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## **Report**

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

**from 23 May to 3 June 2022**

The Government of Portugal has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2023) 36.

Strasbourg, 13 December 2023

**Note:** In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, names of individuals and other confidential personal data have been deleted.

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## EXECUTIVE SUMMARY

During the 2022 periodic visit to Portugal, the CPT's delegation examined the treatment and safeguards afforded to persons detained by law enforcement agencies and again looked into the effectiveness of investigations into allegations of ill-treatment by law enforcement officials. It also paid particular attention to the situation of women held in prisons and re-visited Lisbon Central Prison. The CPT's delegation further examined the situation of patients held at the Psychiatric Clinic of Santa Cruz do Bispo Prison and visited the Forensic Unit of Magalhães Lemos Hospital, Porto.

The CPT received excellent cooperation during the visit by the Portuguese authorities at all levels. However, the principle of co-operation set out in Article 3 of the Convention also requires that decisive steps be taken to improve the situation in the light of the Committee's key recommendations. In this context, the CPT trusts that the Portuguese authorities will take concrete measures in particular to address the persisting problem of ill-treatment by law enforcement officials and to ensure that allegations of ill-treatment are investigated effectively.

### Law enforcement agencies

As was the case during previous visits, the majority of persons met by the CPT's delegation stated that they had been treated correctly whilst in police custody. However, the findings of the delegation indicate that the infliction of ill-treatment is still not infrequent. A number of persons interviewed alleged that they had been subjected to ill-treatment by officers of the Public Security Police (PSP) and/or the National Republican Guard (GNR) at the time of apprehension, after they had been brought under control. The alleged ill-treatment consisted primarily of slaps, punches, strikes with a baton and kicks to the body. The delegation also noted a number of cases of excessively tight handcuffing, and that the practice of handcuffing persons to furniture in police premises persists. The CPT calls upon the Portuguese authorities to reinforce their efforts to eradicate police ill-treatment.

The Committee once again reiterates the need for effective investigations into allegations of ill-treatment as an important dissuasive factor against police ill-treatment. One of the major shortcomings identified in this connection is the significant delay in transmitting potential evidence of police ill-treatment from prisons to the Inspectorate-General of Internal Administration (IGAI), rendering it difficult if not impossible for that inspection body to carry out effective investigations. Moreover, several cases had apparently not been transmitted to the Public Prosecutor's Office at all, thus preventing potential criminal investigations from being initiated. This situation can only serve to embed the perception that police officers minded to engage in ill-treatment enjoy *de facto* impunity.

At the end of the visit in June 2022, the Director General for Social Reintegration and Prisons (DGRSP) informed the Committee about measures to accelerate the transmission of potential evidence of police ill-treatment to the IGAI. This is to be welcomed. The CPT nevertheless considers it necessary that the Portuguese authorities commission a fully independent review of their current system for the investigation of allegations of ill-treatment by police officers. It also reiterates that whenever a case of potential ill-treatment is forwarded to an investigatory body, the person concerned must be interviewed within 48 hours, with a view to determining whether a forensic medical examination is necessary and what further investigative steps are required. The CPT also requests information on the status of the criminal and disciplinary investigations into a number of concrete cases of alleged police ill-treatment.

The report further comments on fundamental safeguards against ill-treatment, i.e. the right of notification of custody to a trusted person and the rights of access to a lawyer and doctor. In this context, the CPT is particularly concerned that once again the majority of persons interviewed stated that they only met an *ex officio* lawyer at the court hearing before a judge. The CPT therefore reiterates that all persons detained by the police should have the right of access to a lawyer as from the very outset of the deprivation of liberty. Further, there is a need to enhance detainees' possibilities for access to a doctor, and to translation and interpretation services in case they do not have a good command of Portuguese.

## Prisons

Regrettably, the overall material conditions at Lisbon Central Prison, already described in previous CPT reports as being in a “state of advanced dilapidation”, had further deteriorated. In most areas of the establishment, prisoners could be said to be living in degrading circumstances in cells with dirty and dilapidated walls, broken windows, unpartitioned toilets in double-occupancy cells and malfunctioning electrical installations. The CPT thus welcomes the Government’s plans to progressively close down the prison and asks to receive regular updates as to the progress made in this respect. While the majority of interviewed persons held at Lisbon Central Prison stated that they were treated correctly by prison officers, the CPT once again received a number of credible allegations of physical ill-treatment by prison staff (slaps, punches, kicks) and the delegation saw medical reports by prison healthcare staff detailing injuries corroborating such allegations.

The report further examines the treatment of women at the country’s two prisons exclusively for women, namely Tires Prison and Santa Cruz do Bispo Feminino Prison.

The majority of women interviewed said that prison officers were professional, or even supportive and helpful. However, the delegation also received some allegations of ill-treatment, mainly consisting of verbal abuse and threats, and more rarely, of acts of physical violence.

As regards material conditions, the report is critical of the situation found at Tires Prison, where many cells were in a poor state of repair and a number of them did not provide for the minimum standard of 4 m<sup>2</sup> of living space per prisoner. At Santa Cruz do Bispo Feminino Prison, sanitary annexes lacked privacy as they were not fully partitioned in the double occupancy cells. Positively, the vast majority of the women at Santa Cruz do Bispo Feminino Prison were engaged in some sort of out-of-cell organised activity. However, this was not the case at Tires Prison and the regime needs to be significantly developed. At both prisons, the availability of work and vocational activities, particularly those which can lead to formal qualifications, should be improved.

Further, the Portuguese authorities should review the policy and conditions under which mothers and their children are kept at both prisons and ensure that they be provided, *inter alia*, with access to cooking and washing facilities. The CPT is critical of the practice of prison officers remaining present during all obstetric (and other medical) examinations outside of the prison and underlines that the presence of an officer during childbirth is totally unacceptable. Furthermore, prisoners under a strict security regime at Santa Cruz do Bispo Feminino Prison were held under a poor regime, being confined to their cells for 21 to 22 hours per day. The situation of two women with mental disorders who were held for prolonged periods under such regime is highlighted and the Portuguese authorities should find appropriate alternative accommodation for them.

The report welcomes the recommendations issued by the DGRSP in March 2022 regarding the follow up of transgender persons and the CPT proposes a few additional measures in this regard. Concerning healthcare, the Portuguese authorities should reinforce somatic healthcare staffing at both women’s prisons and address the shortcomings regarding the treatment of substance use disorders. The CPT further emphasises that resort to handcuffs when transporting a patient to a hospital or during a medical examination should be exceptional and always be based on an individual assessment. At Santa Cruz do Bispo Feminino Prison, access to mental healthcare appeared overall satisfactory; however, at Tires Prison, structured rehabilitation programmes and group interventions were not offered and there was also no policy on suicide prevention.

As regards the presence and treatment of four forensic patients in the in-patient unit of the prison of Santa Cruz do Bispo Feminino Prison, who had no access to the open air at all and were offered only one hour of out-of-room activity per day, the CPT’s delegation had requested at the end of the visit that immediate action be taken to offer these patients at least one hour of access to fresh air daily and additional activities. In reply, the Portuguese authorities conveyed that access to fresh air had been increased to two hours per day and that meanwhile only two of the patients remained at the prison. However, other out-of-room activities apparently remained very limited.

The CPT is critical of the practice of nurses at Santa Cruz do Bispo Feminino Prison injecting acutely agitated prisoners with rapid tranquillisers (“chemical restraint”), based on prior *pro re nata* prescriptions. The Portuguese authorities should draw up a new protocol to regulate this matter in line with CPT standards. The CPT also reiterates that disciplinary solitary confinement be - in practice and by law – limited to a maximum of 14 consecutive days and that the measure of provisional isolation (*medida cautelar*) should usually not last longer than a few hours without formal charges being brought.

The report also addresses other issues, such as strip and body searches, gender-specific management of women’s prisons, prisoners’ possibilities to make complaints and to contact their families and other persons outside the prison as well as information provided to prisoners on internal prison rules and daily routines.

### **Psychiatric institutions**

The CPT’s delegation examined the situation of forensic patients held at the Psychiatric Clinic of Santa Cruz do Bispo Prison and at the Forensic Unit of Magalhães Lemos Hospital, Porto.

At the Forensic Unit of Magalhães Lemos Hospital, the CPT’s delegation received no allegations of ill-treatment and many patients spoke positively about the staff. However, at the Psychiatric Clinic of Santa Cruz do Bispo Prison the delegation noted a few allegations of physical ill-treatment by custodial staff (beatings) and several reports of insults and threats.

The CPT was pleased to find that Magalhães Lemos Psychiatric Hospital provided good living conditions and an appropriate therapeutic environment for forensic patients. As regards the Psychiatric Clinic of Santa Cruz do Bispo Prison, the report acknowledges recent improvements made since the CPT’s 2019 visit, such as the reduction of overcrowding and the increase in healthcare personnel accompanied by a corresponding decrease in prison officers. Nevertheless, the Clinic remains largely prison-like and unable to provide a suitable environment for the care and treatment of psychiatric patients. An alternative facility must be found or built as a matter of priority. Pending the closure of the establishment, the Portuguese authorities should significantly increase the number of healthcare and specialist staff as well as the offer of structured therapeutic, rehabilitative and recreational activities for patients. More qualified staff to provide therapeutic and rehabilitative activities is also needed at the Forensic Unit of Magalhães Lemos Hospital. Further, the material conditions provided for patients in most parts of the Psychiatric Clinic of Santa Cruz do Bispo Prison (units 1 and 3) must urgently be improved. The CPT is also critical of the systematic CCTV supervision in patient’s accommodation rooms at the Forensic Unit of Magalhães Lemos Hospital.

As regards the Psychiatric Clinic of Santa Cruz do Bispo Prison, the CPT once again recommends that specific written guidelines on the use of means of restraint be drawn up in line with the Committee’s requirements. Concerning the measure of seclusion of patients, steps should be taken to ensure that it lasts for the shortest time possible and that seclusion at both establishments be subject to additional specific safeguards, such as continuous personal supervision.

Further, it is positive that at the Forensic Unit of Magalhães Lemos Hospital, no disciplinary sanctions were applied to patients. As regards the Psychiatric Clinic of Santa Cruz do Bispo Prison, the Portuguese authorities should take action to abolish the application of disciplinary punishments for mentally ill patients. The report also addresses various other issues, notably patients’ individual treatment plans, the medical admission examination, injection of rapid acting tranquillisers (“chemical restraint”), regular reviews of patients’ forensic placement, their consent to treatment, information provided to them as well as the release of long-term patients who no longer require hospitalisation.

## **I. INTRODUCTION**

### **A. The visit, the report and follow-up**

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Portugal from 23 May to 3 June 2022. A main objective was to examine the implementation of the recommendations of the Committee formulated in the report on the periodic visit carried out in 2016 and the 2019 ad hoc visit to the country. It was the Committee’s 12th visit to Portugal.

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

- Mark Kelly (Head of delegation)
- Therese Rytter, 2<sup>nd</sup> Vice-President of the CPT
- Marius Caruana
- Juan Carlos da Silva
- Vanessa Durich Moulet
- Elisabetta Zamparutti.

3. They were supported by Aurélie Pasquier and Almut Schröder of the CPT Secretariat, and assisted by an expert, Olivera Vulić, psychiatrist, former Chief of the Centre for Mental Health in Podgorica, Montenegro.

4. The report on the visit was adopted by the CPT at its 110th meeting, held from 6 to 10 March 2023, and transmitted to the authorities of Portugal on 9 May 2023. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests that the authorities of Portugal provide within six months a response containing a full account of action taken by them to implement the Committee’s recommendations, along with replies to the comments and requests for information formulated in this report.

### **B. Consultations held by the delegation and cooperation encountered**

5. In the course of the visit, the CPT delegation met and held talks with José Luís Carneiro, Minister for Internal Administration, Catarina Sarmiento e Castro, Minister for Justice, Jorge Alves Costa, Deputy Secretary of State and Justice, Francisco André, Secretary of State for Foreign Affairs and Cooperation and Maria de Fátima Fonseca, Secretary of State for Health. It also met Rómulo Augusto Mateus, Director General of Reintegration and Prison Services, Luís Neves, National Director of the Judiciary Police (PJ), Lieutenant-General Rui Clero, General-Commander of Guarda Nacional Republicana (GNR), Chief-Superintendent Manuel Magina da Silva, National Director of Polícia de Segurança Pública (PSP), José Luís Rosário Barão, Deputy National Director of Serviço de Estrangeiros e Fronteiras (SEF), as well as senior officials from relevant ministries and services.

The delegation further held exchanges with Joana Gomes Ferreira, Deputy Prosecutor General, with Anabela Cabral Ferreira, Inspector General for Internal Administration and with Gonçalo da Cunha Pires, General Inspector of Justice Services, as well as with senior officials from these services,

The delegation also met with Miguel Feldmann, Head of the National Preventive Mechanism (NPM).

6. The CPT received excellent cooperation during the visit by the Portuguese authorities at all levels. The delegation had rapid access to all places of detention it wished to visit, was able to meet in private with those persons with whom it wanted to speak and was provided with access to the information required to carry out its task.

The Committee wishes to express its appreciation for the assistance provided to its delegation during the visit by the management and staff in the establishments visited as well as to the support offered by its liaison officer from the Ministry of Foreign Affairs, Ana e Brito Maneira.

7. Nevertheless, the CPT must recall once again that the principle of cooperation between Parties to the Convention and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in light of the CPT's recommendations. In this respect, the CPT remains concerned about the failure of the Portuguese authorities to implement a number of long-standing recommendations, including as regards the poor detention conditions in Lisbon Central Prison and the effective fight against ill-treatment, reiterated in this report. The issues concerned are outlined in the chapters that follow.

8. The CPT welcomes the approach taken by the Portuguese authorities to follow the standard practice of requesting the publication of the Committee's visit reports together with the corresponding government responses.

However, both the Committee of Ministers and the Parliamentary Assembly of the Council of Europe have recently been encouraging those member states of the Organisation which have not already done so, to request the automatic publication of future CPT visit reports and related government responses.<sup>1</sup> **The CPT invites the Portuguese authorities to consider authorising in advance the publication of all future CPT visit reports concerning Portugal and the related Government responses** (subject to the possibility of delaying publication in a given case).

### **C. Immediate observations under Article 8, paragraph 5, of the Convention**

9. During the end-of-visit talks with the Portuguese authorities, on 3 June 2022, the CPT delegation made one immediate observation under Article 8, paragraph 5, of the Convention. The Portuguese authorities were requested to ensure that:

- **the four female forensic patients detained at the psychiatric clinic at Santa Cruz do Bispo Prison are provided with at least one hour of access to fresh air, and preferably more, every day, and that steps are also taken to provide them with additional activities during the day.**

During the end-of-visit talks, on 3 June 2022, the Portuguese authorities informed the CPT orally that the situation of the four female patients would be remedied. Subsequently, when transmitting the delegation's preliminary observations to the Portuguese authorities by letter of 8 September 2022, the CPT sought written confirmation of any corrective measures in respect of the four forensic patients taken up to or since 3 June 2022. The CPT mentioned that a response to the other requests for action would also be appreciated. The Portuguese authorities sent a written response to the preliminary observations on 2 March 2023. Elements of this letter have been included in this report (see paragraph 129 f).

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1. See, in particular, Parliamentary Assembly Resolution 2160 (2017), adopted on 26 April 2017, and the Committee of Ministers' reply to Recommendation 2100 (2017), adopted at the 1301<sup>st</sup> meeting of the Ministers' Deputies of 29 November 2017.



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

### A. Law enforcement agencies

#### 1. Preliminary remarks

10. In the course of the 2022 visit, the CPT delegation visited seven Public Security Police (PSP) stations in the Lisbon metropolitan area (including the Metropolitan Command Headquarters at Moscavide Avenue); two PSP stations in the Porto area (including the PSP Metropolitan Command Headquarters at Rua Agostinho José Freire) and in Coimbra the PSP District Command at Rua Elísio de Moura. As to establishments under the responsibility of the National Republican Guard (GNR), the delegation visited stations in Ançã, Penacova, Sao Pedro de Avioso Maia and Sintra.

11. It also interviewed a number of persons on remand in prisons across the country and in the Lisbon Campus da Justiça, who had been apprehended and detained in the recent past by the PSP, the GNR and the Judicial Police (JP).

12. The legal framework governing the duration of deprivation of liberty by law enforcement officials remains unchanged since the CPT's visit to Portugal in 2008.<sup>2</sup> In brief, Article 28(1) of the Constitution and Article 254 of the Code of Criminal Procedure (CCP) limit to 48 hours the length of time for which a person suspected of a criminal offence may be detained in a police station. In practice, as before, other than at the weekends, persons are rarely kept in detention for longer than 24 hours and the vast majority are released on police bail after a few hours. Further, Article 250 (6) CCP allows law enforcement officials to take a person to a police station for identification purposes, for a maximum duration of six hours.

#### 2. Ill-treatment

13. The majority of detained persons interviewed by the CPT delegation reported that they had been treated correctly by law enforcement agents. Nevertheless, a number of persons alleged that they had been subjected to ill-treatment by officers of the PSP and/or the GNR at the time of apprehension, after they had been brought under control. In a few cases, the allegations also concerned ill-treatment taking place in a police station.

The alleged ill-treatment consisted primarily of slaps, punches, strikes with a baton and kicks to the body. The delegation also observed a number of cases of excessively tight handcuffing with detainees still bearing clear marks on their wrists from the cuffs several weeks after they had been arrested.

14. By means of example, the CPT wishes to highlight the following four cases of alleged ill-treatment.

- i. A man met by the delegation in the Judicial Police Prison in Lisbon on 25 May 2022 alleged that, on the evening of 1 April 2022, he was punched in the face by two officers from a GNR station in Sintra, after he had refused to allow his car to be searched and asked for a lawyer. He stated that he had received these punches before and after he had been handcuffed behind his back and that later that evening, he was assaulted again at the Sintra GNR station, after he had repeated his request for a lawyer. Allegedly, during the assault both his knees were injured, and police officers took him to the Dr Jose de Almeida Hospital in Cascais. Apparently, at the hospital the accompanying police officers threatened him with more beatings if he were to reveal that he had been punched by the police. In the arrest report, consulted by the delegation, it is noted that "No incidents were registered during the arrest". However, this is contradicted by other documentation seen by the delegation in the records of his custody that state he was taken to hospital, following an attempt to escape.

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2. CPT/Inf (2009) 13, paragraph 7.

After having spent the night in the GNR station in Alcabideche, the following day, 2 April 2022, he was heard by a judge, in the presence of a lawyer, and then transferred to Lisbon Central Prison. The injury report, drawn up by a nurse at 19:15 that day, mentions the alleged ill-treatment at the time of arrest and notes the existence of hematomas at the level of both eyes. The report further mentions injuries on face, hands and knees. The associated body chart had circles around both eyes, both knees and both wrists. The nurse noted a compatibility between the medical findings and the alleged ill-treatment. However, the report of a medical examination drawn up by a medical doctor on 6 April 2022, makes no reference to the findings of the nurse four days previously.

The photographs made upon arrival at Lisbon Central Prison show bruising in the left orbit affecting both upper and lower eyelids. Some swelling is noticeable in the right eye without visible bruising. On the left wrist, the photo showed a central abrasion with ragged edges approximately 3 cm in diameter with further surrounding erythema. Further, the photographs show a swollen left knee. Unfortunately, his right knee was not photographed. However, when the delegation spoke to this man on 25 May 2022, he bore healed circular scars, 1cm in diameter, over the anterior aspect of both his wrists and a healing scar, 2.5 cm in diameter on the medial aspect of his right knee.

A report on the alleged ill-treatment, comprised of a statement taken by the prison jurist, the photographs taken upon entry to the prison and the injury report filled out by the prison nurse, had been sent to the Directorate General for Social Reintegration and Prisons (DGRSP) on 26 April 2022, and was subsequently submitted by DGRSP to the Inspectorate-General of Internal Administration (IGAI— *Inspeção-Geral da Administração Interna*) on 4 May 2022.

- ii. A man met by the delegation on 25 May 2022 at Lisbon Central Prison alleged that on 28 April 2022 at approximately 21:00 he was punched in both eyes by PSP police officers when already handcuffed. Apparently, the punches caused pain to the extent that he could not open his eyes for some time. Upon arrival at the PSP 4<sup>th</sup> district station (“Palacio de Folgosa”) he claimed to have received punches once again when expressing his wish to press charges concerning the ill-treatment to which he claimed to have been subjected earlier.

Apparently, he was not offered medical attention, despite a request to this end.

That night, at 00:20, he was transferred to the Metropolitan PSP Headquarters station at Moscavide Avenue, Lisbon. In the intake report, as concerns physical injuries, it states “Nothing to report”. At 9:00 that day he appeared before a judge, in the presence of a court appointed lawyer. Despite displaying visible injuries and explaining their origin to his lawyer, neither the judge nor the lawyer took any action. Subsequently, at 00:30 on 30 April 2022 he was transferred to Lisbon Central Prison where, upon arrival, facial bruising was noted and described in an injury report as “bilateral periorbital hematomas”. The facial bruising is visible on the identification photo taken upon admission to Lisbon Central Prison as seen by the CPT but was not specifically photographed as part of the injury report.

The injury report, together with a statement drawn up by the prison jurist was sent to the DGRSP on 23 May 2022.

- iii. A man met by the CPT in a Lisbon prison alleged that, upon his recent arrest, he was punched in the face and dragged over the floor by two PSP officers. Apparently, he was handcuffed at the time of the alleged ill-treatment. After having been taken to the named PSP police station by two other police officers, he claimed to have received more punches by the two officers who had apprehended him.

The arrest report mentions that an arresting police officer felt threatened when the man grabbed him by the uniform and that the officer had put him on the ground. It goes on to narrate that the man was handcuffed with no injuries ensuing from the event. Further sections in the arrest report about Incidents or Medical were noted as “Nothing to report”.

He spent the night at the same police station and was transferred to prison the next day. Upon entry to prison, he was examined by a nurse. The injury report describes periorbital bruising on the right side of the face and abrasions over both knees. The nurse concluded that since the events were not witnessed directly, compatibility could not be established.

However, the photographs taken the same day show erythema over the right temporal area extending down to the right maxillary area with minimal bruising affecting the right upper eyelid, compatible with slaps. Several linear abrasions were also seen along the front and back of both thighs and legs, deeper proximally and lighter distally, moving down along the lower limbs, compatible with dragging along a hard surface while turning or being turned. Two punctuate abrasions were also photographed on the posterior aspect of the right wrist. The report was sent to DGRSP two weeks later, and from there to IGAI another fortnight after that.

- iv. A man met by the CPT in a Lisbon prison alleged that upon his arrest he was pushed to the ground and handcuffed by plain clothes police officers. Allegedly, he was then punched. He claimed that while being transported by car to a GNR station in the vicinity of Lisbon, he received more punches to the face.

He spent the night at that named GNR police station and was transferred to a Lisbon prison the next day. The injury report, drawn up upon arrival in prison, mentions the allegation of ill-treatment and proceeds to describe the erythema and oedema on the right side of the face, hematoma on the right nasal nare and hematoma over the posterior aspect of the right thigh. The nurse noted “possible compatibility” between allegation and injury. The facial bruising is visible on the identification photo taken upon admission to prison but, as far as the CPT could ascertain, was not specifically photographed as part of the injury report. The compilation of evidence was sent to DGRSP three weeks after his admission, and from DGRSP to IGAI another fortnight later.

15. After its two most recent visits to the country, in 2016 and 2019, the CPT reported to the Portuguese authorities that, in its view, ill-treatment by police officers is “not an infrequent practice”.<sup>3</sup> The CPT’s findings during this 2022 visit to Portugal suggest that such a state of affairs has not changed significantly.

16. The Portuguese authorities have never sought to deny the general existence of the problem of ill-treatment of persons deprived of their liberty by law enforcement officials. They have made clear that they consider such conduct to be “unacceptable in a Democratic State based on the Rule of Law”.<sup>4</sup> The CPT fully concurs and would add that police ill-treatment is unprofessional and may even jeopardise a criminal investigation.

17. The CPT’s findings in 2022 suggest that ill-treatment of detained people by police officers in Portugal is a resilient phenomenon and that there is still some way to go to create a policing culture robust enough to firmly reject and effectively sanction ill-treatment within its ranks.

18. In the experience of the CPT, the eradication of police ill-treatment is not an impossible task, though it does require the authorities’ unwavering attention, an uncompromising stand, and a long-term, comprehensive approach.

19. Over the years, the Portuguese authorities have informed the CPT of the introduction of several measures aimed at facilitating the eradication of police ill-treatment, including the (gradual) installation of CCTV cameras in police stations; wearing of visible means of identification (names or numbers) by police officers on duty; the introduction of body-worn cameras; the reinforcement of links with local and (minority) communities and the construction of central detention zones in the metropolitan areas of Lisbon and Porto.

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3. CPT/Inf (2018) 6, paragraph 12 and CPT/Inf (2020) 33, paragraph 20.

4. CPT/Inf (2018) 7, page 3. The commitment to end police ill-treatment was reiterated by the national authorities during the final talks concluding the 2022 periodic visit.

As regards in particular the installation of CCTV cameras in interview rooms with a view to making the recording of police interviews standard practice, the Portuguese authorities stated in their reply to the CPT's 2019 report that the security forces were aware of the importance of setting up dedicated interview rooms with audio and/or video equipment to record police interviews.<sup>5</sup>

Further, the CPT has taken good note of the staff training efforts made by the various law enforcement agencies (including training in the understanding of racial discrimination and in multicultural dialogue) and the recruitment procedures in place as well as the strong messaging by the police hierarchy about the unprofessionalism and unacceptability of police ill-treatment.

However, at the time of the 2022 visit a number of these planned measures had yet to be fully implemented by all police services in Portugal. For instance, although all police officers observed during the visit were wearing name tags, police officers themselves conceded that these were at times obscured by outer layers of clothing and/or protective gear.

20. The eradication of ill-treatment by the police requires that prompt and effective action be taken by all relevant actors who may become aware of it, including *ex officio* lawyers, and the judges before whom detained people appear before being committed to prison or released.

In a number of the cases examined by the delegation during this visit (including some of the cases of alleged ill-treatment presented in paragraph 14 above), earlier interventions could have prompted the detection, recording and investigation of alleged ill-treatment prior to the arrival in prison of an alleged victim. In this context, systems failures that contributed to alleged ill-treatment remaining undetected/unrecorded were observed by the delegation in both PSP and GNR detention facilities.

The CPT has long advocated for the creation of centralised police detention facilities, such as the PSP holding facilities at the PSP Metropolitan Command Headquarters on Moscavide Avenue (Lisbon) and Rua Agostinho José Freire (Porto) with designated staff fulfilling the role of custody officers. The creation of a specialised group of custody officers should promote an enhanced sense of responsibility for the persons in their charge; it may also contribute to breaking the harmful *esprit de corps* that too often inhibits officers from speaking out against their colleagues if they witness ill-treatment. However, as illustrated by the second case mentioned in paragraph 14 above, it was regrettable that designated custody staff at facilities such as the PSP Metropolitan Command Headquarters were not always accurately recording injuries that were plainly visible when detained persons entered prison a short time afterwards.

Similar observations were made as concerns detained persons staying overnight in police stations under the responsibility of the GNR. The delegation noted that injuries were not always registered in case of a transfer to another GNR facility, for instance to spend the night there. Although the GNR does not have central holding facilities, this should not preclude GNR officers responsible for detention from paying enhanced attention to the physical integrity of persons entering their custody. The first case mentioned in paragraph 14 suggests that GNR officers performing custodial duties need to be reminded of these obligations.

**The CPT recommends that to maximise their contribution to the prevention of ill-treatment, PSP and GNR officers responsible for detention should systematically verify the physical and mental well-being of everyone detained. Any injuries borne by detainees should be recorded and custody officers should ensure that detainees receive any necessary health care from healthcare professionals. Any failure to discharge these basic duties should be regarded as a disciplinary matter.**

21. Clearly, it is not only police officers who should contribute to the prevention of ill-treatment prior to detained people arriving in prison. Several persons interviewed by the delegation said that they had been presented to a judge whilst bearing visible injuries, but that neither the judge nor the designated (*ex officio*) lawyer, inquired about the origin of those injuries. The cases set out under paragraph 14 i and ii lend credence to claims of this nature.

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5. CPT/Inf (2020) 34, page 11.

22. Having regard to its delegation's findings during the 2022 visit, **the CPT calls upon the Portuguese authorities to reinforce their efforts to eradicate police ill-treatment, including by encouraging the leadership of the police services more vigorously to implement their existing policies. Further, the CPT reiterates its recommendation that the leadership of the PSP and the GNR reiterate to police officers throughout Portugal that any form of ill-treatment (including threats) directed against detained persons is unprofessional and illegal and will be punished accordingly. It should be made clear to police officers, in particular through ongoing training, that no more force than is strictly necessary should be used when effecting an apprehension and that there can be no justification for striking apprehended persons once they have been brought under control.**

Also, **the CPT recommends that all (*ex officio*) lawyers be reminded through the Bar Association of the importance of their role in preventing and, if necessary, reporting ill-treatment by the police. As regards judges, even in the absence of an explicit allegation of ill-treatment, they should request a forensic medical examination whenever there are other grounds to believe that a person brought before them could have been the victim of ill-treatment.**

In addition, **the CPT would like to receive updated information about the state of implementation in practice of all measures referenced in paragraph 19 above.**

23. It should be added that in the course of the visit, the delegation once again met persons who complained about excessively tight handcuffing and in a number of instances there were persons who still bore marks caused by the handcuffs weeks and even months later.

Further, the practice of handcuffing persons to furniture on police premises persists, often for periods of several hours and at times in areas accessible to the public. The delegation itself observed several benches bearing scuff marks fully consistent with the repeated application of metal handcuffs and a police officer met by the delegation openly acknowledged the existence of this practice. In this connection, the CPT has taken note of IGAI Recommendation 1/2022 of 28 September 2022, in which IGAI stresses that handcuffing should take place in a discreet manner and that handcuffing persons to fixed objects was inadequate, notably in publicly exposed areas.

**The CPT recommends once again that the Portuguese authorities ensure that, where it is deemed essential to handcuff a person, the handcuffs should under no circumstances be excessively tight and should be applied only for as long as is strictly necessary. Further, detained persons should not be handcuffed to fixed objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes and offering appropriate security arrangements.**

### **Effective investigations into ill-treatment**

24. Effective and independent investigations into allegations of ill-treatment are an important dissuasive factor against police ill-treatment. The CPT recalls that in parallel with the powers of public prosecutors to institute criminal procedures, the investigation of complaints relating to alleged ill-treatment by the police is carried out by the internal investigation services of the respective police services and/or by the IGAI.<sup>6</sup> In principle, whenever an action of the police results in allegations of grievous bodily harm or death, the IGAI is responsible for carrying out the investigation. The IGAI may also take up cases *ex officio* and is in addition responsible for the investigation of cases of alleged police ill-treatment received by health-care staff during the admission procedure at a remand prison.

Further, all cases of criminal conduct should be reported to the public prosecutor who is thereafter in charge of investigating and bringing charges. In cases that generate public outrage, an investigation of a disciplinary nature by IGAI will be automatically suspended while a criminal investigation is carried out by the Public Prosecutor. In other cases, both investigations may run in parallel.

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6. In the case of the Judicial Police, the responsible service is Inspeção-Geral dos Serviços de Justiça (IGJS).

25. Over the years, the CPT has paid particular attention to investigations into allegations of police ill-treatment as it had found that these investigations were not always adequate in terms of thoroughness and promptness and that certain bodies tasked with carrying out these investigations lacked the necessary independence.<sup>7</sup>

26. In its reports since 2012, the CPT made, *inter alia* the following observations:

- Not all allegations of ill-treatment concerning severe bodily harm by law enforcement officers (GNR, PSP, SEF, PJ) were reported to the Inspectorate-General of Internal Administration (IGAI) but were instead investigated by internal investigation departments;<sup>8</sup>
- Disciplinary proceedings against a law enforcement official were suspended pending the outcome of the criminal process and if the public prosecutor decided to close the case, in most cases the disciplinary case was also closed;<sup>9</sup>
- IGAI investigations were not always carried out promptly and thoroughly, including due to a delay in transmitting information to the IGAI;
- Ill-treatment cases, including those investigated by the IGAI, frequently hinge on the presence of reliable medical evidence, which is a main factor in not being able to pursue alleged cases of ill-treatment by law enforcement officials;<sup>10</sup>
- Bodies investigating police ill-treatment lack staff resources,<sup>11</sup> leading to a lack of capacity to investigate allegations expeditiously.<sup>12</sup>

27. In order to address these deficiencies, the CPT recommended that the IGAI be accorded the competency itself to request forensic medical investigations, as well as the authority to open a disciplinary procedure without the formal approval of the Minister of Interior. In the view of the CPT, these proposals could remove some of the hurdles to the proper investigation of allegations of police ill-treatment the CPT had detected in the course of its visits to Portugal.

More generally, in line with developments in certain other European countries, the CPT suggested the creation of a dedicated, well-resourced body to investigate complaints of ill-treatment by all law enforcement officials, including complaints that may constitute a criminal offence.<sup>13</sup> Such a dedicated body could have brought to an end the current situation where a plethora of different bodies of varying degrees of independence are involved in the investigation of allegations of police ill-treatment. The CPT asked the Portuguese authorities to consider turning the IGAI into such a fully independent investigatory body.

28. Citing constitutional and financial reasons, the Portuguese authorities are not supportive of the idea of turning IGAI into a fully independent body as advocated by the CPT.<sup>14</sup> Instead, they have promulgated Decree law No 22/2021, an Organic Law on the Inspectorate-General of Internal Administration which confirms the authority of the IGAI to initiate investigations, as advocated by the CPT, and provides that, in order to bolster the IGAI's independence and impartiality the Director, Deputy Director and a third of the inspectors should be prosecutors or judges. Unfortunately, at the time of the visit only two out of the five posts reserved for seconded judges and prosecutors were filled.

In the years since the CPT's last visit, there have been some other enhancements in the powers of the IGAI, which now has access to medical data regarding detainees, including medical reports from hospital emergency departments, and may include these in its reports. However, it remains the case that only the prosecutor may order a forensic medical examination of a detainee.

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7. A telling example concerns the case of C.B., a former GNR Major, was sentenced to four years and six months imprisonment for four cases of torture in Santiago de Cacém in May 2011. This case was raised by the CPT in its reports on the 2012, 2013 and 2016 visits. Recent newspaper reports state that the man was retired from the Republican Guard (Correio da manhã, 17 October 2022).

8. CPT/Inf (2018) 6, paragraph 18.

9. CPT/Inf (2018) 6, paragraph 18; CPT/Inf (2020) 33, paragraph 29.

10. CPT/Inf (2018) 6 paragraphs 18-20; CPT/Inf (2020) 33, paragraph 32.

11. CPT/Inf (2020) 33, paragraph 31.

12. CPT/Inf (2020) 33, paragraph 32.

13. CPT/Inf (2018) 6, paragraph 21.

14. CPT/Inf (2018) 7, paragraph 9.

29. The Committee also acknowledges that, over the years, certain other incremental changes heighten the chance that a police officer who ill-treats a detained person may be punished for their deeds. For example, on 27 January 2017, Circular 1/2017 was issued by the Director General of the Prison Service reiterating both the mandatory nature of the medical examination to be carried out when entering prison<sup>15</sup> and the existing obligations stemming from Article 11 of the General Prison Regulation about the recording and processing of visible injuries and complaints of police ill-treatment.<sup>16</sup> The Circular makes clear that:

- in case of visible injuries and/or complaints of police ill-treatment, the mandatory medical examination should take place as soon as possible;
- following the medical examination, a report must be drawn up, containing:
  - a full account of the examination;<sup>17</sup>
  - a statement by the prisoner relevant to the medical findings, including any allegations of torture or ill-treatment;
  - the clinical observations of the healthcare professional, including as regards the consistency between the medical findings and any allegations of ill-treatment or torture.

30. Prior to the entering into force of Circular 1/2017, Order 11838/2016, the Ministers of Internal Affairs and Justice had already ruled that the results of the medical exam carried out in accordance with Article 11 of the General Prison Regulation should be sent to the IGAI and the Justice Inspectorate immediately. The Circular clarifies that this should take place through the services of the Director General of Prisons.

The Circular further specifies that if the prisoner refuses to issue a statement relevant to the medical examination, the injuries shall still be photographed (an obligation stemming from Art 11 of the General Prison Regulation), and the photos shall be attached to the file.<sup>18</sup>

The Circular also addresses training, including for healthcare staff and, in its response to the CPT's 2016 report, the Portuguese authorities indicate that such training is to be provided by the National Institute of Legal Medicine.<sup>19</sup>

31. More recently, the Portuguese authorities introduced Public Prosecutor's Office Directive No. 1/2021 on "Directives and generic guidelines for the enforcement of the criminal policy framework law for the 2020/2022 biennium" specifying that: particular attention should be paid to:

- the prompt hearing of the victim(s);
- ensuring that "steps relating to the forensic evaluation" are taken as quickly as possible;
- the swift securing of any video-recordings of the incident;
- securing of photographs and records of medical examinations of the victim, including those made upon the victim's entry to a prison.

The Directive further regulates that in such cases:

- investigative powers must not be delegated to the criminal police body in question and should, whenever possible, be vested in Public Prosecutors;
- the investigation should, whenever possible, be concentrated into a specialised or semi-specialised section or, if this is not possible, be assigned to a Public Prosecutor with experience and specific technical expertise in investigating this type of crime";

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15. Section 53 General Prison Regulation.

16. Section 11 General Prison Regulation.

17. The procedure also applies in case means of restraints have been used on a prisoner.

18. The CPT presumes the photographing of injuries is also subject to the consent of the prisoner concerned, as indicated in Article 11 of the General Prison Regulation.

19. CPT/Inf (2018) 7, Page 46.

- Public Prosecutors should consider launching an ex officio investigation whenever, in the course of an inquiry, it appears that police ill-treatment may have taken place, including when a defendant displays physical injuries;
- the opening of an investigation into allegations of ill-treatment by law enforcement officers should be reported to DGRSP and IGAI (in conformity with the rules in place) and that cooperation should be considered as regards the collection of evidence.

32. During its 2022 visit to Portugal, the CPT examined the impact in practice of these developments on the detection, recording and investigation of alleged ill-treatment of detained persons by police officers.

33. As has been the case during previous visits to Portugal, the delegation found that the medical procedures on admission to prison were, in most cases examined by the delegation, capturing at least some information regarding allegations of police ill-treatment, and that the formal procedure set out in Circular 1/2017 was at least in principle properly followed: the injuries were described in an injury report and, in most cases, photographed, statements were taken and the file was forwarded to the Directorate General for Social Reintegration and Prisons (DGRSP).

However, in the course of its visit, the delegation found that the injury reports drawn up by prison nurses<sup>20</sup> under the terms of Circular 1/2017 were of variable quality. For instance, some reports were incomplete, lacking details about location, size, shape, age, anatomical delineation, or circumstances of the alleged ill-treatment. Further, the body chart on the injury form is a poor-quality print, rendering marks with a dark pen difficult to distinguish. In some other cases, the report lacked the healthcare professionals' clinical observations, or contained a statement that compatibility between injuries and allegation could not be established due to the absence of an eyewitness. Deficits in recording of this nature can impact upon the effectiveness of subsequent investigations and, in this regard, the CPT recalls its previous findings that, in many cases, investigations into allegations of ill-treatment could not be pursued by the IGAI due to a lack of medical evidence.<sup>21</sup>

34. **The CPT recommends that the Portuguese authorities, and in particular the Ministry of Justice, make serious efforts to improve the quality of the injury reports, including by:**

- **providing regular training by a certified forensic medical institution on the recording of injuries to prison healthcare staff;**
- **ensuring that prison healthcare staff responsible for the recording of injuries have successfully followed such training;**
- **ensuring that the prison medical doctor exercises active supervision on the quality of injury reports;**
- **providing prison healthcare staff responsible for the recording of injuries with adequate equipment, including imaging equipment;**
- **upgrading the quality of the body charts provided to prison healthcare staff to ensure that markings are clear and noticeable.**

35. Another major shortcoming identified by the delegation was that information disclosing potential evidence of ill-treatment by police officers was not being transmitted expeditiously to the relevant investigatory authorities. There were significant delays in the transmission of such information from the prisons to the DGRSP, and further delays in the onward transmission of that information from the DGRSP to the IGAI. Delays of up to several months were noted, rendering it difficult if not impossible for the IGAI to carry out an effective investigation into the allegations concerned. This was confirmed during the delegation's meeting with the IGAI.

On 6 June, at the end of the CPT's visit, the Director General of the DGRSP sent a circular to the Directors of prisons and educational centres reminding them of the requirements of Circular 1/2017, and in particular their obligation to immediately transmit reports on alleged ill-treatment to DGRSP.

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20. In all of the cases examined, the injury reports had been completed by nurses, only some of whom had received a one-day training in the recording of injuries.

21. CPT/Inf (2018) 6.



Further, he indicated that the speedy implementation of Circular 1/2017 would be included in the 2022 Annual Work Plan and subject to an inspection by the Justice Inspectorate (SAI).

The Portuguese authorities further informed the CPT after the visit about a draft protocol between DGRSP and IGAI, designed to accelerate information sharing between the two services and to enhance the efficiency of the investigation of facts.

These are clearly steps in the right direction. **The CPT would like to receive in due time the results of the above-mentioned inspection by SAI. It would also like to be informed once the protocol between IGAI and DGRSP has been signed by both parties, and to receive a copy of the protocol.**

**The Committee would further like to be informed about the number of reports with allegations of ill-treatment by police officers which have been transmitted to IGAI since June 2022, together with indication of the time between recording of the allegations (and possible injuries) and transmission of the cases to DGRSP and to IGAI.**

As regards, more generally, the expeditiousness of investigations carried out by the IGAI, the delegation was struck by the IGAI's tendency to rely upon exchanges of paperwork with police services, which often involved significant delays, rather than on-the-spot investigation and physical recovery of documentary evidence by its investigators. Such was the case even though, in its general inspection capacity, the IGAI frequently visits police premises.

A more proactive approach by the IGAI to gathering primary evidence in cases of alleged ill-treatment could make a significant contribution to the expeditiousness of its investigations.

36. More fundamentally, it is the long-standing view of the CPT that every alleged case of ill-treatment by law enforcement officials should be criminally investigated thoroughly and promptly. The primary duty to carry out such investigations lies with the Public Prosecutor, who alone is empowered to institute criminal proceedings. However, as the CPT has stated in the past, to avoid a situation of *de facto* impunity, steps need to be taken to fast-track the criminal investigation and court procedures concerning cases of alleged ill-treatment by law enforcement officials.

During its 2022 visit, the delegation met with the Public Prosecutor's Office (PPO) and drew the attention of senior prosecutors to several recent concrete cases<sup>22</sup> involving allegations which, if proven, would amount to criminal conduct by police officers. It asked the Public Prosecutor's Office to confirm whether or not it had received details of these cases, all of which had been detected on the admission of a person to prison, and then transmitted to the DGRSP and - with the exception of one very recent case - onwards to the IGAI.

By the end of the visit, the PPO was able to confirm that it had received details of only one of the cases concerned,<sup>23</sup> which been received directly from the lawyer of the alleged victim, and not through the prison-DGRSP-IGAI route.

37. Given these findings, the delegation requested in writing<sup>24</sup> that the PPO rapidly confirm whether or not it had previously been seized of these potential criminal cases. It also emphasised that, now that the PPO had been directly informed of these cases by the CPT, it was under a legal obligation to investigate them, having regard, *inter alia* to the provisions of the aforementioned Public Prosecutor's Office Directive No 1/2021. Consequently, the delegation asked to be informed about the procedural steps that the PPO intended take, on the basis of the information regarding alleged criminality by police officers that had been provided directly to it by the delegation.

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22. Most of the cases had been registered at IGAI, under the following process numbers: **PA-83/2020, PA-254/2020, PA-390/2020, PA-465/2020, PA-712/2020, PA-32/2021, PA-295/2021, PA-504/2021, PA-781/2021, PA-108/2022, PA-310/2022, PA-417/2022, PA-503/2022 and PA-541/2022.** In addition, the case of [A] had been submitted from Lisbon Central Prison to DGRSP on 9 May 2022 under case number 122/SVS/2022 and the case of [B] from Porto Custódias Prison to DGRSP on 22 February 2022, indicating an "ofício" number 0078.

23. Registered by the PPO under case number NUIPC 44/21.2T9PRG.

24. Cf. e-mail from the Head of the delegation to the Director of the Department of Judicial Cooperation and International Relations of the PPO, dated 3 June 2022.

38. In relation to the one case that the PPO had received through an alternative channel, the delegation also requested to receive, as soon as possible, a detailed outline of the investigative steps that had been taken to date by the prosecutor responsible.

A written reminder was subsequently sent to the Director of the Department of Judicial Cooperation and International Relations but, at the time of the adoption of this report, no further response has been received from the PPO.

**The CPT would like to receive a detailed outline of the procedural steps taken by the Public Prosecutor's Office in respect of the following cases of alleged ill-treatment (dates when case was received and investigation was opened, status of the investigation including dates of interviewing the alleged victim and suspect(s) and forensic medical examination):**

- **the above-mentioned cases which had been submitted by the CPT's delegation to the Public Prosecutor's Office during the visit;**
- **case II described in paragraph 14 of this report;**
- **case ii<sup>25</sup> described in paragraph 14 of the CPT's report on its 2019 visit<sup>26</sup> as well as the two cases described in paragraph 17 of the same report.<sup>27</sup>**

**In addition, the Committee would like to be informed on the status and outcome of any disciplinary proceedings in relation to these cases.**

39. Taken as a whole, the findings of the CPT during its 2022 periodic visit suggest that the current system for investigating alleged ill-treatment by police officers in Portugal remains flawed from beginning to end.

From the time that a detained person who may have been ill-treated first enters police custody, deficits in custody records mean that injuries that could be attributable to ill-treatment are missed. Neither *ex officio* lawyers nor judges react proactively when people with visible injuries appear in court. Even if/when a detained person is committed to prison, there is no guarantee that their injuries and allegations will be fully and accurately recorded, resulting in a lack of medical evidence.

To this must be added the significant delays identified in transmitting information regarding alleged ill-treatment from the prisons to the DGSRP and onwards to the IGAI.

Most worryingly of all, it would appear that, at least in certain cases, allegations of potentially criminal behaviour by police officers are not transmitted by the DGSRP or the IGAI to the PPO, which alone is empowered to institute criminal proceedings. Far from fast-tracking the criminal investigation and court procedures concerning cases of alleged ill-treatment by law enforcement officials, as previously recommended by the CPT, this is a situation that can only serve to embed a perception of *de facto* impunity.

Given the gravity of these finding, and their persistence over time, **the CPT recommends that the Portuguese authorities commission a fully independent review of their current system for the investigation of allegations of ill-treatment by police officers, with a view to ensuring that it complies fully with the procedural requirements of Article 3 of the European Convention on Human Rights and Fundamental Freedoms. This should include measures to ensure that cases of alleged ill-treatment by police officers detected at a person's entry to prison are transmitted by the prison authorities as a matter of priority to IGAI and the Public Prosecutor's Office as investigatory bodies. In this connection, the Committee also reiterates its previous recommendation 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 an investigatory body by the prison authorities, a representative of the investigatory body interview the person concerned, in person, within 48 hours, with a view to determining whether a forensic medical examination is necessary and what further investigative steps are required.**

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24. According to the information received from the Public Prosecutor's Office, the case was in June 2022 at trial stage at Lourdes' Central Criminal Chamber.

25. CPT/Inf (2020)33.

26. The cases of Cláudia Simões and Ihor Homeniuk.

### 3. Safeguards against ill-treatment

#### a. introduction

40. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice;
- the right of access to a lawyer;
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of their deprivation of liberty (that is, from the moment when the persons concerned are obliged to remain with the police). Furthermore, persons detained by the police should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

41. In Portugal, the legal safeguards for detained persons are provided for in the Criminal Procedure Code (CCP) and supplemented by Order of the Minister of the Interior no. 5863/2015 on Material Conditions in Police Premises of 2 June 2015, which applies to the GNR, the PSP and the SEF, and by Order no. 12786/2009 regulating the Conditions of Detention in Judicial Police facilities and in the Courts and Public Prosecution Services.

#### b. notification of custody

42. Order 5863/2015 states that persons detained by PSP and GNR and Immigration and Border Services must be permitted to inform their families immediately about their situation and must be provided with reasonable facilities to this end, allowing the use of the police station's telephone.<sup>28</sup>

As regards the Judicial Police, Order 12786/2009 states that the detainee has the right to inform a family member or trusted person of one's situation. Article 3 states that the rights of a detained person may be exercised from the outset of the deprivation of liberty.<sup>29</sup>

Despite these legal provisions, as in previous visits, the CPT's delegation met in 2022 a few persons, who stated that they had not been afforded such an opportunity and that no reason had been provided for the refusal. In some cases, detainees had not received feedback if their next-of-kin or another trusted person had been informed.

**The CPT recommends that the Portuguese authorities, including the leadership of all police services, take steps to ensure that detained persons' right to inform a relative, or a third party of their choice, of their situation is implemented in practice as from the very outset of their custody. Any exception to this right should be clearly defined by law, duly recorded and the application of such exception in a given case should be notified to the detained person concerned. Appropriate steps should further be taken to provide detained persons with feedback on whether it had been possible to notify a next-of-kin or another trusted person of the fact of their detention.**

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28. Article 15 paragraphs 2 and 4.

29. Section 5.

c. access to a lawyer

43. The CPT recalls that the right of access to a lawyer as of the moment of apprehension is guaranteed through various legal instruments. Article 20(2) of the Constitution states that “subject to the terms of the law, everyone has the right to legal information and advice, to legal counsel and to be accompanied by a lawyer before any authority.” Through various provisions from the Code of Criminal Procedure (CCP) as well as the Law on the Execution of Criminal Sanctions, this constitutional prerogative has been made operational.<sup>30</sup>

In the course of the visit, the delegation met with certain law enforcement officers (including from the PSP Metropolitan Command Headquarters, Rua Agostinho José Freire in Porto), who expressed their conviction that only persons with an *arguido* status were entitled to a lawyer. Apparently, they were unfamiliar with law. Obviously, such a misconception of the statutory rights of detained persons may have negative consequences for persons deprived of their liberty requesting a lawyer. The CPT has frequently expressed its misgivings that in reality the right of access to a lawyer within the first few hours following deprivation of liberty by PSP, GNR or JP depends on whether a detained person can afford a private lawyer. The majority of persons interviewed stated that they did not have access to a private lawyer and that they only met an *ex officio* lawyer at the court hearing before a judge, which takes place up to 48 hours after the moment of apprehension.

44. The delegation observed that in most police stations no appropriate space was available for detainees to meet with their lawyer, impinging on the confidentiality of client-lawyer conversations. For example, in the waiting area in front of the station’s reception desk at the 63rd District (Damaia) PSP station, the delegation witnessed a conversation between a detained person and his legal advisor, which was clearly audible to everyone in the vicinity, including police officers. Further, in a number of police stations the only available facility detained persons could use to talk to their legal advisor was a fixed line telephone in the police officers’ office.

**The CPT reiterates its recommendation that the Portuguese authorities ensure that the right of access to a lawyer, including the right to consult 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. All law enforcement officials should be reminded accordingly.**

45. While it was positive that the police stations visited could, in principle, rely on interpretation services when a detainee did not have a sufficient command of Portuguese, in practice the nature and availability of the service varied considerably. While in the Lisbon area, the police could access the professional interpretation services used by the Tourism Police, in some other locations they were obliged to resort to pro bono interpreters or other detained persons.

In the specific context of legal consultations, it is crucial that all detained people be placed in a position to properly explain their version of events, point out any statement with which they disagree and make their lawyer aware of any facts that should be put forward in their defence.<sup>31</sup>

**The CPT recommends that the Portuguese authorities take the necessary measures to provide interpretation and translations of professional quality to all people deprived of their liberty by the police who require such services.**

d. access to a doctor

46. Article 21 of Order no. 5863/2015 relating to the PSP and GNR provides for the right of access to a doctor, including a doctor of one’s own choice at the detained person’s expense. Article 29 of Order no. 12786/2009 provides for an analogous provision in relation to persons deprived of their liberty by the Judicial Police.

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30. See Sections 58 (1), 59, 61 (1), 132 (3), 250 of the CCP and Section 124 of the Law on the Execution of Criminal Sanctions.

31. Cf., *inter alia* Recital 19 Directive 2010/ 64/EU on the right to interpretation and translation, which is binding upon Portugal.

However, the delegation met with five persons deprived of their liberty by the police who stated they were not offered medical assistance in the initial period of their deprivation of liberty, despite their explicit request or bearing clear signs of injuries.

47. Reference should also be made to a person met by the delegation in the PSP 3rd District Police Station, at Travessa da Água da Flor, in the Bairro Alto area in Lisbon, who bore visible injuries, some of which he attributed to ill-treatment by police officers. On examination by one of the delegation's doctors, he displayed injuries including a fresh abrasion over the left side of the forehead within the hairline, approximately 3 cm in diameter; a circular abrasion approximately 1cm in diameter, over the left tibial tuberosity, a punctuate abrasion over the posterior aspect of his left wrist, a swollen, ecchymosed right ring finger with a flexion deformity at the proximal interphalangeal joint, the swelling delineated and worsened by a tight ring which required cutting. Notwithstanding the evident need to receive medical assistance, medical attention was only given at the prompting of the delegation's doctor.

Further, on the visit to PSP 4th District Station PSP in Lisbon (Rua da Palma), the delegation witnessed medical assistance being offered by civil protection personnel (*Bombeiros*), who offered only basic paramedic services. In the context of the prevention of ill-treatment, this is not an appropriate substitute for access to a doctor.

As the CPT has frequently had occasion to emphasise, effective access to a doctor for people in police custody is essential not only to protect their health and welfare, but also to provide a fundamental safeguard against ill-treatment. In light of the delegation's findings during the 2022 periodic visit **the CPT recommends that the Portuguese authorities take the necessary steps to enhance the effectiveness of right of access to a doctor for all persons held in the custody of the police.**

e. information on rights

48. According to the Constitution and the CCP, 'Every person who is deprived of his freedom shall immediately be informed in an understandable manner of the reasons for his arrest, imprisonment or detention and of his rights.'<sup>32</sup> Also according to Article 15 on Information about Rights, of Order 5863/2015, the information should include the rights to choose a lawyer, to communicate with a family member or a trusted person, and to be given an information leaflet on one's rights as well as the delivery of the information leaflet referred to in the previous number, should be documented and a term of notification and delivery transcribed. Further, in each police establishment, a standardised display of information about the rights and duties of the detainee shall be placed in a clearly visible place in the public attendance area and in the detention area.

49. In this connection, the CPT also wishes to recall that Portugal is bound by the EU Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, and Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

50. Posters explaining detainees' rights and duties were displayed in the police stations visited, albeit in most cases not inside the detention cells. In addition, detained persons were usually requested to sign a statement indicating that they had been informed of their rights, alongside with other parts of the custody record.

However, in practice, some persons interviewed by the delegation said that they had only received written information on their rights while several others stated that they had not been informed of their rights at all, neither verbally nor in writing.

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32. Article 27(4) of the Constitution, see also Article 58(1)(c), (2) and (5), Article 61(1) of the CCP.

**The CPT recommends that the Portuguese authorities take the necessary steps to ensure that persons detained by the police be fully informed in a manner they understand of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be done by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner. This form should be available in an appropriate range of languages and detainees should be allowed to keep a copy of it.**

**The Committee wishes to receive a copy of the information leaflets for detainees produced by the Portuguese authorities.**

f. custody records

In general, the custody records seen in the establishments visited were well kept, with the exception that medical interventions and injuries (see paragraph 33) were not systematically recorded, or, as continued to be the case at the PSP Metropolitan Command HQ, Quinta de Bela Vista, recorded in the individual file of the detained person only.

**The CPT recommends that the electronic police detention register be updated to ensure that it contains a record of all medical interventions concerning detained persons in each police station, and that a copy of any such medical documentation be made available to the detainee.**

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

51. The material conditions in police stations under the responsibility of PSP, GNR and SEF continue to be governed by Order 5863/2015, of 2 June 2015.

In general, the material conditions in the police stations visited were acceptable for short stays, with cells in a good state of repair and clean. There were a few exceptions:

- At the PSP station in Rua Elísio de Moura in Coimbra, the call bells were not working in cells 1, 2 and 3;
- At the Lisbon PSP Metropolitan Command Headquarters holding facility some of the cells were dirty, with a foul stench of human excrement.<sup>33</sup>

**The CPT recommends that steps be taken to remedy these deficiencies.**

52. All police establishments visited had a stock of some basic personal hygiene items, to be provided to detained persons. However, the delegation heard several complaints from detained persons that they were not allowed to keep hygiene items in their cells and had to request them whenever they needed to use them (including toilet paper and soap). Moreover, and more seriously, none of the police stations visited had a stock of personal hygiene items, such as tampons, to meet the specific needs of women detainees and at Porto PSP Metropolitan Command Headquarters (Quinta da Bela Vista) and GNR Station, Sao Pedro de Avioso Maia, detained persons were not provided with soap, toothbrush, or toothpaste.

**The CPT recommends that persons held in police custody for more than 24 hours (or overnight) be systematically provided with personal hygiene items. It also recommends that immediate steps be taken to ensure that all police stations maintain a stock of personal hygiene items, such as tampons, to meet the specific needs of women detainees.**

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33. At the time of the visit, 8 out of 13 cells out of commission due to plumbing issues.

53. For the first time, the CPT visited the Campus da Justiça holding facility at Alameda dos Oceanos in Lisbon. Located in the basement of a large court building, the holding facility consisted of two distinct wings. Detained persons were placed in holding cells pending their appearance before a judge, under the responsibility of either the prison service or the police, depending on their legal status. Prisoners, either on remand or sentenced, were accommodated in one of eight windowless multi-occupancy cells of different dimensions in wing A, while police detainees were placed in one of the nine cells of a similar layout in wing B. All cells were equipped with a large concrete bench and there were toilet facilities for men and women in the corridor.

In principle, the material conditions in the Campus da Justiça holding cells were acceptable for a stay of a few hours, which is indeed the time that most detained persons remain in the facility. Although overnight stays do not occur, it may happen that a detained person spends a number of consecutive days in the facility, if their case so requires, spending the night at the PSP Metropolitan Command Headquarters at Moscavide Avenue

The CPT delegation focussed mainly on Wing B, which was holding 27 persons (20 men and seven women) at the time of the visit. The cells were dirty, with garbage strewn over the floor and brown stripes on the wall, apparently the residue of food smears. Though the floors are cleaned every day, the walls are not. Further, the detained persons received food twice a day, offered in large pans that were placed in the cells, from which they had to serve themselves. This was unhygienic and encouraged certain detainees to take more than their fair share, leaving little for others.

**The CPT recommends the walls of the holding cells in Campus da Justiça be given a fresh coat of paint regularly. Further, CPT recommends that food be distributed in individual portions of sufficient quantity.**

## **5. Other issues**

54. A fully-charged electrical discharge weapon (“Taser”) was found by the delegation sitting on open shelves in the custody area at the PSP Metropolitan Command Headquarters, at Moscavide Avenue in Lisbon. None of the police officers present had received a respective training. Moreover, in the context of the prevention of ill-treatment a potentially lethal weapon of this nature should never be left unsecured and accessible to untrained police officers in an area where people are deprived of their liberty.

The delegation had raised this issue with the Portuguese authorities during the end-of-visit talks. Subsequently, by email of 2 March 2023, the authorities informed the Committee that the “Taser” had been removed from the Detainee Registration Office at the PSP Metropolitan Command Headquarters and that adequate training on the use of “Tasers” was being provided to all police officers working in that Command. It is further stated that “an appropriate and safe place for depositing the Taser was to be redefined”.

**The CPT recommends that the Portuguese authorities take steps to ensure that:**

- **officers who have not been trained in the use of electrical discharge weapons do not have access to them;**
- **the presence of electrical discharge weapons (and all other potentially lethal weapons) inside custody areas is expressly prohibited;**
- **all electrical discharge weapons that have not been personally issued to officers trained in their use be kept in a secure armoury on police premises and issued only to officers who have been trained in their use.**

**The Committee would also like to receive copies of any existing rules and regulations on the issue and use of electrical discharge weapons that may have been produced by any of the police services in Portugal.**

## **B. Prison establishments**

### **Lisbon Central Prison**

55. The CPT carried out a targeted visit to Lisbon Central prison to interview remand prisoners recently apprehended by the police. Nevertheless, it wished to share its observations as to the conditions of detention in the establishment.<sup>34</sup>

56. In its reports on its 2016 and 2019 visits to Portugal, the CPT described Lisbon Central Prison as being in a “state of advanced dilapidation”. The CPT acknowledges that the basements of four out of the six wings have been closed and that some renovation work has taken place in the two other wings. Regrettably, overall conditions in the prison, already detailed in previous CPT reports, have further deteriorated in the intervening years and, in most areas of the establishment, prisoners could be said to be living in degrading circumstances: the dirty walls were dilapidated, crumbling and covered in graffiti; panes of glass were still missing from windows; the toilets in double-occupancy cells were not partitioned; foam mattresses were generally thin, worn, dirty and falling apart; the call bells generally did not function and there was no lockable space in the cells.

Further, there were no tables or chairs in most cells, obliging the prisoners in wing F to eat their meals sitting on the bed. Also, in many cells there was no functioning ceiling lighting due to the malfunctioning of the prison’s electrical installations. As regards the latter issue, although inmates were supplied with small table lamps, they had to pay for replacement lightbulbs, with the result that, after sundown, indigent prisoners were living in dark cells.

The CPT welcomes the Justice Minister’s statement to Parliament on 4 May 2022, which envisaged the closure of Lisbon Central Prison. The CPT fully concurs with this decision as the current situation cannot prevail.

57. To facilitate the rapid closure of Lisbon Central Prison, consideration might be given to measures such as locating all newly remanded persons in alternative establishments, and progressively closing the wings with the poorest physical conditions, as the population decreases. Measures taken by the Portuguese authorities during the Covid-19 pandemic have demonstrated that it is possible for significant numbers of prisoners to be transferred quickly from one prison to another, and for establishments to be re-designated rapidly as entry points to the prison system.

In this connection, the Portuguese authorities informed the CPT by email of 2 March 2023 about Resolution 118/2022 of 29 November 2022 of the Council of Ministers on the gradual closing of Lisbon Central Prison. According to the plan, this should be enabled mainly by refurbishment, and by construction of a new building, in prisons in the vicinity of Lisbon.<sup>35</sup> This is a very welcome development.

As to the timing of the final closure, the Portuguese authorities stated in the above-mentioned communication that Lisbon Central Prison will be closed by 2025. However, the budget in annex to the document as well as newspaper reports<sup>36</sup> suggest that Lisbon Central Prison will close in 2026 only.

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34. Lisbon Central Prison is located in the city centre and has been in service since 1895. The building was sold to private developers in 2007 as the authorities intended to build a new establishment for the Lisbon area. However, no such establishment has been built and the Portuguese authorities are now renting the prison. The prison consists of two separate blocks. The main prison block consists of six wings (A-F) set out in a radial pattern, and a smaller block of two wings (G-H) for sentenced prisoners benefiting from a semi-open regime. At the time of the visit, 911 male prisoners were being held for an official capacity of 887.

35. In a first phase, nine buildings in three prisons (Alcoentre, Linhó and Sintra) should be renovated and put into operation. In a second phase, building 3 of Tires Prison, which is currently vacant and in poor condition, should be remodelled and taken into operation. Lastly, both a new building will be built in Tires Prison and a part of Caxias Prison should be reassigned.

36. <https://www.publico.pt/2022/11/17/sociedade/noticia/governo-destina-24-milhoes-fecho-gradual-estabelecimento-prisional-lisboa-2028223>



**The CPT would like to receive clarification from the Portuguese authorities concerning the closure of Lisbon Central Prison until 2025. It would further like to receive regular updates as to the implementation of the closure plan.**

58. As regards ill-treatment of prisoners by staff, as during previous visits, by far the majority of persons detained at Lisbon Central Prison met by the delegation stated that they were treated correctly by prison officers and that relations were based upon reciprocity (that is, if they showed respect to prison officers, they would be accorded respect in return).

Once again, the CPT received a number of credible allegations of physical ill-treatment by prison staff (slaps, punches, kicks) and the delegation saw medical reports by prison healthcare staff detailing injuries corroborating such allegations. Worryingly, certain prisoners interviewed by the delegation expressed fear of reprisal if they furthered a complaint.

From the narrative of these allegations, the delegation could observe that the current state of dilapidation of the prison was conducive to incidents of ill-treatment by prison staff. For example, in the absence of functioning call bells, the recurrent electricity black-outs were being notified by prisoners by banging repeatedly on the door, allegedly leading to reprisals from the prison-guards.

Reportedly, another situation conducive for ill-treatment by staff was when prisoners spoke during mealtime in the refectory, as the previously criticised policy of forbidding prisoners to talk during mealtime has been maintained.

**In light of the information gathered during the 2022 visit, the CPT recommends that the Portuguese authorities reiterate to all prison managers and custodial staff that all forms of ill-treatment are unacceptable and will be the subject of appropriate sanctions.**

**Further, the CPT recommends once again that the policy of compelling prisoners to eat their meals in the communal dining rooms in silence, with any talking punished, be ended.**

## **Women's Prisons – Tires and Santa Cruz do Bispo Feminino Prisons**

### **1. Introduction**

59. The delegation visited the country's two exclusively female prisons, namely Tires Prison in the outskirts of Lisbon, and Santa Cruz do Bispo Feminino Prison (Women's Prison), in the Greater Porto area. This was the CPT's first full visit to these establishments.<sup>37</sup>

60. Women typically make up a small proportion of the prison population. In Portugal, in 2022, they represented 7% of the prison population, meaning approximately 900 prisoners. More than 80% of them were accommodated in the two prisons visited by the delegation.

61. Tires Prison, the "historical" women's prison in the country, was accommodating 431 women for an official capacity of 520 at the time of the visit. The prison was established in the early 1950s and comprises several buildings spread out on a large piece of farmland (34 hectares), which was no longer cultivated.

Women were divided between four main units. Block 1 was accommodating approximately 170 prisoners, about 100 of whom were awaiting trial and Block 2 was accommodating 175 sentenced women.

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37. In 2016, a CPT delegation had conducted interviews with remand prisoners in Tires Prison, without conducting a full visit of the establishment.

Block 5 comprised three wings: wing A was accommodating 18 women who were either older (above 60 years of age) or identified as being vulnerable; wing B (*Casa de maes* or “mothers’ house) accommodated 19 mothers with accompanying children or expectant mothers; wing C served as an arrival/quarantine block (accommodating 10 women at the time of the visit), in which newly admitted prisoners spent seven days awaiting the results of Covid testing.

Finally, another section altogether (Block 4) was accommodating 36 sentenced women under a more relaxed regime known as “RAI regime” (or “open interior regime”), whereby the prisoners could move more freely on the prison grounds.

Among the prison population at the time of the visit, there were 159 foreign national women, most of whom held Brazilian citizenship.

62. Santa Cruz do Bispo Feminino Prison, opened in 2005, has the unique feature of operating under a shared management model (or contract), between the Directorate General of Rehabilitation and Prison Services (DGRPS) and a private charity, namely Santa Casa de la Misericordia.<sup>38</sup>

At the time of the visit, the establishment was accommodating 308 women for a capacity of 354, the vast majority of whom were sentenced, with only 44 prisoners awaiting trial. There were 36 foreign nationals and 38 women under the so-called RAI regime and two under the open regime (open to the outside – for a capacity of 26 under open regime).

The prison population was divided across four main wings and a smaller security unit (see paragraphs 86-95 and 143).

The four main wings were similar in design and size (each accommodated approximately 70 prisoners) and the population was distributed across them, according to legal status (all remanded prisoners were accommodated in wing 4) and to regime type (sentenced women under regular regime in wing 3 while sentenced women benefiting from “relaxed measures” – such as prison leave, open regime – were in wing 2). Vulnerable prisoners or prisoners with special needs (such as older prisoners, mothers with children and expectant mothers) were accommodated in wing 1, along with other sentenced women.

This establishment is considered by the DGRPS as having a high security level and a high degree of management complexity, and it is the only establishment which can accommodate women prisoners placed under a high security regime.

63. Among the prisoners with whom the delegation met, especially in the mother-and-child units, were women who had first been imposed an alternative measure to detention. They had been sent to prison after they had breached the conditions of the latter. However, the delegation also observed cases of women who were serving very short prison sentences or who were temporarily incarcerated awaiting the preparation of their electronic tagging device (ankle bracelet). **The CPT recommends that the Portuguese authorities pursue their efforts to promote a greater use of alternatives to imprisonment, notably as regards short sentences.**<sup>39</sup>

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38. This private organisation is entrusted with the provision of healthcare, education and vocational training, day care for children, work and occupational activities, socio-cultural, recreational and sports activities and in the application of specific psycho-educational and rehabilitation programmes, in prison contexts and in liaison with civil society. It was also responsible for the upkeep and preventive maintenance of the facilities, for managing energy resources and hospital waste, as well as the treatment of laundry and clothing. The State, through the Prison Department, remains responsible for security and surveillance, the supply of meals, coordination with the courts and other organs and services of the State and the organisation of the detention *per se*.

40. See, for example, the [White Paper on Prison Overcrowding](#) – CM(2016)121-add3, 23 August 2016., Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole), Recommendation CM/Rec (2010) 1 on the Council of Europe Probation Rules, and Recommendation CM/Rec (2014) on electronic monitoring.

## 2. Ill-treatment

64. In both prisons, the majority of women interviewed expressed the view that prison officers were professional, with many women adding that staff were supportive and helpful. However, the delegation did receive some allegations of ill-treatment, mainly consisting of verbal abuse and threats, and more rarely, of acts of physical violence.

65. In Tires prison, one prisoner alleged that after she had informed guards that she would complain about them, two female officers reportedly entered her cell, pulled her hair and threatened her, warning: “*If you complain, things will get worse for you*”. Another prisoner alleged that some of the prison officers were sometimes disrespectful, using demeaning and racist language (she had been called “*filha de puta*” (daughter of a bitch) and “*black shit*”).

At Santa Cruz do Bispo Feminino Prison, several women alleged physical ill-treatment by guards. For example, one prisoner alleged that during a recent cell search on 2 May 2022, she had been slapped in the face, grabbed by the arm, kicked on the leg and pushed by two prison officers. She explained that after the ill-treatment, she was taken to the doctor who examined her (took photos) and gave her an injection to calm her down as the situation had upset her. She had lodged a complaint. Another woman said the chief guard slapped her twice and called her a “cow”.

Several prisoners alleged that they had personally suffered verbal abuse from the part of custodial staff (“*you look like pigs behind bars*”, “*you are like croaking chicken*” (when talking during lunch), “*you are clowns in a circus*”, “*you are poorly educated*”, “*you are fat already*” (when asking for a second serving), and “*you have to learn that here, all prisoners are zero*!”). Several women complained alleged discriminatory language, based on race or gender identity (see paragraph 100). Other women reported that some members of custodial staff routinely shouted at the prisoners.

**The CPT recommends that the Portuguese authorities deliver and regularly reiterate the clear message to all prison officers in Tires and Santa Cruz do Bispo Feminino prisons, that they should treat prisoners with respect at all times and take full account of the need to challenge and combat racism and xenophobia, and discrimination generally.**

**It should be made clear that all forms of ill-treatment, including verbal abuse and threats, are not acceptable and will be the subject of appropriate sanctions. Prison management should encourage prisoners to report such behaviour, making it clear that such complaints will be effectively investigated.**

66. At Santa Cruz do Bispo Feminino Prison, several women alleged sexual relationships between female prisoners and male custodial staff or male (contracted) workers.

**The CPT wishes to make clear that, given the inherent vulnerability of persons deprived of their liberty, there is no scope for consent in sexual contact between staff and detainees. Such conduct on the part of staff should always be regarded as an abuse of their authority and be dealt with as such. The Committee would like to be informed on any investigation carried out in this regard, and, if so, of the outcomes and measures taken.**

67. As was the case in Lisbon Central Prison, there was a policy of forbidding prisoners to talk during meals in the female establishments. **Reference is made here to the recommendation formulated in paragraph 58.**

68. Episodes of inter-prisoner violence appeared to occur regularly, though not equally across units, but they were of low intensity. In Tires prison, allegedly, tensions typically arose when prisoners were queuing for the telephone or for medication, with altercations sometimes leading to physical assaults. The delegation received one allegation from a woman stating that three other prisoners had entered her cell to assault her.

In Santa Cruz do Bispo Feminino Prison, prisoners accommodated on Unit 3 especially, reported daily instances of inter-prisoner violence and tensions arising from the constant noise, yelling and incivilities

In both establishments, several women also reported that they were or had been threatened, bullied and/or pressured by other prisoners, into selling or trafficking tobacco or drugs, or had been victims of extortion. Generally, it was perceived that staff intervened promptly to separate prisoners. However, some incidents happened out of their sight and out of CCTV coverage areas, going unnoticed and unreported.

**The CPT recommends that the Portuguese authorities pursue their efforts to address inter-prisoner violence, which should include the systematic recording and reporting of all confirmed and suspected cases of inter-prisoner intimidation and/or violence and the thorough investigation of all incidents.**

### 3. Material conditions

69. In Tires Prison, material conditions were inadequate in several respects, owing to the original design and the aging of the buildings.

Many cells across the prison, especially those that were located on the ground floor, were worn out, displaying crumbling walls and flaky paint. In some cells, the window did not close properly, in others the window had broken glass. Some showers smelled of sewage and some had leaking water pipes, while at least one cell had a blocked sink. There was no heating in the cells and prisoners complained of the cold and humidity (mould) in winter. The furniture was sometimes insufficient (with some cells having no storage space at all while others had insufficient furniture to cater for the number of occupants), often worn out, (rusty cupboards, wobbly beds), or impractical (cupboards without shelving). All the call bells were dysfunctional.

Blocks 1 and 2 – which were adjacent and identical in design – were the largest, so-called regular detention units. The single-occupancy cells on the ground floor measured 7 m<sup>2</sup> including the sanitary annex. The multi-occupancy cells on the first and second floors were accommodating four persons at the time of the visit. They measured 14 m<sup>2</sup>, excluding the sanitary annexe, thus providing a living space of 3.6 m<sup>2</sup> per person.<sup>40</sup> On these blocks, there were no common facilities or areas, apart from a dining room, which was also used for visits.

In Block 4 (accommodating special categories of prisoners), most cells were sufficiently spacious, although they were also in need of repair. An exception was in Wing C, which was being used as a quarantine unit at the time of the visit. 16 of the 18 cells, all double occupancy, measured approximately 11 m<sup>2</sup>.<sup>41</sup>

More positively, cells were reasonably bright, offering sufficient access to natural and adequate artificial lighting. There was warm water around the clock. The main yard was large, equipped with a shelter and benches, and looked onto some greenery. Some cells had a television, radio and kettles, for prisoners who could afford them.

Regarding the material conditions in the mother and child unit, see paragraphs 76 ff.

70. At Santa Cruz do Bispo Feminino, material conditions were generally good. Cells were of an adequate size and in a good state of repair and cleanliness. There was heating and all cells were equipped with telephones.

The four main wings were of similar design with cells on three levels looking onto a large and bright common area on the ground floor. This space was divided into a rather spacious dining hall and a large open sitting 'space' equipped with café tables, chairs and a coffee vending machine, and looking into a courtyard. Most cells were single cells with a few exceptions. In Block 3, for instance,

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41. Each cell was equipped with a bunkbed, two single beds, two small tables and three cupboards. The sanitary annexe consisted of a (fully partitioned) toilet, a shower (separated with a curtain) and a sink.

42. The cells, which were temporarily used for quarantine purposes, accommodated only one prisoner at the time of the visit.

there were 66 single cells<sup>42</sup>, four double cells<sup>43</sup> and two cells of six persons<sup>44</sup>. Multi-occupancy cells usually accommodated relatives who were incarcerated together.

One shortcoming was that the sanitary annexes in the double occupancy cells were not fully partitioned and therefore did not ensure privacy. In the six-person cells, the sanitary annexe contained two sinks and a separate and fully partitioned toilet and shower.

Also, the yards were very carceral (concrete ground and concrete walls on all sides). They were equipped only with metal benches and a shelter against inclement weather, offered no view of the horizon, and had no greenery or additional equipment.

While the facility was generally clean and in a good state of repair, the units were large and many women complained of the constant noise. The size of the units also entailed that different categories of prisoners were accommodated side by side (see paragraph 78).

Finally, the call bell system was, here also, out of order. In their response to the CPT's preliminary observations, the Portuguese authorities informed that the landline phones which will be installed in prison cells under the recent amendment to the General Regulation of Prisons will include a call bell function, thus overcoming the problem of dysfunctional emergency call bells.

71. In both establishments, many women complained that they were not provided with enough essential items to ensure their personal hygiene. Only indigent prisoners received a monthly kit, the others only received one on admission.

**72. The CPT reiterates its recommendation that the authorities ensure that the minimum standard of 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells (not counting the area taken up by any in-cell toilet facility) is duly respected in all penitentiary establishments, including in Tires Prison, for all categories of prisoners; for single-occupancy cells, the standard should be at least 6 m<sup>2</sup> excluding the sanitary annexe. In newly built prisons, the standards should preferably be higher.**

**More specifically, the CPT recommends that measures be taken in order to ensure that in Tires Prison:**

- **multiple-occupancy cells accommodate a maximum of three persons, consequently, the fourth bed should be removed from those cells. The official capacity of the establishments should be revised accordingly;**
- **all cells are suitably furnished (bed, table, chair/stool, storage space for the number of prisoners they accommodate);**
- **all facilities/equipment should be in a good state of repair and regularly maintained;**
- **cells are kept at acceptable temperatures.**

**The CPT also recommends that steps be taken in order to ensure that, in Tires Prison and Santa Cruz do Bispo Feminino Prisons:**

- **all prisoners are provided free of charge with essential personal hygiene items (including sanitary towels for women) in sufficient quantities;**
- **courtyards are made less carceral and offer some greenery and equipment for physical exercise.**

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42. Single cells measured 9.5 m<sup>2</sup>, including the sanitary annexe of 2.4 m<sup>2</sup>. The cells were equipped with a single bed, a bed table, a cupboard, a desk built into the floor, a chair and a telephone.

43. Double occupancy cells measured 12.4 m<sup>2</sup>, including the sanitary annexe of 2.5 m<sup>2</sup>. The cells were furnished with two single beds, a cupboard, a desk built into the floor and a chair, a kitchen table with shelves and a sink.

44. The six-person cells measured 27.8 m<sup>2</sup>, including the sanitary annexe of 2 m<sup>2</sup>, that is, 4.3 m<sup>2</sup> per person. The cells were equipped with six single beds, six cupboards, three bed tables, a table with TV, a telephone, and two chairs.

In their response to the CPT's preliminary observations, the Portuguese authorities informed that renovation works in sanitary facilities of multiple occupancy cells in Santa Cruz do Bispo Women's Prison were budgeted and planned to begin in 2022. These were aimed at ensuring privacy for women using these facilities. **The Committee would like to receive an update regarding the progress of these works.**

#### 4. Regime

73. In Tires prison, approximately 25% of prisoners were engaged in work and 25% in educational activities. As women could enroll in both work and education, this meant that fewer than half of the women were offered some regular organised activity.

Work options included maintenance and cleaning (general services, kitchen, laundry, garden and nursery – usually paid around €100 per month), workshops such as carpets and loom weaving, handicrafts and sewing, and work contracted out by private companies (mainly assembly/packaging).<sup>45</sup> Regarding educational activities, schooling and two vocational training courses were on offer (carpet embroidery and cooking). There was a library accessible to all and a study room specifically for students enrolled in university courses.<sup>46</sup> Further, the management reported that regular reintegration programmes were run (resocialisation, life outside prison) as well as some physical education sessions, although this was not often mentioned in the interview with the prisoners. Generally, there were limited recreational activities.

The majority of prisoners who were not enrolled in an organised activity and those who were accommodated in the regular detention units 1 and 2 had very little opportunity to spend time outside their cell: approximately 2.5 hours for meals in addition to the times where they could go to the yard (2 hours). In the other (smaller) units, the situation was different and cells remained unlocked for much of the day.<sup>47</sup>

Formal educational activities were open only to Portuguese nationals and residents. Foreign nationals could take Portuguese language classes (but not the Brazilians on the basis that they spoke the language) and many felt that they regretted not putting their time to use, by learning English or computing skills for example.

The majority of prisoners had no purposeful activities, such as work or education. Informal work had developed, with some women stating they were cleaning other prisoners' clothes for some money.

74. By contrast, in Santa Cruz do Bispo Feminino Prison, the vast majority of the prisoners were engaged in some out-of-cell organised activity, whether education, work and/or occupational activity. According to prison management, 82 women were attending educational courses and 223 were assigned paid work.<sup>48</sup> There was also a good range of social programmes, (life coaching, financial education, e-learning), occupational therapy as well as laughing therapy (15 participants) and animal therapy (12 participants). Recreational activities included a range of sports, of which yoga and rugby.

Among the women interviewed by the delegation, those who did not take part in any activity explained that it was due to health reasons or by choice.

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45. These positions were coveted as they paid better (€500 per month, but for only about twelve positions at the time of the visit).

46. At the time of the visit, this concerned six women.

47. For the situation of mothers in the mother and child unit, see paragraph 82. In the unit for vulnerable women, the cell doors remained open between 9:00 and 19:00, apart from one hour of lock up after lunch.

48. 73 women were engaged in running general services (cleaning, kitchen, laundry, etc), 150 women were working in different workshops, three or four private companies were employing a workforce from the prison. One such company employed 40 prisoners to make body bags, sports bags, and at the beginning of the Covid era, some medical gowns. Other contracted work was described as producing suspenders (this was paid €12 for 100 units) and security belts (paid €12.59 for 100 units).

Generally, cell doors were open between 09:00 and 10:00, then again from 16:30 to 18:00 and during mealtimes.<sup>49</sup> On weekends, there were no activities but cell doors remained open throughout the morning on one day and throughout the afternoon on the other day. Therefore, someone not attending any activity on a given day, could spend between four and five hours outside her cell.

**75. The CPT recommends that in Tires Prison, the regime be significantly developed in order to ensure that all prisoners have access to purposeful activities of a varied nature (work, education, sport, recreation) for eight hours or more per day. In that respect, the range of activities available at Santa Cruz do Bispo Women's Prison could be a source of inspiration. Informal work should not be tolerated.**

**In both establishments, efforts should be pursued in order to develop the offer of work and vocational activities, including activities which provide women with formal qualifications and facilitate their reintegration into society.**

**Further, foreign national prisoners should be offered opportunities to develop some skills, such as relevant foreign languages or computing and also to earn some money as they often do not receive financial support from their families abroad.**

## **5. Special categories of prisoners**

### **a. the situation of mothers with accompanying children**

76. Both prisons accommodated mothers with accompanying children. Portuguese law makes it possible for incarcerated mothers to request to keep their children up to age three, and up to age five under special circumstances. In both establishments, the mothers were able to spend an adequate amount of time every day with their child. They were together day and night until the child reached six months, at which point in time the child was looked after in a childcare facility, during most of the day on weekdays.

77. Regarding accommodation, the situation differed. In Tires prison, mothers and children were accommodated on a distinct wing (wing B of Block 5). The self-contained wing comprised 18 cells, each measuring a little under 11 m<sup>2</sup>. At the time of the visit, it was accommodating 13 mothers with their child, and three pregnant women. The cell doors remained open throughout the day except during a one-hour lock up period at midday. During the rest of the day the women could be in their room or in the corridor. They had access to a dedicated courtyard for two periods of one hour each day. The large area was equipped with a few benches and a playground. It had walls or buildings on all sides, thus offered no view of the horizon and was relatively carceral with the only mitigating feature being a wall which had been decorated with paintings for children, and a few small trees. It had a covered area in which the women could hang clothes for drying. There was a small shop on the unit and a laundry room with several washing machines, as well as sanitary installations for toddlers (small-size toilets). There were no cooking facilities.

Adjacent to the accommodation wing but within the same unit was a large room (5x12 m), equipped with games and toys, providing a child-friendly environment. However, it appeared that this room was never used – including in the event of bad weather - and hadn't been used for a number of years. The women walked through this room several times a day (every time they went to the yard). It made little sense to the delegation why such an appropriate space would be left unused. On weekends, when the children did not attend the kindergarten, mothers and children were confined to the cells and the unit's corridor, for most of the day. This situation sometimes created conflict as the unit became rather crowded and noisy. Even though most mothers had their child in the kindergarten during the day, only three of them had work.

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49. Meals were taken at the following times: 8:10 - 9:00/ 12:00 – 12:45/ 18:00 -18:45.

78. In Santa Cruz do Bispo Feminino Prison, the situation was very different, mothers with children and expectant mothers were all accommodated on the same unit (wing 1), but the latter was not a dedicated unit, meaning that they lived side by side with other women. There were 16 dedicated cells that could be used for mothers and their children. At time of visit, there were 10 mothers with their child and one pregnant woman on the unit. All but one of the children (who was under six months of age) were attending the prison's kindergarten. As mentioned, the unit was in no way different from the other three main units, meaning it had no special features or design adapted for the accommodation of small children. This was also true of the outdoor area.

The mothers complained that the cells were small and lacked appropriate storage space for their children. Also, they felt that the presence of children in a regular unit created conflict as other prisoners complained of the noise, especially during weekends. Positively, cell doors remained open throughout the day except for midday lockup, during weekdays and weekends alike.

79. The CPT considers that ideally mothers and children should not be held in prison, but that if it is considered necessary, the right to motherhood should not be infringed upon more than is required by security considerations and the best interest of the child. Good contact between mother and child is for the benefit of both. It can assist the rehabilitation of the prisoner and the development of her ability to assume responsibility for herself and her child. Accommodation should therefore offer a child-friendly environment and enough space to nurture the development of the mother-child bond. In the view of the CPT, it is not appropriate for a mother and her child to be placed among the general female population. Rather they should be accommodated in suitable, non-carceral accommodation facilities. Mother-and-child units in prisons should offer a child-centred environment, free from the visible trappings of incarceration, such as uniforms and jangling keys. As much as possible, accommodation should be modelled around domestic life, and units – preferably in free-standing units of limited capacity – should comprise individual sleeping quarters, appropriate nursing facilities and furnishings, access to cooking and washing facilities and, if possible, a shared living area and kitchen.

**80. The CPT recommends that the policy and conditions under which a mother and her child are kept at Tires Prison and Santa Cruz do Bispo Feminino Prison be reviewed, in the light of the above remarks. In particular, the Portuguese authorities should take measures to ensure that mothers and young children in Tires and Santa Cruz do Bispo Feminino Prisons have access to cooking and washing facilities and, if possible, a shared living area and kitchen, as well as indoor and outdoor areas where they can bond over play with their child in an appropriate child-friendly environment.**

In this respect, the CPT positively took note of the information received in writing by the Portuguese authorities on 2 March 2023, regarding the fact that mothers and children now had daily access to the previously unused playroom. Regarding the situation at Santa Cruz do Bispo Feminino Prison, the Committee is of the view that accommodating mothers and children in a general unit, albeit with a somewhat adapted regime, is not satisfactory. **The Committee recommends that alternative arrangements be made so as to ensure that mothers and their accompanying children are accommodated in conditions that are fit for the purpose, as elaborated above.**

81. Regarding the provision of basic items, in Tires Prison, food for accompanying children (infant formula and porridge) was provided by the prison, while all other items, including nappies, hygienic products, and child equipment needed to be purchased from the prison shop. In Santa Cruz do Bispo Feminino Prison, the situation was preferable to the extent that the prison provided each mother and child with a pram, a child bed, a small bath, nappies and towels, as well as formula, but no porridge. **The CPT recommends that in both establishments, measures are taken in order to ensure that the specific sanitary and hygiene needs of mothers and children are adequately met, including access to good sanitary facilities, provision of sanitary and hygiene products (nappies, soap, shampoo, washing powder, and clothing, for example) as needed, and food suitable for infants.**



82. In both establishments, childcare facilities (kindergarten-type) were located in dedicated units on prison premises and they were run by childcare professionals with the help of selected prisoners. These facilities were pleasant and well equipped. Mothers were generally very satisfied with the way their children were being looked after. The delegation gained a generally positive impression of these facilities.

The delegation noted that one of the educators at Tires Prison had been on prolonged absence leave, meaning that only one professional, assisted by two prisoners, was in charge of looking after 10 children (and possibly more). **The CPT recommends that a replacement be organised in order to ensure the presence of two qualified educators at the kindergarten.**

83. Regarding the provision of healthcare, in Tires Prison, antenatal and post-natal care was provided by a visiting gynaecologist and was generally satisfactory. In Santa Cruz do Bispo Feminino Prison, pregnant women were seen by a visiting gynaecologist and they were also regularly examined in civil hospitals. However, it was noted in both establishments that there was no special diet for pregnant and breastfeeding women. Every effort should be made to meet the specific dietary needs of pregnant women prisoners, who should be offered a high protein diet, rich in fresh fruit and vegetables. Breastfeeding mothers should be provided with supplementary food according to existing guidelines for this category of women. **The CPT recommends that measures be taken in order to ensure that this is the case in both female establishments and in other prisons that may accommodate women.**

Further, several mothers explained that routine practice was that a prison officer remained present during all obstetric examinations which took place outside of the prison. A guard was also present when a prisoner delivered her child at the hospital. Such practice is totally unacceptable. **The CPT recommends that officers should only be present in the delivery room or in a room where intimate examination takes place if the woman requests it. Where officer presence is requested by the woman, appropriate steps should be taken to ensure her privacy and dignity, for example by the officer remaining behind a screen.**

84. In Tires Prison, the general practitioners responsible for the prisoners generally were also responsible for the provision of healthcare to the children. Given their limited presence and high workload (see paragraphs 105-106), the time they could allocate to this task was insufficient. In Santa Cruz do Bispo Feminino Prison, a paediatrician visited on a weekly basis (for 3-5 hours per week), which was a good practice.

As a matter of principle, infants and young children held in custodial settings should be supervised by specialists in child development.

**The CPT recommends that arrangements be made to improve the healthcare provision for children in Tires Prison, either by engaging a doctor (family doctor or paediatrician) dedicated to children exclusively to make regular visits to prison or by routinely allowing access to such doctors in the community.**

All children had received the compulsory vaccines according to the national vaccination plan. Further, in Santa Cruz do Bispo Feminino Prison, optional vaccines were also offered.

85. The delegation came across two individual cases which raised concern and questions.

Firstly, one woman in Tires Prison reported that her seven-month-old child had been removed from her care in the middle of the night (at approximately one o'clock in the morning) by GNR officers, on the night following her admission, by order of a court. Both the mother and prison staff said that they had been heavily affected by this separation. Notwithstanding the legality of the separation, **the Committee would like to be informed of the reason given to justify the abrupt separation late at night and by security forces (versus social services).**

Secondly, an expecting mother in Santa Cruz do Bispo Feminino Prison, who was also the mother of a toddler, reported that she had been informed that she would not be allowed to keep her older child (under two years of age) with her, pending the birth of her upcoming child. The delegation, however, was informed that keeping a child until the birth of her second child would have been possible in Tires prison. **The delegation would like to receive information regarding the policy in such cases, in Santa Cruz do Bispo Feminino Prison and other establishments.**

b. the treatment of prisoners under a strict security regime

86. Santa Cruz do Bispo Feminino Prison is the only establishment that is authorised to accommodate women placed under a strict security regime, according to the provisions of Article 15 of the Code on Execution of Criminal Sanctions. The prison has five dedicated cells for such purposes.

The CPT has previously commented on such placements, that can only be decided with the approval of the Director General of Prison Administration, when, according to the terms of the law, the legal-penal status or behaviour of a prisoner reveals a level of dangerousness incompatible with the assignment to any other regime. Such dangerousness may be displayed by persons indicted with or convicted of certain crimes, notably terrorism, or violent or highly organised crimes. Such placements are authorised for a period of six months (or for three months if the inmate is under 21 years of age) and may be renewed for additional periods of six months by the Director General, based upon assessments made by each service working in the establishment (prison officers, educator, healthcare personnel) and the Director of the establishment.

87. At the time of the visit, three women were placed under such a regime. One woman had been transferred from Tires Prison a few days before the CPT visit (she had been arrested in the context of a high-profile case linked to organised crime, was awaiting extradition, and had been found in possession of unauthorised medication in Tires Prison). The other two women had been present in the establishment since 2018 and 2015 respectively and were placed in the unit because their behaviour was deemed to represent a danger to others and/or themselves. The woman who had been admitted in 2018 had served most of her time under this regime, save for one attempt to transfer her to ordinary detention. The other woman had transited between both regimes of detention since 2015 and was currently on a security regime for a fifth time.

88. Upon initial placement, prisoners were authorised to keep very few personal items in the cells. The amount and nature of personal items was decided on a case-by-case basis, and after what appeared a prolonged observation phase. One prisoner reported that she had not been allowed to keep a bra for over two years, nor keep soap or sanitary tampons. She had been authorised to have a television set after four months and, later, a DVD player.

Another prisoner suggested that the situation had improved in the recent years, explaining that she could now have bedsheets, a pillow and hygiene products. The woman who had been admitted a few days before the visit had to eat with plastic cutlery, had no television in the room and no doors on the cabinets. The CPT understands that there may be a need to restrict items in security cells to ensure the safety of its occupants, and that this should be adapted on a case-by-case. **However, the assessment of the risks posed by a prisoner should be carried out within a reasonable timeframe and reviewed at regular intervals.**

89. The cells offered a mere 6 m<sup>2</sup> of living space, excluding the sanitary annexe. They were equipped with a bed and a foam mattress, some shelves and a desk. The sanitary annex had a sink and a combined pedal toilet and shower. Other than the austere layout of the cells, material conditions inside the cells were acceptable. **Nevertheless, there is an urgent need to fix the call bell system, as in the rest of the prison.**

90. The regime for those women placed under strict security regime was poor. They seldom left their cells. They were offered to spend two hours per day, individually, in a small courtyard dedicated to the security unit. They did not wish to go because the space was small and grim, with no view of the horizon and had grills on the top. It also had no means of rest and no shelter against inclement weather.

Twice a week they met their educator for a 30-minute individual session. Other than that, they were taken, as a group, to the gym, twice a week, for 30 to 45 minutes sessions. They could only go when all of the other women were locked up and their movement had to be organised in such a way that they would not meet anyone on the way. This made them feel very stigmatised (*"I feel like an animal. All others are locked up when we go to the gym. If accidentally there is a person in the corridor, the guards shout at them to go away"*). In addition, one of the women was enrolled in a higher education programme and could go to the library one hour per week to study, with a teacher. There was indeed an element of individualisation but this was limited. In all cases, the time spent out of cell was insufficient for the prisoners concerned who were confined to their cells for 21 to 22 hours per day.

91. Both long term occupants of the unit had contact with family by phone (up to three times per week) and video (once a month).

92. As already expressed in the past, in the CPT's view, all prisoners, including high-security prisoners, should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). **The CPT recommends that the Portuguese authorities take urgent steps to end the almost solitary confinement-type conditions and improve the security regime for inmates at Santa Cruz do Bispo Feminino Prison in light of the above remarks. In particular, a greater offer of purposeful activities should be put in place for each prisoner, allowing progressively more out-of-cell time in the event of the inmate engaging in a positive manner with the regime, in view of her reintegration into the general prison population.**

93. Regarding the procedural safeguards, the concerned prisoners confirmed that their placement was indeed reviewed every six months by a Board comprising a judge, a prison officer an educator and the Director. In addition, the cases were reportedly discussed internally every three months, thus not waiting for the legal deadline. This is positive. However, it is highly regrettable that, as has been already criticised in previous visits, the prisoners concerned were not interviewed during these proceedings. **The CPT reiterates its recommendation, already formulated in 2012, 2013 and 2016, that the Portuguese authorities ensure that prisoners have the possibility to be heard during the assessment process leading to the decision over their placement under a security regime.**

94. In the case of the two long-term occupants of the unit, there had been attempts (once in the case of one prisoner, several in the case of the other) to transfer them back to regular detention but these had been unsuccessful.

95. The healthcare staff explained that both prisoners had been diagnosed with psychiatric disorders and were monitored by nursing staff on a daily basis, which was confirmed by the women concerned. One prisoner had recently refused meetings with mental healthcare professionals.<sup>50</sup> In the case of the other prisoner<sup>51</sup>, the delegation was informed that she had been declared "criminally irresponsible" and hospitalised before her transfer to prison.

The delegation was very concerned about such a presence of prisoners with mental disorders staying for prolonged periods of time under a strict security regime, including possibly a prisoner who had been declared not criminally responsible. While recognising that the prison had tried to adapt the regime and attempted reintegration into a normal detention regime, the Committee is of the view that such persons should be provided with specialised care in a mental healthcare institution. Where such prisoners are not eligible for transfer to a psychiatric hospital, an alternative to placement in the segregation unit must be found. A multifaceted approach should be adopted, involving clinical psychologists in the design of individual programmes, including psycho-social support, counselling and treatment. **The Committee recommends that measures be taken in that view. In addition, it would like to receive the comments of the Portuguese authorities regarding the case of the prisoner who has been considered not to be criminally responsible (see also the recommendation formulated in paragraphs 130).**

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50. The prisoner explained that she had stopped after the psychologist referred her to a psychiatrist. Before that she had been attending weekly sessions with a psychologist and she had earned €25 per months for accepting the therapy.

51. [C].

96. Finally, based on the understanding that all women placed under strict security regime must be accommodated in Santa Cruz do Bispo Feminino Prison, **the CPT recommends that the security cells in Tires Prison<sup>52</sup> be permanently taken out of service.**

c. the treatment of transgender prisoners

97. At the time of the visit, there were two transgender women in each of the two prisons visited who were all accommodated in single cells, on the regular accommodation blocks. The delegation interviewed the two transgender women in Santa Cruz do Bispo Feminino Prison and one of the two at Tires Prison.

Two of them had been allocated to a female establishment from the beginning of their detention, based on their gender identity (as opposed to their biological sex). The other woman explained that she had initially been refused admission to Tires Prison in December 2019, based on the fact that her transition was not complete, and was sent to the prison hospital of Caxias where she spent a year. There, she allegedly endured sexual harassment by the male guards, notably in October 2020. Following a meeting with the Prison Governor, she was transferred to Santa Cruz do Bispo Feminino prison in December 2020. According to NPM staff, it was not exceptional for transgender persons to be allocated to a prison based on legal gender (usually their assigned biological sex).

98. Positively, in March 2022, the DGRPS had issued specific recommendations regarding the follow up of transgender persons in detention.<sup>53</sup> These reflect an approach that is based on the respect of gender self-identity.

99. The CPT considers that transgender persons should be accommodated in the prison establishment or prison section corresponding to their gender identity or, if exceptionally necessary for security or other reasons, in a separate section which will best ensure their safety. Further, the allocation of a person should always be based on a needs and risk assessment. If accommodated in a separate section, they should be offered activities and time with the other prisoners of the gender with which they self-identify. **The CPT recommends that the Portuguese authorities apply these principles fully. Further, the Committee would like to be informed of any foreseen legal amendments that would ensure that prisoners may be allocated to establishments based on their gender identity, as enshrined in DGRPS policy.**

100. The transgender women did not express any complaint regarding inter-prisoner violence or intimidation.

One prisoner complained over the fact that guards in Santa Cruz do Bispo Feminino Prison had used demeaning language when talking to her, for instance, implying that they would find pornographic material in her incoming mail.

**The CPT recommends that the Portuguese authorities pay particular attention to the risks of discrimination and exclusion faced by transgender persons in closed institutions and ensure that policies include strategies to combat ill-treatment by prison staff as well as strategies to reduce any incidences of inter-prisoner violence and intimidation directed against or by transgender prisoners. Such a strategy should include preventive and corrective measures, including the systematic recording and reporting of all such incidents and adequate investigation into all allegations of targeted bullying of, or violence against, transgender prisoners. DGRPS policy should be developed to include such aspects.**

101. Regarding access to specialised healthcare, women were able to continue or start any hormonal treatment while in prison but surgical interventions had to be deferred until after release. Two of the women said that they met with the prison psychologist, at least occasionally. One had allegedly not yet met a psychologist in the prison since her admission two months ago.

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52. There were two such cells, one of which was used as storage space.

53. *Acompanhamento de pessoas transgénero privadas de Liberdade – Manual de Recomendações Técnicas* - March 2022. These recommendations are not legally binding.

**The Committee recommends that the Portuguese authorities take the necessary steps to ensure that transgender persons in prisons (and, where appropriate, in other closed institutions) have access to assessment and treatment in the same conditions as in the community. Access to counselling and psychological support should also be systematically offered to transgender persons in prisons.**

102. Both women accommodated at Santa Cruz do Bispo Feminino Prison complained about the way in which strip searches had been carried out on some occasions. Part of the problem was that female officers were uncomfortable with such situations and had refused to perform the searches, and that they had been searched by male officers or by both female and male officers (woman officer on her upper body and a male officer on her lower body, in the case of a woman still having male genitalia).

In the case of prisoners who identify as transgender, staff should discuss with them during the admissions process what gender of officer they prefer to conduct rub down and strip searches. The prisoner's search choice must be recorded and then be followed. The prisoner should be advised that this does not allow them to choose the staff members who search them. If the prisoner refuses to select a search preference, they should in principle be searched in line with their gender identity (e.g. a trans woman must be searched by female officers). **The CPT recommends that the Portuguese authorities take measures to ensure that the policy as regards the execution of searches of transgender prisoners is reviewed accordingly. This entails that the current policy of single sex staffing be reviewed (see also paragraph 148).**

## **6. Healthcare**

### a. staff and facilities

103. In Tires Prison, while the medical facilities were relatively good, the poor staffing situation was a serious source of concern. There was a pool of 20 nurses covering only 10 full time equivalent (FTE) nursing positions, to attend to the healthcare needs of the 431 women prisoners at the time of the visit. This complement was meant to allow, in theory, a daily presence of nurses until 21:00, organised in two shifts, with three nurses on the day shift and two nurses on the evening shift. However, shifts were reportedly often short of one nurse and there had been shifts without any nurses at all during the month prior to the visit.

104. The two acting chief nurses were permanently employed by Caxias Prison Hospital and were temporarily on loan to Tires Prison to improve healthcare provision. All other nursing staff were provided by private contractors. In previous reports, the CPT has criticised the reliance on contracted healthcare staff in prisons as in practice it resulted in high levels of staff fluctuation, inequalities between staff members as regards the terms and conditions of their employment, in diminished motivation and in a lack of a team approach. These shortcomings were in evidence at Tires Prison and while the reported ongoing recruitment of five additional nurses is to be welcomed, steps also need to be taken to address the structural deficiencies undermining the healthcare team.

105. There were two recently recruited visiting general practitioners with a weekly presence of only 8 hours each. Other visiting staff included a gynaecologist (for 12 hours per week), a dentist (for 10 hours per week), a dental prostheses technician (for 4 hours per month), a nutritionist (for 2 hours per week) and a medical assistant responsible for sterilising medical equipment (for 3 hours per week). Mental healthcare services relied on a psychiatrist (for 10 hours per week) and 2 psychologists (one was working full time, the other was present for 15 hours per week).

106. **The CPT recommends that steps be taken to reinforce somatic healthcare staffing levels at Tires Prison. In particular, the number of nurses, including nurses with a qualification in mental health, should be increased, so as to ensure a presence of four nurses on the day shift and three on the evening shift. Efforts should be made to provide for a stable nursing complement. A health services manager should be appointed and employed on a full-time basis. The presence of general practitioners should also be increased to one full-time equivalent. Further, contracted healthcare staff should be provided with minimum orientation or induction training.**

107. In Santa Cruz do Bispo Feminino Prison, healthcare facilities possessed all the necessary equipment. In addition to various consultation rooms, there was an in-patient area which comprised three single rooms and a dormitory with seven beds. The medical unit also comprised a padded observation cell.

At the time of the visit, the staff was composed of a clinical manager (12 hours per week), two general practitioners (nine hours per week each), a head nurse (35 hours per week), a pool of nine nurses, a Psychiatrist (18 hours per week), a clinical psychologist (35 hours per week), a psychologist trainee (35 hours per week), a dentist (15 hours per week), a gynaecologist (five hours per week), and a paediatrician (three to five hours per week). There were also two auxiliary staff, one pharmacist and one technician.

There was a 24/7 nursing presence with two nurses (in addition to the Head nurse) present between 8:00 and 14:00; one nurse between 14:00 and 22:00; one nurse from 22:00 to 8:00.<sup>54</sup>

The service was generally well organised, there was a clinical manager, the Head nurse was present every weekday and the team was rather stable (40% of nurses had worked for more than ten years at the prison), in spite of the fact that, as elsewhere in the penitentiary system, most staff members were contracted out.<sup>55</sup> Some of the nurses had a qualification in addiction treatment and mental healthcare. However, according to the chief nurse, it was very difficult to organise the work with the current number of nurses.

**The CPT recommends that the Portuguese authorities take the necessary steps to increase the number of nurses at Santa Cruz do Bispo Feminino Prison, so as to ensure the presence of three nurses in the first shift and two nurses in the afternoon shift.**

b. medical screening on admission and drug treatment

108. In Tires Prison, newly arrived prisoners were seen and screened by a nurse within 24 hours after admission, and by a doctor within 72 hours, and they usually met with a psychologist within three days as well.

The GPs had recently reviewed the initial screening procedure to ensure all women now systematically underwent a physical examination. **The CPT welcomes the introduction of such a practice.**

Reportedly, in both prisons, there had been no recent admission of a woman showing visible injuries and the delegation received no information indicating otherwise.<sup>56</sup>

109. The delegation was informed that issues related to past histories of abuse or violence could be addressed during individual sessions with the psychologist, but there was little evidence to show that screening for sexual abuse or other forms of gender-based violence inflicted prior to admission was being undertaken systematically. The CPT considers that the Prison Rules and admission process should meet the general requirement laid down in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the “Bangkok Rules”) of October 2010, notably Rules 2(1) and 6€. This requires examination of their particular vulnerabilities at the time of admission, including sexual abuse and other forms of violence that may have been suffered prior to admission. Violence experienced prior to admission is likely to have a direct correlation with the woman’s behaviour and even offending behaviour. The examination of particular vulnerabilities at the time of admission should clearly impact on the way in which the care plan for the woman in question is drawn up for her stay at Tires Prison (that is, whether she needs specialised psychological support or counselling).

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54. 20 hours nursing were provided pro bono by Santa Casa.

55. Only three nurses were employed by Santa Casa de la Misericordia.

56. Only two cases of injuries detected upon admission had been recorded between January 2021 and the time of the visit in Tires Prison (in October and December 2021). These cases had been documented and transmitted to SAI, as per the DGRPS procedure. The documentation included photographs of the injury and the information was reported in body charts.

110. In Santa Cruz do Bispo Feminino Prison, the medical screening of newly admitted prisoners was comprehensive, based on a standardised protocol. A first medical examination was conducted by a nurse within 24 hours of admission, in the medical unit. This included a physical examination, as well as screening for mental health issues, suicide risk and substance use related problems. Within 72 hours, all newly arrived prisoners were medically examined by a general practitioner. Reportedly, there had been no recent case of a prisoner arriving with visible injuries and the delegation received no information indicating otherwise.

Regarding the screening for past gender-based violence at the initial examination, the procedure had reportedly been reviewed. The psychologist explained that for over ten years, this had been done through a specific questionnaire upon admission. But this had been stopped as it was felt that it created therapeutic difficulties, and prisoners felt that the questions were too intrusive, when asked during an admissions procedure. The current policy was to be very attentive to any signs of past history abuse but to avoid direct questions. While recognising that the change of practice had been thought through and informed by many years of practice, the CPT remains concerned that some needs may remain undetected and unattended.

**111. The CPT recommends that the Portuguese authorities further develop the admission process at Tires Prison and Santa Cruz do Bispo Feminino Prison in order to take into account the gender-specific needs of women prisoners. This should include screening for sexual abuse and other forms of gender-based violence inflicted prior to entry to prison and ensuring that such information is considered in the drawing up of a care plan for the woman in question. This should be conducted in a way that is sensitive and trauma-informed, that is, not necessarily using a questionnaire during the initial interview, but should nevertheless make it possible to identify needs shortly after admission.**

112. Prisoners were routinely questioned about substance use during the admission process in both establishments. In Tires Prison, according to the psychiatrist, opioid agonist therapy (OAT) (by methadone only) could be continued but could not be initiated in prison. The CPT recommends that treatment provided to drug users in prison be in full conformity with treatment in the community, meaning with the possibility of starting OAT during incarceration.

113. In Santa Cruz do Bispo Feminino Prison, prisoners with substance use related problems were offered individual sessions with a psychologist and participation in the relapse prevention programme. Prisoners included in the programme were tested on drugs once per month; they consented to be tested knowing that the results were reported to the administration. More generally, prisoners who reported substance use in the year prior to their admission, as well as any other prisoners suspected of using drugs, were subject to “random urine testing”, but in such cases, confidentiality was retained. Patients with drug withdrawal symptoms on admission were offered detoxification. Opioid agonist treatment (methadone) was not systematically continued. One prisoner who was on a 90 mg methadone protocol on admission, tested positive on drugs<sup>57</sup> and staff decided to interrupt methadone and offer detoxification prescribed by written protocol.<sup>58</sup> Due to the suffering she endured, the staff reintroduced methadone after seven days.

The CPT considers that the practice of stopping methadone maintenance from one day to another is neither humane nor good medical practice. At a minimum, there should be a gradual decrease in the provision of methadone to avoid the painful symptoms associated with an abrupt cessation of the treatment. **The CPT recommends that the Portuguese authorities take measures to ensure that the guidelines on managing prisoners with substance use disorders, including continuation of OAT and managing withdrawal, shall be revised in light of the above precepts.**

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57. The patient had tested positive on cocaine and heroin and had not been tested on methadone.

58. Trazodone (antidepressant drug), Topiramate (anticonvulsant drug), Lorazepam (anxiolytic) and Buscopan (antispasmodic) upon need.

114. There were no **harm reduction interventions in prison to reduce the transmission of blood-borne viruses (i.e. needle and syringe programmes, take-away naloxone, access to condoms, etc.)**. The CPT recommends that the Portuguese authorities take the necessary steps to introduce such interventions in Tires and Santa Cruz do Bispo Feminino Prisons and in other prison establishments as needed. Information, education and counselling should be widely implemented, including awareness on risks of overdosing. In undertaking such programmes, attention should be paid to the fact that not all prisoners are literate. Full information on the existence of such harm reduction programmes should be given to inmates by healthcare staff immediately after committal.

c. access to care, medical files and medical confidentiality

115. Regarding access to care, in Tires prison, prisoners could either place requests for consultations in a special box or they could approach a nurse during distribution of medication on the wards. The women complained of long delays, except in cases of emergencies and, in some cases, they had to wait for several weeks, sometimes months, for a consultation. For example, the delegation met with one prisoner who had made a request to see the GP in February 2022 and had received no reply in three months. Another woman had allegedly been waiting to see the gynaecologist for 10 months.

Delays were even longer for external consultations in civil hospitals. For instance, the psychiatrist had requested urgent neurological examinations for two of the patients. The first appointment had recently taken place, after two years. Referrals were also compounded by the fact that there regularly were transportation issues, due to a lack of escorting staff.

116. In Santa Cruz do Bispo Feminino Prison, access to healthcare services within the prison and outside was generally good. Referrals for medical examinations were made confidentially via the nursing staff. Emergency situations were given priority. Prisoners confirmed that the nurses were generally accessible.

117. In Tires Prison, all medical files were completed in paper form. However, they were poorly kept and organised and combined with the fact that staff often had little experience, the result was that patients sometimes received the wrong medication. Psychiatric medication was also prescribed in the paper files and mistakes were not uncommon when nurses re-wrote prescriptions.

118. In Santa Cruz do Bispo Feminino Prison, medical files were comprehensive and meticulously kept. The electronic filing system was excellent and was an asset for ensuring the proper follow up of patients.

119. **The CPT recommends that the Portuguese authorities take steps to introduce an electronic management of medical files in Tires Prison. Preferably, medication should be prescribed electronically to avoid mistakes during transcriptions. Generally, more attention should be given to the upkeep of medical files in the prison, in order to reduce the risk of error and improve efficiency. The records should be checked by healthcare managers on a regular basis to improve practices.**

120. As already observed in other prisons during previous visits to Portugal, there was no link with and no possibility to consult the national healthcare electronic system from prison establishments, meaning that it was not possible to consult the previous history of illness and care of the patients. This created a considerable risk of discontinuity of care. The Committee was informed that a working group had been designated to work on this issue in 2017. **The Committee would like to receive information from the Portuguese authorities on any plan to effectively ensure the sharing of information between prison and community health services. At the very least, a system should be put in place in order to ensure that prison healthcare professionals have access to a summary of the medical files kept in the community.**



121. In both establishments, medication appeared to be available in an adequate supply. In Tires Prison, medication was distributed by the nurses on the accommodation units several times per day and had to be taken in the presence of the nurse, with the last distribution taking place between 17:00 and 18:00. This was also the case for psychotropic medication with a sedative effect. As a result, the psychiatrist prescribed higher doses, in order to prevent patients from waking up at night.

122. In Santa Cruz do Bispo Feminino Prison, medication was distributed three times a day, with the evening distribution taking place between 18:00 and 20:00. The team had developed many guidelines, including 28 guidelines on common clinical situations.

**123. The CPT recommends that steps be taken to ensure that in Tires Prison, evening medication is distributed at an appropriate time, that is, just before bedtime. Further, in keeping with the principle of normalisation, patients who are assessed as being capable of managing their own medication should be allowed to keep the drugs in their possession.**

124. Medical confidentiality was respected inside the prisons, with consultations taking place out of sight and out of hearing from custodial staff. However, guards were routinely present during external consultations and several prisoners alleged that they had remained in handcuffs throughout transport and examinations, including during obstetric examinations or ECG procedures.

The CPT recognises that there is a duty upon the Portuguese Prison service to assess whether a prisoner poses a potential risk to medical/health care staff, or represents a risk of escape, and to take appropriate measures. Nevertheless, in the CPT's view, there can be no justification for custodial staff being routinely present during medical examinations; their presence being detrimental to the establishment of a proper doctor-patient relationship. Medical examinations of prisoners must be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. The only other exception is if the woman prisoner specifically requests the presence of a member of staff during the consultation.<sup>59</sup>

Further, the resort to the use of restraints such as handcuffs when transporting a patient to a hospital or during a medical examination, can only be exceptional, when no lesser form of control is deemed effective to address the risks posed by unrestricted movement, and this should be assessed on a case-by-case basis.

**The CPT recommends that the Portuguese authorities take the necessary steps to ensure that external medical consultations of prisoners from Tires and Santa Cruz do Bispo Feminino Prisons respect the principle of medical confidentiality and human dignity, taking due account of the above remarks.**

d. mental healthcare

125. Mental healthcare needs of prisoners in both establishments were significant and many women suffered from anxiety, stress disorders, substance use disorders, and/or had a history of having been victims of abuse and violence. In Tires Prison, given the complement of mental healthcare professionals, activities were limited to individual consultations. There were no structured programmes and no group interventions.

126. In Santa Cruz do Bispo Feminino Prison, access to mental healthcare services for the general prison population was deemed to be satisfactory overall, with a high number of women meeting the psychiatrist or the psychologist. Patients were referred to the psychologists by the other staff members (nurses, GPs or the psychiatrist, upon admission or later). In addition to individual consultations, several rehabilitation programmes had been developed and were running, tackling relapse prevention<sup>60</sup> or (low) self-esteem,<sup>61</sup> for instance. These were conducted in small groups.

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59. Bangkok Rules, Rules 10 and 11.

60. This was run by the psychologist and a nurse.

61. This was run by the occupational therapist and participants were referred by the psychologist.

However, the delegation still encountered cases where needs had either not been detected or follow up had been insufficient. For instance, a young woman who had been sexually abused by her father for many years and who had since had her infants placed in foster care, had not seen a psychologist at the time of the CPT's visit, more than a month after her arrival. She had shared these aspects of her history to healthcare staff. Another prisoner had self-harmed, and as a result she had been placed in the 'pink cell' several times. She had received medication and met a psychologist once but received no regular counselling.

**127. The CPT recommends that structured programmes, such as those running in Santa Cruz do Bispo Feminino Prison, be implemented in Tires Prison. To that end, the Committee recommends that the presence of mental healthcare professionals be increased.**

**Further, examples of in-prison programmes for women survivors of gender-based violence, developed in other countries, could be a source of inspiration for the Portuguese authorities.<sup>62</sup>**

128. The delegation was very concerned about the presence and treatment of four forensic patients who were accommodated in the in-patient unit of the prison of Santa Cruz do Bispo Feminino Prison. The Courts reportedly ordered the placement of female forensic patients in the prison's in-patient unit when the capacities of the forensic unit of Sobral Cid Psychiatric Hospital (Coimbra) were exceeded. This was done regardless of the fact that the unit was not a psychiatric ward, and this practice had tended to increase in the recent years. Of the four patients present on the unit at the time of the visit, one had been declared not responsible for her crimes, while the other three had been sent to the prison to undergo a forensic assessment. They had been admitted between 1 February and 18 May 2022.

The delegation identified many significant shortcomings in their treatment, such as:

- they were confined, in their pyjamas, to their dormitory for more than 22 hours per day;
- they were only offered one hour of out of room activity in the morning hours when they were taken to the gymnasium (for yoga, painting or dancing);
- they had no access to fresh air whatsoever, as there was no secure yard close to the healthcare facility;
- they had no treatment plan. They were visited by nurses daily and met a psychiatrist and/or psychologist approximately twice a month.

On the issue of pyjamas, the patients explained that this was hospital routine, suggesting that they were instructed to wear them,<sup>63</sup> while the prison authorities denied that this was an obligation. The CPT has repeatedly stressed the importance of encouraging patients with a mental disorder to wear their own (regular) clothes.

129. At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention establishing the CPT and requested that action be taken to provide these four patients with at least one hour of access to fresh air, and preferably more, every day. Further, it requested that immediate steps be taken to provide the patients with additional activities during the day. These requests were aimed at improving the situation of the patients concerned, with immediate effect.

The CPT also stressed that in addition to these immediate measures, the transfer of the patients to an appropriate mental health facility should be organized as soon as possible. Patients declared criminally irresponsible should be placed in an institution that is appropriate for their care, treatment and security. Judges should be made aware of the fact that prisons cannot provide a suitable environment for patients with mental disorders. Preferably, forensic psychiatric assessments should be conducted in a psychiatric ward environment.

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62. See for example, the ALTRA project, based on work conducted in Brians 1 Penitentiary Centre in Spain. A manual for in-prison activities is available here: [http://www.surt.org/altra/docs/manual\\_angles.pdf](http://www.surt.org/altra/docs/manual_angles.pdf).

63. They changed into clothes when going to the gym.

130. In a written response received on 2 March 2023, the Portuguese authorities confirmed that they had taken “immediate measures to address the situation of the four women held (...) while waiting for a place in a mental health facility (...). Namely, the Director-General ordered, with immediate effect, that women effectively exercised their rights to wear their own clothes and to spend time in the open air every day (given the absence of outdoor space in the clinical services, these women spend their open-air break in the playing field of Wing 1, from 3 to 5 pm, weekdays and weekends), without prejudice to continuing to seek their transfer to a mental health facility of the National Health Service. Currently, of those four women, only two remain in the Clinical Services of Santa Cruz do Bispo”.

**While the CPT welcomes the prompt steps taken to improve the regime of patients, it would like to receive an update regarding the situation of the two remaining patients (as of 3 March 2023), and information regarding any other forensic patient presently accommodated within Santa Cruz do Bispo Feminino Prison.<sup>64</sup> The Committee stresses that, pending their transfer to psychiatric wards within the national health system, patients accommodated in the in-patient unit of the prison should be offered daily activities.**

e. self-harm

131. Regarding suicide prevention, in Tires Prison, a first identification of persons at risk was carried out by the prison social workers (*tecnicas*) via a specific questionnaire (PiPS - Programme Intervention Prevention Suicide). The social workers then referred cases to one of the psychologists and a follow up was reportedly carried out for one month. However, the psychologists regretted that there was no standardised assessment for suicide and self-harm risk. Rather the assessment was based on the clinical impression of a psychologist. There was no policy at the level of the prison in terms of treatment, allocation or support once a woman was identified as presenting a risk. The prison relied on guidance provided by the Caxias Prison Hospital through its helpline, on individual cases.

132. In Santa Cruz do Bispo Feminino Prison, a policy existed at prison level regarding suicide prevention; it had been drawn up based on national guidelines and was detailed.<sup>65</sup> In this respect, all decisions about a prisoner were taken on a case-to-case basis and discussed within the multidisciplinary team.

**133. The CPT recommends that a policy on suicide prevention be developed at the level of Tires Prison, ensuring, *inter alia* that all persons identified as presenting a risk of suicide benefit from counselling, support and appropriate association. Steps should also be taken to ensure a proper flow of information within a given establishment about persons who have been identified as presenting a risk.**

134. In Santa Cruz do Bispo Feminino Prison, prisoners presenting an imminent high risk of suicide or self-harm were sometimes placed in a padded observation cell (known as the “pink room”). According to the register, between May 2021 and May 2022, there had been eight such placements; their duration had ranged from one hour to more than four days (the average duration was around 24 hours).

The ligature-free cell was covered with pinkish linoleum; there was no furniture, the call bell was functioning. Adjacent was a shower facility, and an area with a table and chair for taking (supervised) meals.

Placements were recorded in the dedicated register as well as in the personal file of the patient.

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64. Meaning any other patients in the in-patient unit, as well as one of the patients accommodated in the high security unit at the time of the CPT visit.

65. These included guidelines on measures such as placement of a patient in the in-patient unit in order for her to receive continuous clinical interventions, short containment in the observation cell upon the psychiatrist’s authorisation, transfer from a single to a shared cell, removal of dangerous items from the cell, more frequent supervision by custodial staff etc.

According to the healthcare staff, placements were authorised by medical staff (a doctor) who reportedly determined how frequently the patient needed to be checked by a nurse (usually every two hours). Unfortunately, the registers did not provide any detail regarding the supervision of the measure. There were also omissions regarding the time and date of the end of the placement, for some entries in the register.

The CPT stresses that when a prisoner is placed under observation, he/she should be under constant direct observation by a member of staff, who should engage in a dialogue with the prisoner.

More generally, the CPT is of the opinion that a prisoner showing severe signs of suicidal or (auto-) aggressive behaviour should be immediately transferred to an acute mental health unit.

**The Committee recommends that the Portuguese authorities review their guidelines regarding the management of prisoners presenting a high risk of imminent suicide or self-harm, in view of the above precepts. Further, any placement in a seclusion room should be registered and the entries in the register should include the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff.**

After a patient was removed from the observation room, she was transferred to the in-patient unit, where she reportedly should receive mental health support. **This is considered good practice.**

f. use of chemical restraint in prison

135. In Tires Prison, no prisoner alleged having been subjected to chemical restraint and the files consulted bore no mention of any resort to *pro re nata* medication (so-called “SOS medication” or PRN) for rapid tranquillisation.

136. In Santa Cruz do Bispo Feminino Prison, according to the prison records, from 1 January to 15 May 2022, there had been nine episodes requiring the administration of rapid tranquillisation on agitated prisoners. In the whole of 2021, there had been 30 such instances of chemical restraint. The practice was regulated by specific prison guidelines by which medication could be administered as a very last resort<sup>66</sup>, according to a pre-authorized protocol comprising one or a mixture of two first-generation antipsychotics.<sup>67</sup> The guidelines stipulated that it was recommended to consult with a doctor prior to application but that, in cases of emergency, a person could be injected nonetheless, and a doctor would be informed subsequently. The guidelines did not require that a doctor visit the person immediately if this was occurring outside working hours.

As the CPT has repeatedly stressed, most recently in its report on the 2019 visit<sup>68</sup>, it considers that such pre-authorized protocols are effectively a PRN (*pro re nata*) medication to be applied to any prisoner who shows signs of psychomotor agitation or psychosis. The CPT reiterates its view that such an approach is not acceptable. Recourse to chemical restraint based on PRN medication must always be subject to stringent safeguards. These have been described at length in previous visit reports (see CPT/Inf (2020) 33 paragraph 102).

**In line with its previous recommendations regarding other establishments, the CPT recommends that the use of the pre-authorized protocols for administering rapid acting tranquillisers at Santa Cruz do Bispo Feminino Prison be ended immediately and that a new protocol be drawn up that is in line with the precepts set out by the Committee. If such precepts cannot be implemented in practice and, in particular if a doctor is not able to visit a patient immediately after the injection has been administered, the resort to PRN medication should never be possible. Further, all prisoners who have a serious mental disorder requiring intensive mental healthcare should be transferred to a mental health facility.**

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67. The guidelines on “Managing aggression” describe a gradual approach (staff must first “assess the state of the patient, manage the voice, comfort the user, look for contributing factors”), and as a very last resort, in the case of imminent harm, may medication be administered intramuscularly.

68. Consisting in intramuscular injection: haloperidol a 5 mg, levomepromazine a 25 mg or both.

69. CPT/Inf (2020) 33, paragraphs 73 and 102 and CPT/Inf (2018) 6, paragraph 66.

## 7. Other issues

### a. discipline

137. As highlighted in the CPT's report after the 2019 visit, the disciplinary procedure remained generally satisfactory, although the safeguards could be strengthened, and the time taken to investigate and decide on a disciplinary offence shortened. According to the files consulted at Tires Prison, files were often processed just under the legal six-month time limit. The procedure was swifter at Santa Cruz do Bispo Feminino Prison where files were processed within 1.5 months on average.

138. Regrettably, Portuguese law still does not rule out a measure of solitary confinement as a disciplinary punishment for periods longer than 14 days. By way of reminder, two types of sanctions amount to measures of solitary confinement under Portuguese law. One is the placement of the prisoner in a punishment cell (*cela disciplinar*), the other is a measure of seclusion to a cell, known as *Permanência Obrigatória no Alojamento* (POA), which is sometimes served in the prisoner's own cell (provided she is accommodated in a single cell) or in a cell with features similar to a regular cell, with out-of-cell time limited to daily access to an outdoor yard.

As acknowledged by the CPT in the past, the Portuguese Prison Administration has for some time adopted a policy of not imposing sanctions of solitary confinement to a punishment cell (*cela disciplinar*) of more than 14 days, pending an amendment of Law 115/2009 on the Execution of Criminal Sanctions reflecting this policy.

Disciplinary records showed that in Tires Prison, the duration of both types of sanctions was kept below 14 days.<sup>69</sup> In Santa Cruz Bispo Feminino Prison however, disciplinary records indicated that, while the majority of placements were shorter than 14 days, there were several instances where these had exceeded this duration. For example, out of 27 placements which had occurred over the course of one month prior to the visit, two had lasted longer (15 days and 20 days).<sup>70</sup> Over the same period of time (21 April - 18 May 2022), there had been 77 placements in POA, of which 22 had exceeded 14 days<sup>71</sup>, with the longest lasting 30 days.

139. The CPT took note of the fact that a reminder was sent out to all prison directors shortly after its visit to remind them that placements in a punishment cell must never exceed the maximum duration of 14 days, as per the policy of the Prison administration. The Committee also takes note of the information provided by the Portuguese authorities on 3 March 2023, regarding their "intention to reduce the statutory maximum limit of these sanctions, in line with international recommendations, in the framework of the revision of the Code governing the implementation of prison sentences (that is planned to be undertaken during the present government's mandate). **The CPT would like to be updated on any legislative change in this regard.**

**Further, and as already noted in past visits, the CPT reiterates its recommendation that be the maximum duration of 14 days also be applicable to the disciplinary punishment of confinement to a cell (POA). It urges the Portuguese authorities to take measures to ensure that the legislation is amended to reflect this.**

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70. Between January 2021 and February 2022, there had been 75 disciplinary proceedings in total, of which 24 resulted in the imposition of a measure of solitary confinement: 11 placements in a punishment cell, for a duration of four to nine days, and 13 sanctions of confinement to a cell (POA), lasting from three to five days.

71. According to the disciplinary registers covering the period between 21 April and 18 May 2022, there had been a total of 27 placements in a disciplinary cell (CD). The duration of placements in CDs ranged from four to 20 days with an average stay of 10 days.

72. The duration of placements in POA cells ranged from three to 30 days, with an average stay of 12 days. There had been 10 placements for 15 days, three placements for 20 days, four placements for 22 days, one placement for 23 days, two placements for 25 days, one placement for 28 days and one placement for 30 days.

140. The delegation also noted that even when individual disciplinary measures of solitary confinement were shorter than 14 days, several such measures were regularly executed in a successive manner. This meant that in fact, prisoners spent prolonged periods of time (by far exceeding 14 days) in solitary confinement. For example, it appeared from the consultation of the records in Santa Cruz do Bispo Feminino Prison that one person had executed three measures in a row<sup>72</sup>, totalling 28 days. It was explained that such arrangements were decided upon at the request of the prisoner.

**The CPT recommends that the Portuguese authorities take measures to prohibit altogether the sequential execution of disciplinary measures of solitary confinement - albeit at the request of the prisoner - so that no one spends more than 14 days in a row in solitary confinement. There should be at least several days in between placements. Ensuring swift disciplinary proceedings would ensure that sanctions are executed within a reasonable period of time after the commission of the violation and prevent situations in which a prisoner has successive sanctions to serve in the first place.**

141. Records showed that in both establishments, provisional isolation pending disciplinary proceedings (*medida cautelar*) continued to be resorted to and that such placements usually lasted for several days.<sup>73</sup>

As noted in the CPT's report after the 2019 visit, the measure of provisional isolation (*medida cautelar*) should not last longer than a few hours without formal charges being brought and oversight safeguards being introduced, including the right of an appeal to an independent authority where the measure is required for a longer period. **The CPT reiterates its recommendation that the Portuguese authorities amend their use of this measure accordingly.**

142. In Tires Prison, the disciplinary cells (two cells in each block) measured a mere 5 m<sup>2</sup> including the sanitary block<sup>74</sup> and were in a poor state of repair with mouldy ceilings. **The CPT recommends that measures be taken to ensure that the cells in which prisoners serve disciplinary sanctions comply with the minimum requirements as regards personal space, meaning that they measure at least 6m<sup>2</sup>, excluding the sanitary annex.**

In Santa Cruz do Bispo Feminino Prison, punishment cells were located in the "isolation unit", which also accommodated those prisoners placed under high security regime. There were five disciplinary cells on the lower floor and four POA cells on the upper floor. There were also three cells for precautionary isolation (*cautelar*), next to the security cells. The cells were large enough but there was a strong smell of sewage and the call bells were out of use. Prisoners had access to one of the two outdoor yards of the security unit, which measured less than 30 m<sup>2</sup>, had high concrete walls on all sides and a metal grille on top limiting daylight.

143. In both establishments, there were shortcomings regarding the implementation of safeguards around measures of solitary confinement. It must be noted that, although the level of restrictions differed between placement in the disciplinary cells and during POA placements, (notably as regards the amount of belongings one could have in the cell, access to television or phone and access to the yard, alone or in pairs), in the view of the CPT, both types of sanctions amount to solitary confinement and must trigger the same safeguards.

In Tires Prison, the surveillance of prisoners placed under such measures was poor, with healthcare staff not visiting daily. It appeared that prisoners under PoA were not systematically visited during the time of the measure. Records were poorly kept and not all visits by healthcare staff were recorded.

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73. In this case, the person spent eight days in a punishment cell, then served 10 days in POA, followed by an additional 10 days in POA.

74. In Tires Prison, there had been four such placements so far in 2022 lasting five to seven days, and 30 placements in 2021, the majority of which had lasted for more than three days and often for seven or eight. A review of the registers in Santa Cruz do Bispo Feminino for the period 29 April - 9 May 2022 indicated that 14 prisoners had been placed in precautionary cells for periods ranging from half a day to five days.

75. There were two disciplinary cells on Block 1 and two on Block 2. They measured 5 m<sup>2</sup>. They contained a plinth and mattress, a sink, a combined pedal toilet and shower and had a functioning call bell system.

In Santa Cruz do Bispo Feminino Prison, persons placed on the disciplinary block were seen daily by a nurse. Records were rather well-kept, an exception being those concerning provisional placements (*cautelar*), for which the exit dates were often missing.

Regrettably, in both establishments, healthcare professionals were required to establish “Fit for punishment” certificates for placements in disciplinary cells (and sometimes these were issued over the phone) a practice which the CPT sees as incompatible with maintaining a positive doctor-patient relationship.

**The CPT recommends that the practice of issuing “fit for punishment” certificates be abolished at both female establishments and all other establishments in the country. On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary isolation/segregation cells and should report to the prison director whenever a prisoner’s health is being put seriously at risk by being held in disciplinary isolation/segregation (or any other prisoner held under conditions of solitary confinement). The CPT recalls that healthcare staff should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required.**

**In addition, whenever a member of the healthcare staff visits a prisoner placed in solitary confinement as a punishment, the visit should be duly recorded.**

**More generally, the registers regarding placements in disciplinary or “provisional” solitary confinement should be kept meticulously and the exact date and time of release from the measure should be clearly recorded.**

144. In both establishments visited, all persons, whether sanctioned to a punishment cell or to a POA measure, were able to contact their families by phone. However, the CPT notes that under Article 108 of the Law on the Execution of Sentences, regarding the sanction to a placement in a disciplinary cell (*cela disciplinar*), the general rule is that the person cannot receive family visits during the time of the sanction.<sup>75</sup>

The CPT wishes to stress that a disciplinary punishment should never involve the total prohibition of contact with the outside world.<sup>76</sup> Further, under no circumstances should visits between a prisoner and their family be withdrawn for a prolonged period. Restrictions on family contact as a form of punishment should only be possible in those cases where the offence relates to such contact. **The CPT recommends that the Portuguese authorities amend the legislation accordingly.**

#### b. searches

145. The delegation was concerned by the description made by the prisoners of the manner in which strip searches were conducted in both establishments. Women were sometimes requested to remove all clothing in one go, and they were routinely made to squat, anything between one and six times.

In the opinion of the CPT, every reasonable effort should be made to minimise embarrassment during full searches;<sup>77</sup> detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and redress before removing further clothing. Squatting should not, as a matter of routine,

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76. “3. Prisoners in disciplinary cell shall be deprived of activities and communications with the outside, without prejudice to contacts with the lawyer or the religious assistant and access to correspondence, newspapers, books and magazines. The prison director may only authorise visits when serious circumstances so justify.”

77. See paragraph 81ff of the 30th General Report on the CPT’s activities (CPT/Inf (2021)5).

78. Mandela Rules, Rules 51 and 52 “searches shall be conducted in a manner that is respectful of the inherent dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity” (Rule 50). Further, “searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner’s privacy”. In order to ensure accountability, searches must be recorded, indicating the reason for the search, the identities of those conducting the search and the results of the search” (Rule 51). They should only be performed if “absolutely necessary” (Rule 52).

be part of a strip search, such an intrusive and potentially degrading measure should in principle be justified only by a specific danger, a firm suspicion or the needs of the investigation.

In all cases, alternatives should always be sought in order to avoid the harmful psychological and possible physical impact of invasive body searches.<sup>78</sup> A strip search should only be conducted when it is not possible to carry out other types of search (pat-down search, targeted and visual search or the use of electronic detection) or if these would be inadequate. **The CPT recommends that the Portuguese authorities take immediate measures to ensure that the policy and practice relating to the strip searching of female prisoners be reviewed.**

c. gender specific prison management and staff training

146. Women in prison constitute a particular group with distinctive needs, biological and gender specific. Generally, incarcerated women have disproportionately higher levels of mental health disorders such as anxiety and depression, and drug dependence than men. Rates of deliberate self-harm and suicide are also considerably higher among women. Further, there is an extremely high prevalence of trauma among women prisoners as a result of childhood abuse, sexual assault and intimate partner violence. In fact, there is a strong correlation between sexual and other gender-based violence against women and women's incarceration. It is well-known that the effects of trauma continue well after the traumatic events. Due to their histories of often multiple traumatic experiences, many women prisoners require specific health and social care interventions that take account of their gender and traumatic life trajectories.

147. Notwithstanding the particular needs of women prisoners, prison policies and rules have generally been developed for a prison population in which the male prisoner is considered to be the norm. Policies have often been gender-blind and largely based on gender neutral operational practice.

In a number of countries,<sup>79</sup> specific guidance has been or is being developed in order to ensure that prison management and policies take into account the specificities of the female prison population, based on approaches that are gender-sensitive (or gender-responsive) and trauma-informed. Trauma-informed policies acknowledge the history and context that violence against women and trauma play in the way that those women behave and may react, and seek to increase their feelings of safety and security. This presents significant challenges in prisons where lockdowns, lack of privacy, risk of violence and confinement to a cell are commonplace. Practices like strip searches, demonstrations of authority from staff, and difficult inter-personal relationships may, on the contrary, echo with past traumatic experiences.<sup>80</sup>

While many prison officers and management in the two prisons visited may have considerable and valuable hands-on experience of engaging with women prisoners, the DGRSP had issued very few instructions and guidelines on how to manage women prisoners. The delegation also observed a number of practices that were neither gender-sensitive nor trauma-informed, ranging from security measures (namely, conducting strip searches with the prisoner entirely naked and having to squat) and staff-prisoner relations (for example, prisoners being called by their prison number rather than by name) to daily operational practices (such as the use of loudspeakers to summon prisoners). These routines are often experienced as 'triggers' and cause the women prisoners to live in an unnecessarily heightened state of stress.

**The CPT recommends that the Portuguese authorities develop clear policies and regulations on the management of female prisoners, that are gender-sensitive and trauma-informed, which are aimed at providing protection against any form of sexual or gender-based violence and (re)traumatisation and at fostering a prison environment of safety and stability.<sup>81</sup>**

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79. Bangkok Rules, Rule 20 : "Alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches."

79. For example, the recent UK government's *Female Offender Strategy* (Ministry of Justice 2018) contains a commitment to implementing a trauma-informed approach to working with women in the justice system.

80. Katherine M. Auty, Alison Liebling, Anna Schliehe and Ben Crewe - What is trauma-informed practice? Towards operationalisation of the concept in two prisons for women. Available here: <https://journals.sagepub.com/doi/epub/10.1177/17488958221094980>

81. Bangkok Rule 31.



148. Save for the heads of security (*comissário*), who were men in both establishments visited, all prison guards working on the accommodation units of the female prisons were women.

At the time of the visit, their training was in no way different from the training of male guards working in the men's prison, whereas, in the view of the CPT, the development of specialised training for staff assigned to work with women prisoners is crucial in order to be able to address their specific needs. For instance, it is important for staff to understand that daily operational practices can cause further trauma to women prisoners. As mentioned, strip searches for contraband may retraumatise women who have been sexually abused in the past. By contrast, implementation of gender-sensitive and trauma-informed approaches demonstrably decrease levels of self-harm, suicide and inter-prisoner violence.

Therefore, all staff involved in the management of women's prisons should receive training relating to the gender-specific needs and human rights of women prisoners, including the prohibition of discrimination.<sup>82</sup> Gender-sensitive and trauma-informed treatment and management of women prisoners should be an integral part of the curriculum of custodial staff in women's prisons. Such training should enable staff to recognise the impact of trauma, detect mental health care needs and risks of self-harm and suicide, seek not to retraumatise and promote safety and respect.<sup>83</sup> Further, post-education training of women prison staff should be a part of their on-going training, enabling them to deal appropriately with the gender-specific needs of women prisoners.<sup>84</sup> Inter alia, prison personnel should receive training regarding the principles of equality and non-discrimination, including in relation to sexual orientation and gender identity, as stated in the Yogyakarta Principles (Principle 9g).

In that respect, the CPT takes good note of the recent steps taken to organize training sessions on the Bangkok Rules for staff assigned to the two women's prisons.<sup>85</sup> This is a welcome first step. **The CPT would like to receive information regarding the implementation of these training sessions as well as additional steps taken towards strengthening specific training for staff and managers entrusted with the care of women prisoners.**

Further, in the CPT's view, same-sex staffing does not need to be the rule. On the contrary, mixed-gender staffing is deemed an important safeguard against ill-treatment in places of detention. This is recognised in the European Prison Rules, according to which men and women should be represented in a balanced manner on the prison staff.<sup>86</sup> The presence of male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention. Mixed-gender staffing also allows for appropriate staff deployment when carrying out gender sensitive tasks, such as searches (see paragraph 102).

**The Portuguese authorities are also invited to review the current policy of applying same-gender staffing, for all prison establishments, whether accommodating women or men.**

d. contacts with the outside world

149. At the time of the CPT visit, conditions for family visits were gradually returning to pre-COVID19 arrangements.

In Santa Cruz do Bispo Feminino Prison, the visiting facility was a large open hall with a capacity of 120 persons.<sup>87</sup> This made visits noisy and ensured little privacy. In neither establishment was there an area adapted for children.

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82. Bangkok Rule 32-33.

83. Bangkok Rule 35. Using Trauma-Informed Practices to Enhance Safety and Security in Women's Correctional Facilities, NRCJIW-UsingTraumaInformedPractices.pdf (ojp.gov).

85. For further details, see Bangkok Rules 29-35 regarding institutional personnel and training.

86. Information provided by the Portuguese authorities in its written response to the delegation's preliminary observations, received by the Committee on 2 March 2022.

87. See Rule 85 of the European Prison Rules and the comments thereon.

87. There were 30 tables, each with four chairs.

In Santa Cruz do Bispo Feminino Prison, conjugal visits<sup>88</sup> were still on hold due to the COVID19 pandemic but were expected to resume shortly. In Tires Prison, there reportedly no longer were conjugal rooms since these were located in ex- unit 3 which had been closed down.

**The CPT recommends that Portuguese authorities equip the visiting facilities of both establishments with some child-friendly area equipment. Regarding conjugal visits, the Committee would like to receive confirmation that these have indeed resumed in Santa Cruz do Bispo Feminino Prison and would like to be informed of the alternative arrangements put in place in Tires Prison to ensure that these may take place.**

150. The CPT welcomes the presence of in-cell telephones in Santa Cruz do Bispo Feminino Prison which was part of a wider pilot project throughout the country. Prisoners could call family for up to one hour per day (in addition to one hour with a lawyer), anytime from 7:00 to 22:00. The only complaint was related to the high cost of calls (€4.20 per hour). **The CPT would like to be updated about the rolling out of in-cell telephone installations country-wide.**

151. The delegation received innumerable complaints from prisoners in Tires Prisons regarding the reportedly cumbersome procedure which needed to be followed in order to get family members' phone numbers approved and recorded. It met several prisoners who had been unable to contact their families, save for the first call on admission, simply because the approval was still pending. Several women claimed the process had taken several weeks, sometimes months. As far as the delegation could understand, this system of pre-approval was common to all prisons, yet it did not appear to be source of similar complaints in other prisons visited. **The CPT recommends that measures be taken in Tires Prison to ensure that regular contacts between prisoners and their closed ones are effectively possible soon after admission, without undue delay..**

152. It was positive that in both establishments, there was a regular resort to video calls, available to foreign prisoners and in some cases for Portuguese nationals whose families were unable to visit. However, the delegation still met persons who were *de facto* deprived of contacts, either because the family was too far and/or did not have the resources to travel.

**The CPT recalls that, in line with the Bangkok Rules<sup>89</sup>, women prisoners' contact with their families must be encouraged and facilitated; women who are disadvantaged because of the physical distance between their home and the prison must be offered compensatory measures. To this end, the CPT recommends that the use of VOIP (Voice Over Internet Protocol, or internet calling, for example using Skype etc.) be further generalised for women whose families live a great distance from the prison, for indigent prisoners and for prisoners whose family live abroad. Further, women prisoners should be permitted to receive longer if less frequent visits, by accumulating visiting time allowances.**

153. Finally, the delegation was surprised to hear that in Tires Prison, lawyers could not contact their clients directly and instead had to go through the social worker, which is problematic in terms of confidentiality. **The CPT recommends that immediate steps be taken to ensure that lawyers can contact their clients in Tires Prison without the mediation of prison staff.**

e. complaints and information

154. The Prison administration had very recently introduced a new complaints procedure and consequently complaints boxes had been installed on the different units of both establishments. However, forms had to be requested from a prison officer and the boxes were sometimes emptied by custodial staff. **The situation should be remedied so as to ensure that complaints can be easily drawn up, complaints forms are easily accessible, and collected exclusively by an administrative staff member appointed by the Director.**

In both establishments, complaints had been centrally recorded by the administration but it was difficult to assess at this stage the efficacy of the complaints system in its infancy.

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89. These lasted for up to three hours.

90. Bangkok Rules, Rule 26.

In Santa Cruz do Bispo Feminino Prison, between 27 November 2021 and 25 May 2022, 93 complaints had been recorded. Of these, four complaints concerned the behaviour of guards, recorded between March and May 2022.<sup>90</sup> Their processing was ongoing at the time of the visit. **The Committee would like to receive details about the nature and follow up given to these four complaints.**

Several prisoners appeared to believe that it was more efficient to send their complaints to external bodies such as the NPM or APAR. Many also complained that there was little opportunity to share their concerns with prison management as the Directors never visited the blocks, save on a couple of symbolic occasions per year.

**The CPT would like to receive from the Portuguese authorities their initial views on the complaints procedure since its implementation (analysis on the number and most common types of complaints received, as well as any follow up).**

155. In both establishments, women prisoners received little in the way of written information, only a short information leaflet on their “rights and duties” (limited to excerpts of national legislation), which did not, for instance, mention possible avenues for complaint.

**The CPT recommends that each prisoner is provided with a copy of the internal rules which apply in the prison in which they are being held, including information on regime, visiting arrangements, disciplinary procedure, etc. This leaflet should be at the prisoners’ disposal, in a variety of relevant languages, and be regularly updated.**

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90. Complaint numbers 258/2724, 118/1232, 291/1482, 267/1552.

## C. Psychiatric institutions

### Psychiatric Clinic of Santa Cruz do Bispo Prison

#### 1. Introduction

156. The delegation conducted a follow up visit to the Psychiatric Clinic of Santa Cruz do Bispo Prison, which had previously been visited in 2012, 2016 and 2019.

The findings of the previous visits had led the CPT to conclude that the Clinic was excessively carceral and failed to provide the level of care and the therapeutic environment required by patients. Consequently, the Committee had recommended that the Clinic be closed down.

157. At the time of the 2022 visit, the Clinic was accommodating 200 forensic patients.<sup>91</sup> In the period since the 2019 visit, the clinic premises had been expanded, incorporating additional parts of the prison. The original building of the clinic, now known as Clinic Unit 1, was accommodating 104 patients. Clinic Unit 2, which had previously been used as the prison's drug-free unit, was accommodating 24 patients and Clinic Unit 3, formerly an ordinary prison wing, 64 patients. Finally, eight patients were staying in the *Casa de transição* (Transition House).

The clinical profile of patients remained similar to that outlined in the report on the 2019 visit, meaning that most patients were diagnosed with psychotic disorders, and/or a learning disability and/or were suffering from an addiction to psychoactive substances. The vast majority of patients diagnosed with a learning disability had a dual diagnosis (psychosis and learning disability). There was no allocation based on type of diagnosis which would have separated them from other patients.

**The CPT recommends that steps be taken by the Portuguese authorities to ensure an appropriate allocation of patients, so that those suffering from mental illnesses are separated from those suffering from learning disabilities and that both categories benefit from tailored individualised treatment, according to their needs.**

158. The legal framework applicable to forensic patients remained the same as at the time of the 2019 visit. However, shortly after the 2022 visit a draft law on mental health was approved by the Council of Ministers and submitted by Parliament<sup>92</sup>. At the time of the 2022 visit, two thirds of the patients (133) were placed in the Clinic on the basis of sections 20 and 91 of the Criminal Code, whereby the court had ruled that these persons could not be held criminally responsible for the crimes committed (*inimputáveis*) and had consequently imposed a security measure of internment (*medida de segurança de internamento*).

About one fifth of the patients had been declared criminally responsible at the time of the crime and been sentenced to a term of imprisonment. For these patients, either the court had ruled that the sentence should be served in a psychiatric institution, due to a mental health state at the time of committing the crime (section 104 of the Criminal Code), or the person had developed a mental disorder after the commission of the crime and had been transferred by court order from a prison to a psychiatric hospital facility (section 105 of the Criminal Code).

Finally, approximately 25 patients had been remanded to the Clinic by a judge, pursuant to section 202(2) of the Code of Criminal Procedure (*internamento preventivo*).

159. By Order of the DGRPS of 27 August 2020, the 27 persons who had been found not criminally responsible at the time of the crime but who were serving a measure in a prison establishment due to a lack of forensic psychiatric beds, were transferred to Santa Cruz do Bispo Psychiatric Clinic.

**The CPT would like to be informed of the total number of persons who are still serving their "security measure" in an ordinary prison establishment.**

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91. In 2019 there had been 198 patients (though 10 were being transferred out) and in 2016, there had been 159.

92. Proposed Law no. 24/XV/1 –

<https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetailIniciativa.aspx?BID=141788> (in Portuguese). Bill approved on 14 July and voted by Parliament on 14 October 2022.

160. In their response to the report on the 2019 visit, the Portuguese authorities had informed the Committee that major steps had been taken to improve the functioning of the establishment. First, as had been committed at the end of the 2019 visit, Section 6 of Unit 1 (a basement area providing very poor living conditions) had been taken out of service. Second, the number of healthcare professionals had been increased while the number of custodial staff present in the clinic had been reduced. Third, a number of patients had been transferred to the new forensic unit of Magalhães Lemos Hospital (see paragraph 214 ff). Finally, the premises of the clinic had been expanded to reduce overcrowding and provide better conditions for the patients.

161. The CPT acknowledges the efforts that have been made to improve the living conditions at the Psychiatric Clinic of Santa Cruz do Bispo Prison, including the decrease in “blue uniforms” (prison guards) in favour of more “white coats” (healthcare personnel). Nevertheless, the findings of the 2022 visit demonstrate once again that the Clinic remains prisonlike and no genuine culture shift in the approach towards patients was detected, except for unit 2, which was well-equipped and provided a therapeutic environment suitable for psychiatric patients. Elsewhere, the physical environment of the Clinic severely impaired the quality of care and was not conducive for creating a person-centered therapeutic process.

162. While the establishment was not meant to accommodate minors, the delegation was surprised and very concerned to find out that a [minor] patient had committed suicide within the clinic in 2020. The boy<sup>93</sup> had been admitted to the Clinic [...] after a Court had ordered his preventive internment on the same day. He was placed in quarantine (*isolamento profilactico*) and was found dead [four days later]. This was confirmed by an autopsy. This raises a number of concerns for the CPT, including the fact that a child was sent to a psychiatric facility accommodating adult men only, on the premises of a prison also for adults. Forensic patients under the age of 18 should be accommodated in facilities appropriate for their care. A child needing to undergo a psychiatric assessment should be sent to a psychiatric hospital which has a ward for children and adolescents. **The CPT would like to receive the comments from the Portuguese authorities regarding this case.**

163. In the response to the report on the 2019 visit, the Portuguese authorities had referenced a working group set up 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 1998 and to a working group under the Director of the DGRPS to examine the closure of the Clinic.<sup>94</sup> However, from the prolonged exchanges held with the Portuguese authorities in the course of the 2022 visit, the delegation could not detect any intention to close the clinic within the foreseeable future. The number of beds in Ministry of Health hospital facilities remained largely insufficient to accommodate forensic patients, as did the number of beds in social institutions which would normally accommodate certain dischargeable patients. The result was that due to the lack of alternative options, the Clinic would need to remain operational. **The CPT maintains the view that efforts must be made, as a matter of priority, to provide an alternative facility to the Clinic which has too many structural shortcomings to provide patients with the environment they need. This may require identifying or constructing a new facility. Meanwhile, however, the type of care offered in Unit 2, could drive possible adjustments within the other units in order to improve the treatment and care of patients within a reasonable time frame. This would however require significantly increasing staffing levels and the offer of structured activities.**

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93. [D].

94. See the response of the Portuguese authorities to the report on the 2019 visit CPT/Inf (2020) 34, page 40.

## 2. Ill-treatment

164. The vast majority of patients described the attitude of the clinic staff towards them as ranging from “acceptable” to “respectful”. It must be noted that several patients mentioned that the attitude of the prison guards had improved, explaining that while patients had sometimes been subjected to physical ill-treatment in previous years, such incidents had not occurred in the recent past.

However, two patients alleged that they had been beaten on the body by custodial staff with a makeshift metal rod, over the course of the last couple of years. One of the patients reported that on one occasion, he was struck on the leg in 2021, in the presence of three guards. The other patient alleged he had been hit on two occasions, including once because he had refused to take medication. The second time, in 2022, he was allegedly hit with a key and then struck with a metal rod again. The staff explained that the rods, which the delegation observed, were used daily to test the security of the window bars. Notwithstanding the allegations of beatings, the loud bang this created in the rooms, several times a day, was intimidating. Moreover, sensory overstimulation may be particularly irritating or even intolerable for persons suffering from mental disorders. **The CPT recommends that the metal rods be removed from the facility altogether and that an alternative method be used, if needed, to check security of installations.**

165. Further, it appeared from the prison records that two complaints had been lodged by patients alleging physical ill-treatment by prison guards. One case (complaint sent on 9 November 2021 regarding an event on 6 November 2021) had been closed after the complainant and the guard had been heard by the Head of guards (respectively on 15 and 16 November). The complainant was notified of the outcome (closure of case) on 15 December 2021. According to the report of the Head Guard, the complainant had decided, in hindsight, to withdraw the complaint. The second case had also been investigated internally, by the Deputy Director of the Prison and filed. In this case, the complainant as well as the incriminated guard had been heard and the report referred to registers (as the patient had been placed in a security cell after the incident) and medical files. However, the report is very brief.<sup>95</sup> The conclusion states that the guard had not assaulted the patient, while the patient had assaulted the guard. The medical files confirmed that the patient had been in a state of psychomotor agitation and confirmed that the guard had sustained injuries. It does not refer to any injury on the part of the complainant but neither does it explicitly mention that there was no injury. The file bears no mention of efforts to identify potential witnesses. The procedure was closed within 15 days.

166. Several patients reported that they were regularly insulted and threatened. For example, one patient alleged that a guard had allegedly told him: “*If I could, I would beat you every day*”.

**167. The CPT once again calls upon the Portuguese authorities to firmly reiterate to prison officers that all forms of ill-treatment of patients, including physical and verbal abuse, are unacceptable and will be subject to appropriate sanctions. Further, interactions between prison officers and patients should be subject to the authority of and closely supervised by qualified healthcare staff. All staff should receive training on how to manage challenging patients, especially when they become agitated, through the regular provision of courses on de-escalation techniques and the use of safe and effective manual control techniques.**

**The CPT recommends that in the event of any complaint of ill-treatment, independent and in-depth investigations should be promptly carried out. Any such complaint received by the administration of Santa Cruz do Bispo Prison Clinic should therefore be transmitted to an outside investigative body, such as SAI, and not be investigated by custodial staff within the establishment.**

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95. The allegation of the complainant is summarised in five lines and the testimony of the guard in nine lines.

168. It was positive that all instances of use of force were documented and that for each case, an internal inquiry had been initiated, with a view to assessing whether the resort to physical force had been justified. According to the records consulted, there had been three such episodes in 2021 (and none in the first five months of 2022). The three episodes had concerned the use of handcuffs and resort to physical (manual) force and in all three cases the patient had been placed in an isolation room. In two instances, the patient had been chemically restrained. Reports had been forwarded to SAI for evaluation after which they had been closed with no further action. However, as a minor injury had been recorded on one of the patients by a nurse, the Prison Director had been requested by SAI to remind all staff members of the need to strictly and fully comply with the regulations.

169. The delegation heard no allegations of inter-patient violence. However, it examined two written complaints lodged in this respect (one of which alleged acts of sexual violence from the part of another patient). In both cases, the patient had been heard and had confirmed the alleged facts. Both cases had been closed, based on the medical opinion which referred to the patients' pathology to characterise the allegations as being baseless. **The CPT has serious misgivings about complaints being closed based solely on the basis of a patient's pathology. All complaints should be fully investigated and other actions taken, such as interviewing possible witnesses should be duly recorded in the files.**

### 3. Patients' living conditions and activities

170. The material conditions on Unit 1 remained essentially the same as those described in the 2016 and 2019 visit reports.<sup>96</sup> Rooms were invariably austere and impersonal, insufficiently furnished,<sup>97</sup> call bells did not function, and there was a lack of privacy as the toilets were not partitioned.<sup>98</sup> While overcrowding was reduced due to the expanded Clinic premises, some rooms still accommodated more than four patients (some held five or six patients) and the living space per patient was still cramped.<sup>99</sup> Further, a number of dirty mattresses and bedsheets were observed in some of the rooms. Finally, while the Portuguese authorities had informed the CPT in their response to the 2019 visit report that "new equipment had been purchased which guarantees the heating of the space", no heating system existed in Units 1 and 3. **The CPT would like to receive additional information on the heating situation.**

171. Unit 3, the former prison wing, offered accommodation in double occupancy rooms. The rooms had been designed as individual cells and had been doubled up, measuring between 9 and 11 m<sup>2</sup>. They were grim and ageing but had sufficient ventilation and lighting. They were equipped with some non-lockable storage space and a non-partitioned toilet. A collective bathroom located on the wing was in a bad state of repair with a decrepit and flaking ceiling. The open shower room, located on the corridor, consisted of multiple showerheads with no curtain or partition to provide any sense of privacy; showers could be taken every day at different moments of the day and the water was warm.

172. The regime applied to patients in Units 1 and 3 of the Clinic was similar as that applied in prisons. Patients had to leave their rooms from 9:00 to 12:45, after which they were locked in their rooms until 14:00. Between 8:00 and 9:00 and between 16:00 and 17:00, patients had to be in their room but could access the communal shower rooms. From 21:00 until 9:00 the following morning, patients were locked in their rooms. Patients' rooms were unlocked for fewer than six hours a day and during that time they were offered few activities.

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96. See CPT/Inf (2020) 33, paragraphs 92-93.

97. There was a bed, some shelves and a bedside table for each patient, but no table or chairs or any personal lockable storage space.

98. Even in the in-patient accommodation area, where rooms were larger and brighter (accommodating four and six beds respectively), the toilets were in full view of the patients.

99. By way of example, a room accommodating five patients, afforded each patient a living space of 5.8 m<sup>2</sup> (including the sanitary annex) while a double-occupancy room measured only 9 m<sup>2</sup>.

173. The communal areas accessible to most patients remained insufficient and were poorly equipped. For instance, the chapel area, which served as a multi-purpose room was virtually empty, with only a handful of chairs and a television set. During those hours when patients could leave their room (from 9:00 to 12:45, 15:00 to 16:00 and 19:00 to 21:00), most of them would wander aimlessly in the corridors or gather at the bar/cafeteria area when it opened. The dining hall was only accessible during mealtimes. The courtyard serving Unit 1 was of an acceptable size, had some trees and grass patches and patients could find shelter in case of rain while outside. Patients could access a larger sports field on the prison grounds in smaller groups, on a rotational basis, at least once a week.

The number of patients engaged in education and work was similar to the figures observed in 2019; 34 patients attended education and 48 patients were assigned paid work (kitchen, laundry, cleaning, assembling work, with 20 patients working on the grounds of the prisons but outside the Clinic). Apart from that, the range and number of activities offered to patients remained limited (see paragraph 179), especially for patients of units 1 and 3.

174. By contrast, Unit 2 was well equipped, and the environment was supportive of recovery. At the time of the visit, it accommodated 24 patients for a capacity of 25 persons. The stand-alone unit comprised eight triple-bed rooms and one single occupancy room for physically disabled persons. The rooms offered 5 m<sup>2</sup> of living space per person, had ample natural and artificial light and were well-ventilated. Each room had a fully partitioned toilet, a curtained shower and a sink. The unit had spacious, relatively modern and well-equipped communal areas, including a TV room, a dining area, a dedicated occupational therapy room with facilities for physical exercise, including fitness machines and a recreation area (equipped with table tennis and table football). Premises were bright and in a satisfactory state of repair and cleanliness. The unit had its own kitchen and infirmary. Patients had access to a rather large outdoor area with a football pitch, a field and a vegetable garden for four hours per day. A much greater proportion of the patients were engaged in rehabilitation activities. It must be noted that patients placed in this unit had a greater level of autonomy compared to those patients in units 1 and 3.

The CPT considers that the provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patient's dignity and is also a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type also facilitate the allocation of patients to relevant categories for therapeutic purposes. In this respect, the organisation and functioning of unit 2 was considerably more favourable than that of the other units visited.<sup>100</sup>

**175. The CPT calls upon the Portuguese authorities to take urgent steps to upgrade the material conditions offered to patients in units 1 and 3 of the Psychiatric Clinic.**

**In particular:**

- **each accommodation room should, at the minimum, comprise a bed, a table, a chair, and a lockable storage space for each patient;**
- **multi-occupancy rooms should not accommodate more than four persons and should be equipped with a maximum of four beds;**
- **the shower rooms should be kept in a good state of repair and curtains installed to guarantee the necessary privacy;**
- **all toilets in the rooms should be fully partitioned;**
- **patients' rooms and recreation areas should be decorated and personalised to give patients visual stimulation and to reduce institutionalisation.**

**Further, as long as patients are not offered activities in appropriate communal areas, patients should be allowed to have access to their room during the day, rather than being obliged to remain assembled together with other patients in uninviting communal areas with nothing to do.**

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100. The delegation did not visit the transition unit.



176. The CPT reiterates that the possibility to be outside, preferably in a pleasant garden area, should be a right for every patient. Further, spending time outdoors has a beneficial impact on patients' well-being and recovery. Hence, access to the outdoors should be proactively promoted. **The CPT recommends that the Psychiatric Clinic of Santa Cruz do Bispo Prison put in place a clear policy to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.**

177. The loudspeaker system operated by the Clinic was still in use to call patients (for example, when they needed to go to collect medicine), except within Unit 2. Patients were now called by their name as well as their number. The frequent acoustic annoyance this entailed added to the chaotic atmosphere observed in the Clinic. **The CPT reiterates its recommendation that the loudspeaker system be abandoned. The practice of calling persons by number should be abolished.**

#### 4. Treatment

178. The delegation noted that a treatment plan (labelled Therapeutic and Rehabilitation Plan) was now drawn up for all patients. Reportedly, the placement procedure required that this plan be drawn up and sent to the Judge within two months after the placement. Individual treatment plans were usually, but not systematically, signed by the patient. However, although these plans included medication and activities, it appeared that they were often generic, without much individualisation, due to the limited treatment options available. The plans were designed by the psychiatrist and, from the information the delegation could gather, they were neither elaborated nor discussed within multi-disciplinary teams or with the patient. Indeed, coordination remained limited, with no formalised regular meetings between medical and the socio-therapeutic staff to discuss the situation and progress of patients.

**The CPT reiterates its recommendation that the healthcare team work more closely together, applying an integrated multidisciplinary approach to the treatment of patients. The drawing up and regular review of tailor-made, individualised rehabilitation plans should be carried out in multi-disciplinary teams with the active participation of the patient. In this respect, regular coordination meetings between medical and socio-therapeutic staff should be introduced.**

179. A structured programme of therapeutic activities existed to some degree. The delegation was informed that 75% of patients (155) benefited from some therapeutic activity. These included social skills, reading club, cognitive stimulation, walks with a therapist, gardening, art, sport. A recent initiative was a dog-assisted therapy in which 18 patients were enrolled, with sessions led by an occupational therapist and a psychologist. However, the fact remained that there were too few human resources to ensure that all patients spent enough time engaged in these activities. There was one occupational therapist for each unit, which for Units 1 and 3 was totally insufficient given that these units accommodated 100 and 64 patients respectively. Despite the efforts and the obvious engagement of the therapists, roughly one-quarter of patients were not engaged in any activities. Most of the patients said they attended one or two sessions per week (not counting work) and the delegation still observed high numbers of idle patients, seemingly with very little to do.

180. Psychological support was provided mainly through individual sessions; there was hardly anything with respect to group activities.

**181. The CPT recommends that additional steps be taken to significantly increase the range and number of therapeutic, rehabilitative and recreational activities offered to patients. This will require the recruitment of additional qualified specialists responsible for running therapeutic and rehabilitation activities, both in groups and individually. All patients should be provided access to some organised physical activities.**

182. The policy towards *pro re nata* (PRN) medication had reportedly been amended. In its reply to the 2019 visit report, the Portuguese authorities had indicated that the practice of "SOS medication" had been suspended. In emergency situations, in the event that no doctor is found in the clinic (when episodes occur during the night or at the weekend), a doctor was called over the phone.

183. There was a sufficient supply of medication (classical neuroleptics, atypical neuroleptics and antidepressants), including newer generation anti-psychotic medication. Clozapine was also administered, and the delegation noted that those receiving Clozapine were regularly and adequately monitored.

184. It was noted that a functional ECG was now available in the establishment, which was a positive development.

185. Despite the increased presence of a general practitioner (see paragraph 186), medical examinations upon entry were still performed by a psychiatrist, while a GP only examined the patient 72 hours after admission, and sometimes later than that. Worryingly, two patients who had been transferred from Santa Cruz do Bispo Clinic to the Forensic Unit at Magalhães Lemos Psychiatric Hospital had reportedly been tested positive on and were suffering from active tuberculosis when screened upon admission at the new hospital. **The CPT reiterates its recommendation that the medical assessment made upon a patient's entry to the Clinic be improved, in particular they should be carried out more speedily and be more comprehensive. Specifically, the initial assessment should include a screening for transmissible diseases.**

## 5. Staff

186. As announced at the end of the 2019 visit, there had been a notable increase in the healthcare staff complement. The number of nurses had risen from 16 to 28, and the number of auxiliary staff (orderlies) had increased from 2 to 15. This is positive and the delegation noted that, *inter alia* patients no longer attended to other patients' basic hygiene needs.

The presence and hours of the psychologists<sup>101</sup> and of general practitioners<sup>102</sup> had increased. Further, there were now three occupational therapists and eight educators.

The delegation, once again, met competent and dedicated professionals. However, the numbers remain insufficient for the size of the Clinic.<sup>103</sup>

187. It remained the case that none of the three psychiatrists was present on weekends. The only full-time psychologist was covering both the 104 forensic patients on Unit 1 and those persons in the adjoining prison (150 persons) in need of care. There had been no pharmacist for the past two years. Moreover, despite the increase in nurses and orderlies, there were (only) six nurses and five orderlies on duty during the day (8:00 to 20:00) and two nurses and one orderly at night (20:00 to 8:00) to care for 200 patients spread across three large wards and a transition house. As mentioned above, the number of occupational therapists was too low, notably on Unit 1.

188. The number of prison officers working within the Clinic had been considerably reduced since the 2019 visit. There were six guards in the Clinic on weekdays (and two at night) and five guards on weekend at daytime (and two at night, covering the entire male prison). The delegation was informed that the management had retained those with the most appropriate profiles and that those officers had reportedly received in-house training by one of the psychiatrists in order to enhance their capacity to deal with forensic patients.

In practice however, the supervision of patients continued to be largely entrusted to prison officers. On Unit 1 (apart from the inpatient section), healthcare staff was hardly seen in the accommodation areas or, for example, during meals or in the courtyards (outside specific therapeutic activities).

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101. One psychologist was hired full-time, one for 18 hours per week for unit 3 and another one for seven hours per week for unit 2.

102. The two GPs covered 30 hours per week.

103. In its previous visit report, the CPT had noted that a hospital of 150 beds should count around 80 nurses and orderlies.

The delegation met motivated and dedicated prison guards, but nonetheless, the CPT considers that the presence of prison officers inside the Clinic is not conducive to the establishment of a therapeutic environment and that the role of the prison officers should be limited in principle to ensuring perimeter security. Further, any interactions by prison officers with patients should be subject to the authority of, and closely supervised by, qualified healthcare staff. As already noted in the previous visit report, this requires that nurses and auxiliary staff be present on the accommodation wards.

**189. The CPT reiterates its recommendation to the Portuguese authorities to reinforce the staffing levels at the Psychiatric Clinic of Santa Cruz do Bispo Prison and notably as regards:**

- **the presence of qualified nursing and auxiliary staff, occupational therapists and staff to run therapeutic and rehabilitation activities. Provisions should also be made for psychiatrists to be present at the Clinic when required, including on weekends, and for such presence to be remunerated.**
- **the replacement of prison officers assigned to work inside the Clinic by trained nursing staff.**

## **6. Seclusion and means of restraint**

190. It is highly regrettable there was still no written policy or guidelines, specifically for patients in psychiatric care, regarding the use of means of restraints in the Clinic. **The CPT reiterates its recommendation that the Portuguese authorities ensure that such a policy is drawn up forthwith in consultation with staff working at the Psychiatric Clinic of Santa Cruz do Bispo Prison and taking into account the recommendation set out in paragraphs 196 and 197 below.**

191. As was the case in the past, there was no resort to mechanical means of restraint such as the fixation of patients to beds with straps. Occasionally, prison guards placed a patient in handcuffs (see paragraph 168).

192. By contrast, resort to the use of seclusion rooms remained frequent and its use had, in fact, increased considerably since the 2019 visit. Between 15 October 2021 and 23 May 2022, (about seven months), there had been 123 placements in seclusion.<sup>104</sup>

The same four rooms as described in the report on the 2019 visit were used for the purposes of secluding a patient. One of them (cell 1, also called “Green room”) was a room where the floor and walls were covered with green linoleum. The cell was under CCTV surveillance, which was linked to a screen in the nursing office on the same floor. The room was equipped with a fireproof mattress placed on the floor. As previously noted, the room was quite dark and there was no toilet inside the room and, again, one patient alleged that he had had to urinate and defecate in a bucket, and he had had no access to drinking water. Two patients claimed they had spent, respectively, one week (in 2021) and two weeks (in 2022) in the cell, dressed only in their underwear, while other patients stated that they had been provided with pyjamas.

The other three cells had no padding, and no CCTV. Patients were usually placed in Room 1, though the other rooms had occasionally been used over previous months.

According to the records, the duration of most placements was between two and three days. No placement had been applied for less than 20 hours. In twelve cases, they had lasted for more than five days. In two such cases, they had lasted for 10 days, with the longest placement lasting 13 days.

193. The CPT has previously stated that secluding a patient in the “green room” for more than a few hours could well amount to degrading treatment. It had also recommended that the other three bare cells be sealed permanently until such time as they are properly renovated.

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104. By comparison, “(i)n the first 11 months of 2019, there had been 99 instances of patients being placed in a seclusion cell for periods ranging mainly from one to six days but in the case of two patients the periods were as long as 12 and 30 days”. CPT/Inf (2020) 33, paragraph 111.

**The CPT calls upon the Portuguese authorities to take immediate measures to ensure that when seclusion is resorted to, it is for the shortest time possible (that is, for a few hours) and is carried out in a room providing decent material conditions, which includes ensuring ready access to a toilet and drinking water and appropriate clothing. The three bare cells should be put out of service or renovated.**

194. The delegation found that placement in a seclusion cell was still occurring without the necessary safeguards in place. For instance, if the doctor was not available on site to order the placement, placement was authorised by telephone and the doctor did not always come to check on the patient as soon as required to verify the necessity of the measure. Further, supervision of the measure by a nurse was neither direct nor continuous. According to some of the healthcare staff met by the delegation, a nurse would perhaps check on the patient once per hour. Again, there were no guidelines and the healthcare staff said supervision was carried out on a case-by-case basis.

195. The specific register for placements in the seclusion rooms was filled out by the custodial staff and not by the nurses. It indicated the name of the patient, the time of the beginning and end of the placement. However, it did not include information such as the motive for the placement, the cell used for the measure, the name of the person ordering the measure, movements to the yard or shower, reassessments of the decision, etc. Some of this information was registered in individual forms (*Colocação em Quarto de Segurança*) which were intended to inform the Prison Director of the measure (beginning and end) and some additional information could be found in the nursing logbooks. The lack of any collated information on the measure meant that it was difficult for the staff, management or external bodies to have a clear oversight of the measure of seclusion.

**196. The CPT calls upon the Portuguese authorities to take immediate measures to ensure that when a patient is exceptionally placed in a seclusion room, the following safeguards be implemented, namely that:**

- 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; a patient should only be kept in a seclusion cell until such time as they have calmed down.
- during placement in a seclusion cell, regular human contact and constant individual staff monitoring should be ensured and documented accordingly. The staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance cannot replace continuous staff presence. Supervision must be ensured by a qualified member of the nursing staff. 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 (that is, every 30 minutes);
- patients held in seclusion rooms should be appropriately dressed (not kept in undergarments) and have ready access to sanitary facilities;
- 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.

197. Placement in a seclusion room was often coupled with an injection of rapid tranquillization drugs. Healthcare staff informed the delegation that the current practice required that a psychiatrist be contacted, over the phone if needed, to advise the nurses about the administration of rapid tranquillization. After the injection, the patient was monitored by the nursing staff but was not routinely visited by a doctor. The delegation talked to a number of patients who had been forcibly injected before being placed in a seclusion room and who were not visited by the doctor. There was seemingly no written policy on the subject. Further, such episodes of chemical restraint were not recorded in the “seclusion” register or in any other dedicated register – only in nursing logbooks (“book of occurrences”) and later added to the patients’ file. It was therefore not possible to determine the frequency of the use of these injections or whether they were, in practice, subject to the safeguards which apply to the resort to means of restraint.

The CPT reminds the Portuguese health authorities that whenever a chemical restraint is confirmed by a doctor remotely (for example by phone), the doctor must arrive without delay to monitor the patient’s response and deal with any complications. Further, all instances of chemical restraint should be recorded in the restraints register and be subject to additional safeguards. **The CPT recommends that the Portuguese authorities take immediate measures that ensure that the above precepts are strictly adhered to by the staff working in Santa Cruz do Bispo Psychiatric Clinic.**

198. Medical files were kept on paper and were rather disorganised. As in the prisons system, health professionals could not access the patients’ community health files, and this could potentially compromise continuity of care. **The Committee refers to the recommendation formulated in paragraph 119 regarding the introduction of an electronic management of medical files, which is equally applicable to Santa Cruz do Bispo Prison Psychiatric Clinic.**

## 7. Discipline

199. As already observed on previous visits, patients could be sanctioned under the regular prison disciplinary procedure. The difference was that the opinion of a psychiatrist was sought in order to determine whether the patient was conscientious of his act at the time of its commission. The sanction was only applied and executed if it was deemed that he was indeed conscious. In theory, all sanctions could be applied to patients.

200. Records showed that in the first five months of 2022, 55 disciplinary procedures had been initiated against patients. None had concerned a patient-on-staff assault as had been the case over the last three years. Ten patients had been subjected to a POA sanction (lasting between two and eight 8 days). In one case, the delegation found that a patient had been subjected to a three-day placement in a disciplinary cell (*cela disciplinar*), despite the fact that management had informed the delegation that, in practice, patients were never subject to this type of sanction.

In this particular case, the records showed that a couple of days after the prisoner had been suspected of having committed a violation,<sup>105</sup> he was placed in the so-called “green” cell for eight days (1 to 8 April 2022), due reportedly to a state of agitation and after he insulted a guard. The disciplinary procedure was maintained after the placement and on 28 April the patient was handed down a sanction of three days of solitary confinement, which he executed in July. In this case, the patient was therefore secluded twice, within the context of a single incident.

201. It must be stressed once again that as a matter of principle, the CPT has reservations about the use of disciplinary measures vis-à-vis patients in psychiatric care. Such measures aim at sanctioning patients’ behaviour, which is often likely to be related to a psychiatric disorder and should be approached from a therapeutic rather than a punitive standpoint. **The Committee thus reiterates its recommendation that the Portuguese authorities abolish disciplinary sanctions vis-à-vis (forensic) psychiatric patients.**

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105. He was accused of having stolen items from the clinic shop.

## 8. Safeguards

### a. safeguards surrounding placement and discharge of patients

202. The relevant provisions governing the procedures for placement and discharge for persons deemed irresponsible under the Criminal Code (CC) have not changed since the CPT's 2019 visit and are in principle surrounded by sufficient safeguards.<sup>106</sup>

203. It is recalled that the minimum period of placement (under the measure of *medida de segurança de internamento*) in a forensic psychiatric establishment is three years if the committed offence is punishable with a sentence of more than five years. The maximum period is the equivalent to the full term of imprisonment for the committed offence (Article 91, 92 CC). It falls to the competent court to review, at least every two years, whether the reasons for the continued placement of a person in a forensic psychiatric establishment persist (Article 93 CC).

204. If the committed offence is punishable with a sentence of more than eight years, and if there is a serious risk of reoffending, after the maximum period of the placement has elapsed, the competent court can still extend the placement order, for two years at a time, (Article 92 CC). In such cases, the placement can potentially be renewed indefinitely. This is a source of great concern, given the potentially very harmful effects that a prolonged detention without prospect of ever being released may have on a person. In this respect, the CPT notes that the Draft law no. 24/XV/1 (hereafter Draft law on mental healthcare) proposes to revoke Article 92 of the Criminal Code.<sup>107</sup> **The CPT would like to receive an update on the adoption of the proposed amendment.**

205. In practice, it appeared from the files that regular reviews of the forensic patients' situation were being carried out by the Courts for the Execution of Criminal Sanctions and Measures. The information gathered from files and interviews with staff and patients indicated that in most cases the review hearing of the court took place in the presence of the patient, as provided for in Article 504 of the Code of Criminal Procedure (CCP). All patients interviewed also reported that a lawyer had been present during the hearing, including when provided by legal aid. This marked a positive development from past findings. As regards independent forensic expertise, it appeared from the files consulted during this visit that this was being requested for every review. The Judge based his decision on the psychiatric assessment report from the hospital in which the patient was being accommodated (assessing the mental state of the patient) and the report of the national forensic institute (assessing the patient's risk to society).

The reviews took place at intervals of two years or less, as prescribed by law. This still fell short of the previous CPT recommendation according to which an *ex-officio* review of an involuntary forensic placement decision should be carried out at least once a year (and preferably every six months). **The Committee welcomes that this requirement is reflected in the Draft law on mental healthcare<sup>108</sup>; it urges the Portuguese authorities to adopt the provision.**

206. The procedure described above did not apply to patients falling under articles 104 and 105 of the Criminal Code, for whom there was seemingly no legal obligation to review the placement decision. **The CPT reiterates its recommendation that the regular *ex-officio* reviews described above apply to all involuntary placement decisions.**

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106. See previous CPT reports CPT/Inf (2013) 4, paragraph 119 and CPT/Inf (2009) 13, paragraph 133.

107. The Explanatory statement of the draft law mentions the: "revocation of article 92 paragraph 3 of the Criminal Code, which currently allows, in certain cases, the successive extension of security measures for the internment of those who cannot be held criminally liable. In effect, the subsistence of such a regime, although anchored in Article 30, no. 2 of the Constitution, has long been questionable, as it allows internment measures to have, in practice, an unlimited or even perpetual duration, going against the understanding that the rule that there can be no deprivation of liberty of a perpetual nature or of an unlimited or indefinite duration must apply to all citizens - both those with and without responsibility" (page 6).

108. See article 50 of the Draft law no. 24/XV/1: "The assessment is compulsory, independently of any request, one year after the beginning of the internment or after the decision that maintained it".

207. The general impression was that the assessment reports lacked individualisation and displayed many standard formulations. For those patients who had spent a long time in forensic psychiatric institutions, the reasons given for extending the “internment” measure were repetitive.

Further, as noted in previous CPT visit reports, patient assessment reports also often pointed to the lack of family or community support to justify the continuation of the patient’s treatment when support was deemed necessary to ensure that the patient would no longer pose a danger to society. Staff at the Clinic acknowledged, once again, that the mental condition of a number of patients no longer required them to be detained in a psychiatric establishment but that, due to a lack of adequate care and/or accommodation in the community, no alternative existed, and the decision on placement was prolonged, without having a medical justification.

The Committee recalls that involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient’s mental health and risk to society. It reiterates the view that for persons to remain in a psychiatric hospital purely as a result of the absence of appropriate community facilities is highly regrettable. **The CPT recommends that the Portuguese authorities (Ministries of Health, Justice and Social Welfare) undertake concerted efforts to find a solution that offers long-term forensic patients, who are no longer in need of being detained for medical reasons, the perspective of release.**

b. safeguards during the placement

208. Regrettably, there was no distinction between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment. Consent to treatment was not sought, whereas as a general principle, all categories of patients – be they voluntary or involuntary, civil or forensic, with legal capacity or legally incapacitated – should be placed in a position to give their free and informed consent to treatment. The CPT considers that placement of a patient in a forensic psychiatric hospital does not necessarily allow healthcare staff to disregard the generally recognised rule of “free and informed consent” to treatment.

One psychiatrist of the Clinic still expressed the view that consent to treatment was not sought as treatment was part of the “security measure” (placement); in other words, a right to refuse treatment in a forensic hospital would be a contradiction in terms. According to him, no patient had ever refused the treatment proposed as they perceived that their discharge was conditioned by their obedience. However, some of the patients whom the delegation interviewed reported otherwise. For instance, one patient explained that he had refused medication and had been consequently placed in a seclusion room and forcibly administered the treatment. Another patient confirmed that he did not consent to regular injections of Haloperidol but believed he was in no position to refuse as this would lead to him being secluded.

209. The CPT has consistently called upon the authorities (cf. reports of the visits carried out in 2012 and 2016) to review the relevant legislation, so as to guarantee that every patient is fully informed about the treatment which they are intended to receive and is given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law, should only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards. The relevant legislation should require a second psychiatric opinion (that is, from a psychiatrist not involved in the treatment of the patient concerned) in any case where a patient does not agree with the treatment proposed by the establishment’s doctors (even if their guardian consents to the treatment); further, patients should be able to challenge a compulsory treatment decision before an independent outside authority and should be informed in writing of this right.

The CPT also considers that appropriate rules for establishing patients’ decision-making capacity including their informed consent to treatment should be put in place and implemented by all psychiatric hospitals in Portugal.

**The CPT recommends that the Portuguese authorities ensure that a patient’s consent to treatment is systematically sought and properly recorded. An *informed consent to treatment form* should be drawn up to be signed by the patient, together with a therapeutic treatment protocol, including the procedure to be followed in cases where treatment is refused or consent to treatment is withdrawn. Alternatives should be available for patients who cannot read and/or sign a form. For patients with limited decision-making capacity, support should be provided, and decisions should be taken together with a support person, and only in rare cases, by a guardian. Legislation should be amended to ensure that appropriate rules exist to establish patients’ decision-making capacity and that in the case of forced treatment, an external psychiatric opinion should be sought and the possibility to appeal to an independent authority introduced.**

210. Patients of the Clinic had the same avenue for complaints as the other prisoners of Santa Cruz do Bispo Prison. Complaints were collected in a box which was emptied by an educator and were then handled by the Legal Officer (Deputy Director). However, it was noted that in order to make a complaint, the patient needed to ask a prison officer for a form and envelope, although in practice he could also write using any other means.

Only one complaint had been registered in 2022 by the time of the visit and it concerned the lack of a vegetarian option for meals. In 2021, as mentioned above in paragraph 165, two complaints had concerned alleged ill-treatment by guards, and two others concerned episodes of inter-prisoner violence.

211. The effectiveness of any complaints system is predicated on patients knowing what their rights are and to whom they should address themselves. Patients at the Psychiatric Clinic of Santa Cruz do Bispo Prison were not provided with or able to consult simple, well laid out information brochures on the establishment in which they were accommodated. Such information brochures should cover the hospital’s routine, patients’ rights, legal assistance, review of placement (and the patient’s right to challenge this), consent to treatment and complaints procedures. Staff should explain the contents of the brochure to those patients who have difficulties reading or understanding. The brochures should also be available online.

**The CPT recommends that the Portuguese authorities ensure that information brochures in simple plain language be drawn up at the Psychiatric Clinic of Santa Cruz do Bispo Prison, in light of the above remarks.**

A healthcare facility of this size ought to have a patient advocate who is able to explain to patients their rights and the avenues that exist for making complaints or seeking support, including legal representation. **Consideration should be given to appointing a patient advocate to assist patients in this exercise.**

212. As regards contact with the outside world the situation remained as described in the previous visit reports and did not appear to be problematic.

213. In respect of inspections, the NPM continued to carry out targeted visits to psychiatric establishments. The CPT had previously recommended that forensic psychiatric facilities under the Ministry of Justice be regularly visited by a specialised independent body. The CPT understands that the Draft Law on mental health provides for the creation of a “commission for monitoring the implementation of the legal framework for involuntary treatment”.<sup>109</sup> **It would like to receive an update on the adoption of such a provision.**

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109. The draft law provides that this commission would be composed of “three psychiatrists, two jurists, a clinical psychologist, a nurse specialist in mental health and psychiatric nursing, a social service technician, a representative of the users’ associations and a representative of the family associations”.



## Forensic unit of Magalhães Lemos Psychiatric Hospital

### 1. Introduction

214. The delegation visited the forensic unit at Magalhães Lemos Psychiatric Hospital, which is the main institution providing psychiatric treatment and care to patients from the north of Portugal. The unit was recent and had opened in December 2019 pursuant to the decree law of 24 May 2019 n°70/2019, to accommodate patients transferred from Santa Cruz do Bispo Prison Clinic. It had a capacity of 40 beds and at the time of the visit it was fully occupied by male patients whose transfer had been based on a “clinical” decision and approved by the Prison Department.

Since its opening, 60 patients had been admitted to the unit and 16 discharged into the community. Only four patients had been returned to Santa Cruz do Bispo as reportedly they could not be handled at Magalhães Lemos Psychiatric Hospital.<sup>110</sup> All patients had been declared to be irresponsible for the crimes committed and were serving a security measure. The Director had refused to admit persons placed in preventive detention.

215. Many patients spoke positively about the staff, particularly the nursing staff, and the delegation observed for itself instances of genuine care and support. The delegation did not receive any allegation of ill-treatment. Patients also described relationships between patients as being unproblematic and there was no other indication of any form of inter-patient violence or intimidation.

### 2. Patients' living conditions and activities

216. The forensic unit offered good living conditions. It had a separate and secured entrance from the adjacent unit and on two of its sides it was bordered by a large fenced-off garden area. The unit, spread across two floors, was very clean, bright and in a good state of repair. The spacious communal areas included a well-equipped dedicated occupational room (offering activities such as music therapy and woodwork), a living room divided between a lounge area (equipped with a TV and around 10 armchairs, shelves with board games, newspapers) and another workshop/handicraft area. There was a separate dining room on each floor for taking meals, where each patient had an assigned seat. Outside, there was a vegetable patch, sports equipment, a picnic table, barbecue.

Patients spent the day in the communal areas, outside of their rooms, until about 21:00. They were permitted to move freely between floors and the outside areas.

217. Regarding patient accommodation, each floor comprised four single rooms (for patients with dependencies and for newcomers) and eight quadruple-occupancy rooms. Each patient had a bed, bedside table, storage space for their personal items, a table and a chair. All rooms were equipped with a call bell. The four single rooms shared a toilet and shower. Patients accommodated in the shared dormitories had access to communal sanitary installations in the corridor. All sanitary installations were clean, in a good state of repair and provided appropriate privacy. There was central heating. Some dormitories had new furniture while those on the ground floor had older furniture, which had the advantage of partitioning the space and providing patients with more privacy. With one exception, the rooms were devoid of any decoration or personalisation. **Attention should be given to the decoration of patients' rooms and patients should be encouraged to personalise their accommodation area, as this can also support stress coping mechanisms and help reduce aggressive behaviour.**

At night, the bedroom doors remained open so as to enable, *inter alia* patients free access to the shared bathrooms and toilets. On the other hand, the doors to each unit (which comprised four rooms and 10 patients) were locked at night.

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110. One of the patients concerned was sexually disinhibited and had attacked a nurse. The others had displayed aggressive behaviours towards staff members and/or patients.

218. All rooms (single rooms and dormitories) were equipped with CCTV. Images were reportedly not recorded but the cameras were permanently connected to monitors in the nursing office. The systematic installation and use of CCTV cameras in the patient rooms appears an excessive measure. The CPT appreciates that CCTV cameras in accommodation rooms may be a useful safeguard in particular cases, for example, when a person is considered to be at risk of self-harm or suicide. However, in such cases, cameras cannot be a replacement for an active staff presence in high-risk situations; the best way of reducing the risk posed by individual patients is personal interaction between staff and the relevant patient. Moreover, video surveillance is a gross intrusion into the privacy of patients and the decision to impose CCTV surveillance on a particular person should always be based on an individual risk assessment, and reviewed on a regular basis. Accordingly, **the CPT recommends that the Portuguese authorities ensure that the CCTV cameras in the ordinary accommodation rooms within the forensic unit at Magalhães Lemos Hospital be removed.**

### 3. Treatment

219. Each patient had an individualised treatment plan developed by a multidisciplinary team which focused on rehabilitation and preparation for release. The delegation verified that in addition to pharmacotherapy, all patients were offered therapeutic activities, which included psychotherapy, handicrafts (woodwork and upcycling), music therapy, gardening and physical education. They could also enrol in schooling and educational/vocational training. This is positive.

There were financial incentives to enrol in training courses and activities.<sup>111</sup> By way of example, 11 patients were enrolled in gardening (the activity ran from May to November) and earned €450 at the end of the training course. Some handicraft products were also sold (with 70% of the profit paid back to the patient).

220. Patients' medical files were very well kept, all in electronic format, and were comprehensive. It was possible to access the community health records of the patients. Regarding installations, there were eight nursing/consultation rooms within the unit (four on each floor).

### 4. Staff

221. The healthcare personnel assigned to the unit consisted of 20 nurses (two of whom were managers), 16 operational assistants (nurse assistants), one Department Director, one psychiatrist, one occupational therapist, one social worker, and one psychologist. One private security guard was posted at the gate of the unit (not in the unit building as such) and never entered a ward. An additional psychiatrist was on maternity leave at the time of the visit.

With this complement, five nurses and four assistants were present during the day, and three nurses and three assistants in the evenings and at night. A psychiatrist was present on the unit daily until 17:00 every weekday. On weekends, there were three nurses and three assistants per shift, but no psychiatrist on the unit. A duty doctor was always available within the hospital.

**The CPT recommends that the presence of qualified staff employed to provide therapeutic and rehabilitative activities be increased, notably as regards psychologists and occupational therapists.**

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111. For example, gardening activities were paid €150 for 50 hours, attending the "Qualifica" training was paid €1 per hour, vegetable gardening was €54 per year, upcycling (2 hours per week) was paid €54 per year.

## 5. Seclusion and means of restraint

222. There was no use of mechanical restraint within the forensic unit. There was one ligature-free seclusion room located next to a nursing office. It had a glass door and was equipped with a mattress, table and chair, and CCTV.

It was reported that the room had been seldom used since the opening of the unit, and when it had been, the door had remained open. One patient confirmed that he had spent 24 hours in this room without it being locked. He had however been administered rapid tranquillisation during the placement.

The delegation was informed that if a measure of seclusion had to be enforced on the unit, the practice would be for the patient to be monitored by a nurse via CCTV and that the measure would be reviewed by a doctor every six hours. All data related to seclusion would be recorded in the individual file of the patient and then submitted electronically to feed the hospital's general database on isolation<sup>112</sup>. There was no specific register on the unit to record any such placements.

223. It was explained that in case of need, a nurse could provide so-called "SOS medication" or *pro re nata* medication, with the approval of the duty doctor. It was explained that if a risk was imminent, SOS medication would be applied and a psychiatrist on duty would be informed only afterwards and invited to personally visit a patient as soon as possible. In the absence of an SOS prescription, a duty psychiatrist would be contacted by telephone in order for them to visit a patient or to advise on urgent medication and visit afterwards.

224. **The CPT recommends that every patient who is subjected to seclusion should be supervised continuously. The staff may be outside the patient's room (or in an adjacent room with a connecting window) if the patient can fully see the staff member and the latter can continuously observe and hear the patient. Video surveillance cannot replace continuous staff presence.**

**The CPT further recommends that a dedicated register be introduced on the unit to record all instances of resort to restraint measures – whether physical or chemical – and seclusion. The entries in the register should include the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register, and at their request, they should receive a copy of the full entry.**

## 6. Discipline

225. The delegation was pleased to learn that the hospital, correctly, did not discipline patients. This reinforces the recommendation made by the Committee in paragraph 201 to end the application of the prison disciplinary rules to patients accommodated in the Psychiatric Clinic of Santa Cruz do Bispo Prison.

## 7. Safeguards

226. The same remarks apply here as those formulated in paragraphs 206 to 209.

227. Patients could receive visitors. They usually met outside in the garden, even though a room was available in the building. It was equipped with chairs. **It may be advisable to equip the visitors' room with tables.**

Most patients benefited from supervised outings (temporary leave known as *precaria*), meaning they could leave the hospital grounds accompanied by a nurse, a family member or a volunteer, usually for 10 hours, and up to 36 hours. These were granted by the judge who reviewed the patients' files in this regard every four months.

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112. The information was analysed by the Committee for the risk management.

228. According to the unit Director (psychiatrist), around one third of the patients on the unit no longer required hospitalisation but required supported residential or community accommodation which was not available. There was currently one patient on the unit who had been hospitalised under a “security measure” for the last 35 years.<sup>113</sup>). **Similar to the request formulated in paragraph 207, the Committee would like to be informed about the measures being taken or envisaged to transition this group of patients from a forensic psychiatric facility to appropriate care structures in the community.** In light of the information provided by the Portuguese authorities on 3 March 2023, indicating that a “significant increase in the number of beds in the national health system, foreseen by the Ministry of Health under the Recovery and Resilience Plan, will strengthen very significantly the capacity of the system”, **the Committee would like to receive additional information about these plans, including the number of beds planned, their location, and any progress regarding the implementation of this plan.**

## **8. Conclusion**

229. The unit at Magalhães Lemos Psychiatric Hospital offers an appropriate therapeutic environment for forensic patients, unlike Santa Cruz do Bispo Prison Clinic. The delegation was informed of plans to increase the capacity of the forensic unit by an additional 35 beds once an adjoining unit had been renovated. **This would be a welcome and much needed development. The CPT recommends that the Portuguese authorities duplicate the creation of such units across the country.**

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113. He stayed on due to a lack of alternative accommodation. It is worth noting that the maximum criminal sentence in Portugal is 25 years.

## APPENDIX I – ESTABLISHMENTS VISITED

The delegation visited the following places of detention:

### Law enforcement establishments

- PSP Metropolitan Command Headquarters, Moscavide Avenue, Lisbon
- PSP District Command Coimbra, Rua Elísio de Moura, Coimbra
- PSP 3rd Police Division, Rua André de Resende, Lisbon (Benfica)
- PSP Police Division Loures, Rua José Dias Coelho, São João da Talha
- PSP Police Station Cruz de Pau, Rua Binta, Amora
- PSP 3rd District Police Station, Travessa da Água da Flor, Lisbon (Bairro Alto)
- PSP 4th District Police Station, Rua da Palma 169, Lisbon (Palácio da Folgosa)
- PSP 63rd District Police Station, Rua Bernardino Machado 4, Lisbon (Damaia)
- PSP Metropolitan Command Headquarters, Rua Agostinho José Freire, Porto (Quinta da Bela Vista)
- PSP 6th District Police Station, Rua de Naulila 206, Antas, Porto
- GNR Police Station, Rua João de Deus, Sintra
- GNR Police Station, Bairro Nicolau Chanterenne, Ançã
- GNR Police Station, Rua da Eirinha, Penacova
- GNR Police Station, Rua Armindo Moreira, Sao Pedro de Avioso Maia (Porto area)

### Prisons

- Aveiro Prison\*
- Coimbra Judicial Police Detention Zone\*
- Lisbon Central Prison
- Lisbon Judicial Police Prison\*
- Porto Custódias Prison\*
- Porto Judicial Police Prison\*
- Tires Prison (Lisbon area)
- Santa Cruz do Bispo Women's Prison (Porto area)
- Campus de Justiça, Court Detention Area (Block B), Alameda dos Oceanos, Lisbon\*

### Forensic psychiatry units

- Psychiatric Clinic of Santa Cruz do Bispo Prison (Porto area)
- Forensic Unit of Magalhães Lemos Hospital, Porto

\* Targeted visit primarily to interview remand prisoners concerning their treatment by the police.

**APPENDIX II – LIST OF THE NATIONAL AUTHORITIES,  
OTHER BODIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH  
THE CPT’S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

**Ministry of Internal Affairs**

Mr José Luís CARNEIRO, Minister of Internal Administration

Mr Ricardo CARRILHO, Deputy Secretary-General of the Ministry of Internal Administration

Mr Vítor TEIXEIRA DE SOUSA, Head of the Cabinet of the Minister of Internal Administration

Mr José Carlos ARSÉNIO, Adviser at the Cabinet of the Minister of Internal Administration

Secretariat-General of the Ministry of Internal Administration

Mr Ricardo CARRILHO, Deputy Secretary-General

Ms Madalena MARTINS, Director for International Relations

Ms Sílvia LOPES, Head of Unit for International Relations

Inspectorate General of Internal Affairs (IGAI)

Ms Anabela CABRAL FERREIRA, General-Inspector of Internal Administration

Mr Eurico NUNES DA SILVA, Inspector

National Republic Guard (GNR)

Lieutenant-General Rui CLERO, General-Commander

Lieutenant-General Maurício Simão TENDEIRO RALEIRAS, Inspector

Lieutenant-General Paulo Miguel LOPES DE BARROS POIARES, Human Rights Officer and Head of Unit for Strategic Planning and International Relations

Major Ricardo Luís RODRIGUES GUIMARÃES DA SILVA, Head of Unit for Criminal Prevention and Community Policing

Public Security Police (PSP)

Chief-Superintendent Manuel MAGINA DA SILVA, National Director

Chief-Superintendent Pedro José LOPES CLEMENTE, National Inspector

Intendent Hugo Duarte DE SOUSA BATISTA E GUINOTE, Human Rights Officer

### Border Service (SEF)

Mr José Luís BARÃO, Deputy National Director

Inspector Maria José RIBEIRO, Director of the Lisbon Border Force

### **Ministry of Justice**

Ms Catarina SARMENTO E CASTRO, Minister of Justice

Mr Jorge ALVES COSTA, Deputy Minister of Justice

### Directorate-General for Reinsertion and Prison Services

Mr Rómulo Augusto MATEUS, Director-General

Mr Paulo MOIMENTA DE CARVALHO, Deputy Director-General

Mr André NAMORA, Prosecutor, Coordinating Inspector of the Audit and Inspection Service

Ms Mafalda CASTRO, Head of the Health Competence Centre

Ms Amélia BENTES, psychiatrist, Clinical Director of the Psychiatry and Mental Health Clinic of Santa Cruz do Bispo

### Judiciary Police

Mr Luís NEVES, National Director

Mr João MELO, Deputy National Director

### General-Inspectorate of Justice Services

Mr Gonçalo da CUNHA PIRES, Inspector-General

Ms Sofia COELHO FERNANDES, Deputy Inspector-General

### National Institute of Legal Medicine and Forensic Sciences

Mr Francisco CÔRTE-REAL, President

Ms Maria Cristina MENDONÇA, Head of Unit, Forensic Intervention in Catastrophes

### Directorate-General for Justice Policy

Ms Mariana SOTTO MAIOR, Deputy Director-General

Ms Sara NUNES DE ALMEIDA, Deputy Coordinator for European Affairs

## Office of the Ministers

Ms Sónia REIS, legal adviser at the Office of the Minister of Justice

Ms Inês HORTA PINTO, legal adviser at the Office of the Deputy Minister of Justice, liaison officer for the CPT visit from the Ministry of Justice

## **Ministry of Foreign Affairs**

H.E. Mr Francisco ANDRÉ, Secretary of State for Foreign Affairs and Cooperation

Ms Cristina CASTANHETA, Deputy Political Director

Ms Ana BRITO MANEIRA, Director for International Political Organizations

Mr Eduardo PINTO DA SILVA, Head of the Human Rights Division

Mr Miguel ALEGRE, Human Rights Division

## **Ministry of Health**

Ms Maria de Fátima FONSECA, Secretary of State for Health

Mr Miguel XAVIER, National Coordinator for Mental Health Policies

Ms Carlota PACHECO VIEIRA, Director for International Relations at the General-Directorate for Health

## **Public Prosecutor's Office**

Ms Joana FERREIRA, Director of the Judiciary Cooperation and International Relations Department at the Public Prosecutor's Office

Mr Miguel Ângelo CARMO, Adviser to the Public Prosecutor

Ms Raquel TAVARES, Officer at the Cabinet for Documentation and Comparative Law at the Public Prosecutor's Office

Ms Maria José MAGALHÃES, Prosecutor at the Lisbon District Prosecutor Office

## **B. Office of the Ombudsperson and National Preventive Mechanism**

Ms Teresa ANJINHO, Deputy Ombudsperson

Mr Miguel FELDMANN, Head of the National Preventive Mechanism

Ms Inês VITERBO, Legal Adviser to the National Preventive Mechanism

Mr Filipe DOUTEL, Legal Adviser to the National Preventive Mechanism