



CPT/Inf (2001) 12

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

from 19 to 30 April 1999

The Portuguese Government has requested the publication of this report and of its interim and follow-up responses. The Government's responses are set out in documents CPT/Inf (2001) 13 and CPT/Inf (2001) 14.

Strasbourg, 26 July 2001

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Copy of the letter transmitting the CPT's report

Strasbourg, 20 December 1999

Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Portugal drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Portugal from 19 to 30 April 1999. The report was adopted by the CPT at its 40th meeting, held from 15 to 18 November 1999.

I would like to draw your attention to paragraph 138 of the report, in which the CPT requests the Portuguese authorities to provide, within six months, a report on the measures taken upon its report, and to my letter of 14 September 1999 in which the CPT requested regularly updated information concerning the situation at Oporto Central Prison (cf. also paragraph 51 of the report). The CPT would ask, in the event of the report being forwarded in Portuguese, that it be accompanied by an English or French translation. It would also be most helpful if the Portuguese authorities could provide a copy of the report in a computer-readable form.

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

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Ivan ZAKINE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Portugal from 19 to 30 April 1999.

The visit formed part of the CPT's programme of periodic visits for 1999 and was the Committee's third periodic visit to Portugal (the first two having taken place in January 1992 and May 1995).¹

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

- Mr Ivan ZAKINE, President of the CPT (Head of the delegation);
- Mr Vitaliano ESPOSITO (from 19 to 25 April 1999);
- Mr Zdeněk HÁJEK (from 26 to 30 April 1999);
- Mr Aurel KISTRUGA;
- Ms Gisela PERREN-KLINGLER;
- Mr Florin STĂNESCU.

They were assisted by:

- Mr Cyrille ORIZET, Psychiatrist, University Hospital, Nancy, France (expert);
- Mr Jean-Pierre RESTELLINI, Specialist in Forensic Medicine and Internal Medicine, Geneva, Switzerland (expert);
- Ms Silvia CAMILO (interpreter);
- Ms Laurence CORRÉARD (interpreter) (from 22 to 28 April 1999);
- Ms Sophie ENDERLIN (interpreter);
- Ms Salomé Carmen PIRES da SILVA (interpreter);
- Ms Melanie ROE (interpreter);

and were accompanied by the following members of the CPT's Secretariat:

- Mr Jan MALINOWSKI;
- Ms Bojana URUMOVA.

¹ The Committee has also carried out an ad hoc visit to Portugal, in October 1996.

B. Establishments visited

3. The delegation visited the following places:

Law enforcement agencies

Judicial Police

- Headquarters at Rua Venâncio Rodrigues, Coimbra

Public Security Police

- Headquarters at Praça Marquês de Pombal, Aveiro
- Headquarters at Rua Olímpio Nicolau Rui Fernandes, Coimbra
- Headquarters at Largo de São Pedro, Leiria
- Headquarters at Avenida Luisa Tódy, Setúbal

- Holding facilities at Rua Capelo (Governo Civil), Lisbon
- Holding facilities at Quartel da Bela Vista, Rua Monte Aventino, Oporto

- Police Station at Largo do Calvário, Lisbon
- Police Station at Rua de Naulila, Antas, Oporto

National Republican Guard

- Headquarters at Avenida Dias da Silva, Coimbra
- Headquarters at Largo de Santo Estevão, Leiria
- Headquarters at Avenida Jaime Cortesão, Setúbal

Foreigners and Border Police

- Temporary holding facilities at Lisbon Airport

Prisons

- Coimbra Regional Prison (including the detention facility at the Judicial Police Headquarters)
- Leiria Special Prison
- Lisbon Central Prison
- Oporto Central Prison

Psychiatric Institutions

- Sobral Cid Hospital, Coimbra

C. Consultations held by the delegation

4. In addition to meeting with the local officials in charge of the places visited, the delegation held consultations with national authorities and representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the authorities and organisations with which the delegation held consultations is set out in Appendix II to this report.

D. Cooperation between the CPT and the Portuguese authorities

5. The CPT wishes to underline that the delegation enjoyed excellent cooperation at all levels, both before and during the visit.

The CPT's delegation was received by the Minister for the Interior, Mr Jorge COELHO, and by the Minister for Justice, Mr José VERA JARDIM.

Further, in the course of the visit, the CPT's delegation held useful meetings with a number of senior officials from these ministries, as well as from the Ministry of Health. In particular, the delegation met Mr José LOPES da MOTA, Secretary of State for Justice and Mr Celso MANATA, Director-General of Prison Services; it also met Mr Mateus ROQUE, Head of the Private Office of the Ministry for the Interior, General José da SILVA VIEGAS, Commander-General of the National Republican Guard, Chief Superintendent Mário GONÇALVES AMARO, National Director of the Public Security Police, and Mr Lencastre BERNARDO, Director-General of the Foreigners and Border Police.

Fruitful discussions were also held with Mr Antonio Henrique RODRIGUES MAXIMIANO, Inspector-General of the Internal Administration, and Mr Luis FARINHA, Director of the Prisons' Inspection and Audit Service, and members of their respective teams.

Further, the delegation had consultations with the Ombudsman (Provedor da Justiça), Mr José MENERES PIMENTEL, as well as with the Prosecutor General, Mr José Narciso da CUNHA RODRIGUES, and members of his staff.

6. It should be added that the delegation received a very satisfactory reception and swift access to all of the establishments visited, including places which had not been notified in advance of the CPT's intention to carry out a visit. Indeed, it would appear that the management of all of the places of detention visited had been informed of the possibility of a visit by the Committee and were knowledgeable about its mandate.

The CPT also wishes to express its sincere appreciation for the efforts made by the liaison officers appointed by the Portuguese authorities and more particularly Mr Mário GOMES DIAS, Ministry of Interior, and Ms Maria José MOTA de MATOS, Ministry of Justice, to facilitate the delegation's task.

7. In short, the degree of cooperation which prevailed during the visit was fully in compliance with Article 3 of the Convention. Moreover, taken as a whole, the content of the ongoing dialogue between the CPT and the Portuguese authorities and the delegation's findings during the 1999 visit indicate that those authorities are committed to taking positive action to implement the Committee's recommendations (cf., however, the immediate observation under Article 8, paragraph 5, of the Convention, set out below).

E. Immediate observation under Article 8, paragraph 5, of the Convention

8. On 30 April 1999, the delegation held end-of-visit talks with the Portuguese authorities. On that occasion, the delegation made an immediate observation concerning Oporto Central Prison, in pursuance of Article 8, paragraph 5, of the Convention. The delegation had concluded that the level of inter-prisoner intimidation/violence remained high at that establishment, that drugs were widely available and that staffing levels on the wings were inadequate. In consequence, the prison authorities were not in a position to guarantee the physical and mental well-being of prisoners. As had been the case during the Committee's visits to Oporto Central Prison in 1995 and 1996, prisoners minded to exploit their fellow inmates enjoyed a virtually free hand.

In the light of these findings, the delegation requested the Portuguese authorities to provide, by the end of July 1999, a report containing details of measures designed to tackle the problems at Oporto Central Prison. The delegation's request was subsequently confirmed in a letter of 12 May 1999 from the President of the CPT. Within the time limit set, the Portuguese authorities provided a response containing information on the steps being taken to address the situation; this response has been taken into account in the relevant sections of this report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police forces

1. Preliminary remarks

9. The CPT's delegation visited establishments under the control of four distinct police forces: the Judicial Police (Polícia Judiciária - PJ), the Public Security Police (Polícia de Segurança Pública - PSP), the National Republican Guard (Guarda Nacional Republicana - GNR) and the Foreigners and Border Police (Serviço de Estrangeiros e Fronteiras - SEF).

10. The legislation and subsidiary rules concerning the detention, treatment and questioning of persons detained by the police were summarised in the reports drawn up after the CPT's first and second periodic visits (cf. CPT/Inf (94) 9, paragraphs 10 and 11 and Appendix 3, and CPT/Inf (96) 31, paragraph 10).

It might be recalled that persons detained by the police must be brought before a judge within a maximum of 48 hours. If the judge decides that the person concerned should continue to be deprived of their liberty (i.e. remanded in custody), he or she is placed in a prison establishment.

11. In the period since the CPT's last periodic visit, the legislative and regulatory framework has been supplemented by a new law on the Organisation and Functioning of the Public Security Police (Lei no. 5/99, Diário da República, 27 January 1999), as well as by several circulars which have been issued to the law enforcement agencies by the Minister for the Interior at the proposal of the Inspectorate-General of the Internal Administration (IGAI), concerning matters such as access to a lawyer and information on rights.

Particular reference should be made to one of the draft circulars drawn up by the IGAI (Informação/Proposta no. 16/97) which instructs police officers to strive to limit the time during which a person is held at a police establishment for identification purposes to two hours, as compared to the legal maximum of six hours which is authorised by Article 250 of the Code of Criminal Procedure. **The CPT would like to be informed of whether this circular has now been issued and - if so - of any other measures being taken to ensure compliance with its provisions.**

2. Torture and other forms of ill-treatment

12. As compared with the CPT's 1992 and 1995 visits, relatively few of the persons interviewed who were or who had recently been detained by the police made allegations of ill-treatment. This is obviously a positive sign. However, **the persistence of some allegations of ill-treatment by the police underlines the need for the Portuguese authorities to remain vigilant in this area.**

13. As during the CPT's previous visits to Portugal, the principal form of ill-treatment alleged was kicks and blows with fists, truncheons and other objects. In certain cases, marks or conditions consistent with the allegations of ill-treatment made were observed. By way of example, reference might be made to the following cases:

- a person in the custody of the Public Security Police alleged that, some five hours previously, he had been kicked on the thorax by a police officer, who was apparently trying to retrieve a bag of heroin which he had attempted to ingest. After being brought to the Public Security Police Station in Antas, he was allegedly kicked and insulted by police officers as he lay on the ground.

On examination by one of delegation's doctors he displayed several scratches on the dorsal side of the left hand, each 1 to 1.5 cm long and 1 to 2 mm wide; painful swelling on the external side of the left calf; further, his thorax was painful on pressure.

- an inmate at Lisbon Prison alleged that he had sustained a gunshot wound on the inner side of his left thigh while fleeing from the Judicial Police twelve days previously. He claimed that, after he fell to the ground, police officers struck him on the face until he lost consciousness.

On examination by one of the delegation's doctors he displayed subconjunctival haematomas on both eyes and traces of a haematoma on his left cheek, which was still painful on palpation, as was the left mandibula. Two superficial round, unstitched wounds approximately 5 cm in diameter and 7 cm apart, on the inner upper side of his left thigh were also observed; fatty tissue was visible on the inside of each, healing per secundam.

14. Reference should also be made to information contained in the report for 1998 of the Inspectorate-General of the Internal Administration (IGAI). During that year, some 250 cases of possible police misconduct were examined by the IGAI. Of these, 32 "cases of greater gravity or relevance" led to closer scrutiny by the IGAI. As a result, the Inspectorate-General initiated formal investigations into 27 cases (15 against the PSP and 12 against the GNR), including 11 cases of alleged assault or abuse of detainees, and 7 deaths involving the use of firearms (3 during arrests and 4 on police premises).

In order for the CPT to follow developments in this area, **it would like to receive the following information in respect of 1999:**

- **the number of complaints of ill-treatment by police officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of those complaints and the outcome of the proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed).**

15. As already indicated, some of the more serious allegations heard by the delegation concerned ill-treatment at the time of arrest. The CPT has previously recognised that the arrest of a criminal suspect is often a hazardous task, and that the circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers (cf. CPT/Inf (96) 31, paragraph 29).

In their responses, the Portuguese authorities indicated that police officers are made aware of the legal limits concerning the use of force². In view of delegation's findings, **the CPT recommends that police officers be reminded of these precepts in an appropriate manner at regular intervals.**

16. Finally, the CPT is pleased to note that - in line with the Committee's previous recommendation on the subject and current ministerial directions³ - its 1999 delegation found no evidence of unlabelled weapons being kept in areas in which detained persons might be held or interrogated. This is a most welcome development as compared to the situation observed during the last periodic visit.

² cf. inter alia Os Parâmetros Jurídicos do Uso da Força, A. H. Rodrigues Maximiano, Inspector-General of the Internal Administration, Cadernos da Cidadania, 1996.

³ cf. Directive issued by the Minister for the Interior on 13 October 1997.

3. Material conditions of detention

17. The general criteria employed by the CPT when evaluating the material conditions of detention in police establishments have been set out in detail in the Committee's previous reports. It should be noted that, at the proposal of the IGAI, on 20 April 1999, the Minister for the Interior issued detailed regulations on material conditions of detention in police establishments, which correspond closely to the standards employed by the CPT.

18. The situation observed during the third periodic visit meets, on the whole, the CPT's criteria. In particular, sustained efforts have been made by the Portuguese authorities to upgrade existing facilities through the installation of in-cell sanitation, ventilation and call bell systems and the enlargement of cells which were previously found to offer cramped conditions of detention. To varying degrees, improvements were observed in all three establishments which were the subject of follow-up visits (cf. paragraphs 19 and 20).

19. At the **holding facilities of the PSP in Lisbon** (Governo Civil), the cells and sanitary annexes were found to be in an adequate state of repair and hygiene. In addition, a rather imaginative - if not entirely convincing - attempt had been made to compensate for the absence of natural light by decorating the cell walls with trompe l'oeil paintings of windows. However, an unannounced Sunday morning visit revealed that, with the exception of one female detainee, the persons held there had not been provided with mattresses.

20. Improvements were also noted in police establishments in Setúbal which had previously been visited by a CPT delegation.

Two cells at the **GNR Headquarters** had been converted into a single, more spacious cell (measuring some 11 m², inclusive of the partitioned lavatory), intended to accommodate two persons. A ventilation and call-bell system had also been installed.

At the **PSP Headquarters**, the artificial lighting in the two double-occupancy cells had been upgraded, and the floors and walls newly tiled.

21. As regards the police establishments visited for the first time in 1999, the majority were found to offer clean and decent conditions of detention. However, little of the cellular accommodation seen had access to natural light and in certain PSP establishments - the **Headquarters at Aveiro and Coimbra** and the **holding facilities in Oporto** (Quartel da Bela Vista) - artificial light was found to be deficient.

22. **The CPT recommends that conditions of detention in the establishments referred to in paragraphs 19 and 21 be reviewed, in light of the above remarks. Urgent action should also be taken to ensure that all persons obliged to remain in police custody overnight at the holding facilities of the PSP in Lisbon are provided with appropriately-designed (e.g. washable, fireproof) mattresses.**

Further, **the CPT recommends that the Portuguese authorities continue to make efforts to ensure that the conditions of detention in police establishments in general meet all the requirements to which reference is made in paragraph 17.**

23. The delegation also visited the temporary holding facilities for persons refused entry, awaiting expulsion or seeking asylum, operated by the **Foreigners and Border Police (SEF) at Lisbon Airport.**

The accommodation consisted of two dormitories (one for men, and one for women), each of which measured around 45 m²; the former contained 10, and the latter 7 beds. Persons detained at the temporary holding facilities had access to a large "living area" equipped with tables, chairs and a television; however, there was no outdoor exercise facility. The temporary holding facilities did not have access to natural light, but artificial lighting and ventilation were acceptable. The sanitary facilities, one for men, one for women, each consisted of a shower, a sink and a lavatory. Notwithstanding daily cleaning, they were in a rather poor state of hygiene, and the lavatory for men was defective.

24. Although staff informed the delegation that the persons held in the temporary holding facilities were free to move about the international transit area of the airport, which included a coffee shop/bar, not all of the persons held appeared to be aware of this possibility. Moreover, detained persons were not permitted to have access to their luggage; several of them told the delegation that they would have liked, at the very least, to be able to use the towels which they had in their suitcases. Complaints were also heard as regards access to a telephone.

25. The CPT's delegation was informed that there were plans to create a new holding facility at the airport. Shortly before the visit, bids received from construction companies were evaluated by a Commission appointed by the Portuguese Airports Authority. The CPT has noted that the plans make reference to the requirements set out in its 7th General Report and **trusts that these will be fully taken into account in the design of the new facility.**

Pending completion of this work, the CPT recommends that measures be taken to ensure that persons detained at the existing temporary holding facilities have access to a telephone and to their luggage, and that anyone detained for more than 24 hours be offered at least one hour of outdoor exercise per day.

4. Safeguards against the ill-treatment of detained persons

26. The reports drawn up after the CPT's previous periodic visits to Portugal examined in detail the safeguards against ill-treatment offered to detained persons, including notification of custody, access to a lawyer and access to a doctor (cf. inter alia paragraphs 49 et seq. of CPT/Inf (96) 31).

a. notification of custody

27. In the course of its ongoing dialogue with the Portuguese authorities, the CPT has repeatedly stressed the importance of guaranteeing detained persons the right to inform a relative or other third party of their choice of the fact of their detention, as from the very outset of police custody. Any possibility to delay the exercise of this right should be clearly circumscribed, accompanied by appropriate safeguards and made subject to an express time limit.

In their most recent interim report, the Portuguese authorities indicated that there is now:

"a solid legal basis for the obligation to notify the fact of detention to a relative or another third party chosen by the detainee. In accordance with article 260 of the Code of Criminal Procedure⁴, the provisions of Article 194 (3) (second clause) and (4) shall apply during any period of detention [by the police]; by virtue of this Article, unless a detained person withholds his/her consent, the fact of detention must immediately be communicated to a relative, third party of his/her choice or his/her lawyer.

In cases where the detained person is a minor, his or her consent is not required."

These rules are also reflected on the information form which is now given to persons held by the police (cf. paragraph 36).

28. During the 1999 visit, interviews with persons about their experiences in police custody indicated that they were, in the majority of cases, being informed that they could contact (by telephone) their families or other third parties. The custody registers and related documents examined by the delegation contained fairly systematic references to the operation of this safeguard. Further, the 1998 annual report by the IGAI concluded that this right was generally being guaranteed to persons in police custody. The CPT welcomes this development.

In the interests of the prevention of ill-treatment, all persons deprived of their liberty by the police - for whatever reason - should be placed in a position to exercise the right to inform a relative or another third party of their choice of their situation. In this connection, **the CPT would like to receive confirmation that the provisions of Article 194 (3) (second clause) and (4) (read together with Article 260) of the Code of Criminal Procedure apply to all such persons, including those held for identification purposes under Article 250 of the Code.**

⁴ Law N° 59/98

b. access to a lawyer

29. **The CPT has repeatedly recommended that persons detained by the law enforcement agencies in Portugal be granted the right of access to a lawyer as from the outset of their custody.** In this respect, the CPT wishes to reiterate that, in its experience, the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well-placed to take appropriate action if ill-treatment actually occurs.

This right of access to a lawyer as from the outset of custody must include the right to talk to the lawyer in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police (whether this be during or after the initial period of police custody). Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer, nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation; however, the latter possibility should be strictly circumscribed by appropriate safeguards.

The Committee recognised that, in order to protect the interests of justice, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another, independent lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be arranged.

30. In their 1996 interim report, the Portuguese authorities made reference to the provisions on this subject set out in Articles 32 (3) of the Constitution and 62 (1) of the Code of Criminal Procedure. However, in common with the more detailed guidance set out in a recent draft directive on the operation of the right of access to a lawyer⁵, these provisions only apply in respect of persons deprived of their liberty who have formally become detainees ("arguídos"); at present, the right of access to a lawyer does not apply during the initial period of up to six hours when persons are detained for "identification purposes".

Further, the delegation found that, in practice, many detained persons spent some considerable time in police custody before having access to a lawyer. It would appear that, in the majority of cases, the first contact with a lawyer only takes place at the detainee's first appearance before a judge.

The CPT calls upon the Portuguese authorities to ensure a right of access to a lawyer as defined in paragraph 29.

⁵ cf. Directive issued by the Minister for the Interior on 26 February 1998.

31. Of course, even a fully-fledged right of access to a lawyer will not realise its potential as a safeguard against ill-treatment unless persons without means are placed in a position to exercise that right.

In this connection, the CPT has noted that, according to the 1996 interim report of the Portuguese authorities, the manner in which legal services are delivered by officially-appointed lawyers was the subject of discussions between the Bar and the Ministries of the Interior and Justice, with a view to identifying "ways and means of facilitating and optimising the nomination of officially appointed lawyers for detained persons."⁶ **The CPT would like to be informed of any concrete decisions which the Portuguese authorities may have taken on this subject.**

c. access to a doctor

32. The Committee considers that persons in police custody should also have a formally recognised right of access to a doctor. In the view of the CPT, a doctor should be called without delay whenever a person in police custody requests a medical examination; police officers should not seek to filter such requests. All medical examinations of persons in police custody should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers. Further, a person taken into police custody should have the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities. However, the expense of such an additional examination might be borne by the detainee.

33. In their 1996 interim report, the Portuguese authorities indicated that they saw no objection to detained persons having access to "their own doctor or any other doctor of their choice, provided that they are in a position to assume the associated costs". However, as far as the delegation which carried out the April 1999 visit could see, there had been no change to legal provisions governing access to a doctor for persons in police custody.

The CPT recommends that action be taken to ensure that persons in police custody have a formally recognised right of access to a doctor as defined in paragraph 32.

d. information on rights

34. One of the most salient developments since the 1995 periodic visit has been the adoption of forms setting out the rights and responsibilities of detained persons ("detidos") and criminal suspects ("arguídos") in a straightforward manner. These forms were found to be prominently displayed, in four languages, in each police establishment visited by the delegation and were sometimes also posted in cells. Virtually all detainees interviewed stated that they had seen and read the form, and many had a copy of it in their possession. Further, detainees were asked to sign a statement attesting that they had been informed of their rights.

The CPT greatly welcomes this development.

⁶ cf. page 19 of document CPT/Inf (96) 32.

e. custody registers

35. The custody registers and related papers examined at the premises of the GNR and the PSP indicated that the recording of different aspects of a person's police custody had improved somewhat in comparison to the situation observed during the previous periodic visit to Portugal. The delegation found that, pursuant to a circular which had been issued by the Minister for the Interior at the proposal of the IGAI, the "Livros de Registo dos Detidos" which contained a chronological listing of persons who had been brought into a given establishment, included the times of arrival and release as well as a single column for annotations about any contacts made with the detained persons (including by relatives, lawyers, doctors, etc.) and another column indicating which meals had been given.

f. complaints and inspection procedures

36. The establishment of the Inspectorate-General of the Internal Administration (IGAI) clearly represents a significant element in the Portuguese authorities' strategy to prevent ill-treatment and to ensure decent conditions of detention for persons held by police forces.

The IGAI, which began its operations in 1997, has the function of processing complaints against police officers, carrying out visits (both announced and unannounced) to police establishments and preparing reports for submission to the Minister for the Interior. A number of the delegation's interlocutors indicated that they considered the IGAI to have had a major role in reducing the number of allegations of ill-treatment by police officers and in improving material conditions of detention in police establishments. The CPT greatly welcomes the work carried out by the IGAI in the past two years; **the Committee would like to continue to receive information concerning the IGAI's activities (annual reports, etc.).**

B. Prisons

1. Preliminary remarks

37. The CPT's delegation carried out a follow-up visit to Oporto Central Prison (Custóias). It also visited, for the first time, Coimbra Regional Prison (including the detention facility at the Judicial Police Headquarters), Leiria Special Prison and Lisbon Central Prison.

38. The principal features of **Oporto Central Prison** were described in the reports on the CPT's 1995 and 1996 visits. In 1995, the prison was accommodating 1120 prisoners and, in 1996, 1348 inmates, for an official capacity of 500. On the first day of the April 1999 visit, the establishment was holding 1296 inmates - 1227 men and 69 women, just over half of whom were awaiting trial - for a revised official capacity of 716.

39. Some eighteen months before the visit, **Coimbra Regional Prison** had been relocated from its previous, dilapidated, premises; the section for men to prefabricated or "quick-build" modules⁷ and the section for women to a former psychiatric unit, located next to Coimbra Central Prison. The prison also had responsibility for a seven-cell detention facility at the Judicial Police Headquarters. Coimbra Regional Prison has an official capacity of 243 and, at the time of the visit, was accommodating 236 inmates, including 44 women. More than half of the inmates were sentenced prisoners.

40. **Leiria Special Prison** (formerly a "School Prison") is Portugal's main detention centre for young male prisoners, in principle aged 16 to 21; however, inmates younger than 21 at the time of admission may be allowed to remain in the establishment until the age of 25. The prison is located in an attractive setting surrounded by farmland. It has an official capacity of 347 and, at the time of the visit, was accommodating 292 inmates, of whom 62 were aged between 21 and 25. The vast majority of inmates were sentenced.

41. **Lisbon Central Prison**, which is situated close to the city centre, was brought into service in 1895. The prison has an official capacity of 852, a figure which, at the time of the visit, had been reduced by about 100 places due to major renovation work being carried out in one of the wings. On the first day of the visit, Lisbon Central Prison was accommodating 1129 inmates, of whom about two thirds were sentenced prisoners.

⁷ The foundations of new permanent buildings for Coimbra Regional Prison were already being laid.

2. Ill-treatment

42. In the same way as for the police, the number of allegations of ill-treatment of prisoners by staff received by the delegation which carried out the 1999 visit was smaller than had been the case during earlier visits. Moreover, it observed that relations between inmates and staff were generally of a positive nature.

Nevertheless, some allegations were received in the course of the visit of ill-treatment by staff. Further, the information gathered during the 1999 visit suggests that the problem of inter-prisoner violence is far from being resolved.

43. As regards ill-treatment by staff, the most common type of ill-treatment alleged in the prisons visited consisted of verbal abuse and rough treatment. At Lisbon Central Prison, the delegation also received allegations to the effect that inmates had been removed from their cells during the night and struck by officers using batons; most such allegations related to prisoners who had been held in that establishment's disciplinary unit.

44. Allegations of ill-treatment of prisoners by staff in establishments which the CPT's delegation did not visit concerned inter alia Lisbon Judicial Police Prison and Caxias Prison, and involved beatings with batons, including at night. Particular reference should be made to information provided to the delegation at Coimbra Prison in respect of an alleged assault upon a prisoner by staff during a brief stay at Caxias Prison on 2 March 1999.

The prisoner in question - who was in transit - had filed a formal complaint alleging that, while waiting in a cell with another prisoner, several prison officers started striking his cellmate, including with batons. The officers then allegedly turned on him and struck and kicked him repeatedly, including in the face, until he lost consciousness. He further claimed that, following the incident, he had asked to see the head guard or the director at Caxias Prison in order to complain about the manner in which he had been treated, but that his request had been ignored.

According to the information provided to the CPT's delegation, upon observing the condition of the prisoner, the officers who were to escort him back to Coimbra Prison requested an explanation from Caxias Prison staff; given that they considered that response to be unsatisfactory, on arrival at Coimbra they reported the incident to the latter establishment's head guard. The delegation received a copy of a statement issued on 29 March 1999 by Coimbra Prison's health care service setting out the results of the medical examination of the prisoner concerned carried out on 3 March 1999, which reads as follows:

"... we observe the injuries described below, which he attributes to the assault suffered by him:

- haematoma in the process of re-absorption at the level of the left upper palpebra and left malar region;
- haematoma in the process of re-absorption on the abdominal wall in the left hypochondrial region;
- pain upon palpation on the lower and external region of the left hemithorax.

A radiological study was requested which showed (08/03/99):

- bones of the face: fracture of the left zygomatic arcade;

- left rib-cage: complex fracture of the axillar arch of the 10th left rib, with good alignment ..."

These medical findings are fully consistent with the allegations of ill-treatment made by the prisoner in question.

At the time of the visit, this matter, which had been reported to the Prisons' Inspection and Audit Service, was still under investigation.

45. The CPT has noted with interest the activities of the Prisons' Inspection and Audit Service in the context of prison staff disciplinary proceedings and, more particularly, as regards enquiries into complaints lodged by persons held in prison.

According to the Inspection and Audit Services' report for 1998, out of 488 inquiries which were initiated in the course of that year (87 arising from prisoners' complaints), 104 led to the opening of disciplinary proceedings. Of the total number of cases dealt with, 60 fell under the category of assault ("agressões") and 5 under verbal abuse ("injúrias"). Further, during 1998, 76 disciplinary sanctions were handed down to prison officers, ranging from reprimand and fines to suspension or dismissal/termination of service. However, it is not clear from the report how many of the cases which led to sanctions being imposed involved allegations of ill-treatment.

It is axiomatic that one of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties. In this connection, **the CPT would like to receive the following information in respect of 1998 and 1999:**

- **the number of complaints of ill-treatment by prison officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed).**

Further, **the CPT would like to receive detailed information on the current state of the enquiry and, in due course, on the outcome of any criminal or disciplinary proceedings initiated in respect of the case referred to in paragraph 44.**

The CPT also recommends that the authorities at both central and local level deliver the clear message to prison officers that the ill-treatment of prisoners is not acceptable and that it will be dealt with severely; this message should be recalled in an appropriate form at suitable intervals.

46. The CPT also wishes to emphasise the crucial importance of the adequate recruitment and training of prison staff. There is no better safeguard against ill-treatment than properly recruited and trained prison staff who know how to adopt the appropriate attitude in their relations with prisoners. In this regard, developed inter-personal communication skills are an essential part of the make-up of such staff. Such skills will often enable them to defuse situations which could otherwise turn into violence. More generally, they will help to reduce tensions and improve the quality of life in the prison concerned, to the benefit of all. It might be added that exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour; a useful preventive measure consists in providing support for staff who are exposed to such situations.

It should also be emphasised in this context that developing good relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

In this respect, the Committee has noted that significant efforts are being made to provide suitable training to newly recruited officers. Training is also being offered to staff already in service; however, the CPT's delegation was led to believe that this was mostly limited to officers about to assume additional responsibilities following a promotion.

47. **The CPT recommends that:**

- **priority continue to be given to developing professional training, and that it be ongoing;**
- **in the course of training, considerable emphasis be placed on the acquisition and development of inter-personal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

The Committee wishes to stress the importance of appropriate training in control and restraint techniques (i.e. manual control). The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to prisoners and staff. This, in turn, is likely to lead to a decrease in the number of complaints of ill-treatment lodged by inmates. **The CPT recommends that training in control and restraint techniques be made more widely available to prison officers.**

48. Following its 1995 visit to Portugal, the CPT expressed concern about the practice of opening cells during the night without a record being made or senior staff being informed of that fact, a situation which is clearly open to abuse. The CPT has subsequently noted that the Portuguese authorities have taken steps to ensure that cells are only opened at night as an exceptional measure and that such action is surrounded by appropriate safeguards (e.g. a record to be made and a written report to be filed with senior staff).

The delegation which carried out the 1999 visit observed that this approach was mostly being respected. As regards, in particular, Oporto Central Prison, the CPT's delegation noted that the circumstances of the opening of cells at night were systematically reviewed by senior staff and that a prisoner whose cell had been thus opened was interviewed on that subject by the prison's legal services. However, the information gathered suggests that the prevailing situation at Lisbon Central Prison and Lisbon Judicial Police Prison was less favourable.

The CPT recommends that concrete action be taken to ensure that, in all prisons in Portugal, the opening of cells during the night is surrounded by appropriate safeguards.

49. As indicated in previous visit reports, the CPT is also very concerned when it discovers a prison culture which is conducive to inter-prisoner violence. In all of the establishments visited, the CPT's delegation received a significant number of accounts of ill-treatment of prisoners by fellow-inmates. The forms of ill-treatment alleged included physical assault - principally beatings, often using sticks, metal bars and other objects - and intimidation. In many cases, the victims of such treatment had sustained injuries requiring medical attention (wounds, haematomas and, in certain cases, fractured bones).

By far the worst situation observed was at **Oporto Central Prison** and, more particularly, in A Wing. By way of example, records examined by the delegation at that establishment revealed that at least 40 cases of inter-prisoner assault had been reported within the first four months of 1999. In at least 8 of those cases, the prisoners concerned had sustained injuries requiring treatment in the prison's infirmary. However, both prisoners and staff interviewed by the CPT's delegation indicated that these cases were only the tip of the iceberg, the majority of incidents of inter-prisoner violence going unreported.

As had been the case during previous visits, the delegation also received accounts of prisoners being assaulted in the presence of prison staff who failed to intervene.

50. The conditions which prevailed in April 1999 in A Wing were much the same as those observed in C Wing in the course of previous visits. The situation in that latter wing led the Committee to recommend - in 1995 - that conditions of detention be the subject of a full review, with the aim of ensuring that the physical and mental integrity of inmates held there is guaranteed and - in 1996 - that the Portuguese authorities carry out without delay a thorough investigation of the nature and scale of the problem of inter-prisoner violence at Oporto Central Prison and devise a strategy to address that problem.

As already indicated (cf. paragraph 8), in the light of the information gathered at Oporto Central Prison, the delegation which carried out the 1999 visit invoked once again Article 8, paragraph 5, of the Convention and made an immediate observation in respect of the situation observed.

51. In the course of the visit, the CPT's delegation was informed of certain measures already envisaged which could have a positive effect on the situation at Oporto Central Prison (e.g. reducing overcrowding and specific measures to address the issue of drug-trafficking in the establishment). Further, the delegation was told that a number of additional newly-recruited prison officers were to be deployed in the prison.

Following the visit, in response to the above-mentioned immediate observation, the Portuguese authorities provided information concerning action being taken to improve the situation at Oporto Central Prison. Immediate steps had been taken inter alia to evaluate the prison's problems, to reduce the inmate population to a maximum of 1000 (cf. paragraph 38), to increase supervision within the wings and to step up control in respect of drugs. Additional measures envisaged included further reducing the establishment's inmate population, increasing staffing levels and developing existing drug-treatment programmes.

The CPT welcomes the steps taken by the Portuguese authorities as regards Oporto Central Prison. In this respect, the Committee wishes to stress the need to increase significantly the number of prison officers actually present within the detention facilities in A Wing. The officers to be deployed in that wing should be carefully selected in order to ensure that they are placed in a position to exercise their authority in an appropriate manner; they should be sufficient in number, well trained, highly experienced and committed to their difficult task. This implies that additional staff assigned to A Wing should be selected from amongst the ranks of experienced officers currently working in other sections of the prison or in other establishments in Portugal rather than from amongst newly recruited prison officers.

The CPT recommends that efforts continue to be made effectively to tackle the problem of inter-prisoner violence at Oporto Central Prison, having regard to the remarks set out above. By letter of 14 September 1999, the CPT has already indicated that it would like to receive regularly updated information on the situation at this establishment.

3. The management of drug-related problems in prison

a. introduction

52. The presence in prison of inmates with drug-related problems gives rise to a number of particular difficulties for the prison authorities. These involve inter alia health and security issues, as well as the choice of forms of assistance which are to be offered to the prisoners concerned.

The widespread availability of illicit drugs within a prison is bound to have very negative repercussions on all aspects of prison life. In the first place, it will inevitably undermine attempts to help prisoners who have drug-abuse problems to overcome them, and may even encourage prisoners who have not yet experienced such problems to start taking drugs. Further, in a drug-riddled establishment, tension between inmates will frequently lead to violence, and will make it all the more difficult for the authorities to discharge their duty of care towards persons committed to prison and to provide a safe environment for them. Finally, such a situation will create demotivating working conditions for prison officers.

It should also be stressed at the outset that, if any achievement in the treatment of prisoners' drug-addictions is to be long lasting, it is necessary to identify the reasons at the origin of the drug problem and to tackle them with appropriate counselling and support.

53. The CPT wishes to acknowledge that the Portuguese authorities have, in recent times, multiplied their efforts and investment in this domain, particularly in terms of the assistance offered to prisoners. Nonetheless, health care experts and professionals in the treatment of drug abuse suggested to the delegation's doctors that, given the magnitude of the problem, further efforts were required within the prison system in order to match, *mutatis mutandis*, those being made in the community at large.

b. drug trafficking in the establishments visited

54. The CPT delegation's on-site findings indicate that drugs were present in all four of the prisons visited. The delegation gained the impression that there was a significant problem at Lisbon Central Prison and, at Oporto Central Prison, the situation can only be qualified as being dramatic. In certain of the wings at the latter establishment, notably in A Wing, which held a high proportion of prisoners without work, the delegation observed large numbers of inmates displaying a wide range of symptoms of various types of drug intoxication in all its possible degrees of intensity.

Further, the delegation was told that a veritable marketplace of drugs was apparently part of the daily routine. Every morning, immediately following the opening of cells, prisoners advertised the excellence of the products which they had for sale and the going price. Cell windows facing the outdoor exercise areas were used as counters for transactions between adjacent wings. Certain of the prisoners interviewed by the delegation stated that the quality of the drugs they acquired in the prison was better, and the prices lower, than outside. It was alleged that these circumstances, together with the proximity of the vendors, made it very difficult to resist the temptation to acquire and take drugs; a number of inmates claimed that they had started to take drugs for the first time (or gone back to consuming drugs) after their arrival in the prison. The information provided by prison staff tended fully to support these accounts.

55. Efforts were being made to prevent drugs from entering the prisons visited and to find and confiscate drugs already on the premises. At Oporto Central Prison, the delegation was informed that drug seizures had dramatically increased in recent times, e.g. 625 doses and 380 gr. of heroine

in 1998 (as compared to 299 doses and 102 gr. in 1997); 546 doses and 496 gr. of cocaine in 1998 (68 doses and 24 gr. in 1997). However, this was clearly only a fraction of the drugs which were entering the prison (cf. also paragraph 51). Large sums of money, apparently the product of drug trafficking, were also frequently seized in the prison.

In addition, the Portuguese authorities were about to make on-site tests of ion-mobility spectrometers and similar advanced technology equipment for drug detection, intended for use on all persons entering a prison (including inmates, visitors and staff). Once tested in specific prisons (Lisbon and/or Oporto Central Prisons), such equipment is to be used in other establishments experiencing significant problems with entry and circulation of drugs. The CPT welcomes this approach.

The CPT recommends that the Portuguese authorities vigorously pursue their efforts to prevent trafficking in drugs in prisons. As regards more particularly Oporto Central Prison, **the Committee recommends that an enquiry be carried out into the phenomenon of drug trafficking in that establishment.**

However, the CPT would stress that **it would be highly undesirable for any new measures adopted vis-à-vis drug trafficking to unduly restrict prisoners' contacts with the outside world or to limit the regime activities and association possibilities offered to them.** Such restrictions/limitations might, in the short term, curb to some extent drug trafficking but would do nothing to resolve the underlying causes of the drug-problems of many prisoners.

c. treatment programmes

i. *introduction*

56. The CPT recognises that providing assistance to persons who have drug-related problems is far from being a straightforward matter, particularly in a prison setting; there is no simple or single answer as regards the approach to be followed.

Nevertheless, admission to prison may provide an opportunity to address a person's drug-related problems. It is clear that prisoners need to be provided with an environment which permits and encourages them to lead a healthy or healthier lifestyle. This requires suitable screening, assessment and allocation of prisoners upon admission; it also calls for the provision of information to prisoners about health-related matters and the support and treatment options available to those who have drug problems.

It is crucial that the foundations be laid for continuing progress to be made by inmates who participate in drug-treatment programmes. In particular, such prisoners require education and training designed to enhance their social skills and develop working habits. Consequently, a full range of activities should be offered to all prisoners treated for drug abuse, including vocational training leading to the acquisition of a recognised qualification. These tools will increase the inmate's possibilities to lead a meaningful life after release. Of course, the provision of paid work and appropriate leisure activities are also important elements in the treatment of prisoners with drug problems.

57. Prison health care services have a key role to play in this context. Those services should be resourced and equipped to handle all medical aspects of the treatment of inmates with drug-related problems, inter alia as regards substitution and detoxification programmes (including the treatment of withdrawal symptoms). Further, they should pay close attention to co-morbidity and other problems associated with the taking of drugs (deterioration of the health of persons who take drugs; risk of disease transmission; treatment of specific conditions with a higher prevalence in the case of drug abusers, including psychiatric disorders; general hygiene questions). The health care services should also be involved in the coordination of the psycho-socio-educational services offered to such persons.

Consequently, the health care and psycho-socio-educational services of establishments accommodating significant numbers of prisoners with drug-related problems should be adequately staffed with a closely knit inter-disciplinary team of persons having appropriate expertise and training; due regard should also be had to the contribution which can be made in this context by prison officers. Moreover, contacts and cooperation between prison services and persons working in community-based institutions providing care, assistance and support to persons with drug problems should be fostered. This is particularly important in the context of the preparation for release and the coordination of treatment after release.

ii. drug-treatment programmes in the establishments visited

58. **Coimbra Regional Prison** did not have its own in-house drug-treatment programme. However, prisoners with drug-related problems received counselling and support through Coimbra's community-based drug treatment service (CAT). Further, the CPT's delegation was informed of plans to enhance the input from the local CAT, in particular by supplying the prison with a full-time psychiatrist.

The number of staff participating in the drug-treatment programme at **Leiria Special Prison** in principle seemed sufficient (one general practitioner and one psychologist, as well as an educator, six nurses, and a number of prison officers); however, the absence of a psychiatrist for the previous six months is highly regrettable.

The situation was much more favourable at **Lisbon Central Prison**, where developed drug-treatment programmes were being applied. Having regard to the number of places available/inmates involved, sufficient staff participated in those programmes (including two general practitioners and two psychiatrists, as well as psychologists, educators, teachers and prison officers who had been specifically selected - and trained - for the work assigned to them). Further, persons from outside bodies/agencies provided additional assistance. However, the prison's drug-treatment team appeared to concentrate their efforts on the drug-free and therapeutic units, whilst care to inmates in the substitution programme was provided solely by a general practitioner, without such prisoners being offered other forms of assistance (e.g. from the psycho-socio-educational services).

As for **Oporto Central Prison**, the establishment's general practitioner was in charge of the substitution programme, assisted inter alia by two psychologists. The drug-free unit was staffed inter alia by one general practitioner, and a psychologist who had recently joined the team.

59. The specific therapeutic options to be offered to prisoners with drug problems should include substitution and detoxification programmes.

With the exception of Leiria Special Prison, substitution programmes (using methadone) were being offered in all of the establishments visited. However, the number of prisoners who could take part in such a programme at Oporto Central Prison was rather limited (a mere 45). Further, in all of the establishments visited, the programmes were mostly limited to pharmacological treatment, little attention being paid to the need for psycho-socio-educational support and adequate regime activities.

As for detoxification programmes, the approach at Lisbon Central Prison seemed entirely satisfactory (treatment for physical withdrawal symptoms lasting between 10 days and a maximum of one month, underpinned and followed by psychological and psychiatric counselling, as well as peer support, and the offer of certain, albeit somewhat limited, activities). Further, the number of places available in the drug-free unit (in the order of 100) appeared to be sufficient for the establishment's inmate population. In addition, Lisbon Central Prison had a so-called therapeutic unit. The unit provided a general environment (accommodation, association and activity premises) of a very high standard, individual and group psycho-therapy, and a wide range of educational and social activities.

The situation was also quite satisfactory at Leiria Special Prison, where prisoners admitted to the drug-free programme benefitted from the same developed regime offered to other inmates held in the establishment.

By contrast, the detoxification programme at Oporto Central Prison was apparently not functioning satisfactorily; the delegation was told that a decision had been taken to vacate the drug-free unit and start taking inmates anew in order to enhance the results of the programme.

60. The CPT recommends that the Portuguese authorities review drug-treatment programmes in the prisons visited, in the light of the remarks in paragraphs 56 to 59.

Further, **the CPT would like to receive additional information on plans to implement multi-faceted programmes such as the one being applied at Lisbon Central Prison throughout the Portuguese prison system, including any timetable already set for such measures to be taken.**

iii. screening

61. Reference has already been made to the need for suitable screening in the context of the provision of assistance to prisoners who have drug-related problems. The aims should be to identify inmates with such problems as soon as possible - preferably during the first medical consultation - in order to inform them about the therapeutic alternatives offered to them, and the conditions which apply to admission and continuing participation in the relevant programmes (requirements concerning drug testing, participation in therapeutic and/or socio-educational activities, etc.). This should be backed up by the provision of detailed information in writing, to ensure that the choice made by prisoners in this context is genuinely free and informed.

62. At Lisbon Central Prison, inmates were being interviewed by appropriately-qualified staff on arrival. Those who had drug-related problems were informed of the different options open to them and were accommodated in the unit for inmates in the substitution programme, the drug-free unit or the therapeutic unit. The situation was also satisfactory at Leiria Special Prison.

However, in Coimbra and Oporto Prisons, newly admitted prisoners were apparently not being screened in such a detailed and effective manner. Moreover, no written information was being provided to newly-arrived inmates in the prisons visited about the drug-treatment therapeutic options available in the establishment. **The CPT recommends that these shortcomings be remedied.**

iv. drug-awareness information

63. It goes without saying that all prisoners - whatever their current attitude towards drugs - should be provided with adequate drug-awareness information. It is important to raise awareness about the aetiology of drug dependence and to develop harm reduction strategies. This should include information/training in respect of hygiene measures concerning the taking of drugs and the mechanisms of disease transmission and methods of prevention. The authorities should take all possible steps to minimise risk of contamination inter alia by HIV and Hepatitis B and C in prison.

It is also important to provide staff (prison officers of all grades, as well as other staff, including teachers, health assistants, etc.) with information and training concerning drug dependence and drug misuse.

64. The CPT's delegation found that the approach being followed in this respect in the establishments visited left much to be desired.

More particularly, the information about disease transmission provided to inmates (and to staff) was rather limited, and no written information was being systematically given to prisoners. Further, whilst bleach was available to inmates in all of the establishments visited, reference to the precautions to be adopted in the context of the taking of certain drugs (e.g. as regards the cleaning of needles/syringes) seemed to be taboo.

The CPT would like to receive the comments of the Portuguese authorities on this matter.

- d. disciplinary measures in the context of drug-treatment programmes

65. Disciplinary measures in the context of prison drug-treatment programmes should be designed to be an integral part of those programmes. Consequently, while contractually agreed or mandatory drug testing is a normal - and desirable - requirement as regards prisoners participating in drug-treatment programmes, sanctions should be applied in a constructive manner and take full account of the objectives sought by the programme; in particular, exclusion from the programme should be a measure of last resort. Efforts should be made to avoid the adverse effect which the rigid application of disciplinary measures may have on inmates genuinely minded to tackle their drug problem.

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

- e. the impact of current strategies

66. At the time of the visit, the Portuguese authorities were considering various means to strengthen and broaden the scope of the policies being applied as regards the management of drug-related problems, whether in prison or in the community at large. For its part, the CPT wishes to stress that success in this area will largely depend on the possibility accurately to monitor and evaluate the impact of current strategies.

The CPT would like to receive further information on the ongoing monitoring of prisoners' drug-related habits (including after release) following their participation in a drug-treatment programme and on the mechanisms to assess the longer-term impact of such programmes.

4. Conditions of detention

a. material conditions

67. Material conditions of detention in the prisons visited varied from very good to unacceptable, in some cases within the same establishment.

68. At **Coimbra Regional Prison**, conditions of detention were on the whole acceptable in the section for men. The cells had satisfactory access to natural light and ventilation (including air conditioning), and were in a good state of repair. Further, they were adequately furnished (beds, storage space) and equipped with in-cell sanitation (including a partitioned lavatory and a shower). As for their occupancy levels, four prisoners were being accommodated in cells measuring some 15 m² or ten in 45 m²; such a rate of occupancy can be considered as acceptable. However, on the basis of the number of beds in each cell, it appeared that up to six inmates might be held in 15 m² and up to sixteen in 45 m²; such occupancy rates would be too high.

The premises of the section for women were clean and benefited from access to natural light and ventilation; however, their state of repair left something to be desired. Moreover, occupancy levels in the cells and dormitories ranged from high to very high (e.g. seventeen persons, including three children, in 32 m²) and inmates were not guaranteed access to a lavatory at night; in case of need, they had to use a bucket within their cell/dormitory.

The prison's detention facility at Coimbra Judicial Police Headquarters was clean and the cells were equipped with a bed, table, chair and partitioned in-cell sanitation. However, artificial lighting was not always satisfactory and access to natural light was at best limited and in certain cells non-existent.

69. **Leiria Special Prison's** drug free-unit offered very good conditions of detention. Single occupancy cells measured some 12 m² and double occupancy cells over 15 m²; they were in a good state of repair, had satisfactory access to natural light and ventilation, and were well equipped (including a partitioned lavatory). Conditions were also quite acceptable in the other renovated wings of the prison, where single occupancy cells measured in the region of 8 m².

However, in certain other parts of the prison, cells used to accommodate one inmate measured a mere 5 to 5.5 m², while larger cells, measuring some 12 m², could be used to accommodate several prisoners; the delegation saw one such cell equipped with six beds.

Moreover, the unrenovated parts of the prison (e.g. the observation unit) were in a dilapidated state, infested by vermin (inter alia, rats) and prisoners did not have ready access to appropriate sanitary facilities; slopping out continued to be the norm in these areas.

70. **Lisbon Central Prison** had been renovated in recent years. All of the prisoner accommodation seen by the delegation benefited from access to natural light and was adequately ventilated, and equipped with in-cell sanitation. However, while the drug-free and therapeutic units (and the quick-build H Wing) were kept in a very good state of repair, certain of the other premises were already showing signs of wear and tear and their state of cleanliness and hygiene on occasion left something to be desired. Moreover, while in the therapeutic unit 37 m² cells were being used for a maximum of three inmates, in other parts of the prison 9 m² cells were frequently being used to accommodate two (or even three) inmates.

71. Although far from ideal, particularly with regard to their state of repair, conditions could be regarded as acceptable in the wings accommodating inmates with work at **Oporto Central Prison**. Nonetheless, occupancy levels in prisoner accommodation were far from ideal (e.g. ten inmates in 35 m² and fifteen in 45 m²), and the number of beds in certain of the dormitories suggested that occupancy levels might, on occasion, be even higher.

The situation was worse in Wings A and B of the prison, where 7 m² cells continued to be used to accommodate two - and often three - prisoners; as already indicated in the report on the CPT's 1996 visit (cf. paragraph 18), such an occupancy level is unacceptable. Further, as had been the case in 1996, prisoners' living areas were in a thoroughly unhygienic state. However, the CPT is pleased to note that, according to the response provided by the Portuguese authorities to the immediate observations made at the end of the visit (cf. paragraph 51), the number of prisoners accommodated in A Wing at least has been significantly reduced.

72. Renovation work had commenced in the premises occupied by women prisoners at Oporto Prison. The delegation was told that, once complete, the facility would offer improved conditions to women prisoners (e.g. smaller living units, equipped with in-cell sanitation). However, if these changes are to realise their full potential, efforts must be made to keep the inmate population at a reasonable level.

b. regime activities

73. **Coimbra Regional Prison** was in a position to offer organised activities to only a small part of its inmate population. Out of 190 men, between 25 and 30 inmates were offered work in the general services of the establishment (cleaning duties, maintenance, etc.), and one prisoner had a job outside the prison. A further 20 prisoners participated in some kind of educational activity and two inmates attended university courses outside the prison's premises on a daily basis. However, it appeared that the schooling opportunities being offered were rather limited and did not include vocational training. It should also be noted that many of the jobs and educational activities occupied only a small part of the prisoners' day.

The situation was even less favourable for women prisoners, only a handful of whom were being offered work (part-time). Educational activities for these prisoners were also very limited.

None of the inmates held at Coimbra Regional Prison's detention facility at the Judicial Police Headquarters were offered any form of organised activity; they remained in their cells for 23 hours per day, their activities being limited to reading and listening to the radio. The remaining hour was spent in a courtyard which was not large enough to permit inmates to exert themselves physically. The fact that inmates could be held on these premises for months at a time renders the absence of out-of-cell activities all the more unacceptable.

74. The situation was more favourable at **Leiria Special Prison**. Particular efforts were being made to provide a suitable regime of activities to the young persons held there. The prison was in a position to offer work and educational activities to some 250 out of its 300 inmates. Vocational training and work included car-repair, book-binding and printing, shoe-repair, electricity, ceramics and farming.

However, the prisoners who did not work or participate in an organised activity were only allowed two hours per day of out-of-cell time. Further, they were only being offered access to an outdoor exercise area on Saturdays and Sundays.

75. **Lisbon Central Prison** offered work to some 300 of its 1100 inmates, 80 of whom were employed in the establishment's industrial workshops. In addition, 54 prisoners were receiving vocational training and a further 60 participated in other educational activities. However, as in other establishments visited, many of the jobs were only part-time.

76. A number of industrial workshops were operating at **Oporto Central Prison**, having a total capacity of about 170 work places; however, the CPT's delegation was told that the number of prisoners actually working there at the time of the visit fell significantly short of this figure. In addition, many prisoners were employed in the prison's general services and maintenance. Taken together, out of 1300 inmates, about 475 were being offered work and 50 were receiving vocational training; however, many of the jobs only occupied prisoners for a small part of the day. A further 170 inmates participated in some other form of educational activity.

It might be added that the premises accessible to inmates who did not participate in organised activities during their out-of-cell time (the wings' halls and the exercise yards) were often poorly equipped, too small for the number of persons involved and in a poor state of hygiene.

c. assessment

77. The amelioration of the treatment of prisoners and the improvement of conditions of detention in prisons have, for some time, been declared priorities of the Portuguese Government⁸. Nonetheless, the Portuguese authorities themselves recognise that a number of problems remain to be remedied in the prison service. The CPT can only encourage those authorities to persist in their efforts in this area and trusts that the remarks and recommendations made in the following paragraphs will play a constructive part in this process.

⁸ cf., inter alia, Resolution No. 62 (Action Plan for the Prison System) adopted on 22 March 1996 by the Portuguese Council of Ministers.

78. Overcrowding continues to be widespread throughout the Portuguese prison system. Indeed, in his 1998 report on prisons, the Ombudsman indicated that there had been no significant change in this respect since his previous report (in 1996), assessing the rate of overcrowding (in terms of actual prison population as compared to prison places available in the prison system as a whole) at 142 % (as compared to 143 % in 1996).

The CPT has previously indicated that overcrowding represents the principal obstacle to providing better conditions of detention in the establishments which it has visited (cf. paragraph 97 of the report on its 1995 visit). The Committee has welcomed new legislation designed to reduce overcrowding in the Portuguese prison system by, inter alia, promoting recourse to non-custodial sentences and reducing the average length of time for which persons remain in prison. However, despite these measures, until recently the number of prisoners has continued to grow and the average time spent in prison has increased.

In consequence, as indicated in the CPT's letter to the Portuguese authorities of 15 April 1999, it is clear that more vigorous action is required.

79. In the course of the 1999 visit, the Portuguese authorities made reference to a number of factors which, in their view, have compromised the success of their anti-overcrowding strategy. In particular, they indicated that judges have had comparatively little recourse to non-custodial sentences, that remand imprisonment is often imposed upon persons charged with relatively minor offences, and that parole and early release are frequently ruled out (including in the case of prisoners suffering from an incurable disease) due to the absence of community-based structures which can provide adequate support and care for the prisoners concerned.

Consequently, the Portuguese authorities are considering - and taking - steps toward the implementation of further measures which may well have more long-term effects on overcrowding (e.g. decriminalising certain conduct, and introducing electronic tagging and home arrest as an alternative to remand imprisonment). Further, the CPT has noted that, following the visit and within weeks of the adoption of a partial pardon law on 23 April 1999, up to 1250 prisoners had been released, reducing the prison population to some 13500, for some 11500 places (i.e. a rate of overcrowding of around 120 %).

The CPT recommends that the Portuguese authorities continue vigorously to pursue policies designed to put an end to overcrowding in prisons. The Committee would like to receive detailed information on the measures being adopted and on the current targets of the Portuguese authorities in this respect.

80. As regards, more particularly, occupancy levels in cells in the establishments visited, **the CPT recommends that they be reviewed, in the light of the remarks made in paragraphs 68 to 72. The aim should be to respect the criteria currently being applied by the Prisons' Inspections and Audit Service: single occupancy cells to measure at least 7 m² and have a volume of at least 20 m³ and collective accommodation to provide at least 4 m² and 12 m³ per prisoner. Further, immediate steps should be taken to bring to an end the practice observed at Lisbon and Oporto Central Prisons of holding three prisoners in cells measuring 7 and 9 m².**

81. In previous reports, the CPT indicated that sanitary arrangements should permit inmates to comply with the needs of nature when necessary in clean and decent conditions; either a lavatory should be located in cellular accommodation (preferably in a sanitary annexe) or means should exist enabling prisoners who need to use a lavatory to be released from their cells without undue delay at all times, including at night. It is desirable for running water to be available within cellular accommodation, and prisoners should have adequate access to shower or bathing facilities.

The CPT has noted the efforts being made in this context by the Portuguese authorities; their objective being to equip all inmate accommodation with suitable sanitary facilities.

Nonetheless, in the light of the delegation's findings (cf., in particular, paragraphs 68 and 69), **the CPT reiterates its recommendation that a very high priority continue to be given to providing all prisoners in Portugal with ready access to a lavatory at all times. It also recommends that measures be adopted to equip in-cell facilities with suitable partitioning/screening.**

82. The CPT is pleased to note that certain shortcomings observed in the course of previous visits concerning outdoor exercise have now been remedied (e.g. as regards persons segregated for disciplinary or security reasons). However, the basic requirement that all prisoners be offered at least one hour of outdoor exercise was not being respected as regards unoccupied prisoners in Leiria Special Prison. Further, the sports grounds at Oporto Central and Coimbra Regional Prisons were not being fully exploited.

The CPT recommends that steps be taken to ensure that all prisoners are offered at least one hour of outdoor exercise every day in areas large enough to enable them to exert themselves physically.

83. As for regime activities for prisoners, the CPT welcomes the measures which have been taken by the Portuguese authorities to create jobs and to develop other activities (educational, cultural, sports) for prisoners. The CPT has noted that investment in these areas has significantly increased in recent years. However, the information gathered during the visit suggests that there is considerable room for progress in this area (cf. paragraphs 73 to 76). Consequently, **the CPT recommends that priority continue to be given to developing regime activities for prisoners. As previously indicated (cf. paragraph 103 of the 1995 visit report), the objective should be to ensure that prisoners can spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value).**

5. Health care services

a. introduction

84. In the reports on its 1992 and 1995 visits to Portugal, the CPT made various recommendations concerning health care services in the prisons visited. In their responses, the Portuguese authorities informed the Committee of a number of measures (due to be completed in 1998) designed to develop prison medical services and enhance the health care provided to prisoners. The measures envisaged involved inter alia equipping prisons with better health care facilities, providing them with a sufficient number of adequately qualified staff, enhancing cooperation between prison health care services and the public health system, and developing strategies for the treatment of prisoners with drug problems.⁹

85. In the course of the 1999 visit, the CPT's delegation was informed that, in March 1997, the Ministers for Justice and Health had entered into an agreement establishing a basis for future cooperation between prison and public health care services, with a view to ensuring that prisoners receive an appropriate level of care.

The delegation's own on-the-spot findings indicate that progress has continued to be made and that the efforts of the Portuguese authorities in this area have begun to bear fruit.

b. health care in general

86. At **Lisbon Central Prison**, the health care staff consisted of four full-time doctors (three general practitioners and a specialist in internal medicine) and a part-time specialist in transmissible diseases, assisted by a pharmacist and eight full-time nurses. In addition, a dentist attended the prison half a day per week¹⁰. **Oporto Central Prison** had three full-time general practitioners, as well as one part-time specialist in transmissible diseases. The prison's health care team also included a full-time dentist, four psychologists and eight nurses.

As regards the two smaller prisons visited, **Coimbra Regional Prison** had a half-time general practitioner and a part-time specialist in transmissible diseases, assisted by one half-time and two full-time nurses. A dentist attended the prison from time to time. **Leiria Special Prison** had the equivalent of one half-time general practitioner, assisted by six nurses.

⁹ cf. inter alia appendices 13 to 15 of the Portuguese authorities' follow-up report in response to the report on the CPT's 1995 visit. As for the treatment of prisoners with drug-related problems, cf. paragraphs 52 et seq. of this report.

¹⁰ As regards psychiatry, cf. paragraphs 94 to 96.

87. The current levels of health care staffing in the establishments visited are broadly in line with the objectives which the Portuguese authorities set themselves in 1996. Further, the reduction in the inmate population at Oporto Central Prison (cf. paragraph 51) has now relieved the workload of that establishment's health care team.

However, health-care staffing levels remain somewhat modest, in particular at Coimbra Regional Prison as regards both general practitioner and nursing resources and at Leiria Special Prison as regards general practitioner resources. In several of the establishments visited, the CPT's delegation was told that it was envisaged to reinforce the health care staff. In particular, it was told that the number of nurses employed at Coimbra Regional Prison was to be increased; the CPT welcomes this development. **The Committee considers that it would also be highly desirable for the presence of general practitioners at both Coimbra Regional and Leiria Special Prisons to be increased to the equivalent of a full-time post**

88. The level of night and weekend health care cover is a matter of special concern. A general practitioner was usually on call outside the normal working hours of the prison health care services visited and patients could, in case of need, be rapidly transferred to a hospital. However, in the absence of suitably qualified staff during the night and weekends, certain medical decisions were being taken by prison officers or by prisoners employed in the establishment's health care service. By way of example, at Coimbra Regional Prison, decisions of a medical nature, such as emergency prescription of drugs, were being taken by an inmate with first aid qualifications, who also had responsibility for the distribution of medicines.

In this respect, **the CPT wishes to recall its recommendation that someone competent to provide first aid (preferably someone with a recognised nursing qualification) always be present on prison premises** (cf. paragraph 129 of the 1992 visit report). Further, **the Committee wishes again to stress that the use of prisoners to provide health care services is a highly questionable practice** (cf., in this connection, paragraph 122 of the report on its 1992 visit).

89. The facilities available to the health care services in all four establishments visited were on the whole satisfactory. In this connection, the CPT would highlight the improvements observed in the premises used by Oporto Central Prison's health care service, which had been significantly enlarged as compared to those seen in the course of previous visits. In particular, the health care service had been provided with sufficient space for consultation rooms and infirmary, and was well equipped (e.g. defibrillator, oxygen, minor surgery instruments, sterilisation apparatus, dental surgery, etc.).

90. The delegation heard some complaints about the quality of health care being provided to prisoners in the establishments visited. Complaints referred mostly to delays in seeing the prison doctor and the limited time which doctors devoted to patients during consultations. Further, a number of complaints were heard about access to specialist treatment and, more particularly, to dental care.

In certain of the establishments visited, the delegation's doctors themselves ascertained that, on occasion, some considerable time could elapse between a prisoner's request to see a doctor and a consultation taking place. Moreover, it became clear that there could be significant delays between a person's admission to prison and his first medical examination.

The situation was particularly serious at Coimbra Regional Prison's detention facility at the Judicial Police Headquarters. These premises were not being regularly visited by a doctor, and newly-admitted prisoners were not being systematically examined; indeed, it became apparent that inmates held there could wait for weeks before they first saw a doctor or another member of the prison's health care team.

91. In the CPT's opinion, every prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save for in exceptional circumstances, the interview/examination should be carried out on the day of admission, especially insofar as persons entering the prison system are concerned. However, a newly arrived prisoner's first point of contact with the health care service could be a fully qualified nurse who reports to a doctor.

The CPT recommends that steps be taken to ensure that practice throughout the Portuguese prison system meets this requirement.

92. As for specialist care, the CPT has noted that, in addition to the possibility to refer patients to San João de Deus Prison Hospital at Caxias, health care services in the establishments visited could have recourse to the public health care system for out-patient specialist consultations and, in certain cases, for in-patient hospital care. The situation appeared to be particularly favourable in the smaller prisons, which had less developed in-house health care services. **The CPT would like to be informed of any further developments envisaged as regards support provided by the public health system to prison health care services.**

93. However, the information gathered indicated that dental care continued to be underdeveloped. The presence of a dentist at Lisbon Central Prison was inadequate. Further, in all of the establishments visited, many complaints were received about the quality of care provided, with little conservative treatment being offered.

The CPT recommends that the Portuguese authorities review the level of dental care being provided in the prisons visited and, as appropriate, in other prisons in Portugal, with a view to ensuring that prisoners are receiving an appropriate level of care. The Committee wishes to stress, in this respect, that prison health care services should provide caries treatment (of a conservative nature rather than simply extractions) to prisoners, treatment which should be free of charge for those not in a position to pay for it. The CPT would like to receive copies of any directives issued by the Portuguese authorities concerning dental care in prisons.

94. In all of the prisons visited, medical confidentiality was being respected and medical records were generally of a high standard. However, at Coimbra Regional Prison, no proper medical file was created for each prisoner and the extent of the information recorded was rather limited; however, it emerged from discussions with the prison's doctor that this shortcoming was about to be remedied. **The CPT recalls its invitation to the Portuguese authorities to adopt a standardised medical record form for use by doctors working in prisons** (cf. paragraph 129 of the report on the CPT's 1995 visit).

c. psychiatric care

95. In comparison with the general population, there is a high incidence of mental health problems among prisoners. Consequently, a doctor qualified in psychiatry should be attached to the health care service of every prison, and some of the nurses employed should have had training in this field.

A mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system. Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be sufficient to avoid prolonged waiting periods before necessary transfers are effected. The transfer of a mentally ill prisoner to a psychiatric facility should be treated as a matter of the highest priority.

96. Ambulatory psychiatric care at Oporto Central Prison was provided by one full-time psychiatrist, while in Lisbon Central Prison two psychiatrists provided between them the equivalent of one half-time post. A psychiatrist attended Coimbra Regional Prison from time to time, and the delegation was told that a full-time psychiatrist was shortly to start working in the prison. As for Leiria Special Prison, it is to be regretted that the psychiatrist had ceased to visit the establishment some six months prior to the CPT's visit.

The CPT recommends that the posts of psychiatrists in the Coimbra and Leiria establishments be filled without delay and that the presence of psychiatrists at Lisbon Central Prison be increased to the equivalent of a full-time post.

97. As for inmates requiring in-patient psychiatric care, at the time of the 1995 visit, such patients were being transferred to the 18-bed psychiatric unit in San João de Deus Prison Hospital at Caxias (cf. paragraph 125 of the report on that visit). However, at the time, the CPT was informed that it was intended to open a 100-bed specialised prison psychiatric clinic at Sintra. **The Committee would like to receive further information about current arrangements for the admission to an appropriate hospital facility of prisoners requiring in-patient psychiatric treatment.**

- d. the role of prison health care services in the prevention of ill-treatment

98. The role of prison health care services in the prevention of ill-treatment has been examined in detail in previous visit reports (cf. inter alia paragraphs 118 to 120 of the report on the CPT's 1995 visit). It should also be noted that the Directorate General of Prison Services has issued instructions to prison directors on this subject.

The information gathered in the course of the April 1999 visit suggests that, at least in certain cases, inmates who display injuries or who make allegations of ill-treatment upon admission to prison are examined by a doctor and their injuries recorded; further, such inmates are interviewed by prison staff (a senior officer or a prison lawyer) on the subject of their injuries/allegations, and relevant information is transmitted to the authorities at central level.

However, the Portuguese authorities have yet to comply with the recommendation made by the CPT to the effect that, in addition to the doctor's objective medical findings, the record drawn up following a medical examination of a newly admitted prisoner (or following a violent episode in prison) also include statements made by the inmate concerned which are relevant to the medical examination and the doctor's conclusions (in particular as regards the degree of consistency between any allegations of ill-treatment and the objective medical findings).

The CPT recommends that further instructions be issued with a view to ensuring that practice in Portugal is fully in compliance with the Committee's recommendations on this subject.

C. Sobral Cid Psychiatric Hospital

1. Preliminary remarks

99. Sobral Cid Psychiatric Hospital consists of a number of buildings dispersed over a 10-hectare park in the vicinity of Coimbra; it was brought into service in 1945.

The establishment is a public hospital which provides in-patient services in general psychiatry and residential care for longer term patients, forensic psychiatry, treatment of persons with drug and alcohol problems, as well as ambulatory care. The hospital's forensic department receives patients committed to the establishment by the criminal courts for assessment or treatment (a service which is financed by the Ministry of Justice); the general psychiatry and alcoholism departments only occasionally admit involuntary patients, whilst the other services provide care to voluntary patients.

The hospital currently has a capacity of some 350 in-patients. At the time of the visit, it was caring for approximately 300 patients, of whom 63 had been admitted involuntarily - 62 to the forensic department and one to the general psychiatry department for men.

100. The CPT's delegation focused its attention on the hospital's forensic department, and also visited the general psychiatry department for men, where it interviewed the department's only involuntary patient.

The Committee wishes to make clear at the outset that its delegation heard no allegations of ill-treatment of patients by staff at Sobral Cid Psychiatric Hospital. Moreover, staff-patient relations appeared to be of a positive and relaxed nature.

2. Staffing issues

101. The health care staff at Sobral Cid Psychiatric Hospital included more than 20 psychiatrists, 4 psychologists, and some 170 nursing staff. Of these, the staff assigned to the forensic department included two psychiatrists, providing between them the equivalent of slightly more than one full-time post, 42 nurses (some of them still undergoing training and only one of whom had received psychiatric training), and several trainee psychologists. As regards night-time cover, there was at least one doctor in the hospital at all times, and two qualified nurses and one auxiliary nurse were present in the forensic department.

In the view of the CPT, the equivalent of one psychiatrist's post is scarcely adequate having regard to the number of patients held in the forensic department.

Consequently, **the CPT recommends that the time spent by psychiatrists in the forensic department be increased. It would also be desirable for a higher proportion of the nurses assigned to the department to have received psychiatric training.**

3. Treatment of patients

102. Most patients in the forensic department were being treated by medication (principally with neuroleptic drugs). The delegation found no evidence of the inappropriate use of medication or of overmedication. Moreover, patients' medical files were well kept and medical confidentiality was being respected.

103. In addition to treatment by drugs, the forensic department provided a variety of therapeutic programmes (group and family therapy, individualised psychological support, ergo-therapy, etc.). Further, vocational training was offered to patients, and those who were regarded as being unsuited for these programmes were offered occupational activities organised by the nursing staff.

However, the delegation observed that a significant proportion of the patients held in the forensic department had little to occupy them during the day; they spent their time wandering about the premises or sitting in the open air.

The CPT invites the Portuguese authorities to enhance the psycho-social and other activities offered to patients held in the forensic department at Sobral Cid Psychiatric Hospital, and to maximise the proportion of patients who participate in such activities.

104. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

In this context, it should be noted that Article 5.1.c of the new Mental Health Act¹¹ stipulates that patients are entitled to "decide whether or not to accept the proposed diagnostic and therapeutic interventions, except in cases of compulsory detention or in emergency situations in which non-intervention would pose verifiable risks to the person himself or to others" [emphasis added]. Further, Article 11.3 of the Act provides that "the detained patient has the duty to submit to medically prescribed treatment" (with the exception of psycho-surgical interventions).

Taken at face value, these provisions could be construed as authorising treatment without consent of any patient admitted to a psychiatric establishment on an involuntary basis. **The CPT would like to receive the comments of the Portuguese authorities on this subject.**

¹¹ Law 36/98 of 24 July 1998, which entered into force on 24 January 1999.

4. Patients' living conditions

105. The aim in any psychiatric establishment should be to offer material conditions which are conducive to the treatment and welfare of patients; in psychiatric terms, a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per patient as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements.

These requirements were being met in the general psychiatry and forensic departments at Sobral Cid Psychiatric Hospital. As regards the latter department, at the time of the visit, patient accommodation was undergoing refurbishment; nonetheless, the existing premises were spacious, well-lit, adequately heated and ventilated, and included satisfactory sanitary facilities, to which patients had ready access.

106. However, attention should also be given to the decoration of both patients' rooms and recreation areas, in order to give patients visual stimulation. The provision of bedside tables and wardrobes is highly desirable, and patients should be allowed to keep certain personal belongings (photographs, books, etc.). It is also important that patients be provided with lockable space in which they can keep their belongings; the failure to provide such a facility can impinge upon a patient's sense of security and autonomy.

In this respect, the decoration of patients' dormitories and communal areas in the forensic department left something to be desired. Whilst individual rooms had in certain cases been rendered more homely by their occupants, communal areas and dormitories were mostly devoid of decoration and were rather impersonal and unwelcoming. Moreover, the furnishings in dormitory accommodation were very limited. In particular, patients had little storage space available and kept few personal belongings.

The CPT recommends that efforts be made to improve the decoration of patients' dormitories and communal areas in the forensic department at Sobral Cid Psychiatric Hospital, and that patients be provided with lockable space within which to keep their belongings.

107. The CPT also wishes to recall that it has a preference for patient accommodation based on small groups. This can be a crucial factor in preserving/restoring patients' dignity, and also a key element of any policy for the psychological and social rehabilitation of patients. In this respect, **consideration might be given to replacing the larger dormitories in the forensic department at Sobral Cid Psychiatric Hospital (which are equipped with up to nine beds) with smaller living units.**

5. Means of restraint

108. In any psychiatric establishment, the restraint of agitated and/or violent patients may on occasion be necessary. This is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

In this connection, the Committee is pleased to note that instruments of physical restraint were not being applied at Sobral Cid Psychiatric Hospital. In the management of agitated patients, staff resorted to means such as dialogue and persuasion, if necessary backed up by manual control and medication.

Patients could also be temporarily secluded (i.e. confined alone in a room). Seclusion, which never lasted for long periods, took place in the patient's own room or, if he shared a dormitory, in one of the individual bedrooms.

109. The CPT's delegation found no evidence of excessive use of restraint by sedation or of seclusion measures. It might be added that all of the above-mentioned measures were duly recorded in the patient's file and nurse's register.

Nevertheless, **the CPT considers that every instance of the physical restraint of a patient should be recorded in a specific register established for this purpose. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.** This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

6. Safeguards in the context of involuntary placement

a. initial placement

110. The Mental Health Act¹² provides that involuntary admission to a psychiatric establishment is to take place when it is "the only way of guaranteeing that the patient receives treatment" provided that such a measure is "proportional to the danger and to the legal interest (*bem jurídico*) in question." Such a measure "shall be suspended as soon as the reasons therefor have ceased to exist" and "whenever possible, out-patient treatment should be used as an alternative."

In addition to involuntary placement of a civil nature, remand prisoners can be committed to a psychiatric establishment for assessment and persons declared criminally irresponsible by the court can also be referred to such an establishment for treatment or as a security measure.¹³

111. The procedure by which involuntary placement is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise. In this context, the CPT

¹² cf. Article 8 of the Mental Health Act.

¹³ cf. inter alia Articles 28 and 29 of the Mental Health Act, and Article 91 of the Criminal Code.

has noted that Portuguese law¹⁴ requires that involuntary admission to a psychiatric establishment be decided upon by a judge in the context of a procedure which requires that the patient (and his legal adviser) be heard and that the expertise of two psychiatrists, who can be cross-examined during the relevant hearing, be sought. The prosecution service is always party to these proceedings.

In order to ensure that these provisions are fully effective, it is clearly desirable that all persons liable to be admitted to a psychiatric establishment without their consent benefit from legal assistance. **The CPT would like to receive confirmation that, in practice, this is always the case.**

b. during placement

112. An introductory brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance. An effective complaints procedure is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

These requirements, which form part of Portuguese law¹⁵, were being complied with at Sobral Cid Psychiatric Hospital. As regards more particularly complaints procedures, the delegation noted that a "clients' office" had been set up to process patients' complaints, requests and suggestions. Patients were informed of the existence of this service (inter alia through information displayed in relevant parts of the hospital) and were provided with a form to file complaints, and to make requests and suggestions and, if necessary, with assistance to complete it. Further, a complaints book was available in certain parts of the hospital and patients could address their complaints to certain outside bodies (e.g. the Ministry of Health or the judicial authorities).

After carrying out its own enquiry, the clients' office transmitted proposals and observations to the hospital's Board which, in turn, forwarded the relevant information to the health authorities at central Government level and to the health inspectorate.

113. The maintenance of contact with the outside world is also essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint.

The CPT's delegation was pleased to note that patients at Sobral Cid Psychiatric Hospital could receive visitors at any time during the day, could send and receive uncensored letters and use the telephone. In addition, the majority of patients were allowed to leave the hospital grounds during the day if they so wished and, subject to authorisation by the competent judge, could benefit from home leave from time to time.

114. The CPT attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for their inspection. This body should be authorised, in particular, to visit all parts of the establishment, talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

¹⁴ cf. inter alia Articles 12 to 20 of the Mental Health Act.

¹⁵ cf. inter alia Articles 5 and 11 of the Mental Health Act.

In this respect, the delegation noted that a supervisory judge visited Sobral Cid Psychiatric Hospital at the request of patients and also when considering applications for home leave. Further, the health inspectorate regularly visited the hospital. It might also be noted that the Mental Health Act provides for the existence of a Monitoring Commission (cf. Articles 38 et seq. of the Act) empowered inter alia to visit psychiatric establishments, communicate with patients and examine complaints.

The CPT would like to receive details about the work being carried out in practice by the Monitoring Commission.

c. discharge

115. Involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed by an appropriate authority at regular intervals. In addition, patients themselves should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

116. As regards patients admitted involuntarily in the context of civil proceedings, the Mental Health Act establishes mechanisms for the review by the competent court of the need to continue the placement measure at regular two-monthly intervals, and at any time upon the request of the patient, his lawyer or relatives or the prosecution service (cf. Article 35 of the Act). These review procedures require that the judge hear the patient, his lawyer and the prosecution service on the matter and that he seek the opinion of two psychiatrists. In addition, the treating psychiatrists can discharge a person who, in their opinion, no longer requires in-patient treatment.

The CPT would like to receive confirmation that the above-mentioned opinion is sought from psychiatrists who are fully independent of the establishment where the patient is being held.

117. Reviews of the situation of patients admitted involuntarily to the forensic department of Sobral Cid Psychiatric Hospital (i.e. patients admitted in the context of criminal proceedings) were conducted under the terms of the Criminal Code. Articles 92 et seq. of the Code provide that the competent court is required to verify whether the continued placement in a psychiatric establishment of a person declared criminally irresponsible is required and, where relevant, to order the person's release. Further, the court is required to review the need for the ongoing detention of the patient concerned at least every two years, and whenever an application is made containing representations to the effect that the reasons which justified the placement no longer exist (cf. Article 93 of the Criminal Code).

The CPT's delegation was informed that, in the context of such reviews, the judge requests reports from the psychiatrists treating the patient and from the social services. However, the delegation was also told that, on occasion, judges rule that placement of a person in a psychiatric establishment should continue, despite a doctor's opinion to the effect that the person in question no longer requires in-patient psychiatric treatment. As a result, at the time of the visit, 14 patients were being detained in the forensic department at Sobral Cid Psychiatric Hospital who, according to the psychiatrists working in the hospital, should have already been discharged.

The CPT would welcome the comments of the Portuguese authorities on this point.

III. RECAPITULATION AND CONCLUSIONS

A. Police forces

118. As compared with the CPT's 1992 and 1995 visits, relatively few of the persons interviewed who were or who had recently been detained by the police made allegations of ill-treatment. This is a positive sign; however, the persistence of some allegations of ill-treatment by the police - including of kicks and blows with fists, truncheons and other objects - underlines the need for the Portuguese authorities to remain vigilant in this area.

Some of the more serious allegations heard by the delegation concerned ill-treatment at the time of arrest. Consequently, the CPT has recommended that police officers be reminded in an appropriate manner at regular intervals that no more force than is strictly necessary should be used when effecting an arrest; furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by police officers.

119. The reports drawn up after the CPT's previous periodic visits to Portugal examined in detail the safeguards against ill-treatment offered to detained persons, including notification of custody, access to a lawyer and access to a doctor.

120. In the majority of cases, persons in police custody were being guaranteed the right to inform a relative or another third party of their choice of their situation. The CPT has stressed that, in the interests of the prevention of ill-treatment, all persons deprived of their liberty by the police - for whatever reason, including those held for identification purposes under Article 250 of the Code of Criminal Procedure - should be placed in a position to exercise this right.

121. The delegation found that, in practice, many detained persons spend some considerable time in police custody before having access to a lawyer. In this connection, the CPT has reiterated its recommendation that persons detained by the law enforcement agencies in Portugal be guaranteed a fully-fledged right of access to a lawyer as from the outset of their custody.

This right of access to a lawyer must include the right to talk to the lawyer in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police (whether this be during or after the initial period of police custody). Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer, nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation; however, the latter possibility should be strictly circumscribed by appropriate safeguards.

The Committee recognises that, in order to protect the interests of justice, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another, independent lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be arranged.

122. The Portuguese authorities have indicated that they see no objection to detained persons having access to "their own doctor or any other doctor of their choice". That being the case, the Committee has recommended that the right of access to a doctor for all persons in police custody be formally recognised.

123. The Portuguese authorities have been making sustained efforts to upgrade material conditions of detention in police establishments. On the whole, the situation observed during the visit meets the CPT's criteria in this area

However, action has been recommended to address certain shortcomings observed by the delegation and, in particular, to ensure that all persons obliged to remain in police custody overnight are provided with appropriately-designed mattresses.

124. The Foreigners and Border Police (SEF) holding facility at Lisbon Airport offered adequate night-time accommodation; it also had a large and suitably-equipped "living area". However, the premises did not have access to natural light and persons held there had no access to an outdoor exercise area. The sanitary facilities also left something to be desired.

The CPT has noted that there are plans to create a new holding centre at Lisbon Airport; it trusts that the requirements set out in its 7th General Report will be fully translated into practice in the design of this new facility. Pending completion of this work, measures should be taken to ensure that persons detained by the SEF at Lisbon Airport have access to a telephone and to their luggage, and that anyone held for more than 24 hours is offered at least one hour of outdoor exercise per day.

B. Prisons

125. In the same way as for the police, fewer allegations of ill-treatment of prisoners by staff were received by the delegation than had been the case during earlier visits. Nevertheless, some allegations were received of ill-treatment by staff, including of verbal abuse, rough treatment and the removal of inmates from their cells during the night by prison officers who then struck them with batons.

The CPT has recommended that the authorities at both central and local level deliver the clear message to prison officers that the ill-treatment of prisoners is not acceptable and that it will be dealt with severely; this message should be recalled in an appropriate form at suitable intervals.

126. The CPT's delegation also received a significant number of accounts of ill-treatment of prisoners by fellow-inmates. The forms of ill-treatment alleged included physical assault and intimidation. In many cases, the victims of such treatment had sustained injuries requiring medical attention (wounds, haematomas and, in certain cases, fractured bones).

By far the worst situation observed was at Oporto Central Prison. The CPT has welcomed the steps subsequently taken by the Portuguese authorities in this respect and has stressed the need to increase significantly the number of prison officers actually present within the detention facilities, particularly in A Wing. The officers to be deployed in that wing should be carefully selected in order to ensure that they are placed in a position to exercise their authority in an appropriate manner; they should be sufficient in number, well trained, highly experienced and committed to their difficult task.

127. The presence in prison of inmates with drug-related problems gives rise to a number of particular difficulties for the prison authorities. The widespread availability of illicit drugs within a prison is bound to have very negative repercussions on all aspects of prison life and make it all the more difficult for the authorities to discharge their duty of care towards persons committed to prison and to provide a safe environment for them.

Such problems existed in all four of the prisons visited. At Oporto Central Prison, the

situation can only be qualified as being dramatic, with a veritable marketplace of drugs as part of the daily routine and large numbers of inmates displaying symptoms of drug intoxication. The CPT has recommended that the Portuguese authorities vigorously pursue their efforts to prevent trafficking in drugs in prisons, and that an enquiry be carried out into the phenomenon of drug trafficking at Oporto Central Prison.

128. More generally, the CPT has acknowledged the efforts made by the Portuguese authorities as regards the management of drug-related problems in prison, particularly in terms of the assistance offered to inmates (substitution and detoxification programmes, drug-free units). The situation at Lisbon Central Prison was particularly favourable. However, there is still scope for improvement; the CPT has recommended that the Portuguese authorities review drug-treatment programmes in the prisons visited, in the light of the Committee's remarks. Further attention might usefully be paid to screening and to the provision of information to inmates on drug dependence and misuse, hygiene measures concerning the taking of drugs, and the drug-treatment therapeutic options available to them.

129. Material conditions of detention in the prisons visited varied from very good to unacceptable, in some cases within the same establishment. On occasion, occupancy levels in the cells and dormitories were very high, certain cells had no access to natural light, inmates were not always guaranteed access to a lavatory at night (in case of need, having to use a bucket within their cell/dormitory), and the state of repair and cleanliness of some detention facilities left something to be desired.

The CPT has recommended that the Portuguese authorities continue vigorously to pursue policies designed to put an end to overcrowding in prisons. It has also recommended that occupancy levels in cells in the establishments visited be reviewed. More particularly, immediate steps are required to bring an end to the practice observed at Lisbon and Oporto Central Prisons of holding three prisoners in cells measuring 7 and 9 m².

The CPT has also reiterated its recommendation that a very high priority continue to be given to providing all prisoners in Portugal with ready access to a lavatory at all times; in-cell facilities should be equipped with suitable partitioning/screening.

130. As for regime activities, the CPT has welcomed the measures which have been taken by the Portuguese authorities to create jobs and to develop other activities for prisoners. The Committee has noted that investment in these areas has increased significantly in recent years. However, the information gathered during the visit suggests that there is considerable room for progress in this area. Consequently, the CPT has recommended that priority continue to be given to developing regime activities for prisoners. It has further recommended that steps be taken to ensure that all prisoners are offered at least one hour of outdoor exercise every day in areas large enough to enable them to exert themselves physically.

131. The delegation's on-the-spot findings indicate that progress has continued to be made in improving health care services in Portuguese prisons.

Nonetheless, the CPT's delegation observed that health-care staffing levels remain somewhat modest, in particular at Coimbra Regional Prison and at Leiria Special Prison. Further, access to specialist care (in particular, dental care and psychiatry) may on occasion present difficulties. Finally, the level of night and weekend health care cover remained a matter of concern.

C. Sobral Cid Psychiatric Hospital

132. No allegations of ill-treatment of patients by staff were heard at Sobral Cid Psychiatric Hospital. Moreover, staff-patient relations appeared to be of a positive and relaxed nature.

133. As regards staffing levels, the CPT has recommended that the time spent by psychiatrists in the hospital's forensic department be increased. Further, it would be desirable for a higher proportion of the nurses assigned to the department to have psychiatric training.

134. The delegation found no evidence of the inappropriate use of medication or of overmedication. In addition to treatment by drugs, the forensic department provided a variety of therapeutic programmes, vocational training, and occupational activities. However, the delegation observed that a significant proportion of the patients had little to occupy them during the day; they spent their time wandering about the premises or sitting in the open air.

135. At the time of the visit, patient accommodation at the forensic department was undergoing refurbishment; nonetheless, the existing premises were spacious, well-lit, adequately heated and ventilated, and included satisfactory sanitary facilities, to which patients had ready access. However, the decoration of patients' dormitories and communal areas in the forensic department left something to be desired and patients should be provided with lockable space within which to keep their belongings.

136. The CPT has also examined in some detail the safeguards which apply in the context of involuntary placement.

In particular, it has stressed that, as a matter of principle, all patients should be placed in a position to give their free and informed consent to treatment; the admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent.

D. Action on the CPT's recommendations, comments and requests for information

137. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

138. Having regard to Article 10 of the Convention, the CPT requests the Portuguese authorities to provide within six months a report giving details of action taken to implement the recommendations made in this report.

The CPT trusts that the Portuguese authorities shall also provide in the above-mentioned report reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the immediate observation made by the delegation at the end of the visit (cf. paragraphs 8 and 51), the CPT has already requested regularly updated information concerning the situation at Oporto Central Prison.

APPENDIX I

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

A. Police forces

1. Preliminary remarks

requests for information

- whether the draft circular drawn up by the IGAI (Informação/Proposta no. 16/97) instructing police officers to strive to limit the time during which a person is held at a police establishment for identification purposes to two hours has now been issued and - if so - information on any other measures being taken to ensure compliance with its provisions (paragraph 11).

2. Torture and other forms of ill-treatment

recommendations

- police officers to be reminded in an appropriate manner at regular intervals that no more force than is strictly necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for them being struck by police officers (paragraph 15).

comments

- the persistence of some allegations of ill-treatment by the police underlines the need for the Portuguese authorities to remain vigilant in this area (paragraph 12).

requests for information

- in respect of 1999:
 - . the number of complaints of ill-treatment by police officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - . an account of those complaints and the outcome of the proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed) (paragraph 14).

3. Material conditions of detention

recommendations

- conditions of detention in the establishments referred to in paragraphs 19 and 21 to be reviewed, in the light of the remarks made in those paragraphs (paragraph 22);
- urgent action to be taken to ensure that all persons obliged to remain in police custody overnight at the holding facilities of the PSP in Lisbon are provided with appropriately-designed (e.g. washable, fireproof) mattresses (paragraph 22);
- efforts to continue to be made to ensure that the conditions of detention in police establishments in general meet all the requirements to which reference is made in paragraph 17 (paragraph 22);
- pending completion of the SEF's new holding centre at Lisbon Airport, measures to be taken to ensure that persons detained at the existing temporary holding facility have access to a telephone and to their luggage (paragraph 25);
- anyone detained for more than 24 hours at the holding facility at Lisbon Airport to be offered at least one hour of outdoor exercise per day (paragraph 25).

comments

- the CPT trusts that the requirements set out in its 7th General Report will be fully taken into account in the design of the new holding facility at Lisbon Airport (paragraph 25).

4. Safeguards against the ill-treatment of detained persons

recommendations

- the Portuguese authorities to ensure that all persons detained by the law enforcement agencies enjoy as from the outset of their custody a right of access to a lawyer as defined in paragraph 29 (paragraph 30);
- action to be taken to ensure that persons in police custody have a formally recognised right of access to a doctor as defined in paragraph 32 (paragraph 33).

requests for information

- confirmation that the provisions of Article 194 (3) (second clause) and (4) (read together with Article 260) of the Code of Criminal Procedure apply to all persons deprived of their liberty by the police, including those held for identification purposes under Article 250 of the Code (paragraph 28);

- any concrete decisions taken to facilitate and optimise the nomination of officially appointed lawyers for detained persons (paragraph 31);
- continued information concerning the IGAI's activities (annual reports, etc.) (paragraph 36).

B. Prisons

1. Ill-treatment

recommendations

- the authorities at both central and local level to deliver the clear message to prison officers that the ill-treatment of prisoners is not acceptable and that it will be dealt with severely; this message to be recalled in an appropriate form at suitable intervals (paragraph 45);
- priority to continue to be given to developing professional training, and that it be ongoing (paragraph 47);
- in the course of training, considerable emphasis to be placed on the acquisition and development of inter-personal communication skills; building positive relations with prisoners to be recognised as a key feature of a prison officer's vocation (paragraph 47);
- training in control and restraint techniques (i.e. manual control) to be made more widely available to prison officers (paragraph 47);
- concrete action to be taken to ensure that, in all prisons in Portugal, the opening of cells during the night is surrounded by appropriate safeguards (paragraph 48);
- efforts to continue to be made effectively to tackle the problem of inter-prisoner violence at Oporto Central Prison, having regard to the remarks set out in paragraph 51 (paragraph 51).

requests for information

- in respect of 1998 and 1999:
 - . the number of complaints of ill-treatment by prison officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - . an account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed) (paragraph 45);
- detailed information on the current state of the enquiry and, in due course, on the outcome of any criminal or disciplinary proceedings initiated in respect of the case referred to in paragraph 44 (paragraph 45);

- regularly updated information on the situation at Oporto Central Prison as regards inter-prisoner violence (paragraph 51).

2. The management of drug-related problems in prison

recommendations

- the Portuguese authorities vigorously to pursue their efforts to prevent trafficking in drugs in prisons (paragraph 55);
- an enquiry to be carried out into the phenomenon of drug trafficking in Oporto Central Prison (paragraph 55);
- drug-treatment programmes in the prisons visited to be reviewed, in the light of the remarks in paragraphs 56 to 59 (paragraph 60);
- shortcomings to be remedied as regards the screening of newly admitted prisoners in Coimbra and Oporto Prisons, and the provision of written information to newly-arrived inmates in all of the prisons visited about the drug-treatment therapeutic options available in the establishment (paragraph 62).

comments

- it would be highly undesirable for any new measures adopted vis-à-vis drug trafficking to unduly restrict prisoners' contacts with the outside world or to limit the regime activities and association possibilities offered to them (paragraph 55).

requests for information

- additional information on plans to implement multi-faceted programmes such as the one being applied at Lisbon Central Prison throughout the Portuguese prison system, including any timetable already set for such measures to be taken (paragraph 60);
- comments on the provision to inmates (and staff) of drug-awareness information, including as regards disease transmission and of information/training in respect of the precautions to be adopted in the context of the taking of certain drugs (e.g. cleaning needles/syringes) (paragraph 64);
- comments on the question of disciplinary measures in the context of prison drug-treatment programmes (paragraph 65);
- further information on the ongoing monitoring of prisoners' drug-related habits (including after release) following their participation in a drug-treatment programme and on the mechanisms to assess the longer-term impact of such programmes (paragraph 66).

3. Conditions of detention

recommendations

- the Portuguese authorities to continue vigorously to pursue policies designed to put an end to overcrowding in prisons (paragraph 79);
- occupancy levels in cells in the establishments visited to be reviewed, in the light of the remarks made in paragraphs 68 to 72. The aim to be to respect the criteria currently being applied by the Prisons' Inspections and Audit Service: single occupancy cells to measure at least 7 m² and have a volume of at least 20 m³ and collective accommodation to provide at least 4 m² and 12 m³ per prisoner (paragraph 80);
- immediate steps to be taken to bring to an end the practice observed at Lisbon and Oporto Central Prisons of holding three prisoners in cells measuring 7 and 9 m² (paragraph 80);
- a very high priority to continue to be given to providing all prisoners in Portugal with ready access to a lavatory at all times (paragraph 81);
- measures to be adopted to equip in-cell sanitary facilities with suitable partitioning or screening (paragraph 81);
- steps to be taken to ensure that all prisoners are offered at least one hour of outdoor exercise every day in areas large enough to enable them to exert themselves physically (paragraph 82);
- priority to continue to be given to developing regime activities for prisoners; the objective to be to ensure that prisoners can spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value) (paragraph 83).

requests for information

- detailed information on the measures being adopted to combat prison overcrowding and on the current targets in this respect (paragraph 79).

4. Health care services

recommendations

- someone competent to provide first aid (preferably someone with a recognised nursing qualification) always to be present on prison premises (paragraph 88);

- steps to be taken to ensure that practice throughout the Portuguese prison system as regards the medical screening of newly-arrived prisoners meets the requirement set out in paragraph 91 (paragraph 91);
- the Portuguese authorities to review the level of dental care being provided in the prisons visited and, as appropriate, in other prisons in Portugal, with a view to ensuring that prisoners are receiving an appropriate level of care (paragraph 93);
- the posts of psychiatrists at Coimbra Regional and Leiria Special Prisons to be filled without delay and the presence of psychiatrists at Lisbon Central Prison to be increased to the equivalent of a full-time post (paragraph 96);
- further instructions to be issued to ensure that the records drawn up following a medical examination of a newly admitted prisoner (or following a violent episode in prison) also include statements made by the inmate concerned which are relevant to the medical examination and the doctor's conclusions (in particular as regards the degree of consistency between any allegations of ill-treatment and the objective medical findings) (paragraph 98).

comments

- it would be highly desirable for the presence of general practitioners at both Coimbra Regional and Leiria Special Prisons to be increased to the equivalent of a full-time post (paragraph 87);
- the use of prisoners to provide health care services is a highly questionable practice (paragraph 88);
- prison health care services should provide caries treatment (of a conservative nature rather than simply extractions) to prisoners, treatment which should be free of charge for those not in a position to pay for it (paragraph 93);
- the Portuguese authorities are invited to adopt a standardised medical record form for use by doctors working in prisons (paragraph 94).

requests for information

- any further developments envisaged as regards support provided by the public health system to prison health care services (paragraph 92);
- copies of any directives issued by the Portuguese authorities concerning dental care in prisons (paragraph 93);
- current arrangements for the admission to an appropriate hospital facility of prisoners requiring in-patient psychiatric treatment (paragraph 97).

C. Sobral Cid Psychiatric Hospital

1. Staffing issues

recommendations

- the time spent by psychiatrists in the forensic department of Sobral Cid Psychiatric Hospital to be increased (paragraph 101).

comments

- it would be desirable for a higher proportion of the nurses assigned to the forensic department to have received psychiatric training (paragraph 101).

2. Treatment of patients

comments

- the Portuguese authorities are invited to enhance the psycho-social and other activities offered to patients held in the forensic department at Sobral Cid Psychiatric Hospital, and to maximise the proportion of patients who participate in such activities (paragraph 103).

requests for information

- comments on whether Articles 5.1.c and 11.3 of the new Mental Health Act authorise treatment without consent of any patient admitted to a psychiatric establishment on an involuntary basis (paragraph 104).

3. Patients' living conditions

recommendations

- efforts to be made to improve the decoration of patients' dormitories and communal areas in the forensic department at Sobral Cid Psychiatric Hospital, and patients to be provided with lockable space within which to keep their belongings (paragraph 106).

comments

- consideration might be given to replacing the larger dormitories in the forensic department at Sobral Cid Psychiatric Hospital (which are equipped with up to nine beds) with smaller living units (paragraph 107).

4. Means of restraint

comments

- every instance of the physical restraint of a patient should be recorded in a specific register established for this purpose; the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff (paragraph 109).

5. Safeguards in the context of involuntary placement

requests for information

- confirmation that, in practice, persons liable to be admitted to a psychiatric establishment without their consent always benefit from legal assistance (paragraph 111);
- details about the work being carried out in practice by the Monitoring Commission provided for in Articles 38 et seq. of the Mental Health Act (paragraph 114);
- confirmation that the opinion regarding the continued placement of a patient admitted involuntarily in the context of civil proceedings is sought from psychiatrists who are fully independent of the establishment where the patient is being held (paragraph 116);
- comments on the continued detention at the forensic department of Sobral Cid Psychiatric Hospital of 14 patients who, according to the psychiatrists working in the hospital, should already have been discharged (paragraph 117).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND OTHER PERSONS WITH WHOM THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of the Internal Administration

Mr Jorge COELHO	Minister for the Interior
Mr Mateus ROQUE	Head of the Private Office of the Minister
Ms Margarida GIRÃO	Deputy at the Private Office of the Minister
Mr Mário GOMES DIAS	Legal Auditor

Inspectorate General of the Internal Administration

Mr António Henrique Rodrigues MAXIMIANO	Inspector General
Ms Maria de Fátima da GRAÇA CARVALHO	Deputy Inspector General
Ms Fernanda PALMA	Principal Inspector
Ms Isabel CANELAS	Principal Inspector

Public Security Police

Chief Superintendent Mário GONÇALVES AMARO	Director
Superintendent António CHUMBINHO	Head of the Public Relations Department

National Republican Guard

General José da SILVA VIEGAS	Commander-General
Brigadier PICÃO de ABREU	Inspector General
Major Carlos BRANCO	Advisor to the Commander-General

Foreigners and Border Police

Mr Lencastre BERNARDO	Director General
Mr César INÁCIO	Inspector in charge of the Airport unit
Ms Ana NOBRE	Inspector

Ministry of Justice

Mr José VERA JARDIM	Minister for Justice
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Mr José LOPES da MOTA
Mr Jorge COSTA
Mr Domingos TRISTÃO

Secretary of State for Justice
Head of the Private Office of the Minister
Deputy to the Minister

Directorate General of the Prison Service

Mr Celso MANATA

Director General

Mr Luis FARINHA
Ms Maria José MOTA de MATOS

Deputy Director General
Director of the Services Department

Prisons' Inspection and Audit Service

Mr Luis FARINHA

Director

Ms Elisabete MATOS
Mr Manuel Cardoso JOAQUIM

Coordinator of the Southern region
Coordinator of the Central and Northern regions

Judicial Police

Mr Luis BONINA

Director General

Mr Carlos GAGO

Deputy Director General

Institute for Social Reinsertion

Mr João FIGUEIREDO

Director of the Institute

Ministry of Defence

Brigadier Rodolfo BEGONHA

Director of the Military Judicial Police

Ministry of Health

Mr João GOULÃO

Head of Prevention and Treatment of Drug Abuse

Ms Conceição ALMEIDA
Ms Maria Helena MARTINS ALVES

Department of Mental Health
Principal Advisor

Ministry of Foreign Affairs

Ms Luisa PAIS

Head of the Human Rights Division of the
General Directorate of Multilateral Affairs

Mr Frederico NASCIMENTO
Ms Florbela FERREIRA

Human Rights Division
Human Rights Division

B. Other authorities

Mr José Narciso da CUNHA RODRIGUES

Prosecutor General

Mr José MENERES PIMENTEL

Ombudsman (Provedor da Justiça)

Mr José Miguel PEREIRA dos SANTOS

Deputy to the Ombudsman, Coordinator

Mr Duarte VERA JARDIM

Deputy to the Ombudsman

Ms Eduarda FERRAZ

Deputy to the Ombudsman

C. Non-governmental organisations

Forum Justiça e Liberdade

O Companheiro