to collect evidence is essential, it should be referred the entry into force of Circular No. 1/2017, in which are established the procedures to be observed when conducting a medical examination upon admission of inmates, when they show physical injuries, when control and restraint means are used or when they complain about alleged physical abuse. These are entirely in line with CPT jurisprudence.

On the other hand, and now in relation to individuals who are brought to prison by prison guards, it is also important to recall Order No. 11838/2016 of the Ministers of Internal Affairs and Justice (prepared following a CPT recommendation and published in DR, II Series 4 October) where it is referred that the communications provided for in art. 11(2) of the Prison General Regulation (RGEP)<sup>4</sup> are to be made to the Internal Affairs General Inspection (if the inmates are brought by the PSP or GNR) and to the General Inspection of Justice Services (if the inmates are brought by the PJ). Such has been strictly observed.

In the area of prevention and reinforcement of the "zero tolerance" policy on ill-treatment, Circular No. 1/2016 of 5 September 2001 also refers that all the staff working with inmates have to display an identification card with photography. The issue and distribution of this card is in the final stages.<sup>5</sup>

In addition, it is reflected in the proposal for Internal Regulation<sup>6</sup>, the article that provides for the use of ID cards by DGRSP workers.

4

**Article 11 (Pre-entry injuries)**

1 – Upon finding any visible injuries, or when there is a complaint of aggressions prior to admission the injuries are recorded and, if the inmate agrees with it, they are photographed.

2 – In the case provided for in the previous number, a medical examination is always carried out and the corresponding report drawn up. Immediate medical care is ensured, when required.

3 – The prison director immediately sends to the general director a copy of the document together, if the inmate agrees with it, with the medical report.

<sup>5</sup> The prison guards, although they have also received this card, have long worn, affixed to the uniform, a sign with their name and surname.

<sup>6</sup> Currently in consultation with the workers' representative bodies.

A final note to mention that, in order to contribute to this prevention and reinforcement, a significant investment was made towards setting up CCTV in prisons.

As regards specifically the alleged ill-treatment to young inmates in the Lisbon Central Prison (paragraph 39), it must be reaffirmed that all the complaints have been subject to investigation. In order to prevent and deter this type of situations, the direct contact with the inmates – in the wings and in terms of attendance -, has been a matter of concern to the new managing board, which gives them more opportunities to refer situations of abuse.

On the other hand, we agree with the recommendation on the control by video-surveillance means in the waiting room (“room 80”), the reason why it is already in place and operational a CCTV system with several cameras that ensures the viewing of the whole waiting room, with no empty spaces, as well as of the corridor that gives access to it

With respect to what has been described as being the usual practice of the prison guards of Montijo Prison in the reception of the inmates convicted for sexual crimes (paragraphs 39 and 40), an internal inquiry has been ordered bearing in mind the determination of eventual responsibilities, in particular as to prison guards’ breach of the duties of public officials in the course of their functions, especially the duty to preserve the public interest, of zeal and of correction for alleged commission of crimes as specified in articles 145 and 382 of the Criminal Code, under the heading “Aggravated bodily injury” and “Abuse of power” respectively.

From the investigation carried out (Proc. 772-P/2016) there was not any evidence of breach of any of the duties referred to above by the prison guards. The outcome of this process was analysed by the DGRSP Audit and Inspection Service in December 2016, which proposed the filing of the case. By order of the Director General the case was filed on 9 September 2017, due to the lack of evidence of any breach of obligations on the part of the prison guards concerned (Annex 3).

Nevertheless, it should be referred that, because we do not conform with any practices that breach the legal norms and bearing in mind the aforesaid “zero tolerance” policy regarding ill-treatment, recommendations were recapped to the Surveillance and Security Service to pay special attention to convicted inmates, flagged as sexual offenders, in view of the fact that they are deemed potentially more vulnerable to insults in the prison establishments.

At Caxias Prison (paragraph 39) there is also no record of the situations described and related to the guards’ ill-treatment towards inmates upon entry, in particular in September 2016. In fact, once all the documents that were in the legal office of Caxias prison, related to events that have allegedly occurred on 14 September 2016, were analysed, there was no evidence of any situation related to a possible assault on an inmate. As the prisoner mentioned that he had been referred to the Prison Hospital for medical examination, all the specialized medical examinations in which the inmates of Caxias prison were present, in that month and in the following month, were analysed and it was not possible to identify an inmate with that type of complaint (ear injury).

Regarding the case of the inmate "RG", an inquiry was drawn up. It was not possible to reach a conclusion since the inmate was not able to identify the guards who allegedly assaulted him. The process was then sent to SAI that decided to file it.

Moreover, the director has the habit of talking to the inmates and just one has claimed to have been given two slaps by one of the elements of the surveillance service during a search carried out in February 2016. This situation was investigated and nothing was ascertained as to the veracity of his complaint; the conclusions of this investigation were conveyed to the Audit and Inspection Service that has confirmed its filing.

With regard to the specific case of the inmate "ML" (paragraph 41) and in order to properly understand the situation in which he was involved, it is important, first of all, to make some notes on his profile which is extremely complex and difficult to understand in a brief paragraph.

This is a young inmate, 21 years old, with a history of institutionalization since the age of five and without the backup of a family. He was homeless at the time of the arrest.

He has been convicted for robbery, qualified theft and bodily injury, for a period of 8 years and 6 months. He is still waiting for the res judicata decision. He also has 17 known cases pending, and the legal situation is not expected to be defined in the short/medium term.

In psychological and emotional terms, he has a low level of development and behavioural disturbances, namely impulse control. Vulnerable and emotionally fragile, he has already a history of attempted suicide in a prison context.

These fragilities have determined that he be housed in the Risk Management Unit (UGR), a collective accommodation that supports the Integrated Program for the Prevention of Suicide.

He is regularly followed in Psychology and Psychiatry and is medicated, although with oscillations due to his adherence to the therapeutic.

To conclude, he is a mentally underdeveloped inmate with difficulty in interpreting and of responding adequately to more anxious situations. In order to defend himself from what he cannot process he becomes more aggressive.

The fact that he has several pending cases in different places, which entails traveling through national territory and passing through several prisons, in transit, to be present at the trials, has contributed to a greater emotional instability.

In an attempt to support him as much as possible, following the attempted escape recorded during the CPT visit, DGRSP placed him in the Hospital and, in order to protect him, even though he was discharged on 3 January, he did not return to Caxias prison. He has entered, on 13 February 2017, in Leiria prison (for the youth) where he remains up to the present moment.

In addition, the cause of his passage in transit through the Caxias Prison has also intended to provide him with medical and psychiatric support since he was near the hospital where this inmate has been receiving support.

In Leiria Prison (for the youth) he has had a prison course marked by some acts of indiscipline and behavioural oscillations. Thus, on 03/31/2017, after being involved in a fight with another inmate, he also assaulted a member of the Surveillance Services. He was then removed from the Risk Management Unit and placed in a single room, with a precautionary measure, and subject to special security observation (OPN) at nights. In the meantime, the disciplinary procedure was concluded, and the disciplinary measure of compulsory confinement in the accommodation was applied for 17 days. The special security observation at nights remained given the aforementioned situation.

On 04/26/2017, as determined by the psychiatry unit, the OPN security measure was withdrawn and he has entered a phase of greater stability, with no record of infractions and normal adherence to the medication. He went to school, and despite his obvious difficulties, he is regularly attending it. An evaluation is being prepared to classify him as a student with special educational needs (NEE).

On 06/10/2017 he made a calculating suicide attempt and was again placed in observation at night. Such has ceased with his transfer to Aveiro Prison on 10/11/2017. He then went to Setúbal Prison and with all these transfers, he has not only become more destabilized, but stopped taking the medication regularly, being distressed with the running of the judicial decisions.

On 12/12/2017, at Leiria Prison, he again assaulted a surveillance element, remaining with a confinement precautionary measure in the accommodation, which has since ceased. He will be punished with the disciplinary measure of compulsory confinement in the accommodation, for 17 days. He continues to refuse the medication, despite the close psychological and psychiatric follow-up.

Despite this course, he is not particularly dangerous as there is no intention or premeditation in his acts. He just reacts impulsively. We believe it is possible to continue to follow up his behaviour in the current context of Leiria Prison (for the youth).

With regard to the complaint lodged by the inmate ML on alleged assaults by prison guards on 27.09.2016, an inquiry was initiated, which has run in the South SAI under number 673-I/2016.



In the scope of this case and after carrying out all the appropriate investigations, a final report was drawn up and the records were filed on 4/1/2017, as no evidence has been produced that would allow the application of a disciplinary infraction to any DGRSP worker.

When the reply to the CPT preliminary report was sent, a full copy of the above mentioned investigation was sent. In any case, as requested, a new copy of the IML report is attached, pages 151 to 153 (Annex 4). The facts were conveyed to the Public Prosecution.

With regard to paragraph 42, we fully agree with the observations made by CPT and, as already referred to in the preliminary notes, following such recommendation, Circular 1/2017 of 27 January 2017 was issued. In this Circular it was determined that a medical examination be carried out not only to the inmates that claim to be victims of ill-treatment but to all the inmates who have visible injuries, who have been subjected to control and restraint means or who claim to have been ill-treated by the prison guards. The procedures established are completely in line with the CPT jurisprudence.

It should be noted that this circular has determined as recommended by CPT that in this type of medical report the following should be recorded:

- "a) A summary of the information given by the inmate or young person considered relevant to the medical examination, including the description on his state of health and any allegations of torture or ill-treatment;*
- b) A detailed description of everything found during the medical examination - which must be detailed and, if necessary, supplemented with ancillary diagnostic means or with a specialized medical examination -, as well as the clinical treatment applied;*
- c) The clinical observations, taking into account points (a) and (b), in which the degree of compatibility between any allegations of torture, ill-treatment or physical assault and injuries verified in the medical examination should be specified."*

As regards this last point, it should be mentioned that the doctors who work in the prisons do fill in the form where such information is recorded, specifying, in particular, the *degree of compatibility between allegations of torture, ill-treatment or physical assault and the injuries verified in the medical examination.*

In fact, SAI and the Director General for Reintegration and Prison Services have paid particular attention to the compliance with the procedures set out in the aforementioned circular, in particular as regards the importance of including in the medical examination the specific reference to the compatibility of the injuries with the facts described by the inmate. In this context, and whenever it is found that such procedures are not complied with (which, in practice, only happened at the beginning of its entry in force), SAI and DGRSP have made recommendations and have warn and called attention to the importance of strict compliance with the procedures in the investigation of situations of ill-treatment.



In any case, and to better deal with this matter, an agreement was established with the National Institute of Legal Medicine to provide training to the doctors who work in the prisons. We expect it to happen in the very short term.

Last but not least, with regard to the importance of an adequate and timely recording of any signs of physical violence (paragraph 42), it should be referred that it is already laid down in law in art. 37(d) of CEPMPL that "*the health-care personnel immediately conveys, in writing ... the existence of signs of physical violence*"; the Regulation on the Use of Control and Restraint Means at the Prison Establishments (Annex 5), also specifies in its article 5(7) that "*the inmate subject to restraint means is immediately assisted by a doctor*". As above referred to, the existence of evidence of ill-treatment is always investigated, mainly by SAI and by the Public Prosecution itself.

As concerns the recommendation encompassed in paragraph 43, we agree with CPT view. It should be highlighted the very significant decrease that is being registered in the prison population and in the prison overcrowding, which, constituting a strong trend that we expect to continue, will certainly contribute to better control the violence among prisoners and to provide a greater number of activities to them.

On the other hand, the conclusion of the prison guards' recruitment process (scheduled for April 2018) will bring more 400 new prison guards (320 men and 80 women), which will contribute, as CPT also points out, to reduce the referenced problem.

In this regard, we also emphasize that, as recommended by CPT, this process of theoretical and practical training has included, in addition to training in the area of security - passive and dynamic - disciplines related to the protection of human rights, multiculturalism and techniques of interpersonal intercommunication as well as control and restraint techniques.

The ongoing process of setting up CCTV in prisons will also contribute to reduce the phenomenon of violence among prisoners.

With regard to what is recommended in paragraph 44, it should be noted that, within the scope of SAI, inspections are carried out, on a regular basis, to the prisons' legal offices, in order to, inter alia, assess the agility with which the inmates' disciplinary procedures are processed. During 2017, two inspections were carried out to Tires and Carregueira Prisons, and it was recommended, as CPT suggested, greater effectiveness, efficiency and agility in the processing and decision of disciplinary procedures, as well as in the enforcement of the penalties.

On the other hand, it should be referred that, under these legal provisions, the application of precautionary measures pending disciplinary proceedings is a power conferred and exercised whenever necessary by the directors of the prison establishments (e.g. in cases of violence between prisoners and when it is necessary to protect the victim).

Nonetheless, because to place the offender in a separate cell or with a confinement precautionary measure inevitably entails a greater compression of freedom of movement and of conviviality, implying a relevant impact on the impossibility of enjoying occupational activities, all the decisions applying these measures are communicated to SAI (Circular No. 2 / DGRSP/2015). As regards the measure of placement in a separate cell for more than 72 hours, a communication is also conveyed to the Public Prosecution next to the Court for the Enforcement of Sentences.

Following the communications made to SAI, under the aforesaid circular, it should be noted that several recommendations have been made to the Directors to alert them to the fact that precautionary measures are exceptional in nature and that their application should be of the shortest possible duration, even though the law provides for relatively long terms.

## 2 – Detention conditions

### *a. Material conditions*

In this regard, it is important to reaffirm that both the current Minister of Justice and the DGRSP Management Board have repeatedly and publicly expressed the concern on the material conditions at prisons and have been giving an increasing impulse towards maintaining and improving the prison facilities.

These concerns fall on three (Caxias, Lisbon and Setubal) of the four prisons referred to in the CPT Report, which are included, as we have mentioned on page 2 and in connection with the recommendation in paragraph 34, in the list of prisons that the Government's plan intends to close.

Nevertheless, this generic medium-term program does not preclude the work to be carried out in various prisons to improve the housing, health-care and safety conditions and create adequate spaces for the development of training and occupational activities.

As concerns the specific cases referred to by the CPT Delegation, the following should be mentioned:

With regard to Caxias Prison (paragraphs 45 and 46), it is recognised that the overcrowding situation, which, although diminishing, is transversal to the prison system and the housing spaces, in higher occupancy occasions, do not allow the square meters per prisoner provided for in the prison rules. This General Directorate is trying to prevent these situations from recurring.

Nonetheless, it must be referred that Caxias Prison has been benefiting from renovation works - particularly in the housing area - that have been going on for some years. Thus, at the moment, the requalification works of the 2nd floor North have been completed, and is already occupied by inmates. On the other hand, the admission dormitories referenced by CPT and located on the ground floor are currently unoccupied, as the works that are being carried out are in an advanced stage.

As concerns the observation contained in paragraph 45, *in fine*, that inmates housed in the South Section of Caxias Prison do not have access to education, work or vocational training activities, it should be noted that such inmates may be (and are) allocated to the North section, where these activities are carried out.

In any case, it is also foreseen a reinforcement of technicians to increase the capacity to respond to rehabilitation programs.

In fact, recognizing the insufficiency of this type of activities (the limited physical spaces with the required conditions for their implementation), it should be referred that every effort is being made, in particular through the vocational training courses of the Centre for Professional Training (CPJ) to increase and improve the physical conditions of the prison in order to expand the number of spaces/rooms for education and training activities and other specific activities and programs in the prison treatment area.

Hence, and considering only the years 2015 and 2016, the number of inmates engaged in school and professional training activities was of 140 and 225, respectively. If we count all the inmates who were attending activities on 31 December (235-31-12-2015 and 213-31-12-2016), we find that the average occupational rate in this type of activities was 43% (and 87%, considering only the convicted prison population).

With regard to the recommendation contained in paragraph 46, it must be referred that measures have been taken to control the quality of the food served to the inmates, which has already led to the removal of several staff from the food service company. A significant improvement is being achieved. It is recognized the need to improve the kitchen conditions, a project that is being developed, bearing in mind the subsequent works that have to be carried out.

As concerns the material conditions in Pavilion 1 of Leiria Prison – for young people (paragraph 47), one admits the small size of the cells. However, this Pavilion is for young inmates engaged in school, training or daily work activities. Thus, the time spent in the cell is shorter than in a situation of inactivity, which minimizes the marked negative impact of the size of the smaller cells.

As to the absence of a table in the cells, the situation stems from an improper use by the inmates of the equipment designed for such purpose and which is embedded in the wall; in a significant number of cases the inmates choose to place the television in this place, and not use it as a table. Currently, all the cells are equipped with seats, which in fact did not happen during the CPT visit.

This Pavilion 1 will soon be deactivated as there are ongoing renovation works at the Saint Augustine Pavilion, where the inmates, who are still in this Pavilion, shall go.

The sanitary facilities in the dormitories of the "Observation" Pavilion and the bathhouses of this pavilion and of the adjoining one are currently being intervened to overcome the detected faults. It is confirmed that there is no heating system in the cells but the prison reinforces the number of blankets available to inmates in the winter.

With regard to the Lisbon Prison (paragraphs 48 and 49), it must be mentioned that several materials have recently been bought for the inmates' cells in order to improve their living and comfort conditions, such as 235 mattresses, 250 decks, 550 sheets, 550 pillowcases, 350 blankets, 250 face towels and 350 bath towels. These have allowed a partial replacement of the material.

Pest disinfestation shall be carried out, by an expert company, to various sectors of the Prison, including common spaces frequented by inmates, such as the kitchen, warehouses for belongings, courtyards, workshops, clinical service, bars, visiting rooms and recreation spaces. Disinfestation plans against cockroaches, rats, mice, bedbugs and fleas are applied monthly in these places.

As for the lighting of the cells, measures have been taken to place light bulbs in all cells where they did not exist or replace those that were in precarious conditions.

On the other hand, as recommended by CPT, very significant efforts have been made to transfer inmates from this prison to others, in order to deactivate the housing sectors whose living conditions are notably inadequate. For instance, it should be noted that, at the time of CPT visit, there were 1242 inmates allocated to the Lisbon Prison, a figure that fell to 989 inmates on 31 December 2017.

In view of the bad conditions of the basements, these were, as previously mentioned, practically deactivated (see pag.9).

So far, it has not been possible to carry out the works in the laundry and in the thermal power station, but significant improvements have been made in the kitchen with prison labour, such as the remodelling and painting of the facilities and the setting up of new equipment (namely oven and new marmites). Some smaller equipment was also bought to improve the preparation of the food (food trolleys and food storage, carrot grater and can opener) and various repairs were carried out on existing equipment.

It should be added that, as already referred to in a previous reply, the execution of this type of works does not depend solely on this Directorate-General. Nonetheless, DGRSP has already prepared and delivered to the competent body the completed project, which is ready to be submitted to an award procedure for the renovation works in the kitchen, laundry and thermal power station. However, problems related to the credentials of the jury members as well as of the team of designers next to the National Security Office have not yet allowed the completion of this awarding procedure.

DGRSP has already prepared and submitted to the competent body, in 2016/10/06, the Preliminary Program that precedes the renovation of the “basements” of the prison wings, in order to begin the award procedures for the project. On this date, the Preliminary Program was also sent for the execution of the works in the roofing, school area and warehouse bearing in mind the respective award procedures.

Finally and given the very high number of visitors that the Lisbon prison daily receives, the renovation works of a space that shall have all the conditions to welcome the visitors, while they are waiting for the visiting time, have begun. This building will also have rooms on the upper floor that will allow inmates to benefit from intimate visits.

As referred to in previous answers, we agree with CPT's assessment of Setúbal Prison (paragraph 50), both regarding the conditions of the lodging spaces, the cramped accommodation and the overcrowding.

For this reason, and even though this prison is included in the list of eight to be closed, works are already underway inside the cells/dormitories that will greatly improve the living conditions.

In fact, since last December all the cells/dormitories of the three floors facing the east courtyard have new windows, which, in addition to the safety effects, have improved the living quality of these spaces. All the external access/supply piping has been done to the cells and dormitories of these three floors, as well as a new sewage network. The inmates are now living in the eight housing units that have already been renovated. Four other housing units are currently being intervened, and in two of them, the works are in the final stage.

With regard to the well-known overcrowding of this prison, we have been trying - and will continue to try - to reduce its occupation, although in this case particular difficulties are recognized in view of the general overcrowding of the system and the lack of alternatives. In this regard, it should be mentioned that, on 1 October 2016, this prison housed 314 inmates and that, at the same time, but this year, 269 inmates were in Setúbal prison, a figure that fell to 250 at the end of the year.

On the other hand, inmates referred to as staying inside the cells 23 hours a day are those who, at their request and for fear of reprisals from others (given the crimes of which they are accused – e.g. sexual abuse of children, rape and child pornography), ask to remain separated. The architecture of the prison, which has only one wing, does not allow malleability in the accommodation and therefore the solution to these cases is related to the aforementioned transfer of prisoners to other establishments that we will continue to try to carry out whenever possible.

In any case and as mentioned with regard to the Lisbon prison, the effort to decrease the prison population in 2018 shall also continue in Setúbal prison.

*b. Regime*

DGRSP has made a continued investment in order to qualify prison treatment, defined as ... *the set of social reintegration activities and programs designed to prepare the freedom of the inmates, by developing their responsibilities and giving them the skills that would enable them to choose a socially responsible way of life, without committing any crimes, as well as to provide for their needs after release* (Article 5 (2) of the CEPMPL).

In compliance with the principle of individualization and prison treatment specialization, ... *programmed and phased, favouring a gradual approach to free living, through the necessary changes to the enforcement regime* (Article 5 (3) of the CEPMPL), and having as reference the principles of intervention - "Risk, Needs and Responsivity" - prison services have developed technical handbooks and tested instruments for evaluating inmates and prison treatment programs.

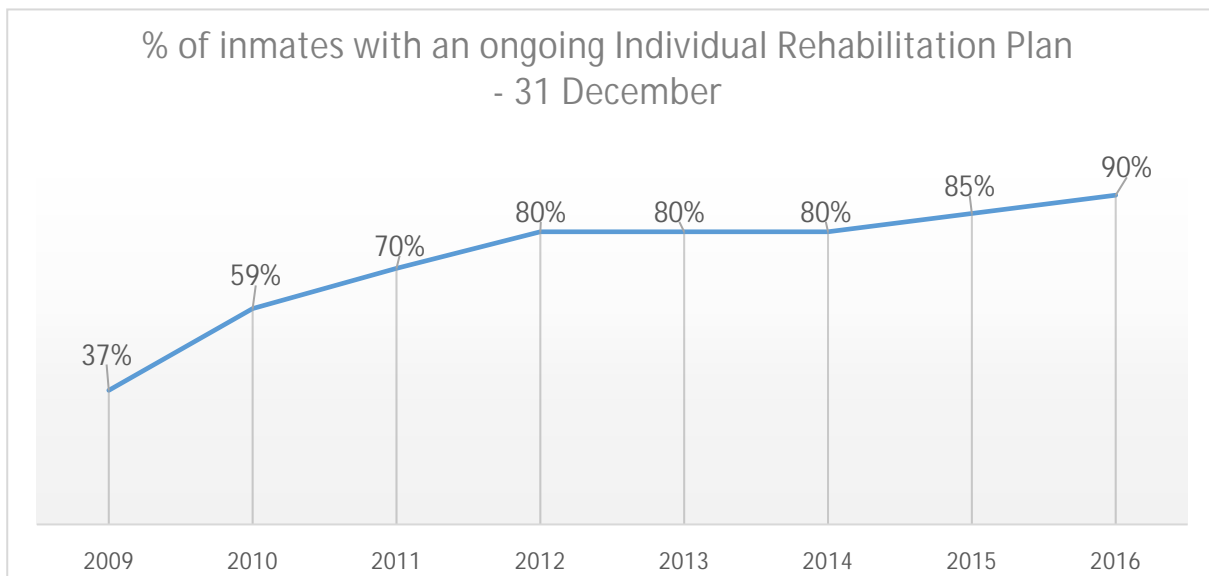
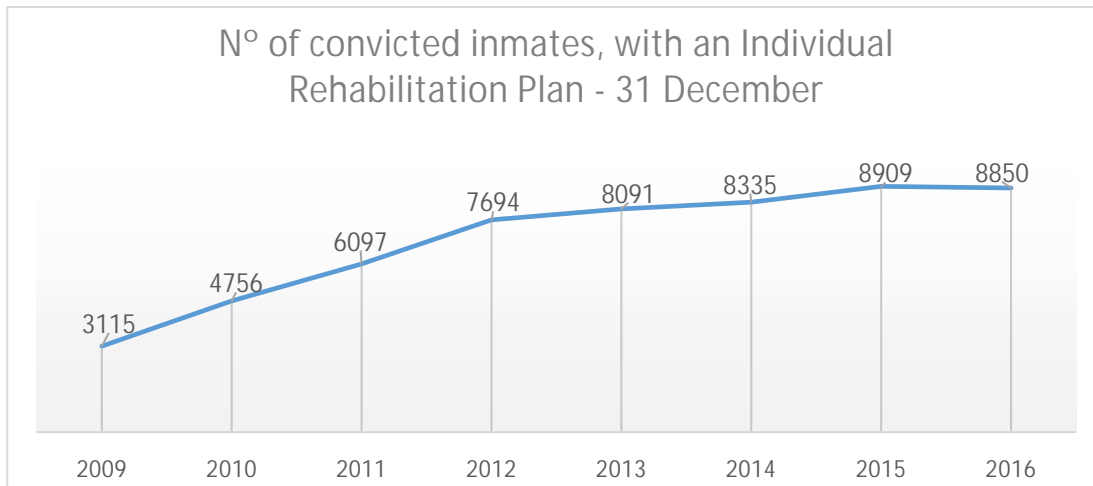
Thus, in addition to the two evaluation instruments that comprise the evaluation purposes identified in article 19 of CEPMPL and made explicit in articles 19 and 67 of RGEP, the instrument for the prison treatment program was improved: the *Individual Rehabilitation Plan* (PIR).

PIR is based on an assessment of the inmate's own needs and risks and respects the guiding principles for the enforcement of the prison sentence, which is the promotion of the inmate's sense of responsibility. It constitutes therefore the "script" of the prison enforcement sentence whenever the sentence, the sum of the sentences or part of the unfulfilled sentence exceeds one year, or irrespective of the duration of the sentence is an inmate up to the age of 21 or sentenced to a relatively indefinite sentence (paragraphs 1 and 2 of article 21 of CEPMPL).

PIR establishes the objectives to be achieved by the inmate, the activities to be carried out, the respective phases, as well as the measures to be adopted by the prison to support and control their compliance. It covers the following subjects: school education and vocational training, work and occupational activities, programs, socio-cultural and sports activities, health, contacts with the outside world and strategies designed to prepare their freedom (article 69 of the RGEP).

PIR is approved by the prison director, after hearing the respective Technical Council, and submitted for approval to the Court for the Enforcement of Sentences, being continuously monitored by the services responsible for following up the enforcement of the sentence and by the surveillance services. It is periodically evaluated and updated, whenever significant changes occur. Such is also subject to judicial approval (Article 70 of the RGEP).

The following tables illustrate the evolution of PIR:

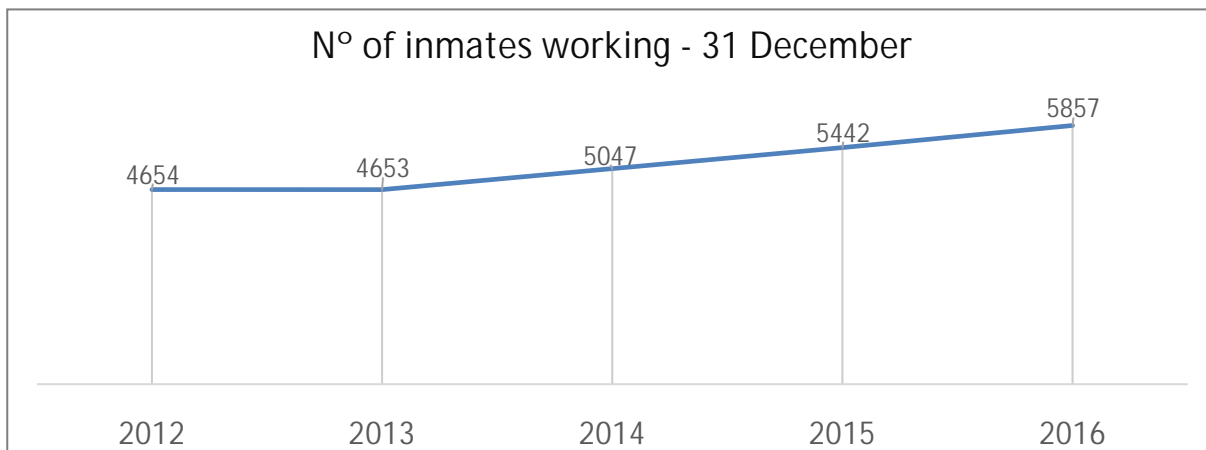
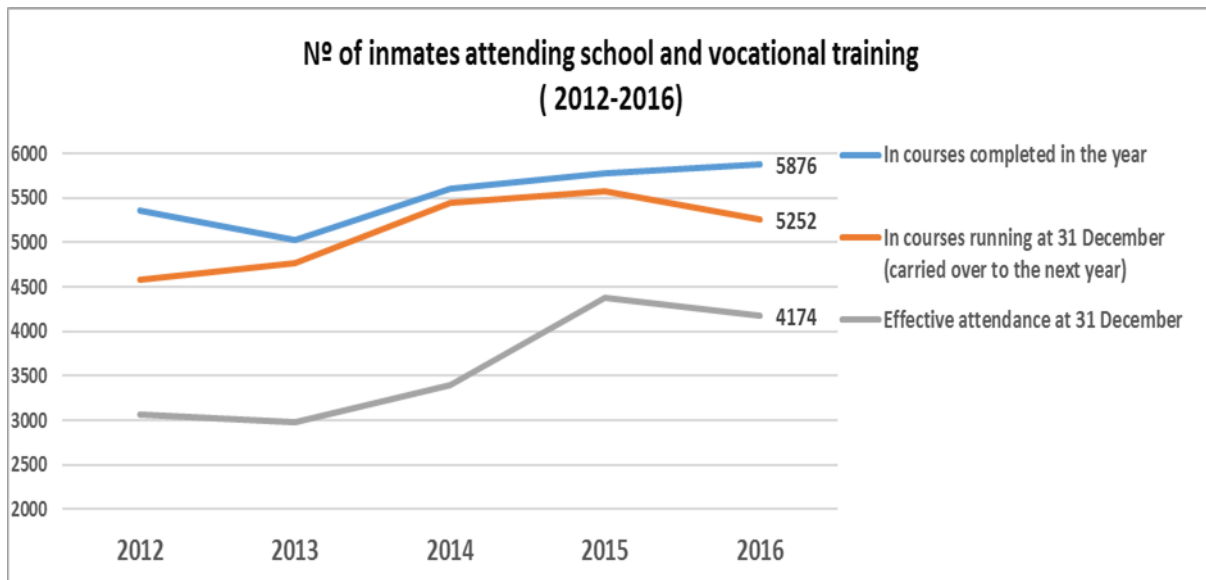


Recognizing the importance of prison treatment activities in the process of rehabilitation and social reintegration of the inmates, DGRSP seeks to organize a differentiated offer targeted at individually assessed needs.

Hence, with reference to the statistical data of 12/31/2016, 4174 inmates were attending training courses (3269 in different levels of school education and 905 in vocational training courses). In work activities, 5857 inmates were registered, and in an effort to open up to the surrounding society, 1566 worked for external public and private entities.



The following two tables show the evolution of these data over the last five years (2012-2016):



Thus, on 31-12-2016, 10031 inmates (77% of the prison population as of that date) were in training and work activities.

With the entry into force of CEPMPL, one of the areas that deserved a significant investment was the one related to the specific rehabilitation programs (article 47 of CEPMPL):

These programs are an important tool for individualized and differentiated intervention as they address specific criminal issues and intervention needs designed to prevent recidivism.

In terms of definition and framework, these programs are viewed as a structured intervention methodology, aimed at specific criminal / risk factors and / or at a group of users with common characteristics, and put in place through sessions organized by modules, with a defined duration and with methodologies of intrinsic evaluation.

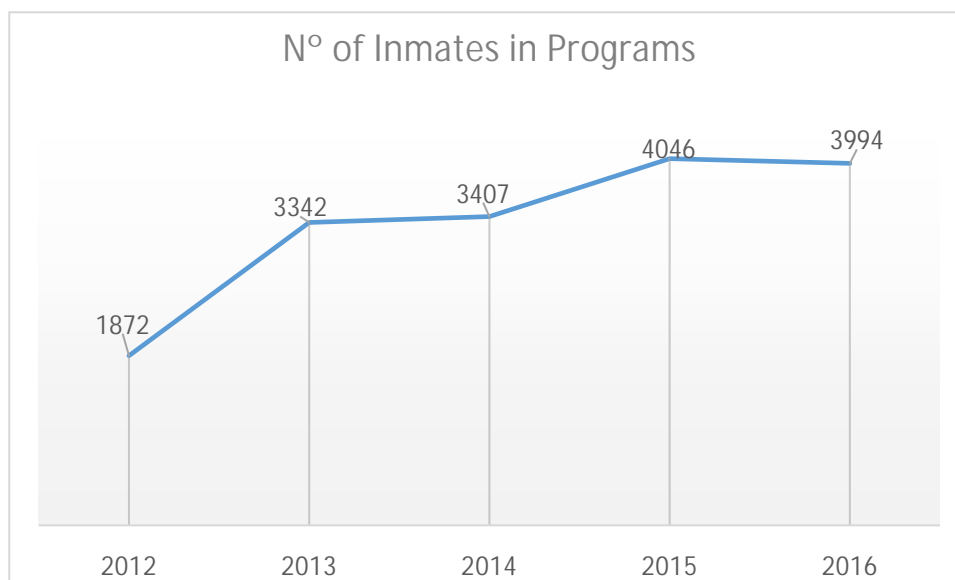


The available Programs according to the phase of compliance of the sentence and the context of application that best fits the objectives it intends to achieve are the following:

ENFORCEMENT OF SENTENCE	PROGRAM	CLASSIFICATION
INITIAL PHASE OF THE SENTENCE	1. Program for Emotional Stabilization and Institutional Integration	Low
	2. Integrated Program for the Prevention of Suicide (PIPS)	Low
	3. Program for the Promotion of Personal and Emotional Competences (Generate Social Paths - GPS)	High
	4. Initiative Program for Restorative Practices (Educate to Repair)	High
	5. Program for the Promotion of Moral and Ethical Development	Medium
TRANSVERSAL PROGRAMAS	6. Technical Intervention Program for Sexual Offenders	High
	7. Intervention Program directed to prisoners convicted of road crimes (Estrada Segura)	Low
	8. Crime Prevention Program for young inmates	Medium
	9. Motivation Program for the Treatment of Addictive Behaviour	Medium
	10. Program of Structured Intervention towards Specific Alcoholism Problems	Medium
PROGRAMS ADDRESSED TO SPECIFIC PROBLEMS	11. Skills Training Program for Employability	Low
	12. Program for the Prevention of Recidivism and Relapse (Building a Plan for Prevention and Contingency)	Low
PROGRAMS IN THE FINAL SENTENCE PHASE		
PROGRAMS FOR THE APPLICATION IN A COMMUNITY CONTEXT (ALTERNATIVE MEASURES TO PRISON)	13. Program STOP – Responsibility and Safety, directed to offenders of the Road Code	Low
	14. Program directed to Domestic Violence Offenders (PAVD)	High
	15. Program CONTIGO – directed at marital offenders	High

In order to match the available programs with the criminal policy orientations and priorities, and with regard to the prevention of recidivism, DGRSP, following a benchmarking study on good international practices in matters of intervention on defendants/convicted persons for fire crimes and others related, adapted to the national context, a specific program for the treatment of incendiary behaviour, originally developed by the University of Kent (FIPP).

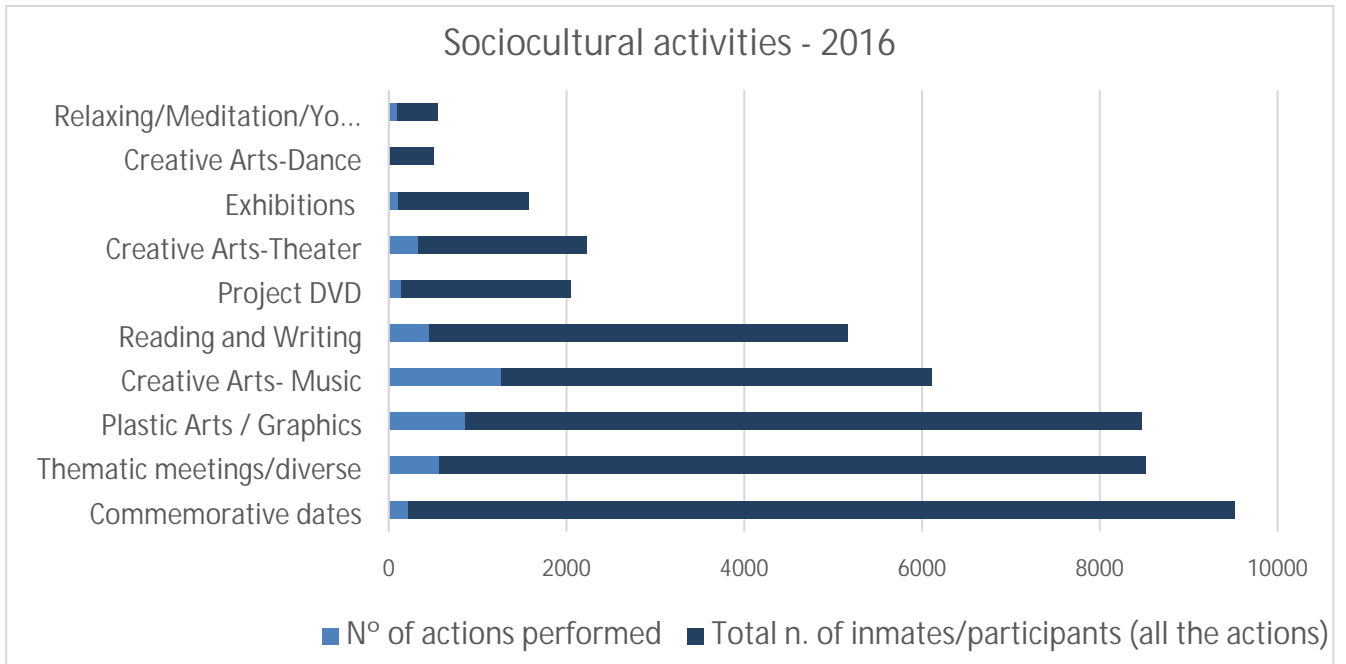
The increase in the number of programs, available and disseminated, has contributed significantly to increase the implementation of programs. There is also a growing awareness of the prison professionals, who have to propose their attendance, regarding the need to differentiate prison treatments. In the following table we can observe in a more immediate way this clear trend of growth:



In addition to these activities and programs, the inmates are provided with other prison treatment activities, including socio-cultural activities and sports.

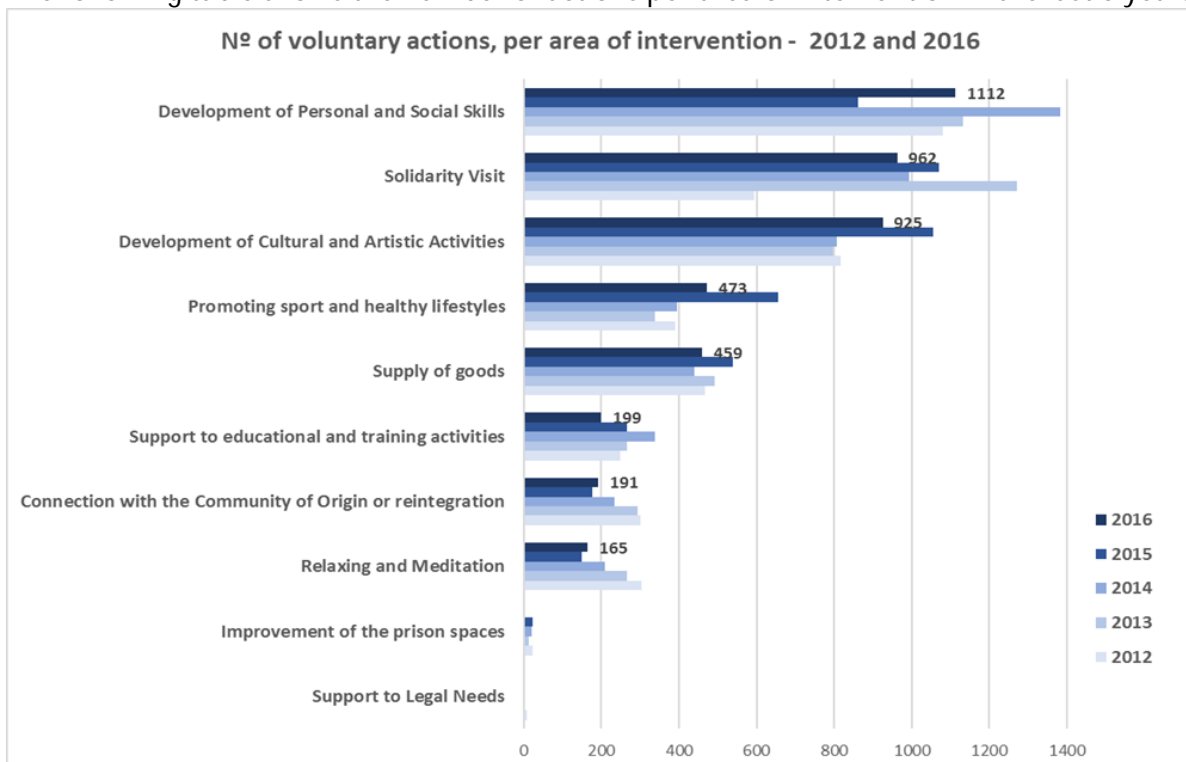
In fact, sociocultural activities are carried out every year, many of them with the collaboration of external entities, which involve the participation of a significant number of inmates. In the last five years, 716 activities were, in average and by quarter, carried out, with 13 inmates participating in each of these activities, also in average values. These are diversified activities, as shown in the following table with the 2016 data.

Regarding sports activities, the average number of inmates that practice them has been 45% over the last five years.



As to the activities organized and carried out with the collaboration of external entities, we highlight the strong involvement of volunteer organizations in voluntary projects that are carried out in all prisons, within the framework and with the dynamic specified in a Handbook approved by the general director.

The following table shows the number of actions per area of intervention in the last 5 years:



The average number of inmates who participated regularly in volunteer activities during the last five years was 4696, with an average of 4640 actions per year.

Volunteering	2012	2013	2014	2015	2016
Number of actions held	4229	4872	4817	4797	4486
Average of inmates per action	8,2	7,7	8	8,9	10,2

These general values, related to prison treatment, always fall short of what is intended and, possibly, do not reflect a harmonious distribution by the different prisons, reason why the possibility to recover non-residential spaces to assign and increase this type of activities are still being studied.

As recommended (paragraph 51), it will be sought to increase the occupation of the inmates in the Lisbon and Caxias prisons, and in this establishment, as mentioned above, efforts are being made to increase the number of rooms assigned to training and school activities, with improvement of spaces/rooms through CPJ courses which will allow to increase the training offer. It is also sought to increase the number of technicians, which will increase the capacity to respond to the implementation of specific programs.

In the Setúbal Prison, different types of activities are carried out weekly, but are limited by the available spaces (visitor's room) and by the adhesion of the prison population.

Nevertheless, in this prison, and reporting to the data of 31 December of the last two years (2015 and 2016), the number of inmates engaged in training and work activities was 176 and 156, respectively, which, in terms of occupancy rate, represents an increase of 8 percentage points. In effect, excluding the inmates that are serving prison time for free days (they are punished on weekends), the occupancy rate in this prison was 92% on 31-12-2015 and 100% on 31-12-2016. It is also reported that in this Prison 20 inmates are working in Quinta da Várzea and in agricultural activities that are partly destined to help people in need.

In the Prison Establishment located next to the Criminal Police, and notwithstanding the short time spent by the people that pass through here with the subsequent rotation of the prison population, activities are carried out for the prison population, in particular for inmates in pre-trial detention, who constitute the majority of this prison population.

In addition to the work activity, which in this prison has a reduced expression (occupancy rate below 30%), non-formal education activities are organized, many of them with the collaboration of external entities.

An example of the activities promoted with the collaboration of external entities are the volunteer projects that take place there. In the last two years, 130 volunteer activities were carried out, with the average participation of 13.8 prisoners per activity. Most of these actions aimed at the

development of personal and social skills, such as the Education for Peace Program, promoted by the *Prem Rawat Foundation*, which also develops this same program in other prisons.

In addition to this intervention, other volunteer organizations, such as the Portuguese Red Cross, promoted projects in other areas of intervention: Solidary Visit for inmates who do not have visits and support for educational and training activities such as English and Portuguese classes for foreigners.

Also in the field of non-formal education activities, the prison establishment counts on the collaboration of the municipal libraries network in carrying out the "*Shared Reading*" project, aimed to promote and stimulate reading.

Are also developed in the establishment, daily sports/recreational activity with table games tournaments/championships and collective sports activities.

With regard to the development of the intervention/rehabilitation programs, this prison, in view of its characteristics (great rotation, with almost daily admissions and exits), only implemented the program of "Emotional Stabilization and Institutional Integration". Finally, we inform that all inmates are allowed to remain outdoors in the courtyard daily between 9 am and 11.45 am and between 2 pm and 5:30 pm.

Regarding the Leiria Prison for the Youth, we welcome the recommendation contained in paragraph 52 to improve the prison regime/treatment, so that the inmates remain at least eight hours outside the prison, involved in structured activities, insofar as it corresponds to a need already assessed, and services are working towards this goal.

In fact, the CPT visit Report recognizes that the prison has training and employment activities involving a significant number of inmates (as of 31-12-2016, the occupation rate in such activities was 73%, since of the 182 inmates who were in prison, 88 were in training and 45 had work).

It was also mentioned that this prison has other activities primarily aimed at inmates who are not included in any of the regular activities mentioned above, organized by the prison or in partnership with other institutions or in the field of volunteering; elements on this regard have been submitted.

School and vocational training continues to be the preferred choice in terms of activities, taking into account the age of the inmates concerned. Currently, there are 183 inmates in the prison, of which 140 were convicted and 43 are in pre-trial detention.

With the beginning of the school year (2017/2018) of the 158 inmates of the common regime, 133 became occupied as follows: school - 47; vocational training - 67; work - 19. The 25 inmates in the open regime are engaged in vocational training (3) and work (22). As a result, 86% of the 158 inmates in the Leiria Prison (for the youth) have an occupation.

It should be noted that, in addition to these regular activities, inmates may also participate in other activities developed directly by the institution, with partner institutions or with the involvement of volunteers. These projects are especially directed to the inmates without the above-mentioned regular activities or that have recently entered the prison establishment, namely those in pre-trial detention, who are encouraged to participate.

These projects are as follows: Opera in prison - 2 times a week - 36 participating inmates; Rua Direita - 2 times a week - 25 participating inmates; Theatre - 2 times a week - 25 participating inmates; Samaritans - 2 times a week - 20/30 participating inmates; Group Entrados - 1 time a week - 15 participating inmates; Educational support (inmates without the 6th year of schooling) - 2 times a week - 7 participating inmates; Sport - every working day - an average of 23 inmates a day. It should be noted, in particular, that the "Opera in Prison" Project is still ongoing with a new group of inmates, aiming at the staging and presentation of another Mozart - *Così fan tutti*.

Currently, access to the courtyards is given in the morning and afternoon, and access to the outside patio is rotated through the various wings. This allows inmates who are not involved in school, vocational training or work or other projects mentioned above to also benefit from more time outside their cell with the other inmates.

### 3 - Workers

This General Directorate, following the recommendations of the CPT in paragraphs 54 and 55, is very attentive to the management of the human resources, in particular the personnel that it considers necessary for the adequate fulfilment of its mission, as well as of the respective qualification for the exercise of their professional activity. In this context, the DGRSP informed its guardianship of the need to admit workers to the prevailing careers in the operational area – re-education higher technicians, social rehabilitation higher technicians, social rehabilitation technicians and prison guards.

Unfortunately, there are several constraints that prevent or hinder the desired adequacy of means to the needs.

One of the difficulties is related to the country's known difficulties, reflected in the annual budget allocations to the services. In spite of this, the number of workers in various careers (although below the needs) was increased, namely in the careers of re-education higher technician (14 more employees), social rehabilitation higher technician (plus 43 employees) and prison guard (400 more employees).

Procedures for the admission of new workers are also ongoing – doctors (12), nurses (24), pending a decision on a further 25 requests (nurses) for consolidating a precarious relationship with the public administration, following the strategy to combat precarious work foreseen by the government in article 25 of the State Budget Law for 2017. Regarding the Social Rehabilitation

career, especially aimed at Educational Centres (young people) and Electronic Surveillance, 28 new workers were admitted in 2016, and Government authorization is awaited to launch the procedure for the admission of further 41.

Another constraint is the difficulty in recruiting (new) employees from people already belonging to the public administration, and there are several recruitment processes in which the number of workers admitted is much lower than the jobs to be filled, there are even cases where no one has been recruited. We refer specifically to competitions for the admission of health personnel – doctors, nurses and medical assistants, but also for the careers of higher technician and of social reintegration technician. It is believed that the location of some services (inland or further away from the urban centres) as well as the specific circumstances of job performance are the factors that best explain this situation.

With specific reference to the new 400 guards, it is reported that, after their entrance contest, they began the compulsory initial training course to join the prison guards corps in May 2017 (which lasts 9 months and consists of a theoretical-practical component of 6 months, followed by training in real working context with the duration of 3 months). Thus, the entry of those who are approved of this very significant group of new guards will occur at the end of the first quarter of 2018.

In addition to the initial training, continuous training is also provided to the employees of the Prison Guard Corps, in the present case, in the operational area and in matters of a behavioural nature, although it is recognized that in view of the large number of employees to be covered and to its dispersion throughout the national territory, it is difficult to meet the expectations of all workers.

Also with regard to the Prison Guard Corps, a deep change is taking place in the work hours currently practiced, with the aim of significantly reducing the physical and psychological exhaustion to which they are subjected today and optimizing the daily management of these workers.

Also for the more specific careers, in the present case, re-education higher technician, social reintegration higher technician and social reinsertion technician, initial training programs are established, with the aim of increasing the training of workers and the standardization of practices.

Continuing training is also provided for workers of all careers. It is recognized that, in the same way as the Prison Guard Corps, in view of the high number of personnel involved (about 6000) and its dispersion throughout the national territory, there is difficulty in the expectations of all workers. We understand that vocational training is the privileged instrument for the valorisation of the DGRSP workers, allowing them to increase their qualification, and thereby increase productivity.



Recognizing that the current training structure falls short of the needs, the need for (re) creation of a Training Centre was presented to the tutelage, in order to enhance the adequate training offer.

#### 4 – Health Care Services

##### *a. Introduction*

The health care area in prisons has received great attention from the Government and the DGRSP, which has introduced profound changes since 2016.

Thus, the first note responds to one of the recommendations of the CPT and refers to the great rapprochement with the Ministry of Health and the excellent collaboration that we have received from the services of this ministry.

This process of articulation/transfer of responsibility is being guided and promoted through an inter-ministerial working group created by the Ministers of Health and Justice through Order 1278/2017 – (Annex 6), which includes not only members of both cabinet ministries but also elements of the general directorates of both government departments. Its mission is to improve the inmates' access - on an equal footing with other citizens - to the National Health Service (NHS) and consists of assessing the constraints of access and the proposed solutions to overcome them.

The fact that representatives of the political area and the technical area are in the same group has proved to be very positive, obtaining clear gains from the synergies created through the association of political sensitivity with technical knowledge. In effect, much better solutions and, above all, feasible solutions are produced and which we are certain to be executed, as the group also monitors the results of its work.

Within this context, it is worth mentioning the signing, in January 2017, of a Protocol between the DGRSP and the São João Hospital Centre in order to the physicians of the hepatology department to go to the Porto Prison to treat the inmates with Hepatitis C. Last June the scope of the Protocol was extended to the Santa Cruz do Bispo Prison (female), and about a month later negotiations with the Santa Maria Hospital Centre were concluded in order to extend this articulation to the Lisbon region. The State Secretaries for Health and Justice produced Order 6542/2017 (Annex 7), which, namely, determined that this articulation should occur in all the prisons in the country.

Thus, and in connection with this governmental order, a hospital referral network of the National Health Service is set up, as part of the human immunodeficiency virus (HIV) and viral hepatitis virus infection for the prison population. That is, the prisons are all linked to a specific health unit of the National Health Service, which is undoubtedly an example of good practices, not only because this provides a better management of public resources - allowing to do more with less resources - but because this provides a quicker, more effective and less stigmatizing access of the inmates to community health services.



Another example of this excellent articulation with the area of Health is the Protocol signed between the DGRSP and the Ricardo Jorge Institute in the areas of prevention, verification and confirmation of some infectious diseases (such as HIV/AIDS and hepatitis C), as well as other clinical situations.

Under the terms of this protocol, the said Institute is responsible for carrying out the clinical analysis of the inmates in the Prison Hospital of S. João de Deus, as well as to those who are assigned to 11 other prisons. These analysis are done free of charge and by staff of the Ricardo Jorge Institute, who, for this purpose, go to prisons.

Another example of this articulation is the Protocol signed between DGRSP and the Shared Services of the Ministry of Health on 21 November 2017, which aims to improve the monitoring of the health of inmates in all prisons, from admission to exit.

To this end, prisons' health professionals will have access to the clinical records of the prison population prior to their entry into prison through the National Health Service's computer systems.

On the other hand, and through technological solutions developed by the SPMS, a service called Telemedicine will be implemented as from 2018 (through the programs SONHO - Integrated Hospital Information System and the SClínico Hospitalar, an information system allowing access to the patient's clinical information, PEM - Medical Electronic Prescription and SINUS - National Information System of Primary Health Care) to increase the prevention and treatment of diseases. Also covered under this protocol there will be consultations in the National Health System through videoconference.

Another important change concerns the hiring of doctors and nurses.

In fact, this is a paradigm shift for until 2016 the system of health care for inmates was based on the hiring of companies that would place the doctors and nurses required by the prison system in the establishments.

This system began to have problems because companies began to pay low salaries to their professionals, who were therefore often not present in the prisons.

Thus, and in addition to a more careful monitoring of the companies that continued to work with us and the articulation that was established with the National Health System and which we have previously reported, it was decided to recruit health professionals for the prison system.

This recruitment has taken place in a number of ways: through the mobility of health professionals from other sectors of public administration to the DGRSP staff, through external procedures and through periodic contracts.

Thus, the new paradigm consists of providing the DGRSP with a set of professionals that ensures the health care to be provided in prisons, the companies now being used in a complementary way.

*b. staff and facilities*

This General Directorate welcomed and has sought to follow the recommendations contained in paragraphs 57 and 58 regarding the Caxias and Lisbon prisons, the one installed near the Lisbon Judicial Police and the Setúbal prison, adapting the suggestions to the current reality, stating that, while the recruitment is not completed, the provision of health services in this prisons will continue to be carried out by health professionals from private companies.

In any case, the control of the attendance that this DGRSP makes in the fulfilment of the specifications of private companies is counted by number of hours per speciality and not by number of hired professionals. This means that the following information is a mere indication of the number of the ratio hours/associated professional.

Thus, in detail:

In the LISBON PRISION (EPL):

- General practice - 3 doctors (1 doctor of the Board of Staff)  
Monday to Friday (Full-Time Schedule); Saturday (Part-Time Schedule);
- Psychiatry - 2 doctors  
Monday and Tuesday (Part-Time Schedule), Wednesday (Full-Time Schedule); Friday (Part-Time Schedule);
- Psychology - 3 psychologists  
2 Monday to Friday (Full-Time Schedule);
- Pharmacy technician - 1 pharmacy technician  
Monday to Friday (Full-Time Schedule)
- Nursing - 15 nurses  
Monday to Sunday (Full-Time Schedule). Nursing service is assured every night.

NOTE 1: The Lisbon Prison also has the Speciality of Stomatology (1 doctor) on every weekday.

NOTE 2: *Every night of the week is assured by a prevention scale (on call) of general practitioners.*

NOTA 3: *Nursing service is assured every night.*

In the CAXIAS PRISION:

- General practice - 1 doctor  
Monday to Friday (Part-Time Schedule);
- Psychology - 1 psychologist  
Monday to Friday (Part -Time Schedule)
- Pharmacy technician – 1 pharmacy technician  
Monday to Friday (Part-Time schedule)
- Nursing - 5 nurses  
Monday to Sunday (Full-Time Schedule)

In the LISBON PRISION OF THE CRIMINAL POLICE (A):

- General Practice - 1 doctor  
Monday, Wednesday and Friday (Part-Time Schedule)
- Psychiatry - 1 doctor  
Wednesday (Part-Time Schedule); Saturday (Part-Time Schedule)
- Psychology - 1 psychologist  
Monday to Thursday (Part-Time Schedule)
- Nursing - 2 nurses  
Monday to Sunday (Full-Time Schedule)

- In the SETÚBAL PRISION:

- General Practice - 1 doctor  
Monday, Tuesday and Thursday (Part-Time Schedule)
- Psychology - 1 psychologist  
Monday to Tuesday (Part-Time Schedule), Wednesday (Full-Time Schedule),  
Friday (Part-Time Schedule)
- Pharmacy technician - 1 pharmacy technician  
Monday to Friday (Part-Time schedule)
- Nursing - 4 nurses  
Monday to Sunday (Full-Time Schedule)

Referring to the recommendation in paragraph 59, it is stated that the DGRSP has a “Prison Health Care Procedure Manual”, which has been in force since June 5, 2009 (currently being updated) which, in routine clinical situations, provides a practical (and system-wide) response to most or all health-related issues.

With regard to the Leiria Prison for the Youth, it is recognized that there is no permanent ECG, defibrillator and other medical emergency equipment, namely oxygen and nebulizer. In view of the existing budgetary constraints, the diagnoses from ECG equipment are currently being performed at the Prison Hospital São João de Deus or in the specialty services provided by the National Health Service throughout the country.

As for emergency medical procedures at this facility - namely resuscitation, defibrillation, therapeutic oxygen delivery and use of nebulizer equipment - they are carried out in the prison by the health staff on call and, where this is not viable, inmates are immediately re-routed to the nearest Hospital or Health Centre.

It should be noted, however, that the training of the Prison Guards Corps includes a first aid module, which enables them to perform resuscitation and stabilization manoeuvres of the inmate patient (24/24 hours).

The hygiene and logistics conditions of the infirmary of the Lisbon prison (10 beds), which the *Delegation* found - namely patients with poor hygienic conditions (prisoners with no bed sheets and cramped and dirty pillows). These were punctual situations and explicit guidelines were given for the full compliance with the legislation in force regarding the minimum conditions of dignity on the part of the inmate patient and the professional ethics on the part of the health professionals.

In any case, it was again determined to the competent heads in this area the need for scrupulous compliance with these rules.

The works of conservation and modernization of the facilities and equipment of the referred infirmary are only awaiting for availability of funds to start.

The distribution of the medication by the patients/inmates follows the recommendation in paragraph 60, and the attention of the staff will again be drawn to the care to be taken in identifying and labelling of the prescribed and current medications. These medicines are in lamellae in proper containers (dispensers), and are properly separated by active principles (as in all Hospitals of the National Health Service network), and the medicines are distributed to the patients/inmates according to medical prescription and always under direct observation (TOD). It should be pointed out that the preparation of medication to be given to the patients/inmates is a task of the pharmacy technician (s) or nurse (s) as prescribed by the attending physician.

Also in the Prison near the Criminal Police, the antidepressants and the medicines whose active principle are mirtazapine are administrated at 6 p.m., or one hour before closing time, which in any prison is at 7 p.m.

After a detailed analysis of the CPT report, the Competence Centre for Health Care Management (CCGCS) decided to initiate a process of auditing the pharmacies of all prison establishments in order to ensure strict compliance with the procedures to be carried out. It should be noted,

however, that all technical procedures relating to pharmacy medicinal products are subject to a set of stock and handling rules set out in the Hospital Pharmacy Manual.

In the area of management and medicines stocks control in the prisons' pharmacies, a computer platform (called "GESFARMA") was implemented in the DGRSP, which, in communication with the computer system "CARDEX" (medicines in use by prescription), allows to know, in real time, the status of the medicine area.

Regarding the recommendation in paragraph 61, it is stated that the medication and its dosage with antipsychotics to the patients/inmates/psychiatrists in the Caxias Prison is the responsibility of the Psychiatrist that prescribes. In this context, the pharmacy of the Prison Establishment is only responsible for the preparation and for the follow-up of the administration to the inmate/patient.

*c. medical screening on admission and recording of injuries*

As mentioned in previous responses, the assumptions inherent to the evaluation of the new inmate are duly reflected in the Prison Health Care Procedure Manual (under review), approved on 5 June 2009 and in the Code for the Enforcement of Sentences and Deprivation of Liberty Measures, approved by Law 115/2009, of 12 October. Hence, the recommendation in paragraph 63 is followed by this Directorate-General.

In these terms, it should be borne in mind that the practice is that the entry of prisoners into prison establishments is communicated to the Clinical Services, together with a copy of the health documentation held by the inmate. The new inmate is observed by the service nurse within 24 hours of his/her entry. In cases where the nurse considers that the inmate needs immediate medical observation, he or she is referred to the prison doctor or, when necessary, urgency and emergency procedures are activated. This guarantees the inmate, as provided in no. 1 of Article 32 of Law 115/2009, access to health care in conditions of quality and continuity identical to those that are guaranteed to all citizens. In any case, except in urgency/emergency situations referred to above, the inmate's admission medical appointment shall occur within 72 hours after the inmate's entry into the prison.

It is reiterated that the abovementioned procedures are followed in all prison establishments.

It is underlined that the Protocol with the SPMS will introduce significant improvements in health at the time of admission of prisoners, especially as prison health staff will have access to all existing clinical documentation on that person in the National Health System, which will make the process faster and more efficient.

The recommendation in paragraph 64, which this General Directorate subscribes to in full, has determined the preparation and dissemination of Circular No. 1/2017 and annex (Registration of Aggression/Self - Mutilation), dated 26 January and timely sent to the CPT.

On the other hand, it is recalled that there is already an agreement with the National Institute of Legal Medicine in order for this entity to provide training and guidance to the clinical staff of prison establishments on the examination and registration of injuries that inmates present when entering the prison.

*d. medical confidentiality*

The DGRSP follows the recommendation in paragraph 65 and reiterates that the prisoners of the Prison located near the Lisbon Criminal Police are not obliged to write in their request for an appointment with the clinical services the reason for the request, which is optional, according to the form included in the health procedures manual in use in this prison and of which we attach a copy (Annex 8). It is also clarified that the surveillance element present in clinical services is neither inside nor at the door of the office where the consultation takes place but at a distance that allows him to intervene only in case of need and without any access - acoustic or visual - to what happens in the consultation. Finally, we clarify that the staff has been reminded of the above rules.

Also in the health area and in the Prison near the Lisbon Criminal Police, changes have already been made in the functioning of the clinical services, following the visit of the CPT, namely in the distribution of medication, which is now ministered in individual doses, previously prepared in an individual bag identified with the name of the inmate and the time of intake. The boxes with medications that did not comply with this principle were extinguished.

*e. Use of chemical restraint in prison*

The recommendation in paragraph 66 has already resulted in the suspension of the guidelines that were in place for the stabilization of psychiatric prisoners or those with some psychological disturbance of normal behaviour and in the development of new protocols as recommended by the CPT. It should be noted, however, that all clinical acts, including those of psychiatric nature, are always assessed and performed under the responsibility of psychiatrists, and are daily monitored by trained health technicians.

In the case of medication administration by a third party, not prescribed by doctors, this will constitute a failure of the system's operation, being a situation of exceptionality and bad practice in relation to the established rules. Anomalous situations such as that referred to above should be reported immediately to the higher courts, to carry out an investigation and, if necessary, to impose sanctions.

*f. deaths in prison and prevention of suicide (self-harm)*

This General Directorate already follows the recommendations in paragraphs 67 and 68, since in cases of death by suicide of an inmate the facts are communicated to the Audit and Inspection Service (SAI) and to the Public Prosecutor's Office. The criminal police with competence in the territorial area of the establishment where death occurs is also called to the location and in all cases the bodies are referred to the Institute of Legal Medicine for autopsy.

It should also be noted that, following the results of the medical consultation of any inmate, or when the latter adopts behaviours that allow to foresee the possibility of suicide or self-mutilation, this General Directorate initiates mechanisms for monitoring and preventing suicide. It should be point out that, since 2010, the Integrated Program for the Prevention of Suicide has been implemented.

This program, which covers all prisons, is based on a double strand approach to early identification of warning signs and symptoms/risk of suicide in new inmates and efficient signalling for inmates already serving a prison sentence who present risk of suicide. This Program's operation implies a close articulation between the surveillance, education and health sectors, which periodically discuss the cases identified in a meeting of a "Permanent Observation Team", specific to each prison.

In the case of self-mutilation, the matter is dealt with internally by each prison establishment, giving rise to a record of the occurrences that is subsequently communicated to the higher levels of the DGRSP.

In the specific case of the "AMB" inmate who died in the Lisbon Prison on 22 July 2016, three days after his entry, we report that the said inmate has entered this Prison on 19 July 2016, and was observed on the same day by the service nurse, who only mentioned his slimness (45 kg) as a relevant fact. On 21 July 2016, he was observed by the general practitioner who also did not mention any obvious problems and/or a clinical condition that would justify taking him to the hospital emergency.

As requested, it is attached, in Annex 9, documentation extracted from the Inquiry Process that was opened as a consequence of the death of the said inmate and the final report of the SAI that concluded that the actions of the various actors of the Lisbon Prison (civilian, prison guards and clinics) was in accordance with the prison and health regulations and that, according to the autopsy report, the death resulted from natural causes, and this General Directorate cannot be held responsible for it.



## 5. Other Matters

### *a. discipline*

Before referring to the recommendations of the CPT, it is important to note that in the first quarter of 2018, the DGRSP intends to distribute guidelines on the exercise of disciplinary power<sup>7</sup> to all the prison directors and to carry out training on this matter.

With regard to the recommendation contained in paragraph 69, it is incumbent upon us to inform that, within the scope of the duties of the Audit and Inspection Service, inspections are routinely carried out in the prisons' legal offices, in order, inter alia, to assess the speed with which the disciplinary proceedings of the inmates are handled. In the year 2017, two inspections were carried out for this purpose in the Tires and Carregueira prisons, resulting in a recommendation as suggested by the CPT (greater speed in the handling of disciplinary proceedings).

In the specific case of the Caxias prison it is important to clarify that the time spent between the participation and the conclusion of the disciplinary proceedings does not exceed on average 12 days and that the inmates are always guaranteed their defence in accordance with the law.

With regard to the recommendation in paragraph 70, it is stated that the Caxias prison does not apply informal punishments. The individuals referred to by the CPT and who were transferred to the ground floor dormitories of the north wing of the Caxias prison were subject to the provisions of article 111 of the Code for the Enforcement of Sentences and Deprivation of Liberty Measures (CEPMPL) - precautionary measures pending disciplinary proceedings. The movement of inmates into spaces other than those to which they are assigned is related to the need to temporarily isolate inmates who live in dormitories of the rest of the prison population (e.g. in case they remain agitated and aggressive following a fight or similar incident).

This Directorate General takes into account the recommendation in paragraph 71, stating that, according to the legal provisions, the application of precautionary measures pending a disciplinary proceeding is a power conferred on the director of the prison establishment. In order to assess the necessity of this application, the director must make a judgment as to the potential continuation of the infraction by the inmate or as to the probability of this infraction to disturb the orderly coexistence and security in the prison or to guarantee the person's protection or the preserve evidences. In turn, the duration of the precautionary measure is expressly provided for in the law that also determines that this period of time "*is weighted, in terms of mitigation, in the sanction that will be applied*" (article 111 of the CEPMPL).

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<sup>7</sup> To this end, the book "Direito disciplinar Penitenciário" (Penitentiary Disciplinary Right) by Joaquim António Lourenço Boavida, judge at the Court for the Enforcement of Sentences, was bought and shall be distributed



In view of the consequences to the inmate of both the placement in a separation cell and the application of the precautionary measure of confinement, as referred regarding the recommendation in paragraph 44, Circular No. 2/DGRSP/2015 has determined that all decisions to apply a precautionary measure of confinement or placement of the inmate in a separation cell shall be communicated to the Audit and Inspection Service.

In this respect and following the communications made under the aforementioned circular, it should be noted that a number of recommendations have been made to the prison directors in order to alert them that precautionary measures are of an exceptional nature and that their application should be weighed so that its application should not become a rule and should be as short as possible, even if the law provides for relatively long periods of time.

With regard to the recommendation in paragraph 73, note is taken of the observations of the CPT which is dependent on a legislative amendment to the Code for the Enforcement of Sentences and Deprivation of Liberty Measures, to which the Assembly of the Republic is competent.

The recommendation contained in paragraph 74 is abided by and corresponds to what the Portuguese law establishes (article 108 (1) and 51 (2) of the CEPMPL). That is, the punished inmates have the right to remain in the open every day for at least one hour.

With regard to what is recommended in paragraph 75, it is stated that the inmates in compliance with a disciplinary measure of internment in a disciplinary cell may receive visits to the extent provided in article 108 (3) of the CEPMPL.

*b. contact with the outside world*

With regard to what is recommended in paragraph 76, this Directorate-General clarifies that when the inmates enter the prisons they are informed of the timetables and rules followed, and in some cases, a leaflet is given with this information. It is also reported that the visiting hours in each of the prisons are publicly available on the website of this Directorate General on the Internet.

Finally, we report that, currently (in the Lisbon and Tires prisons), a project is being developed that will allow the use of new technical processes of communication, using IP technology (via Skype) which will allow the inmates to have access to a very extensive set of internal and external information.

*c. complaints and inspection procedures*

Following the recommendation in paragraph 77, the DGRP is designing a new system of requests and complaints, through the South Audit and Inspection Service, to be implemented in a timely manner throughout the Portuguese prison system.

In view of the preparation of this proposal, the South SAI proposed to carry out a previous study to better understand which procedures have already been implemented, which ones are effective, which ones are inoperative, which procedures should be implemented and which deficiencies and difficulties exist in each of the organic units. The aim is to achieve an integrated and comprehensive solution to design a structurally efficient system for the protection of the rights of the inmates, which will certainly contribute to the change of culture in addressing this issue.

The proposal was approved and a project for discussion in the working group and consequent approval has already been prepared. Such project, of which we will send a copy after final approval, establishes that information be provided to the inmates on the existence of a complaint mechanism and to provide them with the material necessary for the preparation of complaints; the obligation to inform prisoners in writing of their rights and duties, including the right to complain; the illiterate inmates should be informed orally and the youngest in a language they understand and that is appropriate to their age.

Other relevant aspects foreseen in the project are to provide for the registration of complaints internally; establish deadlines for responding to complaints; obligation to notify the inmates of the decision on the complaint; prioritization of complaints for torture or ill-treatment, ensuring that neither the inmate nor his or her family members are exposed to reprisals, intimidation or other negative consequences for filing a complaint.

This Directorate General welcomes the recommendation in paragraph 77 and for that reason, as in other prison establishments, boxes will be placed in each sector of the Monsanto Prison to enable inmates to confidentially submit their claims and complaints.

## 6. Monsanto High Security Prison

With regard to the recommendation in paragraph 78, it is reported that, although the legislation in force does not provide for prior hearing of inmates in the course of the evaluation process, the direction of the Monsanto Prison follows the practice, whenever possible, of hearing the inmates whose evaluation points defines that they should be maintained in the Security Regime.

Furthermore, according to Article 15 (5) and (6) of the CEPMPL, the security measure must be re-evaluated every six months - or quarterly for inmates up to the age of 21 - and the placement and maintenance in a security regime, as well as decisions of cessation are communicated to the Public Prosecution service near the Court for the Enforcement of Sentences to verify its legality. The placement and maintenance decisions in this regime may still be challenged before the Sentencing Judge.

The recommendation in paragraph 79 is followed. As stated in the previous reply, the maintenance of a security measure is periodically evaluated, and whenever the legal situation and the behaviour of the inmate justifies it, the Direction of the Monsanto Prison convenes the Technical Council and proposes the termination of the Security Regime.

With regard to the recommendations of paragraphs 80 and 81, it should be noted that The Monsanto prison disposes of all the resources (including those related to the enforcement of the said regime) existing in other prisons, although efforts are being made to provide more activities for prisoners, always taking into account their safety profile.

The national prison system respects the fundamental rights of all inmates and is geared to their resocialization, so that once they fulfil their sentences, they can adapt adequately to society, maintaining a socially responsible behaviour and without committing crimes. In this measure, it is sought that inmates in the Monsanto prison will receive a treatment aimed at re-socializing through the internalization of conducts, behaviours, attitudes, motivation for change, among others, ministered through the implementation of programs for the acquisition of personal and social skills appropriate to their profile and needs.

In fact, it should be noted that 71% of the inmates assigned to this prison have a work or training occupation, which includes the Modular Training Units in Computers, Mathematics, English and Sports and also Literacy Courses.

As for the remaining unoccupied prison population, it should be pointed out that some of them do not adhere to any type of activity proposed to them, preferring the isolation of their cells to the activities provided by the prison establishment.

In any case, in the context of the resocialization of inmates under a security regime, the Intervention Program in the Security Regime Context, initially aimed at a group of eight inmates, began to be implemented in October and has two weekly sessions.

The recommendation in paragraph 82 was accepted and the bells of the cells have all been repaired. A technical solution to establish voice intercommunication between guards and inmates inside the cells is still being studied.

We agree with what is recommended in paragraph 83 and the Monsanto Prison strictly complies with the Health Procedures Manual in force. In particular, the preparation and administration of medication are in charge of the Nursing Services which obey to procedures of rigor and safety, as well as to scientific and technical knowledge with a view to excel in their professional practice.

All the medication administered to the inmates is previously prescribed by the physician and the inmates are always enlightened by the prescribing physician, in a consultation, on the medicine to be administered, as well as its name, indication of its purpose, dosage, duration of the intake, among others. All further clarifications requested by the inmates are given by the nursing services

when administering the medication. It is further reported that the medication is administered by direct observation, and is placed in individual containers whose content is poured directly into the hand of each inmate.

Regarding medical consultations, the waiting list is practically non-existent, considering that the specialty of General Practice contemplates a workload of 8 hours per week. In addition to the general practitioner, a psychiatrist, a psychologist, a stomatologist and a nurse are permanently present from 08:00 am to 09:30 p.m.

At this point and although it is a matter outside the clinical area, it is important to mention the possibility that the inmates have to practice sports twice a week - accompanied by a professional with higher education in this area - which has contributed significantly to the well-being and physical and emotional balance of the inmates.

Medical confidentiality in the course of consultations is guaranteed. The consultations are only carried out with the door half opened considering the high risk that the inmates present and at the request of health professionals, but the guards do not see or hear what is happening inside the medical office.

The Monsanto prison already has a defibrillator, an oximeter, a digital scale and digital ear thermometers, in order to improve the health care provided.

Finally, in addition to the abovementioned procedures, the management of the Monsanto prison establishes in full the guidelines issued by Circular No. 1 of January 2017, known to the CPT.

With regard to the recommendation contained in paragraph 84, it is stated that the rules governing the use of the security room are set out in Article 93 of CEPMPL and in Article 161 of the RGEP and are fully complied with.

In the Monsanto Prison, the security room is located in the Clinical Services and its use is strictly in accordance with the provisions of the aforementioned articles, and the Director General is immediately warned by telephone and subsequently in writing whenever an inmate is placed there. The security room is always used in view of an eventual state of acute psychic decompensation that could endanger the physical integrity, the life of the inmate or of third parties and never for reasons of discipline and order.

As to the internment of inmates naked and without blankets in the security room, we were not able to confirm the actual occurrence of these facts, and the existence of contradictory reports was not lacking. However, in order to avoid any doubts as to this procedure, the management of the establishment reiterated to the staff in charge the prohibition of placing naked prisoners in the security room.

We agree with the recommendation of paragraph 86 which has been complied with. As already mentioned in the reply to recommendation 83, all the medication administered to the inmates is previously prescribed by the physician and the inmates are always enlightened by the prescribing physician, in a consultation, on the medicine to be administered, as well as its name, indication of its purpose, dosage, duration of the intake, among others. All further clarifications requested by the inmates are given by the nursing services when administering the medication. It is further reported that the medication is administered by direct observation, and is placed in individual containers whose content is poured directly into the hand of each inmate.

In abstract we agree with the contents of paragraph 87, that is, that inmates under a Security Regime order should only be transferred to the Monsanto prison after compliance with the disciplinary sanctions in the establishment where they have committed the corresponding infractions. However, this procedure cannot always be followed since the urgency of being placed under the security regime is sometimes incompatible with the legal procedures regarding the application of disciplinary sanction, which cannot begin to be fulfilled before the disciplinary proceeding is fully concluded (e.g. after the Court of Appeal decides on the impugnation of the sanction decision pursuant to Article 114 of CEPMPL).

The recommendation in paragraph 88 is accepted and for that effect Circular No. 1/2018 (Annex 10) has been prepared and issued.

This General Directorate shares the intent contained in the recommendation in paragraph 89 and therefore reiterates previous information that the Portuguese authorities pay particular attention to the good relationship between the inmates and the personnel who, in the different areas, serve in the prison administration.

To this extent, as already mentioned, the training courses for prison guards include subjects on human rights protection, techniques of interpersonal intercommunication and the use of control and restraint means. The subjects related to "interpersonal relations" and "conflict management" are included in the Annual Training Plan of the Prison Guard Corps.

With reference to the recommendations of paragraphs 90 and 91, it is reported that the visitations regime is foreseen in Articles 58 to 66 of the CEPMPL and, as regards the visits to inmates in a Security Regime, in Articles 204 to 207 of the RGEP. According to the aforementioned rules, visits must normally take place (with the exception of that provided for in paragraph 5 of article 204) in the visitation area, with a separation unbreakable glass and without direct contact between the visitors and the visited inmate.

It is further reported that 17% of inmates in the Monsanto Prison have, in addition to others, a monthly intimate visit and, whenever requested by the inmate, once a year, a visit without a separation unbreakable glass, extended to more than 3 visitors.

Finally, it should be added that in the Monsanto Prison, inmates have the possibility of maintaining other contacts with the outside through the system of visits by videoconference.

## 7. Psychiatric Institutions of the DGRSP

### 7.1 – Preliminary questions

Regarding the recommendation in paragraph 96 regarding the closing of the Clinic of Psychiatry and Mental Health of the Santa Cruz do Bispo Prison (male), having the inmates that are not liable been placed in psychiatric hospitals of the National Health Service, it is informed that the Commission for the Mental Health Reform, has already completed its work and has submitted a final report to the government proposing the creation of psychiatric internment units in general hospitals. This would enable the psychiatric hospitals with vacancies for the unfit that would fulfil the safety measures.

On the other hand, the Government intends to create, in 2018, a Working Group including representatives of the Ministries of Justice and Health and chaired by a person of recognized merit in these matters, to draft the legal diplomas referred in articles 32 (3) and 126 (5) of the CEPMPL, the latter having precisely to do with the implementation of the measures of internment in non-prison health units.

Meanwhile the Ministry of Health is creating the adequate conditions to open a new nucleus for the implementation of these measures in a hospital in Lisbon.

Finally, the Ministry of Justice continues to make efforts to contract with the National Health Service and with private health units to obtain new vacancies for this type of people.

### 7.2 – III-treatment

The recommendation in paragraph 97 is being complied with since guidance has already been issued to ensure that the personnel on duty in the Clinic does not use batons and this determination is verified by the respective head of the prison guard.

Regarding the recommended in paragraph 98 it is stated that the use of control and restraint means follows the procedures set forth in the respective regulation (Annex 5), which determines the mandatory completion of Annex 1 containing the information set forth in the CPT Recommendation. This document is sent to the Central Services, being analysed by the Audit and Inspection Service.

This General Directorate shares the concerns expressed in paragraph 99 regarding situations of violence that, although punctually, occur among inmates interned in the Clinic of Psychiatry and Mental Health of the Santa Cruz do Bispo Prison (male) and will do everything in its power to avoid them.

In fact, although the situations identified are shared and there is always a reaction, depending on the facts – e.g. application of precautionary, disciplinary or security measures - it is recognized that occasional cases may occur, in which the reaction of the surveillance personnel is not as fast as desirable. That is, as the CPT indicates, it is recognized that there is a lack of surveillance elements and that this results in difficulties in making preventive security and intervening at the exact moment the conflicts begin.

To overcome this difficulty, the initial training course for 400 new prison guards is in an advanced stage and the installation of video surveillance cameras in the wings and courtyards of prisons is in progress, which will surely have a deterrent effect on these behaviours and will surely contribute to the swift resolution of this type of problem.

The recommendation in paragraph 100 is, for the most part, already followed, since the physical searches by stripping in the Santa Cruz do Bispo Prison (male) follow the provisions of article 152, (4), (5), (6), (7), (8), (9) and (10) of the CEPMPL, both as regards the circumstances in which a prisoner may be subject to this type of search, and with regard to the procedures to which these searches have to comply. As for the manner of executing the search, as mentioned above, instructions will be given so that the person is never completely naked.

### 7.3 – Living conditions and patient’s activities

#### a. psychiatric unit of the Caxias Prison Hospital

The recommendations in paragraphs 101 and 102 have already been complied with. In effect, patients already have individual lockers, heaters have also been acquired and blinds have been fitted to psychiatric wards. A television and activity room was also set up in the wide corridor linking the two infirmaries of the psychiatric service for acute patients.

A review of all structural vulnerabilities in the psychiatric service will also be carried out. Glass windows have already been acquired to improve living conditions at the Psychiatry and Mental Health Clinic.

Accompanying the recommendation in paragraph 103, it is reported that the improvement of outdoor recreation space for the use of the patients of the psychiatric service, of which a project is attached, is completed (Annex 11). This project was carried out with the collaboration of the Oeiras Municipality and will allow the proximity and security of safety issues to increase the frequency and duration of outdoor recreation. Also note that the space will have a covered area to protect patients in case it rains.

The DGRSP subscribes to the recommendation in paragraph 104, as well as to those included in paragraphs 113 and 116. However, it is pertinent to note that, for the time being, it is difficult to reinforce the aforementioned speciality in the light of the current budgetary constraints and the lack of vacancies for Occupational Therapist in the board of staff of the HPSJD-DGRSP.



It should, however, be taken under consideration that the useful time to carry out activities does not allow for their exponential increase, since among hygiene, food, individual attendance, visits, there is not much free time to carry out activities. By way of example, in 2016, 140 occupational therapy activities were carried out, 19 health education sessions, 77 multi-professional meetings and 26 community meetings.

b. psychiatric clinic of Santa Cruz do Bispo

The DGRSP follows the concerns contained in the recommendation in paragraph 105 of the CPT Report, recognizing, however, that it is difficult to reduce the number of beds per dormitory and to close cells of less than 7m<sup>2</sup> at the Santa Cruz do Bispo Clinic of Psychiatry and Mental Health (male) taking into account the number of patients assigned to that health unit.

In the context of the recommendation in paragraph 108, it is acknowledged that there are overcrowded accommodation spaces in the clinic and that the building is old and lacking in construction works. We commit ourselves, within the existing budgetary resources, to continue to make improvements to this equipment.

Finally, it is expected that, as mentioned above and especially taking into account the final report of the Commission for Mental Health Reform, there are alternatives that will reduce the use of the Clinic of Psychiatry of Santa Cruz do Bispo.

#### 7.4 – Treatment

Referring to the recommendation in paragraph 113, it is reported that the clinic team maintains a constant concern regarding the rehabilitation and recreational occupation of internees, even using volunteer projects and others, involving external entities. We hope that due to the measures we have initially reported and the staff reinforcement planned for 2018, we will overcome the constraints that currently prevent more therapeutic, psychosocial and rehabilitation activities.

The medication administered and the respective dosage always result from a medical prescription.

#### 7.5 – Human Resources

a. psychiatric unit of Caxias Hospital

The concerns expressed in the recommendation in paragraph 117 are shared, and a mobility procedure has already been opened for the admission of 56 nurses, and up to now 5 work posts have been filled at the Prison Hospital. An external procedure for the admission of nurses was also initiated and two more places were assigned to the Prison Hospital.



b. psychiatric clinic of Santa Cruz do Bispo

The recommendation in paragraph 120 is also of concern to the DGRSP, recognizing that the number of doctors, nurses and auxiliary staff is below the necessities.

In effect, at present in psychiatry there is 1 full time schedule assured by a doctor of the board and 25 hours of service rendering (a doctor of the board has been on sick leave for more than 3 years). There are 12 nurses of the board and 2 schedules of service rendering and there are also 4 auxiliaries of the staff board (1 with prolonged sick leave due to cancer) and a schedule in service rendering. On the positive side we inform you of the opening of a procedure for admission to the public administration of two psychiatrists and a nurse, specifically destined to include the staff of the Clinic of Psychiatry and Mental Health of the Santa Cruz do Bispo Prison (male).

The standing of the CPT on the importance and relevance of holding team meetings is shared by us. However, in the context of work and lack of human resources, it is recognized that the need to respond to the most urgent situations means that only brief meetings are held on a day-to-day basis and according to the most urgent needs.

With regard to the recommendation in paragraph 121 and since it is a Psychiatric Clinic inside a prison establishment, it is not possible to replace the prison guards for nurses, even if specialized. However, in February 2012, the surveillance personnel in service at the Psychiatry and Mental Health Clinic of the Santa Cruz do Bispo Prison received training by the Magalhães Lemos Psychiatric Hospital – Porto. The organization of a new training action directed to the Clinic's surveillance personnel is planned, although it is not possible to guarantee, in the present condition regarding human resources, the permanent presence of the same teams in that space.

7.6 – Reclusion and means of restraint

a. guidelines on the use of means of restraints

With regard to the recommendation in paragraph 122 concerning the need to develop a written procedure guide on the use of means of restraint in psychiatric prisons, it is reported that paragraph 33 of the “Prison Health Care Procedure Manual” refers to the following procedures, referring to the legal provisions in force. We attached Circular No. 4/2016 (annex 12), on the compulsory procedures to adopt when using control and restraint means and the procedures to be followed in case of co-imposed health care.

b. psychiatric unit of the Caxias Prison Hospital

The recommendation in paragraph 123 is complied with since, as mentioned in the reply to paragraph 98, the use of control and restraint means follows the procedures set out in the respective regulation, which determines the mandatory filling in of annex 1, which contains the information that appears in the recommendation of the CPT. This annex (in which the intervention is registered) is sent to the Central Services, through the Audit and Inspection Service, for analysis.

c. psychiatric clinic of Santa Cruz do Bispo

The recommendation concerning the complete abolition of the placement of naked patients in security rooms (paragraph 125) is being fully complied with, since this practice has been abolished and is only kept in exceptional situations of suicide risk and when determined by the physician. Following the recommendation of the CPT, specific clothing will be purchased for these situations.

The recommendations in paragraph 128 are generally complied with, since patients are only placed in these rooms in situations of severe agitation and most do not stay in the room for more than 24 hours. The hardest part to follow is the constant individual oversight, which at present is not always compatible with the human resources available. Finally, the heads of departments have been instructed to make members of the prison corps aware of the need to fulfil their special duties of vigilance over the inmates/patients.

The recommendation in paragraph 129 is followed, and in 2016 and 2017 only one patient, diagnosed with personality disorder, complied with a disciplinary measure.

The DGRSP takes good note of the observations regarding the poor housing conditions of the clinic's confinement spaces (paragraph 130), so that improvements will be made within the financial resources available. It should be noted, however, as referred to in the reply to the recommendation of the previous paragraph, that in the course of 2016 and 2017 this space was used only once.

The application of disciplinary sanctions to unfit persons subject to security measures (paragraph 132) follows the application of the Code for the Enforcement of Sentences and Deprivation of Liberty Measures, which provides that in a disciplinary proceeding in which a confinement measure is decided (mandatory stay in accommodation or disciplinary cell) patients are mandatorily assisted by a lawyer in order to exercise the right to challenge the respective decision. In addition, it is informed that in the cases that end with the application of confinement measures, these are not generally enforced because the patient does not have health conditions that allow him or her to comply with the measure applied.

## 7.7 – Safeguards

### a. placement and discharge

This General Directorate follows the sense of the recommendation contained in paragraph 133, so it always makes the necessary communications and responds to the questions raised by the inmate's lawyers.

### b. safeguards during placement

With regard to the recommendation in paragraph 135, it is stated that this is not a practice, but a procedure used very exceptionally in patients unable to determine their psychic stability and for whom the absence of medication seriously compromises their own health and integrity and the one of third parties. Most patients accept the prescribed medication.

The recommendation in paragraph 137 is observed and is being enforced once a box has been created in which, in a discreet and anonymous way, all types of requests/ complaints can be placed. This box is only opened by the Higher Re-education Technicians. Finally it is informed that a complaints book will be created.

Regarding the recommendation in paragraph 138, it is stated that, as provided for in Portuguese Law and in addition to the Judges of the Court for the Enforcement of Sentences and Deprivation of Liberty Measures, there are several independent bodies that visit, audit and inspect, on a regular basis, all facilities where people are under the purview of the DGRSP, namely the Ombudsman (as such and as NPM) and the General Inspection of Justice Services.