



## **Response**

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

**from 3 to 12 December 2019**

The Portuguese Government has requested the publication of this response. The CPT's report on the December 2019 visit to Portugal is set out in document CPT/Inf (2020) 33.

Strasbourg, 13 November 2020

**Answers to the recommendations provided on the 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 3 to 12 December 2019**

October 2020

**§12 The CPT would appreciate being provided with information on the number of PSP and GNR personnel and of an outline of their conditions of work (statutory hours, remuneration, access to ongoing training and welfare support, etc.).**

Currently, the GNR has 21.860 military personnel and 739 civilians on duty (22.599 in total) and the PSP has 20.977 elements.

Regarding the remuneration, the PSP has several salary scales, as per the table below:

<b>Remuneration scales</b>	<b>Total of effective</b>	<b>%</b>
Up to 500 €	94	0,45%
501-1000 €	823	3,92%
1001-1250 €	5254	25,05%
1251-1500 €	1720	8,20%
1501-1750 €	10648	50,76%
1751-2000€	1289	6,14%
> 2000 €	1149	5,48%
<b>Total</b>	<b>20977</b>	<b>100%</b>

The remuneration of the GNR military is provided in Decree Law, No. 298/2009, of 14<sup>th</sup> October, accessible from: <https://dre.pt/web/guest/pesquisa/-/search/491436/details/normal?l=1>

**§15 The CPT would like to be informed about the investigations carried out into cases ii to viii above by the Inspectorate General of Home Affairs (IGAI) or the Public Prosecutor's Office (date when case was opened and status of the investigation including as regards the interviewing of the victim and alleged suspects).**

**As per the information provided by IGAI:**

**Case ii – PA-808/2019**

This administrative procedure (AP) was closed, dropped and filed by the administrative decision of February 21st of 2020, after the validation that the detainee's injuries (hand, abdomen and eyebrow) had resulted from his projection onto the ground and from handcuffing, since Mr. CP did not cooperate, reacted against the police and even tried to escape while being detained, reason why it was required to use the strictly necessary physical force to control him.

**Case iii – PA-813/2019**

This AP was brought to a close, dropped and filed by an administrative decision of February 13, 2020.

With this AP, IGAI monitored the development of the enquiry procedure (EP) PAV nr. 618/19CTSTB that the GNR opened on November 19, 2019. During the monitoring of that EP IGAI requested information, data, clarifications and documents that allowed a close assessment of the degree of thoroughness of the procedures, the sufficiency of the investigations and the quality of the decision that was rendered in the end.

Through the evidence gathered it was possible to ascertain that DBP's injuries, rather than being caused by police officers, were in fact caused when he was trying to escape. After having been caught while attempting to rob a house, DBP jumped from a first-floor height and fell on top of a boat, having immediately remained motionless, moaning and complaining of pain. So, his arrest was carried out without even using physical force.

#### **Case iv – PA-807/2019**

This AP is still ongoing.

With this AP, IGAI is monitoring the ongoing EP PAV no. 153/20CTLSB that GNR opened on February 3, 2020. IGAI is still waiting for the information, data and documentation that will allow a close assessment of how the investigation is progressing.

#### **Case v – PA-791/2019**

This AP was brought to a close, dropped and filed by an administrative decision on November 7, 2019, after validation that the detainee's injury – a cut in the frontal region of the left side of the cranium of approximately 5 cm – resulted from the window glass JRCM shattered in order to enter the establishment he was caught trying to rob.

IGAI also gave relevance to the fact that the nurse that saw JRCM concluded that it was not possible to confirm whether the allegations were compatible with the detainee's injury (“Não é possível verificar compatibilidade dos pontos anteriores”).

#### **Case vi – PA-721/2019 – JB**

This AP was brought to a close, dropped and filed by administrative decision of November 7, 2019, after it was validated that the detainee's injuries (excoriation in the occipital and parietal region and in both upper limbs; ecchymosis in both lower limbs; and hematoma in the back of the left foot) were compatible with both his projection on the ground and with his handcuffing. Since JB did not cooperate and tried to escape from detention, he had to be chased on foot. JB resisted arrest, reason why it was required to use strictly necessary physical force to control him.

#### **Case vii – PA-722/2019 – TEDA**

This AP was brought to a close, dropped and filed by administrative decision of November 13, 2019.

Through the AP it was possible to clarify that TEDA was detained by police officers while executing a warrant of arrest for him to serve a sentence. The detention took place at a tattoo parlour where TEDA was being tattooed.

TEDA did not offer any resistance, cooperated during the arrest and, at no time, was it necessary for police officers to subject him to physical force.

The prison nurses' assessment made no reference to back and wrist injuries TEDA mentioned to the prison's lawyer, which TEDA claimed had been sustained at the hands of two police officers. According to the nurses' description, TEDA's injuries consisted of "a regression haematoma on the anterior region of the left upper limb about 1/1 cm and a haematoma in the left forearm about 2/2 cm. At the moment no other complaints or apparent visible injury." Nothing else was registered.

As for the regression haematoma, it suggests that it was barely visible and thus had been caused some time ago. As for the haematoma in the left forearm, about 2/2 cm, it is worth noting that, at the time of his arrest, TEDA was being tattooed precisely on that left forearm.

All the evidence gathered and the explanations provided substantiated the decision of November 13, 2019 that brought to a close, dropped and filled this AP.

#### **Case viii – PA-368/2019**

This AP was closed, dropped and filed by an administrative decision, on the 3th of June of 2019. All evidenced gathered and explanations obtained substantiated the conclusion that, at the time of his arrest, for domestic violence, PC was aggressive and violent, assaulting police officers with kicks in the leg area and spitting, in an attempt to hit them, reason why strictly necessary physical force was used to try to restrain him. Since PC did not cooperate and made handcuffing difficult, it was necessary to project him to the ground to accomplish his handcuffing. The injuries described by the prison nurse refer to haematomas around both eyes and to the left side of his chest and back, upper leg and left hand. These were compatible with PC being projected to the ground. Information obtained from the criminal case at the order of which PC was being held stated that there was no evidence in the file case that he had been victim of excessive force on the part of the police. It was concluded that everything indicated that the police acted in a rational manner, and strongly upheld the establishment of the State order through adequate and less onerous means of coercion within the factuality they encountered.

#### **Public Prosecutor's Office answers:**

**Case ii:** The issuing of a certificate of the pertinent documents pertaining to case file no. 761/19.\*\*\*\* has been ordered by the Public Prosecutor's Office for purposes of an autonomous investigation on the facts connected to the injuries sustained by CP. Based on the above said certificate, Inquiry no. 126/20.\*\*\*\* was initiated by the 1<sup>st</sup> of the Loures DIAP on 22/1/2020. The investigation is covered by secrecy during the criminal investigation stage; it is conducted by the Public Prosecutor's Office and it is still ongoing. CP's statement has already been taken by the Public Prosecutor's Office (7/2/2020). Five other witnesses (among which three PSP officers) have already given their testimonies and another witness was scheduled for 30/9/2020. All medical documents concerning CP's hospital assistance, as well as the report on the medical examination carried out on 12/12/2019 within the scope of Case file no. 761/19.\*\*\*\*, have been attached to the file together with the certificate.

**Case iii:** Inquiry no. 4494/19.\*\*\* was initiated by the 2<sup>a</sup> *Almada* Section of Lisbon DIAP in order to investigate the alleged assault by the GNR officers upon the arrest of the concerned citizen. The investigation originated from a communication made by the Justice Section of the GNR (the Prison administration reported the facts to IGAI).

The Inquiry was initiated on 29/11/2019. In addition to the statement made by DBP upon entry to prison, the certificate which gave rise to the Inquiry includes a description of the injuries he sustained, the photographs taken upon his admission and his clinical record. The investigation conducted by the Public Prosecutor's Office is ongoing. Documentary evidence pertaining to the GNR's internal file has been attached to the case file. DBP's statement is scheduled for 13/10/2020

With regard to **cases iv, v, vi** and **viii** no inquiry for purposes of investigation into the alleged assaults has been initiated. Thus, regarding:

**Case iv:** No data regarding the alleged assaults have been communicated to the case file concerning his arrest – case file no. 255/19.\*\*\* conducted by the *Vila Franca de Xira DIAP, Comarca de Lisboa Norte* during the Inquiry stage - or to the *Juizo Central Criminal de Loures* [Central Criminal Chamber of Loures, Judicial County of Loures] during the ongoing trial stage. No allegations of assault were made by the defendant during his judicial interrogatory that took place immediately after his arrest. The case file contains no reference to any communication from the Caxias Prison or from the *IGAI* on this matter. The searches undertaken did not reveal the existence of an Inquiry into the alleged assault.

**Case v:** In the Report of Event and Arrest included in the case file to which the arrest refers – case file no. 1044/19.\*\*\*, initiated by the 2<sup>nd</sup> Section of Cascais DIAP– Judicial county of Lisboa Oeste, mention is made of the detainee's forehead injuries (probably inflicted by himself when he broke the glass windows to enter the premises) and of the medical assistance provided at the hospital. The case, already submitted to trial, is currently in the *Juízo Central Criminal de Cascais, Comarca de Lisboa Oeste* (Central Criminal Chamber of Cascais, Judicial county of Lisboa Oeste). The case file contains no communication from the Caxias Prison or from the IGAI. The searches undertaken did not reveal the existence of an Inquiry into the alleged assault.

**Case vi:** While conducting JB case file No. 85/19.\*\*\* at 13<sup>th</sup> section of the Lisbon DIAP, it was noted that he had already been arrested in the early hours of the preceding day in the scope of case file no. 1324/19.\*\*\*. In the Report of Event pertaining to the latter case, mention is made of blood stains on the inner side of the shop window of the store in which JB would have illegitimately entered. Such blood stains derived from the injuries inflicted by JB himself while manoeuvring the window panes. Case file no. 1324/19.\*\*\* was merged into Case file no. 85/19.\*\*\*. The case file contains no reference to any communication from the Lisbon Judicial Police Prison or from the *IGAI*. The searches undertaken did not reveal the existence of an Inquiry into the alleged assault. None of the remaining case files initiated in 2019 against JB concern the alleged assaults. No case file has been initiated against him in 2020.

**Case vii:** TEDA was arrested on 20/8/ 2019 in execution of arrest warrants issued in the scope of case file no. 669/13.\*\*\* initiated before the *Juizo Central Criminal de Lisboa* [Central Criminal Chamber of Lisboa], in order to serve a 4-year imprisonment sentence. He was transported by the PSP to the Lisbon Central Prison (EPL). On 21/8/2019 mention of the prisoner's admission to the EPL was

brought to the prison file, but no injuries/assaults were reported. The certificate of compliance with the warrant makes no reference to any obstacles to its execution. Neither the EPL nor the IGAI reported the existence of any injuries. No case file initiated in 2019-2020 was identified in connection with the alleged assaults.

**Case viii:** PC was arrested in the scope of Case file no. 294/19.\*\*\*\* initiated by the 1<sup>st</sup> Section of *Seixal*, Lisbon DIAP. The Report of Event makes reference to acts of resisting arrest and to injuries resulting therefrom. During his first judicial interrogatory he was charged with the criminal offence of resisting and duress on a public official (article 347(1) of the Criminal Code), an offence which it was also accused of in the scope of the Inquiry. In the judgement rendered by the *Juizo Central Criminal de Almada, Comarca de Lisboa* [Central Criminal Chamber of Almada, Judicial County of Lisboa] the defendant's acts in response to his arrest were considered proven, but the allegation that such acts were intended to oppose the arrest failed to be considered proven. Having in mind the principle *in dubio pro reo*, he was acquitted of the offence of resisting and duress on an official. A certificate of the judgment (dated 5/12/2019) was sent to the Ministry of Internal Affairs. No Inquiry was identified in connection with the alleged assaults.

As regards **cases iv, v, vi, vii** and viii, the Attorney General's Office will endeavour to initiate the competent Inquiries.

**§17 The CPT would like to be informed of the criminal and/or disciplinary steps being taken to investigate this case in an effective manner. The CPT would like to be informed about the circumstances of the death and the investigation initiated by the Judicial Police and, in due course, the outcome of the criminal and disciplinary proceedings.**

IGAI is carrying out a Disciplinary Investigation Procedure (IP), ref. PND -2/2020. The case of Cláudia Simões was opened on 22.01.2020. Having all the necessary evidence already collected, this disciplinary IP is nearly concluded.

Aggravated murder and forbidden firearm possession are the crimes attributed by the Public Prosecution to the defendants.

The death of the Ukrainian citizen Ihor Homeniuk occurred on 12.03.2020, at the Espaço Equiparado a Centro de Instalação Temporária (EECIT)<sup>1</sup> at the Lisbon Airport, “due to cardiac arrest experienced after convulsive crisis”, as it is stated in the death certificate. The autopsy, which was carried out by the National Institute of Legal Medicine of Lisbon, triggered the criminal process (inquiry) that is being conducted at the 11th Section of the Lisbon's DIAP<sup>2</sup>, with the reference number NUIPC 2863/20.4T9LSB. The inquiry is presently under investigation secrecy.

Furthermore, in terms of disciplinary action, the following cases were opened by the ministerial decision of 30.03.2020:

- PND-16/2020 – This IP is almost complete, since all necessary evidence has been gathered.
- PND-18/2020 – This disciplinary case (DC) is still ongoing;

---

<sup>1</sup> EECIT – Espaço Equiparado a Centro de Instalação Temporária (Equivalent to Temporary Installation Centre)

<sup>2</sup> DIAP – Departamento de Investigação e Ação Penal (*Department of Criminal Investigation and Prosecution*)

- PND-19/2020 – This disciplinary case (DC) is still ongoing;
- PND-20/2020 – This disciplinary case (DC) is still ongoing;
- PND-21/2020 – This disciplinary case (DC) is still ongoing;
- PND-22/2020 – This disciplinary case (DC) is still ongoing.

Aggravated murder and forbidden firearm possession are the crimes attributed by the Public Prosecution to the defendants.

**§18 The CPT recommends that the Portuguese authorities ensure that, where it is deemed essential to handcuff a person, the handcuffs should under no circumstances be excessively tight<sup>6</sup> and should be applied only for as long as is strictly necessary. Further, detained persons should not be handcuffed to fixed objects. In addition, in light of many allegations by apprehended persons that their hands had been cuffed behind their backs during transport, the CPT recommends that such a practice should be avoided given the potential to cause unnecessary pain to the person concerned and the risk of injury in the case of accident.**

In Portugal the use of force by law enforcement agents is regulated by Decree-Law No. 457/99 of November 5, 1999<sup>3</sup>.

In addition, both the PSP and the GNR have in place internal regulations on the use of force.

In the case of the GNR, these include Circular Letter nr. 15/2014-P, on the use of force in a police intervention; the Handbook of Operations and the MOP Handbook, among others.

Similarly, the PSP has adopted, internally, the Permanent Implementing Rule on Limits on the Use of Coercive Means, dated June 1, 2004, which details and further restricts the provisions of Decree-Law No. 457/99 of November 5, 1999.

This Internal Standard regulates that handcuffing has the dual objective of safeguarding the physical integrity of police officers against possible aggression and, at the same time, protecting offenders (since, in addition to what is strictly necessary for their conduct, the use of force after handcuffing is prohibited). The rules for the use of handcuffs are the following:

- After cuffing and as soon as possible the handcuffs should be blocked.
- It should be ensured and checked that the handcuffs do not become excessive and unnecessarily tightened in order to avoid the production of skin lesions or difficulty in blood circulation.

Finally, the rule states that the use of handcuffs should be discreet, in order to prevent publicly exposing the suspect or detainee beyond what is necessary.

IGAI also seeks to reinforce the message that any abusive practices related to the use of coercive means by police forces is unacceptable and it will be met with the firm application of the law. It does so in all its recommendations, in the context of the disciplinary procedures, at training sessions, informal contacts with the Security Forces hierarchies and at any other scenarios.

---

<sup>3</sup> Accessible from: <https://dre.pt/pesquisa/-/search/693806/details/maximized>

Regardless of the source and origin, IGAI always pays special attention to reports of alleged ill-treatment by elements of the Security Forces and Services (SFS) and, where deemed necessary, considering the reported facts and the seriousness thereof, it launches an inquiry proceeding.

It is worth mentioning that IGAI is especially focused on the control of legality and defence of the citizens' rights, and it is responsible for investigating all reports of serious violations of the citizens' fundamental rights (Article 2, paragraph 2, subparagraphs (c) and (d) of Decree-Law No. 58/2012 of March 14).

Every report of a disciplinary offence is subject to an inquiry procedure to determine whether there is any disciplinary responsibility and sanction. The inquiry procedure is launched regardless of whether there is an accusation, complaints or participation (Articles 71 and 72 of Law nr.66/2014 – GNR's Disciplinary Rules<sup>4</sup>, Article 68 of PSP's Disciplinary Statute<sup>5</sup> and Article 194<sup>6</sup> of the General Labour Law for Public Servants).

**§19 In light of the information gathered during the 2019 visit, the CPT reiterates its recommendation that police officers be regularly reminded of these basic principles, including through practical training exercises. Further, every use of force by law enforcement officials should be properly documented (description of facts; any injuries sustained; whether the detained person was brought to hospital, etc.).**

In Portugal the use of force by the law enforcement agents is regulated by Decree-Law No. 457/99 of November 5, 1999 and by internal regulations which specify which body areas can be intervened by the police, with what resources, also requiring that, whenever this happens and, especially, when there is use of the firearm, a detailed report is elaborated.

In addition, both the GNR and the PSP receive extensive training, at both basic and specialization levels, on human rights and on the standards and techniques pertaining to the use of force.

Additionally, in the case of the PSP, all police officers are subjected, biannually, to a rigorous accreditation process for the use of firearms and use of force, which includes written and practical tests of the application of the legal standards. Should the police officer fail these tests, his/hers firearms is removed and he/she is suspended from his/her operational duties.

Despite the entire formative process, whenever a participation against a police officer is received, a complaint is launched.

Until the new Disciplinary Statute of the PSP, revised by Law No. 37/2019, of May 30, the proceedings always began to give rise to a process of investigations, which later could assume the nature of Disciplinary or Inquiry (in cases of greater complexity). Currently, in order to make the whole procedure faster, the phase of the investigation process has been eliminated, and it is immediately decided whether the process takes on disciplinary or investigation nature.

---

<sup>4</sup> Law nr.66/2014, available from <https://dre.pt/pesquisa/-/search/56376286/details/maximized>;

<sup>5</sup> Law nr. 37/2019, available from: <https://dre.pt/home/-/dre/122446601/details/maximized>

<sup>6</sup> Law nr.35/2014, available from: <https://dre.pt/legislacao-consolidada/-/lc/57466875/view?w=2019-01-14>

In order to ensure greater protection of the defendants inside the police facilities and thus dispel any questions about irregular behavior of the police, currently approximately 30 police stations have CCTVs.

Furthermore, is currently in its final stages of drafting, a new legislation on video surveillance, where is regulated the matter of Body Worn Video Cameras (BWVC).

Finally, since April 2018 the PSP has in place in its Strategic Information System (SEI)", the "Cell and Detainee Management Module".

This feature ensures that all information relating to an arrest is inserted in the "Cell and Detainee Management Module", and there are dozens of information fields such as "Date/Time of Rights Information", "Date/Time of Information of the Judicial Authority", "Date/Time of detention", "Detention Deadline", "Physical State of detainee".

In addition, there is information regarding the "Detention Area", such as "Unit", Date/Time of Entry", Date/Time of Departure", "Holding Area Entity". Subsequent to these fields there is exclusive information about the detention "Cell", identifying in this field "Unit", Date/Time of Entry", Date/Time of Departure", "Cell Number" and "Responsible for Driving". There is also information on "Contacts/Visits", "Food", "Incidents", "Medical Care" (in which there is a field for recording the "Input/Episode Number" and "Exit").

**§20 The CPT recommends that the Minister of the Interior and the Heads of the GNR, PSP and SEF deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions. This message should be reiterated at appropriate intervals at the level of regional police directorates. Further, the relevant authorities should ensure that an effective investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities. The corollary of this is that law enforcement officials are sufficient in number and adequately resourced to carry out their tasks professionally (see paragraph 12 above). A similar message should be delivered by the Minister of Justice and the Director of the Judicial Police to all PJ officials. In addition, the CPT recommends that the PSP and GNR pursue the programmes initiated to strengthen community relations, notably in areas with a high proportion of migrants and citizens of African descent. The Committee would like to be informed of the actions being taken to eradicate racist actions within the law enforcement agencies as well as on the steps being taken to increase the recruitment of law enforcement officials from minority backgrounds**

On June 09 of 2020, the Minister of Home Affairs, Mr. Eduardo Cabrita, as well as the Heads of GNR and PSP participated in a public event organized by IGAI with the objective to discuss IGAI's Prevention Plan of Risks of Discriminatory Practice. Footage of the event is available at <https://youtu.be/FoddzB5xiqE> (Portuguese language only).

Both the Internal Communication Strategy of the National Director of the PSP and the GNR's 2020 Strategy Document specifically emphasise that law enforcement agents must carry out their mission with professionalism and impartiality and in full compliance of the legal framework and the internal regulations.

Moreover, both the GNR and the PSP fully integrate this message during the training (initial, promotion and in certain specialization training), drawing attention to the problem of ill-treatment directed at detainees and reinforcing the idea that such behaviour collides with the Security Forces mission and duties and will, therefore, result in criminal and disciplinary sanctions.

Additionally, every alleged situation of ill-treatment by a police officer or military personnel is subject to a thorough investigation by disciplinary services, and where ill-treatment is confirmed, it will be met with disciplinary sanctions.

On this matter, it should also be noted that, in the metropolitan areas of Lisbon and Porto, the PSP detention zones were centralized to reduce the risk of ill-treatment of detainees.

At national level, the Security Forces have permanent representatives at the High Commissioner for Migration ACM, the Council for Migration and Migrations Advisory Council for the Integration of Roma Communities, taking an active part in the definition and implementation of the various national strategies for inclusion of minority communities in our country. In addition, the Security Forces actively participate in the Local Security Contracts and take part in Social Networks, at the municipal/local level.

To strengthen their capacity to improve relations with minority communities, in July 2016, the GNR and the PSP signed a protocol with the ACM creating the program "Juntos Por Todos" ("Together For All").

The objective of this program is to contribute to the prevention of conflict in multicultural communities that may present some vulnerabilities, and to the safety of all citizens regardless of their nationality or cultural belonging. This program will be revised in 2020-2021, and will start a new training cycle.

In addition to the efforts carried out by the Security Forces, IGAI also pays close attention to any forms of discriminatory actions and practices committed by the SFS under the aegis of the Ministry of Home Affairs, i.e. GNR, PSP and SEF.

Those actions and practices are most certainly forms of distorted administrative conduct.

As such, IGAI invited the Portuguese SFS top Commanders and Directors to discuss major headlines on the implementation of a Prevention Plan of risks of discriminatory actions and practices that might occur when those officers are in direct contact with citizens, or when they have to make decisions that somehow might affect them.

The Plan, still in its early stages, contains programmatic measures, related to the recruitment and training of police officers, and contains measures of immediate implementation, namely those directed to the involvement of police officers in social networks when offering comments of a racist, xenophobic or other discriminatory nature.

The Plan is directed to all SFS and quite especially to those professionals involved in the training of the different police forces officers.

The Plan has two main objectives: to make police officers more aware of their role in the fight against discrimination and provide a set of resources, good practices and useful information in order to improve the officers' conduct in their relationship with the citizen.

In this sense, the ultimate goal is to improve the quality and effectiveness of police service to prevent and combat discrimination.

The SFS recruitment procedures comply with the Portuguese legal requirements. As such, recruitment is done to cover the entire Portuguese population that meets the minimum entry requirements, without discrimination, positive or negative, for a specific group, giving equal treatment to all candidates;

In Portugal, there are no active minority recruitment policies.

**§21 The CPT recommends that the Portuguese authorities act to ensure that law enforcement officials carry out their duties in accordance with the relevant provisions of the Criminal Procedure Code. To this end, professional training for these officials should be provided regularly, which should cover appropriate interview and investigation techniques, as well as the prevention of ill-treatment and policing in a diverse society.** More generally, in view of the large numbers of police officers currently being recruited into the PSP and GNR, the CPT would like to **be informed** of the **different elements that make up** the rigorous **recruitment procedures** for police officers.

The Directorate-General of Reintegration and Prison Services (DGRPS) has zero tolerance for discriminatory or aggressive behaviours, regardless the causes and/or motivations behind them. For this reason, training courses for prison guards always include disciplines related to the protection of human rights, multiculturalism and interpersonal communication techniques as well as the use of coercive means ("control and restraint techniques"). These training courses also include subjects related to the Circulars and other guidelines that are into force, which include the formalization of complaints by inmates. In the framework of the last training course, in addition to the curricular matters related to national and international legal framework and human rights, two conferences were held: "Multiculturalism and Reclusion" and "Human Rights - Guarantee and Control Instruments", which were attended by the main representative organisations in this field (Religious Liberty Commission, Bar Association, Cape Verde Association, High Commission for Migration, Amnesty International, etc).

The SFS continue to include in its initial and specialization training human rights issues. Law enforcement agents, therefore, receive training on topics such as racial discrimination, multicultural dialogue, the migration phenomenon, gender equality issues and trafficking in human beings, as well as on techniques to conduct interviews with particularly vulnerable victims.

In 2019 the PSP promoted training courses in the following areas: Police Law, Integrated Proximity Policing Model (MIPP), Event Management, Criminal Investigation, Interview and Interrogation and Intervention in Court, Blue Significant Special Program, Judicial Inspection, Police Intervention with Minors, Covert Criminal Information Search, Training of Trainers for Prevention and Police Intervention in Domestic Violence.

This year was marked by a volume of very relevant activities, of which we highlight:

- 399.664 hours of training where 18.429 police and non-police elements were trained to work in the PSP;
- 110.508 hours within the scope of the Shooting Training Plan;
- 204.968 hours of training provided locally by the commands;

- 84.188 hours in training actions coordinated by the Training Department.

Recruitment for admission to the PSP police officer career includes the following selection methods: physical trials, general knowledge exam, psychological assessment, vocational interview and medical exams.

The jury is appointed by the National Director of the PSP and is composed of a president and two members, belonging to the staff maps of the PSP.

The recruitment process observes the following principles:

- Equal conditions and opportunities for all the candidates;
- Freedom of candidacy;
- Timely dissemination of the selection methods and criteria to be used and of the respective classification programs and systems;
- Application of objective assessment methods and criteria;
- Neutrality in the composition of the jury;
- Right of appeal.

It should be clarified that Article 141 of the Code of Criminal Procedure (CCP) does not concern police officers, or with police interviews, or with police questioning of detainees.

Contrary to some Police Departments in other countries, where police officers have broader procedural, exercising and performing duties and powers, in Portugal, only judicial authorities are responsible for questioning detainees. Articles 141, 143 and 144 of the CCP, therefore apply exclusively to judicial authorities.

Nevertheless, the Security Forces are aware of the importance of setting up dedicated interview rooms with audio and/or video equipment to record police interviews.

At this moment, there is a room with the necessary requirements in operation. However, it is use only in the application of the National Institute of Child Health and Human Development (NICHHD) Protocol.

There are also specific rooms to assist especially vulnerable victims, decentralized in the different units, which need to be equipped with this type of equipment.

**§22 The CPT also considers that the experience of other countries demonstrates that issuing Body Worn Video Cameras to law enforcement officials and their systematic use during any incidents, represent an additional safeguard against abuse by officials as well as a protection against unfounded allegations of ill-treatment. The Committee would appreciate the comments of the Portuguese authorities on this matter.**

The use of Body Worn Video Cameras (BWVC) is an ambition of the Security Forces. However, in Portugal, the use of bodycams is not legally covered and there are several restrictions regarding data protection.

BWVC, a technology that collects image and sound, not allowing its carriers to delete or change any records, has proved extremely useful in other countries. In effect, BWVC can be an instrument for

the safeguarding of human rights since it can add an extra layer to police accountability, at the same time as it protects law enforcement agencies from unfounded allegations of ill-treatment.

While there is no question about the advantages this equipment can bring police activity, especially to frontline officers responding to calls for service, routine patrol, tactical support, armed response units, etc., there is also a preoccupation in passing legislation that ensures this technology is used in full respect of citizens' fundamental rights, freedoms and guarantees.

IGAI is preparing a document with its views on this subject, assessing the constitutional and legal framework to establish in what terms and conditions police officers could be equipped with BWVC.

Drafting of new legislation on video surveillance, where the matter raised here is regulated, is currently in its final stages.

**§23 The CPT recommends that the Minister of the Interior, the Heads of the GNR and PSP and senior commanders actively pursue their efforts to promote a culture change within the ranks of the law enforcement agencies.**

Please see reply to §20.

**§25 The CPT would like to be informed of the outcome of the new criminal process. Further, the CPT would like to be informed whether the suspended GNR internal disciplinary proceedings (no. 373/16CTLSB) have been re-opened and concluded. It would also like to be informed about what position the officer currently holds within the GNR, and whether or not the officer's current functions involve any direct contact with persons deprived of their liberty**

Regarding the situation of disciplinary proceedings No. 373 / 16CTLSB, it is reported that it is still suspended, pending a final judicial decision, resulting from an appeal filed by the defendant, which runs under the terms of the Court of Appeal of Évora (Portugal city). The military accused in this process does not have direct contact with people deprived of their liberty, and they are predominantly administrative and staff.

**§26 The CPT would like to receive information on the main changes contained in the new draft Organic Law regulating IGAI, notably as regards its investigative powers and resources.**

IGAI wants to have judges and prosecutors acting as inspectors, with all the benefits that their involvement would bring to the mission of IGAI, adding to IGAI's technical autonomy their statutory independence. Since 1996, and for more than twenty decades, IGAI had judges and prosecutors acting as inspectors appointed on secondment terms of three years. Since last year that became virtually impossible, or in the very least, improbable, considering the amendments of 2019 to the statutory laws of judges and prosecutors.

It is under legislative procedure a review of IGAI's organic law.

**§27 For example, the case PND-39/2010 concerning a case of alleged ill-treatment of a male student by PSP officers at Bairro Alto Police Station on 24 May 2010 and for which medical evidence existed,<sup>9</sup> took five years for a court decision to be given and only on 3 March 2016 did IGAI propose a disciplinary punishment of 75 days' suspension. This was subsequently appealed, delaying further the outcome of this case. The CPT would like to be informed of the outcome of the disciplinary proceedings in this case.**

The police officer in this case served a 75-day suspension sentence from 20/07/2016 to 02/10/2016.

**§28 In the light of the facts provided by the court in this case, the CPT would like to be informed of the disciplinary measures taken against the members of the PSP intervention unit. Further, it wishes to be informed of the command and control measures now in place to be able to identify officers from intervention units when they are in the field in full personal protective equipment. At a minimum, all officers must have a visible identification number on their helmets and suits and the commanders of the intervention must know where their officers are deployed and assume responsibility for the actions of their officers.**

In this case, 22 disciplinary proceedings are ongoing at IGAI. The case has revealed itself to be one of extreme complexity.

Within the scope of the relevant disciplinary proceedings, the investigations, which were difficult and time consuming, were conducted in an effort to detect and identify the police officers responsible for the extremely grievous injuries caused to João Adrião.

The facts occurred on October 3, 2014.

On October 6, 2014 the investigation procedure PND-29/2014INQ was initiated by IGAI.

On January 8, 2018 the final report of the investigation procedure was presented.

The investigation procedure showed that João Adrião was assaulted by elements of the intervention unit that formed teams 42 and 43 and that as a direct, necessary and exclusive result of these assaults (kicks, punches and beatings with a baton) he was left with permanent injuries, notably the loss of full vision of the left eye.

Teams 42 and 43 comprised of 21 police officers in total.

Notwithstanding all efforts during the investigations' procedure, it was not possible to identify the elements of teams 42 and 43 that directly and physically injured João Adrião. None of the police officers who composed teams 42 and 43 admit any responsibility, denied having committed the facts and denied having witnessed any aggressions when those aggressions were committed a few meters from them.

Nevertheless, IGAI's inquire procedure investigators expressed their opinion. Based on their technical and legal knowledge, the investigators concluded that the members of teams 42 and 43 adopted behaviours that could be subjected to the legal-disciplinary framework, and formulated a proposal to initiate twenty-one (21) disciplinary proceedings against all and each one of the 21 police officers that were part of teams 42 and 43.

Thus, each of the 21 members belonging to teams 42 and 43 were charged with two disciplinary infractions:

By doing nothing to avoid the commitment of the physical aggressions against João Adrião, each of them committed a disciplinary infraction, for violation of the duty of zeal, for violation of the duty of correction and for violation of the duty of posture.

By doing nothing to provide assistance to João Adrião after the aggressions ceased, each of the police officers committed a disciplinary infraction, for violation of the duty of zeal, for violation of the duty of correction and for violation of the duty of posture.

The twenty-one (21) disciplinary proceedings were initiated by order of the minister, issued on January 22, 2018.

As an actual case example, on May 15, 2018 disciplinary charges were brought by IGAI against one of the 21 police officers that was part of one of the teams, charges that were also brought in the other twenty disciplinary proceedings against each and every police officer of teams 42 and 43.

It should be noted that the disciplinary charges brought by IGAI against all 21 police officers were presented earlier than the Public Prosecutor's Office indictment that was delivered only later on.

Public Prosecutor's Office charged only eleven (11) police officers that belonged to one of the two teams with the crime of offense against physical integrity.

So, in relation to the ten police officers that were not indicted by the Public Prosecutor's Office and thus not accused of committing a criminal offence, the disciplinary cases are under analysis.

The remaining eleven disciplinary cases (PND-8/2018, PND-9/2018, PND-10, PND-11/2018, PND-12/2018, PND-13/2018, PND-14/2018, PND-15/2018, 16/2018, PND-17/2018 and PND-18/2018) are awaiting the outcome of the appeal against the decision that acquitted the eleven police officers.

**§29 The CPT recommends that the disciplinary process should run in parallel with the criminal investigation given the very long periods (five or more years) required for a criminal case to be brought to court.**

The preceding paragraph is just but one example that with IGAI disciplinary cases run in parallel with the criminal investigation, as was the case, so much so that the disciplinary charges brought by IGAI against all 21 police officers were presented earlier than the Public Prosecutor's Office indictment of 11 police officers that was delivered only later on.

Notwithstanding, it should be clarified that, besides having attempted to detect and identify the police officers responsible for the extremely grievous injuries caused to João Adrião, IGAI waited as much as it could for the criminal case, given the extreme complexity of the case, to profit from the criminal statute of limitation and, eventually, to benefit and acquire extra evidence (Article 86, paragraph 11 of the Code of Criminal Procedure) gathered in the criminal case, considering the greater investigation resources available to the prosecution service.

This recommendation is in line with the principle of independence provided for in article 5 of the GNR Disciplinary Rules, which translates into the independence of disciplinary proceedings in relation to criminal or administrative offenses, when established by the same facts. However, there are

several reasons that may lead to the suspension of disciplinary proceedings being advised and beneficial for the pursuit of disciplinary justice:

- The disciplinary procedure is linked to the facts proven and their authorship in the context of a final judicial decision;
- The existence of the secrecy of justice, which limits the investigative depth of the instructor in the disciplinary process;
- The difficulty of collecting evidences at disciplinary level, in this type of situation, in contrast to the investigative capacity of the entities responsible for the criminal process;
- The guarantee of a better condition of defence of the defendant in a criminal proceeding in relation to the disciplinary proceeding;

In this context, and taking into account the listed issues, in some cases, it is decided to suspend the disciplinary procedure, a decision that despite delaying its conclusion gives a better decision base and, consequently, greater precision in the application of disciplinary justice.

**§29 The CPT would like to be informed whether any measures were taken such as suspension with full pay or transfer to other duties in respect of the officers implicated in the cases raised in paragraphs 17 (1), 25, 27 and 28 above prior to the outcome of the criminal and disciplinary proceedings.**

In relation to the officers implicated in the cases referred to by CPT, prior to the outcome of the disciplinary proceedings no measures have been taken involving suspension with full pay or transfer to other duties.

Regarding the military involved in the disciplinary process referred to in paragraph 25, it is reported that he was not subject to any suspension, having only been transferred to other administrative functions (as referred to in the reply to paragraph 25).

**§29 Further, the CPT would like to receive the statistics on the number of cases relating to alleged ill-treatment (“physical offences”) by law enforcement officials (GNR, PSP and SEF) that were either supervised or investigated directly by IGAI, as well as the number of disciplinary proceedings, including their outcome, for the years 2017, 2018 and 2019.**

	Facts	AP	PND				AOP
			EP	IP	DC	DP	
2017	Misuse of authority, position or office	69	-	-	-	-	-
	Issues of internal or professional nature	56	-	-	-	-	-
	Wound and/or threat with firearm	1	-	4	3	-	-
	Illegalities by action or omission	79	-	3	1	1	-
	Ill-treatment or physical injuries	251	-	10	11	1	-
	Discriminatory practices	6	-	-	-	-	3

	Incorrect action/behaviour	154	-	1	1	1	-
	Unlawful detention	-	-	-	-	-	-
	Death	-	-	1	-	-	-
	Others	125	-	3	-	-	-

	Facts	AP	PND				AOP
			EP	IP	DC	DP	
2018	Misuse of authority, position or office	44	-	-	4	-	-
	Issues of internal or professional nature	52	-	1	-	-	-
	Wound and/or threat with firearm	6	-	-	-	-	-
	Illegality by action or omission	66	-	-	-	-	-
	Ill-treatment or physical injuries	255	2	7	31	4	-
	Discriminatory practices	6	-	-	-	-	4
	Incorrect action/behaviour	175	-	3	4	1	-
	Unlawful detention	3	-	-	-	-	-
	Death	-	-	-	-	-	-
	Others	253	1	7	2		-

	Facts	AP	PND				AOP
			EP	IP	DC	DP	
2019	Misuse of authority	59	-	1	-	-	-
	Issues of internal or professional nature	69	-	-	-	-	-
	Crimes against property and assets/heritage (theft, burglary, damage, scam, extortion)	29	-	-	-	-	-
	Unlawful detention	-	-	-	-	-	-
	Death	-	-	-	-	-	-
	Bodily harm (Ill-treatment, assault and battery)	315	-	7	1	6	-
	Crimes against personal and sexual liberty (threat, coercion, abduction, indecent sexual abuse, sexual coercion, pimping, sexual abuse of minors)	19	-	-	1	-	-
	Discriminatory practices	12	-	1	-	-	2

Breach of statutory duties (incorrect behaviours or proceedings, failure or refusal of service or to supply information, illegalities, irregularities, blunders, omissions)	313	-	3	-	-	-
Domestic violence	54	-	-	-	-	-
Others	80	-	1	-	-	-

1 AP – Administrative procedure

2 PDN – Proceedings of disciplinary nature

3 AOP – Administrative offence proceedings

4 EP – Enquire procedure

5 IP – Investigation procedure

6 DC – Disciplinary case

7 DP – Disciplinary penalty

It should be noted that, compared to previous years, in 2019 the factuality set was redefined in order to allow a more accurate data processing.

It is also important to make some observations in relation to the data comprised in the above three tables.

Because disciplinary liability is characteristically individual, only the given (DC) disciplinary cases' data correspond to the proceedings initiated against each police officer concerned.

Hence, the number of cases, the number of incidents and the number of injured detainees (among other realities) reported in a given period may not match. An example may help to clarify this statement.

If ten law enforcement officers have two police operations in one day, resulting one injured person in the first operation and two injured in a second one, there may be ten disciplinary cases (as many as the law enforcement officers involved, targeting each one individually), two incidents and three people injured.

In the given example the ten disciplinary cases would involve holding each law enforcement officer accountable for causing bodily harm.

Differently, in AP, EP and IP cases, in general, there are still no suspects and the purpose of those cases is, precisely, to ascertain the existence of disciplinary wrongdoing and, if confirmed, its culprit or culprits.

It should also be said that proceedings of disciplinary nature (PND) – which include enquire procedures (EP), investigation procedures (IP) and disciplinary cases (DC) themselves – will tend to be confined to investigation procedures (IP) and disciplinary cases (DC), since the trend of Disciplinary Law seems to be moving towards the concentration of disciplinary activity exclusively in those two types of proceedings, IP and DC, or so seems to indicate last year's Disciplinary Statute of the Public

Security Police (PSP) – Act 37/2019, of May 30 (Article 6, paragraph 7 of the Law and Article 67 of the Statute), something that had already been shown by the General Law on Civil Service approved as an annex to Act 35/2014, of June 20th, (Articles 195 and 232) as amended.

It should also be clarified that the IGAI also initiates a large number of administrative procedures (AP) whose object can be much diversified. Examples of such APs were given previously, concerning PA-808/2019, PA-813/2019, PA-807/2019, PA-791/2019, PA-721/2019, PA-722/2019 and PA-368/2019.

APs are primarily a form of indirect oversight and serve the purpose of monitoring the progress and appropriateness of disciplinary investigation proceedings, conducted within law enforcement bodies. Thus, this specific monitoring on the part of IGAI relies on APs to systematically and regularly call for relevant information from law enforcement bodies concerning the current state of procedures at the time IGAI is requesting the information.

It is sometimes the case that, even in cases where the facts are still serious, rather than direct control, the preliminary assessment may suggest an AP should rather be set up, either to oversee the course of disciplinary proceedings already initiated by the law enforcement officer's hierarchy, or to follow up the eventual criminal proceedings that may have already been filed.

In less serious cases, after a previous assessment, the IGAI submits the received complaints (claims, grievances, appeals, reports, allegations, queries) to the highest responsible officer in the hierarchy of the law enforcement body concerned, informing each plaintiff of that submission.

Regarding cases where the subject matter is outside the range of IGAI's powers and allocated tasks, the complaint is redirected to the competent authority.

Every year, all sort of complaints (claims, grievances, appeals, reports, allegations, queries) are wrongly addressed to the IGAI, whose object is either not part of its mission, or does not involve the nature or seriousness that justifies its involvement.

In order to ascertain their pertinence, all such complaints are assessed in APs.

With regard to improperly addressed complaints to the IGAI, which may involve the most disparate situations and matters – sometimes related to professional or personal problems of officers or military personnel with their respective hierarchies, or disputes with local authorities (as if the IGAI was an appeal body) – when justified, they are redirected to the competent authority and when not justified, they are dismissed, closed and filed but, always and in any case, each year all this work weighs and has an impact on the number and statistics of pending cases.

To this entire workload we must add on the administrative offence proceedings (AOP) investigated under the powers and tasks conferred to the IGAI.

All these circumstances explain why, year after year, there is a natural disparity of numbers between the various types of cases, and the amount of APs is quite significant compared to the lower number of EP, IP and DC.

It should be underlined that, in many cases, a considerable number of received complaints are unsubstantiated, or don't concern matters that fall under the powers and tasks conferred to the IGAI, which means that they should either be dismissed and closed or sent to the competent authority.

It must also be underlined that according with IGAI's jurisdiction, it falls exclusively upon the IGAI to decide to open and initiate disciplinary investigations within EP and IP case files opened for that purpose.

That is why IGAI's investigations are selective, since it pays particular attention and directly investigates the most serious cases, such as police ill-treatment, torture, bodily harm and death of citizens, as well as misuse of firearms, without prejudice of exercising oversight, even if indirectly, on less serious cases, following up the disciplinary cases that are investigated within the law enforcement bodies.

It must be said that some of these complaints, although at first glance considered to be outside the core mission of IGAI, are still pondered worthy of attention, reason why, to follow up that assessment, APs are opened to monitor and assess how the law enforcement body responds to the denounced situations and internally lead the proceedings of disciplinary nature (PDN) that they themselves must instate, operate, investigate, report and issue a final decision or, eventually, refer the final decision to the Home Secretary in those cases where the law so determines.

With APs IGAI seeks to monitor the development of each PND within the law enforcement body, by requesting information, data, clarifications and eventually documents that may allow assessing the degree of thoroughness of the procedures, the sufficiency of the investigations and the quality of the decisions.

So, as shown in the above tables, in addition to the number of proceedings of disciplinary nature (PDN), mostly investigation procedures (IP) and disciplinary cases (DC), the IGAI also opened hundreds of AP.

In 2018 the IGAI carried over 623 AP cases from 2017, opened 860 and closed 874 with which monitored less serious disciplinary cases investigated within the law enforcement bodies.

For instance, these less serious situations are included in the 874 administrative procedures (AP) closed in 2018.

However, in 2018, out of the 874 closed APs, it was considered that five (5) APs had to be converted and that IGAI should take back the responsibility of investigating those five cases, and thus four (4) APs were converted into PND, while one (1) AP was converted into an administrative offence proceeding (AOP).

The existence of the 874 closed APs and the percentage that, within IGAI, resulted from the conversion of APs into PNDs is not a "minus", but rather a "plus" in relation to IGAI's mission area.

In 2019 no APs were converted into disciplinary proceedings.

The APs thus constitute a form of indirect control over the situations reported to IGAI and a way of assessing the corresponding disciplinary cases that are investigated within the law enforcement bodies.

Moreover, the APs serve also the purpose of preventing that early and insufficient information may induce to the conclusion that the law enforcement body should take the case and do the investigation, something that later the information collected in the APs may contradict.

It can therefore be said that, as a rule, behind each AP opened by IGAI there is and runs (or there was and ran) a disciplinary procedure in the law enforcement body, which means that any reported disciplinary breach, although not investigated by IGAI, was duly investigated by the competent law enforcement body and, on top of that, was still subjected to indirect oversight by IGAI through an AP.

**§34 In the light of the above remarks, the CPT recommends that, at a minimum, the Lisbon DIAP, as well as the general prosecutor's regional offices in Coimbra, Evora and Porto, be provided with additional resources in order to ensure that all cases of alleged ill-treatment by law enforcement officials can be investigated effectively, notably in a prompt and thorough manner. Further, the CPT recommends that protocols be put in place to ensure that whenever a case of alleged ill-treatment, or of injuries indicative of ill-treatment, is forwarded to the prosecutor's office from the prison authorities, a representative of the relevant DIAP or from the IGAI interviews the person concerned within 48 hours with a view to determining whether a forensic medical examination is necessary and what further investigative steps are required. In the CPT's view, an even stronger message would be sent in the fight against impunity if a special unit within the Prosecutor General's Office was established which was tasked exclusively with investigating and prosecuting cases of alleged ill-treatment by law enforcement officials. Such a development combined with the other measures proposed in this report would serve to underline the Portuguese authorities' absolute determination to stamp out abusive behaviour by law enforcement officials. The CPT would appreciate the comments of the General Prosecutor and of the Minister of Justice on these matters.**

The lack of Public Prosecutors and support staff has impaired the obtaining of more human resources for the *DIAPs*, namely the sections investigating the above mentioned Inquiries. This situation has raised particular attention from the Prosecutor General's Office and has been brought to the knowledge of the competent government entities.

The Prosecutor General's Office, together with the District Deputy Prosecutors General's Offices and other structures of the Public Prosecutor's Office, is duly aware of the importance of Inquiries into ill-treatment by law enforcement officials, and it will endeavour to find an appropriate solution, both in terms of magistrates assignment and specific orders facilitating an immediate intervention and more effective investigations

The Prosecutor General's Office is available and has every interest in the implementation of Action Protocols that allow the interaction between the Public Prosecutor's Office and the other concerned entities in order to enhance and implement a swift and timely intervention. It will work with the *IGAI*, the *DGRPS* and other entities involved with a view to preparing and implementing such Action Protocols as soon as possible.

The setting up of a special unit within the Public Prosecutor's Office is not, however, dependent solely on the initiative of the Public Prosecutor's Office but presupposes the intervention of the High Council of the Public Prosecutor's Office and of the Government.

Consideration of such an initiative will also require prior assessment of the (in)adequacy of the current functional organisation and of the effect of the measures expected to be adopted as set out above.

**§36 The CPT recommends that the Portuguese authorities continue to be vigilant in ensuring that the right of persons deprived of their liberty by law enforcement officials to notify their detention to a third party, as from the outset of custody, is effective in practice.**

Portuguese authorities continue vigilant in ensuring that the persons' rights deprived of their liberty by law enforcement officials. The communication of an arrest regardless of the nature of the crime is always communicate to the prosecutor. The detainee being present as a Criminal Investigating Judge in the shortest possible time and can never exceed 48 hours.

All detainees are informed that they have that right by formal notification, and they may choose whether to exercise that right or not.

In addition to complying with the procedures provided for in the Criminal Procedure Code, the GNR reinforced this procedure through its internal regulations (Circular nº 8/2000-P and Circular nº 06/2000-P). These regulations define procedures for the appointment of a defender, in a criminal investigation and the rules that must be observed by the GNR in relation to contacts within the Police Posts, always being guaranteed the right to, if desired, communicate with the defender, a procedure that is streamlined with the implementation of the SINOVA system.

In the context of its activities, IGAI is also permanently vigilant of the need to guarantee the rights of citizens detained by police officers, including the right to communicate the detention a third party (a relative or a friend); the right of access, be it, to a lawyer or medical care (checking whether there is a record of having been granted the access to those rights); and also the right to have the communication being carried out in a language the detainee understands (understand and make oneself understood in a language that one can master).

These rights are related to the conditions of detention facilities in police stations, thus, IGAI also carries out inspections, in particular the unannounced visits made to several police stations (PSPs) and territorial posts (GNRs) throughout the country every year, which refer to Article 23 of the Regulation on the Material Conditions of Detention in Police Premises (RCMDEP).

On this particular matter we point to the provision of Article 17, paragraphs 1 and 2 of the RCMDEP.

Particularly relevant is the paragraph 2, of that Article 17, that reads:

*"In addition to the book referred in the preceding paragraph, an individual detainee form, of an approved model, will be developed to record all the circumstances and measures related to the detained, in particular, the time and cause of deprivation of liberty, the moment the detainee was informed of his rights, marks of injuries, contacts with family, friends or lawyer, incidents that occurred during detention, the moment de detainee was of presented to the judicial authority and released. Such a form shall be signed by the police officers involved and by the detainee".*

This provision should be assessed under the terms of the CCP framework.

This is one of the many points that are monitored and assessed during unannounced visits that each year are made to a significant number of police stations (PSP) and units (GNR) throughout the country as prescribe in the RCMDEP

**§38 The CPT reiterates its recommendation that the Portuguese authorities ensure that the right of access to a lawyer, including the right to talk to the lawyer in private, is enjoyed by all persons obliged to remain with the police, as from the very outset of the deprivation of liberty. From a practical point of view, this will require putting in place an arrangement with the Portuguese Bar Association to ensure that there is a duty roster of ex officio lawyers who can visit police stations when required. In addition, the CPT would be like to receive a copy of the evaluation undertaken by the European Commission on the implementation of Directive 2013/48/EU in Portugal.**

The Ministry of Justice has only knowledge of the 2019 evaluation made in accordance with article 16 of the Directive, which does not discriminate our country.

**§39 The CPT recommends that the electronic police detention register contains a record of all medical interventions concerning detained persons in each police station and a copy of any medical documentation should be made available to the detained person**

Since April 2018, the PSP has in place throughout the country the "Cell and Detainee Management Module".

This functionality allows a very objective control of the interaction with the detainee because all information must be inserted in the "Cell and Detainee Management Module". There are several information fields relating to detention, including: "Date/Time of Information of Rights", "Date/Time of Information of the Judicial Authority", "Date/Time of detention", "Detention deadline", "Physical State of the detainee". In addition, there is also information regarding the "Detention Area", such as "Unit", "Date/Time of Entry", "Date/Time of Departure", "Entity of the Detention Area".

Subsequent to these fields there is exclusive information about the detention "Cell", identifying in this field "Unit", "Date/Time of Entry", "Date/Time of Departure", "Cell Number" and "Responsible for Driving".

Finally, there is information on "Contacts/Visits", "Food", "Incidents", "Medical Care" (which contains a field for recording the "Input/Episode Number" and "Exit").

This registration system allows a 24-hour verification and control of any hierarchical level of any detention made in your area of responsibility and is an increased guarantee that all persons deprived of their liberty have their rights respected.

**§40 The CPT recommends that law enforcement officials are reminded of their obligation to immediately inform detained persons of all their rights in a language they understand and that such information is accurately transmitted.**

The PSP Strategic Information System provides forms with the rights of detainees in 17 languages (German, Arabic, Bulgarian, Czech, Chinese, Croatian, Spanish, French, Greek, Dutch, English, Italian, Polish, Portuguese, Romanian, Russian and Swedish). When the detainee is a national of a foreign country and linguistic difficulties are experienced in explaining and understanding this information, the PSP uses an official listing of approximately 300 translators working under the coordination of the Public Prosecutor's Office, which cover more than 50 languages/dialects.

Similarly the GNR Order No. 5863/2015 (Regulation of Material Conditions of Detention in Police Establishments), provides that “(1) in each police establishment it must be posted, in a clearly visible place in the public service area and in the detention area, a standard model panel with information on the rights and duties of the detainee and the accused”.

In addition, at the GNR territorial posts there are information leaflets that contain a summary of the rights and duties of the detainee in several languages.

This is also one of the aspects that is monitored and assessed during IGAI’s unannounced visits to PSP’s police stations and GNR’s territorial units (GNR) throughout the country, as per the RCMDEP.

**§41 The CPT recommends that the PSP hierarchy reiterate the legal obligation on all police officers and notably those working at Lapa Police Station that every deprivation of liberty must be fully and comprehensively recorded.**

In 2018, PSP has implemented in its Strategic Information System (SEI) the "Cell and Detainee Management Module".

This feature ensures that all information relating to an arrest is mandatorily inserted in the "Cell and Detainee Management Module", and there are dozens of information fields such as "Date/Time of Rights Information", "Date/Time of Information of the Judicial Authority", "Date/Time of detention", "Detention Deadline", "Physical State of detainee".

In addition, there is information regarding the "Detention Area", such as "Unit", "Date/Time of Entry", "Date/Time of Departure", "Holding Area Entity". Subsequent to these fields there is exclusive information about the detention "Cell", identifying in this field "Unit", "Date/Time of Entry", "Date/Time of Departure", "Cell Number" and "Responsible for Driving". There is also information on "Contacts/Visits", "Food", "Incidents", "Medical Care" (in which there is a field for recording the "Input/Episode Number" and "Exit").

**§43 The CPT recommends that the lighting in all detention cells be sufficient for reading purposes and that cells be adequately heated and/or that detained persons be provided with sufficient blankets to ward off the cold.**

The conditions of the detention infrastructures fully comply the rules of Portuguese legislation. Whenever irregularity is detected, the space is immediately closed until the necessary reparations are carried out.

Furthermore, IGAI carries out assessment and monitoring inspections, in particular through its unannounced visits to police stations (PSP) and units (GNR) throughout the Country. Regarding the lighting and heating of the detention cells, are precisely two aspects, among many others, that are inspected and assessed at these visits.

Article 4, paragraph 6, of the RCMDEP states that:

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

It should be recognised that there is a degree of subjectivity when assessing the extent to which a space has sufficient light. The CPT associates this sufficiency with the condition that allows reading.

During IGAI's unannounced visits, if there are cells with poor lighting conditions, the practice has been to recommend, in the case of artificial light, a more powerful lamp be placed in the cell. In the case of natural light, the situation is more complex, considering that some police premises are located in old buildings and the increase of natural light may imply construction works of adaptation, which the security force is not always able to execute immediately.

On this matter, Article 4, paragraph 15, of the RCMDEP states, in terms that are quite precise, that: "[a]dequate natural lighting and ventilation will be provided through a hopper window with a minimum area and height of 0.35 square metres and 0.40 m, respectively". This norm includes a qualitative (adequate) evaluation element and an objective assessment element (the minimum size that the hopper window must have).

On the matter of cell lighting (as well as ventilation it is on the basis this normative that IGAI assesses each detention area and, in this specific case, the lighting of each detention cell. With balance, coherence and equity, IGAI then makes recommendations according to the conditions found, including recommending construction work, closing the cell or restricting its use until refurbishment works take place.

With due adaptations, the same applies to the heating conditions of the detention cells.

On this matter, article 3, paragraph 1, of the RCMDEP states in terms that are also quite precise:

*"The detention area must have humane living conditions, natural and artificial lighting, insulation against excessive cold and heat, ventilation and safety conditions."*

Also, article 12, paragraphs 5 and 6 establish:

*"5 - Each detainee will have an individual bed and appropriate clothing for it, maintained and replaced in order to ensure its good condition and cleanliness.*

*6 - The available blankets should be in sufficient number, depending on the existing thermal conditions. After each use, they should be disinfected and stored in an appropriate place."*

Taking heed of the above transcribed/translated provisions, when IGAI detects during unannounced visits situations cells with poor heating conditions or insufficient blankets, whether in terms of quantity or quality, the practice has been to issue recommendations deemed necessary to correct each individual situation involving non-compliance with the RCMDEP.

In any case, the reports produced by IGAI following the inspection visits always refer to the deficiencies encountered, if encountered, and include recommendations to the security forces to correct them, be that poor lighting, poor heating or any other deficiency.

**§45 The CPT, while welcoming the recent progress, recommends that the Portuguese authorities pursue their efforts to tackle the phenomenon of local overcrowding in the prisons through promoting greater use of alternatives to imprisonment, and notably as regards short sentences. The CPT would also like to receive updated information on the 10-year strategy and notably on the plans to replace Lisbon Central and Setúbal Prisons and to build a new prison in Ponte Delgada.**

At the present stage, we are able to report on conservation works at Ponta Delgada prison, some of them already concluded and others still under way. These works encompass, for instance, new hotel equipment in the kitchen (48.500€), conservation and improvement of facades, including the replacement of all windows (530.000€), two cabinets for lawyers (3.800€) and construction of an open-air sports arena with synthetic grass (20.000€), etc.

In addition to these works, efforts to reduce the number of inmates at Ponta Delgada prison have been adopted over the years and Law No. 9/2020 of 10 April establishing an exceptional regime for lightening the enforcement of penalties and mercy measures in the context of the COVID-19 pandemic played a crucial role in this regard.

As in September, this prison has 75 inmates and an occupation rate of 53.2%. In January and July 2019 there were 177 and 163 inmates and an occupation rate of 160% and of 115%, respectively. In January and April 2020, there were 145 and 141 inmates and an occupation rate of 102% and of 100%, respectively.

**§51 The CPT would like to be informed whether the Inspection and Audit Service (SAI) reviewed this case. Further, it would like to know whether the CCTV from Wing F was examined for the night in question.**

The Audit and Inspection Service [AIS] (North, Central, South and Madeira and Azores Islands Delegations) did not treat any complaints from inmates sentenced for crimes of a sexual nature when first entering in the prison establishment. Except for a situation that occurred about 4 years ago at the Ponta Delgada Prison (the case was closed). As far as the AIS is aware, no complaints have been filed regarding assaults for this type of reason; otherwise an inquiry would be initiated.

Likewise, with regard to alleged aggressions suffered by inmates during the night at Lisbon Central Prison, an inquiry is also initiated whenever a complaint is made and if it concludes that an infraction has been committed, disciplinary proceedings are consequently initiated.

With regard to the inquiry 5/IT/2019, the AIS (South) was of the opinion to close it and an order of this sense was taken by the Director General of the DGRPS. The Lisbon Central Prison does not have a CCTV system, so the images could not be viewed.

**§52 In the light of the information gathered during the 2019 visit, the CPT recommends that the Portuguese authorities reiterate to all prison managers and custodial staff that any form of ill-treatment is illegal and unprofessional and will be the subject of appropriate sanctions. This demands that all senior and middle managers pay special attention to the actions of staff, notably prison officers, under their responsibility and take immediate steps to address any indications that staff are abusing prisoners. Failure on the part of supervisory staff to fulfil this role is, in itself, a serious dereliction of duty. More specifically, the Directorate General of Prisons and Rehabilitation Services (DGPRS) and the management of Lisbon Central, Porto and Setúbal Prisons should monitor closely the situation of persons admitted to prison for sexual offences.**

As already mentioned, the DGRPS has a zero tolerance policy towards aggressive practices that do not respect the prisoners' rights. It should be highlighted that the DGRPS activity is under continuous scrutiny as prison establishments can be and have been regularly visited by sovereign bodies (mainly

by prosecutors, members of government and deputies of the Parliament), Ombudsman (either in that capacity or as NMP under the OPCAT) and by representatives of international organizations with responsibilities in matters related to the promotion and protection of the prisoners' rights (Art. 66 of Code for the enforcement of sentences and deprivation of liberty measures (CESDLM)).

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

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

Moreover, the AIS of the DGRPS, which is coordinated by a law judge and by two prosecutors, has continued to carry out its inspective and disciplinary activity based on complaints submitted by the inmates and/or their families, media or even on its own initiative. Any allegation of ill treatment always gives rise to open an investigation proceeding and, if the facts configure a public nature crime, such conclusion is transmitted to the Public Prosecution so that a criminal proceedings can be initiated.

Having in mind that collecting evidence is essential, it should be referred the entry into force of Circular No. 1/2017, which establishes the procedures to be observed when conducting a medical examination upon admission of inmates, when inmates show physical injuries, when control and restraint means were used or when complaints about alleged physical abuse are filed.

Regarding the individuals brought to prison establishments, it is also important to recall Order No. 11838/2016 of the Home Affairs and Justice Ministers that determines that findings of injuries or complaints of assaults prior to entry in prison establishment, are to be transmitted to the Internal Affairs General Inspection (if they are brought by the PSP or GNR) and to the Justice Services General Inspection (if the inmates are brought by the PJ). This command has been strictly observed.

In the frame of zero tolerance policy on ill-treatment, Circular No. 1/2016 of 5 September dictates that all the staff working with inmates has to display an identification card with photography. The final stage of issuance and distribution of these cards is at its final stage.

Finally, a significant investment has been made in the installation of CCTV in prisons.

**§53 The CPT recommends that steps be taken at Porto Prison to ensure that information and reports relating to "extraordinary" incidents be classified in a specific folder or logbook and that the daily reports of the duty officers be accurately and comprehensively completed. Further, the CPT would be interested to learn whether the SAI Nord, in carrying out their investigation, interviewed prisoners on Wing A and audited the armoury and gun(s) used to fire the rubber bullets. In addition, the CPT would like to be informed whether there were any lessons learned from the way in which the 5 December 2018 incident was managed. It would also like to know whether there was a systematic debriefing after the incident with the officers involved, who led the debriefing and whether any specific conclusions were drawn**

Following the events of 05/12/2018, a report was drawn up about the intervention aimed at restoring order and security, which was sent to the Central Services of DGRPS in accordance with Circular No. 7/GDG/2001, as well as a report on the use of coercive means.

In line with Circular 4/2016/IAS/DGRPS, it was forwarded to the competent authorities; case P/2018/46 was opened at the North IAS delegation, which has filed on 5/3/2019 by the Director General of the DGRPS and led to the approval of a set of recommendations to be followed by the Director of the prison establishment.

**§54 More generally, the CPT has strong reservations about the use of firearms, including weapons discharging rubber bullets, and other means of coercion such as flash bangs and CS gas within a confined prison setting. It invites the Portuguese authorities to review the 2009 Regulation on the use of means of coercion in prisons with a view to defining more narrowly the means of coercion that may be deployed within a prison setting. Further, the CPT recommends that each time such a weapon is discharged there should be a full separate report relating to its use (including reasons for use, where and how discharged, how many rubber bullets/pellets discharged, any injuries) and that an oversight body such as SAI should evaluate whether the discharge of the weapon was necessary and proportionate in the circumstances.**

Prison guards are not armed inside prison establishments and that the use of coercive means must follow the provisions lay down in the Regulation on the Use of Coercive Means in Prisons.

Moreover, with regard to coercive means, it should be stressed that any use of such means guards must be communicated to the central services and by the AIS, whose delegations in Porto, Coimbra, South and Madeira and Azores Islands, are coordinated by two prosecutors and a judge.

**§55 The CPT recommends that every time a strip search is deemed necessary that it be carried out in a manner so as to limit embarrassment and preserve the dignity of the person, as described above.**

The recommendation is already followed, since strip searches abide to Article 152 (4) (5) (6) (7) (8) (9) (10) of CESDLM regarding the circumstances in which they can be made and their respective requirements. Moreover, instructions were issued to guarantee that the person searched should never be completely naked.

**§56 The CPT reiterates its recommendation that steps be taken to reduce the overcrowding in the establishment to ensure that each and every prisoner is offered a minimum of 4m<sup>2</sup> of living space in multiple-occupancy cells. Further, the CPT recommends that the conditions of detention for persons sentenced or accused of sex offences be improved as a matter of urgency. In addition, the sanitary annexes in all multiple-occupancy cells should be fully partitioned. The Committee would also like to be provided with information on the renovation of the ground floor dormitories in the North Section.**

These situations are overcome. The occupation rate of Caxias Prison at the time of the visit was 137.7%; at 15/9/2020 is at 94.7%. Sex offenders are no longer housed in a single cell, but in two cells,

each one with more than 33m<sup>2</sup>. Each of these cells holds 8 inmates, thus complying with the recommendation of 4m<sup>2</sup> of space for each inmate.

Lastly, though the transfer of the Admission Sector (1B and 2B dormitories) to 1A and 2A dormitories was scheduled, it did not take place as they have been reserved for prophylactic isolation purposes in the context of the contingency plan for Covid 19.

**§57 The CPT reiterates its recommendation that vigorous action be undertaken to maintain the cell accommodation in a decent state of repair, in the light of the above remarks. Further, it would like to receive a detailed timetable for the upgrading of the different areas of the prison. The CPT also recommends that the policy of compelling inmates to eat their meals in the communal dining rooms in silence, with any talking punished, be ended.**

This recommendation has been duly taken on board. Thus, when the D wing became allocated to the admission sector, glass, electrical installation and mattresses were replaced. After 6 months, due to the great movement of inmates in those cells, the mattresses were cut, the electrical installation was destroyed and in the summer the glass was broken. At the time of the CPT's visit, glass had been replaced and lamps were being distributed to each inmate, in order to overcome the constant destruction of the electrical installations.

Currently, due to the pandemic, the admission is carried out in the F wing, whose cells have better conditions. Work is being done to refurbish the cells in B wing according to Lisbon prison resources.

It is recommended that the inmates speak in a low tone of voice during meal given the reduced capacity of the canteens in most wings. More than one inmate shift is required at each meal; so inmates' conviviality during meals would delay and make even more difficult to take meals. There is no record of any punishment applied to an inmate for chatting in the canteens and there are other common spaces where they can live at ease such as bars and patios. Moreover, the canteen is a sensitive place in terms of security; so interaction between inmates or between inmates and prison guards it is not appropriate to exist.

**§58 The CPT recommends that the Portuguese authorities reduce the number of persons held at Porto Prison with a view to ensuring that cells of 7m<sup>2</sup> accommodate only one prisoner and that all dormitories provide 4m<sup>2</sup> of living space per prisoners excluding the sanitary annexe. The sanitary annexe in every cell and dormitory should be fully partitioned to the ceiling. Further, a member of staff must always be located on the UE unit given that it is a special unit for vulnerable prisoners.**

Over the years, efforts have been taken to tackle overcrowding at Porto prison, such as the process undertaken in November 2019 to transfer 150 inmates to other prisons. Though overcrowding still exists, since the CPT visit it has decreased. It now stands at 129% prior to a 144.9% rate. However, that figure should be put in perspective as the Porto prison is one of those that receives inmates coming from the freedom to carry out the quarantine, who, after the 14 days of isolation for the detection of Covid 19, are transferred to other establishments.

The "RAI" wing, which received persons sentenced or accused of sexual offences in order to preserve their physical integrity, is currently deactivated. All its occupants have been transferred to Pavilion D.

33 of the 52 inmates are engaged in cleaning activities on several premises of the prison establishment. Some, due to advanced age or more mediated crimes, do not intend any occupation.

These inmates have access to religious activities (mass and worship) as well as to the library.

UE Unit is also deactivated and all the inmates were transferred to Pavilion D. These inmates, in addition to the legally defined daily recreation, had sports activities, psychology sessions, lectures, could request books from the library and take part in religious activities (though there were no requests in this last regard). For this Unit, a Programme of Activities was even drawn up and implemented on the 08/01/2020, which is currently suspended due to the pandemic situation.

It should be underlined that all inmates at the RAI wing and the UE Unit only remained in those spaces at their express written will and under no circumstances their permanence there was imposed to them. Those who did not wish to stay there were accommodated in the Pavilions.

Currently, those two spaces receive inmates from outside in order to comply with the quarantine, a prevention measure implemented following the pandemic.

**§59 The CPT recommends that the Portuguese authorities pursue their efforts to decongest the prison and to provide for minimum basic conditions. In particular, the CPT reiterates its recommendation that alternative accommodation must be found for persons accused of sexual offences and other prisoners requiring protection to ensure that they are offered at least 4m<sup>2</sup> of living space in multiple-occupancy cells, excluding the sanitary annexe, and preferably more given that their out-of-cell time is severely restricted.**

Following rehabilitation works, those inmates were transferred to a new space that has 14.88m<sup>2</sup> and is occupied by only 2 inmates. Therefore, sanitary/physical and material conditions are adequate.

As far as access to activities is concerned, inmates are always informed and invited to participate in prison's existing activities. However, they know that this implies contact with the rest of the prison population and most of them decide not to participate in them.

Before Covid 19, the possibility of establishing a link between the prison library and those inmates was being envisaged: they would select the books that would later be taken to their cell or a period would be reserved for their access to the library.

Time spent in open air is still the same as the one observed during the visit, i.e. 1 hour a day, separated from the rest of the prison population.

It should be mentioned that a proposal was submitted in order to allow these inmates to enter at Carregueira prison, adapted for this type of inmates, where they can have access to the patio, normal visits and specific programmes; Setúbal prison would continue to be responsible for ensuring the arrangements concerning them.

**§60 The CPT reiterates its recommendation that the Portuguese authorities take the necessary steps to develop purposeful activities for remand prisoners in Lisbon Judicial Police Prison, and that they pursue their efforts to offer an appropriate range of constructive activities to all prisoners in Caxias, Lisbon Central, Porto and Setúbal Prisons. Additional efforts should be made to provide prisoners on the RAI and UE units at Porto Prison with access to purposeful activities.**

Concerning occupational activities, Setúbal prison has a limited space, which makes its allocation to these activities difficult. Furthermore, since the pandemic, the few available spaces for those activities were diverted to the new concept of face-to-face visits (acrylic screens/separators). At this moment, Setúbal prison is evaluating its different physical spaces in order to adapt them for this purpose. In any event, education activities (Education and Training of Adults courses and Recognition, validation and certification of skills - *Qualifica*) and employment activities continue to take place.

Activities available for inmates at Caxias prison in 2019 were miscellaneous. At the end of 2019, 142 inmates worked several sectors (cleaning, laundry, bars, linen room), 43 inmates were enrolled at school (the prison offers from B1 level to high school), 21 inmates were involved in two skills development projects with external entities and 750 inmates attended the gym. Chess, table tennis and futsal tournaments were held; cultural, reading and health promotion activities were also carried out. All the above-mentioned activities are voluntary, although the Supervisory Service for the Enforcement of the Penalty promotes their attendance among inmates.

In the Lisbon prison, efforts have been adopted to increase inmates' activities by expanding the number of jobs and school offer. Beginning of 2019, a new space for the school was adapted. Following some meetings with the Protocol Centre of Justice, an organisation responsible for the promotion of training activities of persons under the responsibility of the Ministry of Justice with a view to their integration into society and the world of work, the dissemination and registration for professional training courses in the areas of gardening and typography was undertaken.

In addition to cultural, recreational and sports activities, skill training and rehabilitation programmes have been developed, aimed at specific problems.

With regard to the health area, 2019 was one of the richest on health education sessions, with a good inmate's participation.

Unfortunately, due to the contingency measures adopted to combat the spread of Covid 19, many of the activities are suspended or are gradually resuming, with many limitations.

The prison establishment by the Lisbon Judicial Police is designed to receive detainees and prisoners, mostly remand prisoners. It has an average occupation of 135 individuals (remand, convicted and detained). In 2019, 895 inmates/detainees entered and 821 left, which reflects a high mobility. The average length of stay in this prison is less than 6 months.

In December 2019, only 1 inmate (sentenced) had been in this for more than 18 months, for exceptional reasons (health). During this period, he always kept a job.

Regarding the occupation of inmates in general, it should be pointed out that given the specificity of this prison (type of inmates, short time of stay and inadequacy of its infrastructure) it is not feasible to have labour/training activities for the whole prison population. This specificity led not to include in this prison management indicators any objectives related to work and training.

In this context, in addition to the 32 existing jobs in the cleaning area, inmates occupation essentially focus on activities carried out in the courtyard (sports and board games), emotional stabilisation programme (indicated for inmates upon entry into prison), occasional voluntary activities and library. Thus, except for exogenous factors, and under the assumption of the allocation of adequate human resources, the aim is to:

- increase the number of applications of the "emotional stabilisation" programme;
- expand the intervention of volunteering by creating groups of diversified activities;
- plan outdoor activities in order to cover more inmates;
- adjust common spaces for the implementation of productive jobs.

The Porto prison develops several occupational activities for its inmates (work, school, professional training, sports, (including gym), music, library and religious activities). Some of these activities are still suspended due to COVID 19.

**§61 In this context, the CPT would be interested to receive an update on the progress made by the joint ministerial working group and on whether any further consideration has been given to the transfer of responsibility for health care in prisons from the Ministry of Justice to the Ministry of Health.**

In 2017, an inter-ministerial Justice / Health working group (Joint Order MJ / MS No. 1278/2017, of 06-02) was created, which determined the constitution of a working group to assess the constraints on access to the prison population, young and adult, to the NHS and the proposal of solutions to overcome them, with a view to guaranteeing conditions of equal access with other citizens. Its aim is to access and share information through computer systems of the National Health Service by prison establishments, from the moment of inmates' admission to prison until their departure. For the operationalization of this Protocol, specific agreements were concluded in areas of telehealth, HIV and viral hepatitis. Thus:

- In 2018 were concluded with 4 prison establishments;
- In 2019 were concluded with 29 prison establishments;
- In 2020 steps are being taken to conclude the missing specific agreements.

In order to continue the work carried out by this inter-ministerial working group, a new inter-ministerial working group was appointed, through Order No. 9121/2019, of 10 October, in order to obtain a continuous improvement in the access of the prison population, young and adult, to the National Health Service and to ensure the operational coordination of the resources of the Ministries of Justice and Health. This second appointed working group has not yet started its functions.

**§64 In the light of the above, the CPT recommends that steps be taken to reinforce health-care staffing levels at Lisbon Central Prison in order to ensure that there are the equivalent of three full-time general practitioners and an increased complement of qualified nurses, including those with a mental health qualification. Further, the CPT would like to receive confirmation that a pharmacist**

**has been recruited at Lisbon Central Prison. Further, the CPT recommends that steps be taken to establish a health care team approach at Lisbon Central Prison, which should include reviewing disparities between the working conditions of public and private sector staff.**

During 2018 and 2019, health care provision was assured mostly by private undertakings, which led to some problems. Since 1/1/2020 health care needs are settled with retainer contracts annually concluded with the directors of each prison establishment.

Thus, and at present, health care provision is assured by professionals of the staff map and retainer contracts. It should also be mentioned that a competition for reserve recruitment for the nursing staff is currently underway at prison establishments: 47 nurses have already been admitted out of a total of 97 vacancies.

The prison in Lisbon has a physician that belongs to the staff map and two more with a retainer contract (the latter in a total of 26 hours). It is not planned to hire an additional doctor for the time being as inmates are quickly assisted when they request a consultation.

From January 2020 to the present date, Lisbon prison has been awarded 326 hours a week stemming from retainer contracts with nurses. So far it has not been possible to recruit specialist nurses, particularly in mental health, because there are no candidates interested. Lisbon prison has also been reinforced with two pharmacy technicians for a total of 50 hours per week.

As a result of these changes, there has been a significant improvement of the quality of services and of the satisfaction of the health professionals.

At present, the health team of Porto prison has 2 nurses from the DGRPS staff map, 4 nurses in a retainer regime and 1 more psychologist with a 1 year retainer contract.

#### **§65 The current system of dispensing medication should be reviewed.**

We acknowledge the relevance of this recommendation. As such, the Porto prison changed medication-taking procedures. Currently, medication is given inside its packaging, which allows inmates to confirm the pills they will take. There is no record of complaints regarding possible errors in the exchange of medication.

As for methadone taking, it is done face-to-face, assisted by the nurse, who removes the substance from the dispenser directly into the inmate's glass. Consequently, the situation of any exchange does not present itself.

#### **§66 The CPT recommends that steps be taken to ensure that all health care consultations take place out of the hearing and preferably out of the sight of prison officers.**

The presence of a prison guard is deemed to be necessary in order to safeguard medical staff as well health supplies; their theft could cause serious problems for the order and security of the prison.

The space is equipped with a folding screen that allows the privacy of medical/nursing care.

**§69 Concerning the treatment of inmates suffering from drug use, inmates were routinely questioned about substance use as part of the admission process. Consideration should be given to establishing such programmes.**

The Specific Syringe Exchange Programme created by Law No. 3/2007 of 16 January did not gathered much support from inmates.

Furthermore, it should be emphasized that there is a significant trend in the decrease in drug consumption by injection, both in the period prior to imprisonment and within prison establishments, as stated in the National Survey on Addictive Behaviour in Prison (2016).

**§72 The CPT recommends that the effectiveness of Circular No. 1/2017 be strengthened, in the light of the above remarks by:**

- enhancing the training provided to doctors and nurses on how to accurately record and describe injuries;
- ensuring that the recording of injuries and assessment of their consistency is the responsibility of the prison doctor;
- equipping all health care services with a digital camera to photograph any marks and injuries visible on newly admitted prisoners;
- ensuring that all the medical documentation and accompanying photographs relating to a case of alleged ill-treatment by law enforcement officials are forwarded directly by the Director of a prison to the Inspector General of Home Affairs (IGAI) and copied to the relevant Public Prosecutor's Office (DIAP) and to the Director General of Prisons and Rehabilitation Services;
- ensuring that the documentation of each case is diligently classified in each prison.

Please consider the answer provided for §52 on Circular 1/2016, Circular 1/2017, Order No. 11838/2016 and the use of CCTV.

In addition, and regarding Circular 1/2017 in particular, we would like to emphasise that doctors who work in prisons have been following the requirements established by that Circular; they complete the form to register this type of information, indicating in particular the degree of compatibility between any allegations of torture, ill-treatment or physical injury and the injuries found during the medical examination.

The AIS and the Director General of the DGRPS have paid particular attention to compliance with the procedures laid down in the abovementioned Circular, in particular with regard to the said compatibility. In this context and whenever it is found that such procedures are not complied with (which, in practice, happened only at the beginning of its implementation), the AIS and the Director General have issued recommendations and warnings drawing attention to the importance of strict compliance with such procedures in the investigation of ill-treatment situations.

In any case, and in order to improve the application of this Circular, National Institute of Forensic Medicine has provided training for doctors who work in prison establishments. In March 2019, a training session was held involving 14 professionals from health areas and inspection services.

Lastly, we would like to recall that under article 37 (d) of the CESDML "clinical personnel shall immediately report, in writing ... the existence of signs indicating physical violence" and under article 5 (7) on the Regulations on the Use of Coercive Means in Prison Establishments "the inmate subject to coercive means is immediately assisted by a doctor". The existence of signs of ill-treatment is always subject to investigation, namely by the IAS the Public Prosecution.

**§73 The CPT recommends that the use of the pre-authorized protocols at Lisbon Central Prison be ended immediately and that a new protocol be drawn up that is in line with the precepts set out by the Committee in paragraph 102 below. Further, all prisoners who have a serious mental disorder that requires intensive mental health care should be transferred to a mental health facility.**

Prisoners with serious mental disorders (from all the Country's prisons) are transferred to the Hospital Prisional de São João de Deus (Caxias Lisboa), to be assessed and treated by the Department of Psychiatry.

The Protocol in force regarding imposed coercive health care in Lisbon prison derives from the Director's Internal Note, which determines the following steps:

- Psychiatrists draw up and submit to the Director an Information, stating the need to provide imposed coercive health care;
- The Director forwards it to the Director General for approval;

Once the authorization has been granted and communicated, imposed coercive health care is carried out by the duty nurse, with the support, if necessary, of prison guards.

**§75 The CPT recommends that the Portuguese authorities make provision to recruit additional staff after carrying out a review of the current staffing levels in the prisons visited. In carrying out this review, regard should be had to the role and duties of prison staff as they relate to the purpose of sending people to prison. Further, the CPT would like to receive additional information on the ongoing staff training provided notably regarding interpersonal communication skills. The CPT also reiterates its recommendation that there be a permanent staff presence in the basement unit of F Wing whenever inmates are unlocked from their cells.**

In spite of limitations regarding the recruitment to public administration, there are efforts to increase the number of prison guards. Thus, in 2018 a further 386 prison guards were hired, representing an investment of 8.9 M euros/year.

In 13/12/2018 a reserve prison guard recruitment has opened and 2,200 candidates were admitted. It is expected that the initial training course for new guards will begin during this calendar year (the doubt results only from the current public health situation arising from Covid 19).

In 2020, the Ministry of Justice will promote the necessary procedures for promoting senior officials. A phased admission of new guards is scheduled to take place, in conjunction with the occupation of higher categories of this career, thus ensuring career balance.

For the remaining careers, for 2020, the DGRPS intends to:

- Conclude the recruitment of social reinsertion professional technicians, health professionals, re-education technicians and social reinsertion technicians;
- Promote new recruitment procedures leading in order to meet the pressing needs of the different areas of DGRPS's work, in a total amount of EUR 11 490,392, distributed among the following professional categories/careers:

Category/Career	New recruitments 2020	Estimated costs 2020*
re-education technicians	39	837 561,42
social reinsertion technicians	53	1 185 234,99
technicians	96	1 530 201,03
social reinsertion professional technicians	41	417 484,43
electronic surveillance team coordinator	2	86 550,95
doctor	40	1 038 917,88
nurse director	1	17 175,94
nurse	10	171 759,37
diagnostic and therapeutic technician	26	651 364,22
IT specialist	4	104 712,35
IT technician	26	466 869,22
technical assistant	116	1 754 901,47
operational assistant	91	999 612,92
prison guard trainee	159	2 228 045,71
<b>TOTAL</b>	<b>704</b>	<b>11 490 391,90</b>
* estimated costs according to the expected date of beginning of office		

Regarding F Wing, surveillance staff is present in the spaces where prisoners are held.

**§76 The CPT recommends that the Portuguese authorities phase out the carrying of truncheons by custodial staff in detention areas.**

Under article 21 (9) of Order No. 18435/2007, of 17 August, which approves the Prison Guard Uniform Regulation, the use of truncheons with the uniform B and C is admitted whenever the functional circumstances so require and by superior determination. The use of the baton complies with the legal requirements.

**§77 The CPT reiterates its recommendation that efforts be made to speed up the time taken to investigate and decide on a disciplinary offence. Further, prisoners should have the opportunity to challenge the statements made by prison officers in the context of disciplinary proceedings.**

Within the scope of the IAS powers, inspections are usually carried out in the legal offices of prisons in order to, among other things, assess the speed with which prisoners' disciplinary proceedings are processed. This assessment bears in mind the concerns of the CPT (greater efficiency in the processing, decision and enforcement).

Finally, it should be borne in mind that article 110 of CESDLM determines that the application of a disciplinary measure is preceded by a written or recorded procedure and that, when the disciplinary procedure is initiated, the prisoner is informed of the facts attributed to him. The rights to be assisted by a lawyer, to be heard and to present evidence in his defence are guaranteed.

**§78 The CPT reiterates its recommendation that all transfers from the mainstream accommodation areas to the basement dormitories in the North section of Caxias Prison be clearly reasoned and recorded. Prison management should ensure no prisoner is subject to an informal punishment by staff.**

Admission cells in the north section are not used for any informal punishment which, it must be said, does not exist. In Caxias prison, the disciplinary procedure follows the rules in force and the application of precautionary measures pending the disciplinary procedure is governed by Article 111 of the CESDLM. Only when the physical integrity of the inmate is at stake and the inmate has to be removed from his cell and lodged in a different one (and Caxias prison does not have individual cells), can the inmate be allocated to the admission sector. This is the only space available having in mind its overcrowding (on the date of the visit; on the 15 September the occupation rate is 94.7%). This circumstance is always due to a written participation on the facts that gave rise to it, which can be understood as an informal punishment by the inmate population. Please refer also to the answer provides for §56.

In the south section there was a change that had a significant impact because sex offenders are no longer housed in a single space as mentioned in the report (under § 56), but in two rooms (each with more than 33 m<sup>2</sup>) each one with 8 inmates. This complies with the recommendation of 4 m<sup>2</sup> of space for each inmate

**§79 The CPT recommends that the Portuguese authorities take the necessary steps to ensure that placement in provisional disciplinary isolation be brought into line with the above precepts.**

Since separation cells or placement in provisional disciplinary isolation inevitably leads to a greater compression of the freedom of movement, social interaction and enjoyment of occupational activities, all decisions to apply those measures are communicated to the IAS (Circular No. 2/DGRPS/2015). In addition, permanence in a separation cell that lasts more than 72 hours should also be communicated to the Public Prosecutor's Office by the Enforcement Sentences Court.

Following the communications made to the IAS under the aforementioned Circular, several recommendations have been made to the directors' prison to alert them that precautionary measures are exceptional in nature and that their application should be as short as possible, even if the law provides for relatively longer periods.

**§80 The CPT recommends that the Portuguese authorities limit the duration of the disciplinary punishment of POA to a maximum of 14 days. The Committee would also like to be informed whether a Government working group established to reflect on the revision of Law 115/2009 has submitted its proposals and what is the timetable for any revision.**

This recommendation is followed by the DGRPS which, not having the power to amend the legislation in force, has issued a recommendation, published on the intranet, stating that the disciplinary punishment of confinement to cell should not exceed 15 days, that the inmate subject to it should be observed daily by a doctor and that he should enjoy two hours a day in the open air.

**§81 The CPT recommends that this basement unit also be closed down and another area of the prison used for holding prisoners serving a disciplinary punishment. The CPT recommends that all prisoners serving a disciplinary punishment of solitary confinement be permitted to access reading materials. Further, outdoor exercise yards should be equipped with a means of rest and a shelter from the rain or sun. The CPT would also like to receive details about any new disciplinary unit at Porto Prison, including steps taken to ensure that the cells are kept at an appropriate temperature.**

As regards Lisbon prison, disciplinary sanctions were enforced in the "Baixos" of the E wing (compulsory stay in accommodation) and the C wing (disciplinary cells). These areas were deactivated because they were not habitable and the disciplinary area was installed in the 'Baixos' of the A wing. Since they are located on level -1, it does not have as much light as the other floors, but the cells have natural light.

As electrical installation was again destroyed, several lamps are distributed to the inmates here, who is responsible for each lamp.

In Lisbon prison only the "Baixos" of the F wing could be adapted for disciplinary purposes, as they are separated from the other prison areas. However, at present, this wing is being used for all inmates of the Lisbon area, who have entered the prison system, to complete the 14 days of quarantine.

Regarding Porto prison, before the application of disciplinary measures, inmates are informed that they can request from the library the number of books they wish to adjust to the period of the disciplinary measure compliance. Until now, no situations that would justify the need to change the procedures was registered.

Given the pandemic situation, the new disciplinary unit of the Porto Prison had to be redirected to the use of clinical and surveillance staff who supports the health unit implemented aimed at prisoners with COVID 19 in the northern area.

No additional measures are foreseen to guarantee the appropriate temperature in the cells.

**§82 the CPT would like to be informed of the outcome of the studies announced in 2017 to improve the current phone system and as regards the introduction of new technologies in prisons such as VoIP (Voice over Internet Protocol) to facilitate inmates' ability to maintain contacts with their families, notably for those living abroad.**

Two project pilots are in progress to allow inmates to have phones on the cells; they differ in technology, but their goal is the same: to allow inmates to have more intimate contacts with their relatives or friends and stimulate approach between them.

One of the projects is carried at Linhó Prison (one of the biggest male prisons) with the installation of 437 phones, in every cell, security area and open regime. The other one is carried out at the female prison of Odemira (one of the smallest prisons) with the installation of 35 phones.

These projects will both last for 1 year, starting September 1<sup>st</sup> 2020. After 6 months, a report will be prepared with the assessment of the situation and indication of possible improvements and modifications to be made.

Regarding the use of VoIP technologies, to facilitate the social contact, the DGRPS introduced video call using several platforms, all of them supported by its private network. It started in 2018, with a pilot project with the duration of 1 year. This system is available in every prison since December 2019. It is installed in a private room and includes a computer, video camera and voice system.

The communication between inmates from the same family, in different prisons, was facilitated by the use of videoconference. By internal regulation, issued by the General Director of the DGRPS, these video calls are monthly and with a 20 minutes duration.

The communication between inmates and someone not deprived from liberty was first facilitated by the use of Skype, then by WebEx platform. According to the internal regulation approved by the General Director of the DGRPS, these communications are weekly and with the 20 minutes duration.

During the first 6 months of 2019 a total number of 8 930 calls was made using the VoIP platforms.

**§83 The CPT would like to be informed when the new complaints system will be introduced to prisons and it would like to receive a copy of the draft proposal.**

The draft of the new complaints and requests systems was drawn up and AIS delegations are bound to submit the final version of this draft by 2020. The new system should therefore be implemented in early 2021.

**§85 The CPT welcomes the approach outlined in the Decree and would like to receive information on the practical consequences since its adoption.**

The practical consequences resulted in the admission of 40 criminal irresponsible persons in Magalhães Lemos Hospital. In addition, and taking into account also §86, we would like to inform that currently there are 155 patients allocated to the Clinic of Psychiatry and Mental Health, distributed in the following units:

- 11 in the transition unit;
- 23 in Unit 2 (autonomous building previously destined for drug addiction treatment);

- 121 in the clinic (2 are under evaluation in order to enter Unit 2 and 2 will enter in the transition unit).

Of the total, 107 criminal irresponsible persons serve a security measure, 30 were sentenced to serve in a placement, 2 in relatively undetermined sentences and 16 in preventive internment.

Most of the diagnostic categories identified remain the same.

**§87 Therefore, the CPT reiterates its recommendation that the Psychiatric Clinic be closed down, and that the patients be relocated to an appropriate hospital or social care facility.**

Noting that a number of developments have emerged regarding health care provision and new legal standards for the protection of fundamental rights, a working group was set up this year by the Justice and Health Ministers (Order No. 6324/2020) to submit an amendment proposal to the Mental Health Law approved by Law No. 36/98 of 24 July.

**§88 The CPT would like to be informed about the functioning of this working group (mandate, composition, timetable, expected results). Further, pending the closure of the Psychiatric Clinic, the CPT recommends that every effort be made to reduce further the number of patients held in the facility, to put in place a structured programme of therapeutic activities for patients and to increase health care staffing levels.**

The working group, coordinated by the Director General of DGRPS and by the psychiatrist in charge of the Lisbon Psychiatric Hospital Centre, includes technicians in justice and health areas.

The group has already convened several times, visited forensic wards of justice and health areas, met with enforcement of sentences judges and produced several technical documents.

**§89 The CPT reiterates its recommendation that prison officers be replaced by health care workers within the Psychiatric Clinic and that any allegation of ill-treatment be investigated effectively. To this end, the CPT would like to be informed of the outcome of the investigation into the three above-mentioned complaints, including a copy of the final decision.**

We would like to reassure the CPT that all complaints and/or information regarding ill-treatment are subject to investigation. In this respect we would like to inform that:

1 – On the 2/2/2017 the psychiatrist of Santa Cruz do Bispo prison reported an alleged aggression by three prison guards on inmates M P S F (R370) and P A C M (R241), which was immediately transmitted to AIS North delegation. This delegation initiated disciplinary proceedings No. D/2017/4; the Director General of DGRPS filled these proceedings on 2/12/2018. Those prison guards were acquitted of the crimes of offences against physical integrity and aggravated coercion (*res judicata* 7/11/2018 -1349/17.\*\*\*\*);

2 – On the 11/1/2018, J C G (R298) lodged a written complaint for assault against several prison guards, which led to the opening of the enquiry procedure No. 8/2018, in Santa Cruz do Bispo prison. A final report was produced with a proposal to file the case for lack of evidence that allowed the

alleged facts to be attributed to the prison guard. This proposal was approved by the Director General of the DGRPS and the procedure was filled on 27/3/2018. Regarding the same facts, a decision to fill the case was also adopted by the Director General of DGRPS in the context of case no. O/2018/13, which was dealt with by the AIS North delegation. Lastly, in relation to the same facts, there is not yet any feedback regarding investigation processes No. 1029/18.\*\*\*\* and No. 327/18.\*\*\*\* (DIAP of Matosinhos, 3rd section).

3 – On the 19/6/2018, P M O A (R295) lodged a written complaint for assault against a prison guard, which was immediately referred to the AIS North delegation, which opened the enquiry procedure No. I/2018/59. On the 25/3/2019 the procedure was closed by the Director General of the DGRPS.

4 - On the 19/10/2018, the assistant psychiatric doctor of Santa Cruz do Bispo prison reported an alleged aggression on the 21/9/ 2018 by a prison guard to M A S (R296), which was immediately transmitted to AIS North delegation. This delegation initiated an inquiry procedure (No. I/2018/70). The Director General of DGRPS filled it on the 21/8/2019.

**§90 The CPT recommends that, pending the closure of the Psychiatric Clinic, the nursing and health care assistant staffing levels in the wards be significantly increased as a primary step towards combating inter-patient violence and intimidation.**

In addition to specific training for the elements of surveillance allocated to the Psychiatry and Mental Health Clinic, efforts to increase the number of nursing and clinical staff were adopted and, as mentioned in the reply to §86, to reduce the number of admitted patients.

**§93 The Director informed the delegation of his intention to close the basement section 6 (housing 18 persons at the time of the visit), following the transfer of 40 patients to the civil hospital. The CPT would like to receive confirmation that this section has now been taken out of service.**

This recommendation has already been complied with, since section 6 has been definitively closed. It is further clarified, and referring to the content of §92, that at the beginning of this year, with the extinction of the drug free unit, it was possible to provide the prison with a new psychiatric unit with capacity for 25 users.

New equipment has recently been purchased which guarantees the heating of the space.

The building where the Psychiatry and Mental Health Clinic is located needs deep intervention despite the repair and maintenance work that is being carried out.

We acknowledge that there is no emergency call system; its installation would be desirable. We also acknowledge that the existing furniture is antique and insufficient, although it has been possible to replace the most damaged one, a survey of the needs has already been completed and an acquisition procedure is awaited.

**§94 The CPT recommends that all patients be addressed by their name and not with a number and that the loudspeaker system be abandoned.**

This recommendation is followed. Indeed, instructions to call inmates and patients by their name are an old practise, which is generally complied by prison staff and reminded to the vigilance personnel.

**§95 Almost all patients the delegation spoke to complained about the quality of the food provided, and many also complained about the quantity (several patients said they were still hungry after having eaten the food provided, and some also indicated they would prefer to buy food in the “bar”). The CPT recommends that steps be taken to review the quality and quantity of the food.**

This recommendation is complied. Meals are prepared and served by a company contracted for this purpose, which also serves meals to other prison establishments.

Menus, quantity, composition and diversity of the meals are laid down in a contract and supervised by a nutritionist. Before they are served, meals are tasted by the management of each prison, which naturally also applies to Santa Cruz do Bispo (male).

Whenever any non-conformity with what has been contracted is detected, the mechanisms contained in the contract are activated.

**§97 The CPT calls upon the Portuguese authorities to take urgent steps, pending the closure of the establishment, to upgrade the material conditions and to improve the range and number of purposeful activities offered to patients at the Psychiatric Clinic. This includes the recruitment of qualified specialists responsible for running therapeutic and rehabilitation activities (see paragraph 107 and 108 below).**

Although the number of hours hired in the area of occupational therapy has increased (currently 2,620 hours per year), it is insufficient for a structured daily occupation schedule. However, the inmates maintain work activity, school and professional training, sports activities and physical maintenance, according to the needs assessed and the capacity of the establishment in terms of supply and the workers hired.

**§99 The CPT reiterates its recommendation that the Portuguese authorities develop the range and number of therapeutic and psycho-social activities available to patients and ensure that every patient has a treatment plan.**

This recommendation is followed. We would like to clarify that with the exception of preventive placement as a substitution of pre-trial detention for mental health reasons, all those subject to a security measure or sentenced to serve their sentence under a placement regime have a Therapeutic Rehabilitation Plan approved by the prison establishment and homologated by the Enforcement Sentences Court. The registration of Rehabilitation Therapeutic Plans is approved in the establishment in due time and its execution is evaluated annually after their homologation

**§102 The CPT recommends that the Portuguese authorities draw up guidelines for regulating the use of PRN medication, taking into account the above precepts. The Committee would like to be provided with a copy of these guidelines in due course. Further, it is essential that provision be**

**made for psychiatrists to be remunerated out of hours, notably during weekends, whenever their presence at the Psychiatric Clinic is required, in emergency situations.**

This recommendation is followed. After the visit, the SOS medication was suspended. In cases of agitation, aggressiveness or decompensation, patients are evaluated immediately and, in the event that no doctor is found in the clinic (when the episodes occur during the night or at the weekend), the coordinator is contacted by telephone and, after describing the case, prescribes therapy or gives any other orientation that deems appropriate.

**§103 The CPT recommends that the Portuguese authorities ensure that all patients prescribed clozapine are provided with regular blood tests; staff should be educated about the potentially lethal side effects of clozapine and, in particular, the importance of carrying out regular blood tests.**

This recommendation is followed. We would like to clarify that this antipsychotic, due to its pharmacological characteristics, namely the risk of agranulocytosis, is only used in resistant schizophrenia. In addition to the clinical picture, account is taken of the patient's age, pathological history and ongoing therapy. Before starting the drug, patients undergo ECG and analytical studies, including a hemogram with platelet count and biochemistry. The drug is started at a minimum dose by slowly titrating to an effective dose, monitoring the increase and possible side effects for 4 weeks until complete remission of the drug.

**§104 The CPT recommends that the approach set out above in paragraph 67 in respect of medical screening upon entry to prison be equally followed at the Psychiatric Clinic.**

This issue is being tackled.

**§105 The Clinic was equipped with basic emergency medical equipment such as a first aid kit including a defibrillator, but it did not possess a working electrocardiogram (ECG) machine. Given the profile of the patients and the medication prescribed, the CPT recommends that the Psychiatric Clinic be equipped with an ECG machine.**

This problem has been overcome since the ECG machine was repaired.

**§108 The CPT calls upon the Portuguese authorities to reinforce the staffing complement, notably as regards the presence of qualified nursing staff, occupational therapists and staff to run therapeutic and rehabilitation activities. Provision should also be made for psychiatrists to be present at the Clinic at weekends when required and for such presence to be remunerated. Further, the CPT reiterates its recommendation that regular team meetings of health care and socio-therapeutic staff be introduced. The CPT also reiterates its recommendation that prison officers assigned to work inside the Psychiatric Clinic be replaced by trained nursing staff. In those instances when prison officers are required to intervene in security-related incidents, they should be specifically selected and trained to interact with mentally ill patients and always work under the**

**control and supervision of the health care staff. This requires that nursing staff be present on the accommodation wards.**

We have endeavoured to improve the number of staff. In December 2019 we received authorisation to increase the number of health professionals on a retainer basis. This entails a total of 1 521 hours of general practice, 2 620 hours of occupational therapy, 26 100 hours for auxiliary health workers and 7 360 hours of nursing care, for a total of 20 professionals, who will be joined by 10 nurses who have joined the staff plan.

Since the beginning of this year, the team of health professionals has been strengthened. 13 operational assistants and 4 nurses were admitted on a retainer basis in January. In May and June, 10 nurses with a contract of employment took up their office.

This increase allowed to change the work plan of operational assistants and nurses in order to assure a greater presence among patients and consequently to enhance its vigilance. We would like to inform that an operational assistant and nurse are present in the daytime period from 8.00 to 20.00 from Monday to Sunday in Unit 2 of the clinic and of an auxiliary 24.00/day.

With the restructuring of the work plan, the care of patients, listed below, is now carried out exclusively by operational assistants and nurses:

- Provision of hygiene care (bath, tooth washing, nail cutting, among others) to those admitted to the clinic, either by replacing the patient when he is unable to carry out the activities, or by their supervision;
- Supervision/assistance in daily life activities feeding/WC of all those interned in the infirmary;
- Positioning during the night period of the most dependent inmates, who need it;
- Preparation and administration of prescribed therapy and management of SOS medication;
- Treatment of wounds and other care necessary for the well-being of the patients;
- Hypertension, diabetes mellitus and behavioural changes surveillance;
- Carrying out the nursing admissions appointment for all patients entering in this prison establishment;
- Carrying out screening consultation;
- Clinical emergencies.
- Reference nurse at Casa de Santo André, a transition unit for the criminal irresponsible installed in Santa Cruz do Bispo prison (male)/ Psychiatry and Mental Health Clinic.

In addition to the direct care provided to the patients, it is also carried out/supervised the cleaning of the inpatients' accommodation in the infirmary and in the 2.ªA of the clinic, where the most fragile and quarantined patients are allocated. Currently, hygiene and comfort care, cleaning and disinfection of the units are carried out by operational assistants, and there are no cleaners for this purpose. Patients allocated in B wing, though more autonomous but with the support by nursing and auxiliary staff, does not yet have the care listed for all other areas, as the staff is not yet sufficient for all the patients. The quality and effectiveness of nursing care for patients has improved given the higher number of nurses per shift day

**§109 The CPT recommends that patients who are hospitalised should only be transferred back to the Psychiatric Clinic if their care needs can be properly met. Further, the CPT would like to receive a copy of the autopsy report of the patient DM, and the results of any inquiry into this death.**

Regarding death of DM, an enquiry procedure was opened (No. 103/2019). This procedure is pending. The finalisation of the investigation and the preparation of the final report are pending until the autopsy report and the final decision of the DIAP of Matosinhos, 2nd section (No. 3496/19.\*\*\*\*). Several contacts were made, including this year, in order to obtain copy of the report and the final decision, but no reply was received.

**§110 The CPT recommends that specific written guidelines on the use of means of restraint be drawn up for psychiatric patients, in the light of the above remarks.**

Point 33 of the "Manual of Procedures for the Provision of Health Care in Prison Settings" refers to the procedures to be followed, including the legal provisions in force. In addition, surveillance staff at the Psychiatry and Mental Health Clinic of Santa Cruz do Bispo Prison has received training from the Magalhães Lemos Psychiatric Hospital (Porto).

**§112 the CPT recommends that the Portuguese authorities ensure that the measure of seclusion be properly regulated and subject to a number of safeguards, in particular:**

- placement in a seclusion cell should only be used as a last resort to prevent risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks. It should not be resorted to due to a lack of alternative strategies, staff and regime provision;
- any decision regarding the application of a measure of seclusion (or its continuation) must be taken after the doctor has personally seen and examined the patient;
- the duration of the measure should be for the shortest possible time;
- during placement in a seclusion cell, regular human contact and constant individual staff monitoring should be ensured and documented accordingly; the nurse who monitors the patient should maintain a log or journal, in which the condition of the patient is noted down at regular intervals (e.g. every 30 minutes);
- the need for continued seclusion should be regularly reviewed and the measure should be terminated immediately when the reason for it ceases to exist;
- persons subject to seclusion should receive full information on the reasons for the intervention as well as on avenues to appeal against the measure and should always be debriefed after the end of the measure, in order to explain the rationale behind it;
- resort to seclusion should always be accurately recorded

In case of decompensation or agitation, patients are immediately evaluated by the medical team. If it is concluded that the use of seclusion cells is needed, the usual protocol that respects all patient safety and protection standards is followed. Only room No. 1 has a surveillance camera and specific

coating on the walls and floor. The patient is reassessed on-site several times a day, according to the respective protocol and whenever justified. All security rooms are perfectly functional and air-conditioned.

With regard to patient mentioned at §111 held in seclusion from 11 to 23 August 2019, it is important to stress that the patient presented with manic decompensation in August 2019 with a marked behavioural maladjustment, with an implied evident risk for himself and others, thus requiring the use of a seclusion cell. According to clinical records, the patient was assessed frequently and was removed from the seclusion cell after clinical stabilization, which still took some time.

The application of disciplinary sanctions to criminal irresponsible persons subject to security measures stems from the CESDLM. Under this Code, if disciplinary proceedings conclude for the application of a confinement measure (mandatory stay in accommodation or disciplinary cell), patients must be assisted by a lawyer in order to exercise their right to challenge the decision.

In addition, it must be underlined that proceedings that end with the application of containment measures, generally are not carried out as the patient health condition does not allow it.

It should be emphasized that under Portuguese law and in addition to Enforcement of Sentences Judges, there are several independent bodies that regularly visit, audit and inspect all the premises where people are under the remit of the DGRPS, namely the Ombudsman's Office (as such and as NMP) and the General Inspection of Justice Services; these bodies can be addressed by inmates at all times.

**§113 The CPT recommends that steps be taken to ensure that the seclusion cell (green room) is not used for periods in excess of 24 hours. Further, patients placed in this cell must be offered ready access to the toilet as required. The remaining three cells should be sealed permanently until such time as they are properly renovated.**

Three of the seclusion cells were used due to the extraordinary overcrowding during 2019. There was no alternative for containing restless patients that could jeopardise their own safety or of third parties. This situation has changed with the reduction of the inmate's number.

**§114 The CPT encourages the Portuguese authorities to totally abolish disciplinary sanctions vis-à-vis (forensic) psychiatric patients.**

Refer to the information reported for recommendation §112: the application of disciplinary sanctions to criminal irresponsible persons subject to security measures stems from the CESDLM. Under this Code, if disciplinary proceedings conclude for the application of a confinement measure (mandatory stay in accommodation or disciplinary cell), patients must be assisted by a lawyer in order to exercise their right to challenge the decision and observed in advance by a doctor.

**§116 The CPT recommends that regular *ex officio* reviews of any involuntary forensic placement decision are carried out at least once a year.**

The recommendation is generally followed as placement procedures follow the same principle for reviewing the measures, irrespective of whether the placement has been decided according to the determination of a security measure or under Article 104 of the Criminal Code. The measure review may take place between periods of placement review, assessment of conditional release. In this latter case, which do not occur with regard for those not criminal responsible who are not sentenced to prison sentences.

**§119 The CPT recommends that both internal and external complaints procedures, including complaints boxes (to be opened only by specially designated persons, and in confidence), be introduced. Patients should be systematically informed of their right to lodge complaints.**

The recommendation is already implemented: a complaint/request box was made available where, in a discreet and anonymous way, complaints/request can be dropped. This box can only be opened by re-education technicians.