



CPT/Inf (2023) 36

Response

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

from 23 May to 3 June 2022

The Government of Portugal has requested the publication of this response. The CPT's report on the 2022 visit to Portugal is set out in document CPT/Inf (2023) 35.

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.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Portugal wishes to thank once more the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) for its visit to Portugal, which took place from 23 May to 3 June 2022.

The Government of Portugal is an enthusiastic supporter of the Council of Europe and we firmly stand behind the promotion of the values which are at the basis of the Council's work: human rights, democracy and the rule of law.

We remain committed to having full collaboration with all mechanisms of the Council of Europe, including CPT, and consider that their visits are of great value because they provide independent and impartial insight on how best to comply with the provisions of the instruments Portugal is a party to and on how to improve the protection of the human rights of all persons living in our territory.

The Portuguese authorities appreciate all the collaboration that they have had with the CPT over the years. This cooperation extends well beyond the duration of the visits of the CPT delegations. Indeed, Portugal has always analysed very carefully and studied in depth the recommendations put forward by CPT in previous occasions; a great majority of such recommendations has been accepted and many have been implemented.

The 2022 visit was no different from the previous ones. The Portuguese Government has paid close attention to the CPT's recommendations, both at the end of its visit and in the framework of the preliminary observations as well as of this final report. In some cases, action was immediately taken; in many cases, the recommendations made by the CPT are being implemented or have sparked reflection.

The response below is demonstrative, in our view, of this constructive and open spirit with which Portugal receives and analyses recommendations from CPT and other international human rights bodies. From landmark legislative changes – such as the approval of the new Mental Health Law, the regulation of the use of bodycams by police forces or the plan to close Lisbon Central Prison – to smaller changes of a programmatic or minute nature, the Government is taking decisive steps to address problems which still persist and which hinder the enjoyment of human rights by all.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

A. LAW ENFORCEMENT AGENCIES

A.1. Ill-treatment and effective investigations (§13-33)

The Inspectorate-General of Home Affairs has as its mission to routinely carry out inspections to police establishments (of the *Guarda Nacional Republicana*, *Polícia de Segurança Pública* and *Serviço de Estrangeiros e Fronteiras*) without prior warning. These inspections include verifying the existence of weapons and their conditions – all recommendations regarding weapons have so far been complied with. In September 2022, the Inspectorate-General also issued a recommendation on handcuffing, which has been published on the Inspectorate-General’s website.

The Inspectorate-General of Home Affairs also proposed the Protocol between itself, the Directorate-General for Reinsertion and Prison Services and the Inspectorate-General for Justice Affairs, which was signed on 23 March 2023. To materialize this Protocol, the Inspectorate-General created a rota of inspectors so that the inmate who presents signs of ill-treatment is heard by an inspector less than 48 hours after the Directorate-General for Reinsertion and Prison Services communicated the case.

Furthermore, on 19 October 2023, the Government approved a law proposal to be submitted to Parliament on the criminal regime applicable to offenses against the physical integrity of security forces agents. The proposal determines that cases of attacks committed either by or against police officers when they are exercising their functions must be processed in an urgent manner.

A.2. Quality of injury reports (§34)

The Portuguese authorities and, in particular, the Ministry of Justice are making a concerted effort to continuously improve the quality of the injury reports drawn by prison clinical services as provided by in Circular 1/2017.

The Training Department of the Directorate-General for Reinsertion and Prison Services already provides training to its staff, with the collaboration of the National Institute of Legal Medicine and Forensic Sciences, on the specific topic of assault and



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

self-harm registration. Regarding imaging equipment, photo cameras are already available for the purpose of recording the injuries.

For the future, the Competence Centre for Healthcare Management of the Directorate-General for Reinsertion and Prison Services will update the Manual of Procedures for the Provision of Healthcare, namely the Annex on assault and self-harm registration, in accordance with current best practices.

A.3. Communication of potential ill-treatment to the General-Inspectorates (§35-39)

The Directorate-General for Reinsertion and Prison Services is aware of the relevance of its role in preventing and addressing ill-treatment against inmates, perpetrated not only by its own staff but also by members of police forces. This must be done through the expeditious collection and reporting of situations of suspicion of ill-treatment when inmates enter the prison system with the intervention of police officers.

Regarding the delays identified by the CPT delegation in the communication of situations of alleged or visible injuries, from the prisons to the Directorate-General and its onwards transmission to the relevant Inspection body, the Government reiterates that the rules in force provide that the communication from the prison to the Directorate-General and its further transmission to the relevant Inspection body shall be made “immediately”.¹

The Government acknowledges that, despite these clear rules, there were cases where those communications were not as expeditious as they should have been. These occurred especially during the pandemic.

To ensure expeditious reporting in all cases, the following measures were taken:

- Immediately after the CPT delegation brought the problem to the attention of the Justice authorities, the Director-General for Reinsertion and Prison Services issued a circular to all prisons and relevant departments reiterating the need for expeditious reporting and giving instructions thereof.

¹ *Vide* article 11(3) of the General Regulation of Prisons; the Joint Ordinance of the Ministers of Justice and Internal Administration No. 11838/2016; and the Ordinance of the DGRSP No. 1/2017.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

- In the Annual Work Plan for 2022 of the Directorate-General, among the goals and indicators set for every prison, the goal of ensuring expeditious communication of these situations was included. To this end, the prison establishments must submit to the Directorate-General, by the end of each year, information and evidence regarding the timings of the communications made, which will count for the yearly performance evaluation.
- As mentioned above, a protocol between Directorate-General and the two Inspectorates-General (of Home Affairs and of Justice Services), aimed at speeding up and enhancing the efficiency of the investigation of facts, was signed on 23 March 2023. The protocol aims to streamline the procedures applicable in cases where inmates enter the prison system from police custody and present injuries or allege ill-treatment. The protocol includes rules on information-sharing between the two bodies, time limits and forms of communication (privileging electronic mail and allowing hearings by videoconference).
- The Work Plan of the Audit and Inspection Service for 2023 includes a nationwide inspection to assess compliance with Circular No. 1/2017 and the new Protocol, aimed at ensuring compliance with the law and the guidelines regarding the internal procedures for the collection of evidence and information, and timely communication to the competent Inspection body.

A.4. Criminal investigations into ill-treatment (§38)

Attached is the information provided by the Public Prosecutor's Office in response to the CPT's request to receive a detailed outline of the procedural steps taken in respect of specific cases of alleged ill-treatment.

A.5. "Campus da Justiça" holding facility (§53)

After the Portuguese authorities received the CPT report, the Inspectorate-General of Justice Services decided, on 30 May 2023, to carry out an inspection of the places of



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

detention located in the Campus da Justiça, in Lisbon. The Inspectorate-General delivered its preliminary report on 20 June 2023 and the final report on 29 June 2023.

It should be recalled that these detention facilities are subject to the Regulation on the Conditions of Detention in the Facilities of the Judiciary Police and in Places of Detention in Courts and Public Prosecution Services, approved by the Ordinance of the Minister of Justice no. 12786/2009. This regulation was drawn up precisely in compliance with a recommendation by the CPT, contained in the report of its 2008 visit.

The Regulation provides in Article 32 that “[t]he existing places of detention in the premises of the Judiciary Police, the Courts and the Public Prosecution Services shall be subject to systematic verification by the Inspector-General of Justice Services”. Since 2009, the Inspectorate-General has conducted 7 such inspections. The detention places located in the Lisbon Campus had already been inspected by the Inspectorate-General in 2018 (inspection I-1/2018).

In the most recent inspection, it was observed that, in the detention cells, there were several information boards containing the rights and duties of the detainees, as provided for by the Regulation.

Regarding the issues raised by the CPT in its report, it was found that the walls are made of cement, plastered and painted in light colour, although they are dirty with inscriptions that the detainees make using the piece of fruit or the plastic cutlery which are delivered to them with the meal. The Institute of Financial Management and Equipment of the Ministry of Justice is currently undertaking procurement procedures aimed at cleaning and painting the walls. Considering the intensive use of these spaces, it was signalled to Institute of Financial Management and Equipment the need for this painting to be carried out regularly, on an annual basis.

The cleaning of the cells is done daily, in the morning. However, there is still a cleaning team available in case other cleaning is necessary. The last cleaning had occurred on the same day of the inspection. In what concerns disinfection, it is carried out 3 to 4 times a year, by a specialised company. There are two sanitary facilities: one for women and one for men. It was found that all sanitary facilities were in good hygienic conditions.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Regarding food, the Inspectorate-General found that the meals are taken in the cells, and are provided in individual disposable packages, consisting of soup, main dish, bread, fruit and water. Cutlery, a napkin and a disposable cup are also provided. Lunch meals come from the kitchen of the Prison Facility Annex to the Judiciary Police and are transported in a thermal container. The number of meals are requested around 11am, such request corresponding to the number of detainees who are there at that time, plus two or three more portions, in case more detainees arrive in the meantime. In case it is necessary to provide dinner to the detainees, the meals are requested to the Metropolitan Command of Lisbon of the Public Security Police, in Moscavide, and are made available in similar conditions to those of lunch, i.e. in individual portions. According to information obtained from agents of the Public Security Police who have been working there since the inauguration of the facilities, meals have always been served in individual portions. Therefore, the information stated in the CPT report, when it refers that meals are served in large pans, was not confirmed.

In what concerns Wing A for inmates, cleaning is also made daily, and disinfections take place also three to four times a year. The walls of the cells were clean, since prison guard staff immediately remove any inscription made by the inmates (the same does not happen with inscriptions carved by inmates on the benches). Regarding Wing B, the inmates' meals are provided by the Prison Facility Annex to the Judiciary Police, and exactly in the same conditions.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

B. PRISON ESTABLISHMENTS

Concerning material conditions in general, the Ministry of Justice is working on a multiannual investment plan, to be submitted to the Council of Ministers to be approved as a Resolution, with the allocation of the necessary budget funds. The plan contemplates renovation works in prisons and detention centres for juveniles, renovation and/or replacement of equipment (for kitchens, laundries and thermal power stations) as well as new prison vans.

Additionally, on 19 June 2023, the Government presented to the Parliament a law proposal establishing an amnesty and a pardon of penal sentences, within the framework of the celebrations of the World Youth Day Lisbon 2023. The pardon encompasses offences committed by young persons between 16 and 30 years of age at the time of the commission of the offence. One year of imprisonment is to be pardoned for all sentences of imprisonment up to eight years. Several exclusions apply, mainly related to the type of offence.

As regards the low ratio of staff to prisoners, an issue also mentioned in the Preliminary Observations following the visit of the CPT delegation, the Government wishes to inform that 135 new prison officers (guards) entered the prison service in the first semester of 2022, following the completion of the Initial Training Course for Prison Guards. Additionally, a new call for applications for admission of 150 more guards is in progress, under which 111 trainees (95 male, 16 female) have initiated their 9-month training in March 2023. Thus, in the last 4 years, more than 400 staff entered the prison service, while the prison population has decreased and the system as a whole is not overcrowded, which naturally influences the ratio prisoner/guard, which decreased from 3.4 in 2015 to below 3 (around 2.7).

The Government will proceed with the recruitment of prison officers, in line with the commitment made in the Budget Law for 2022. In 2023, authorisation was also obtained for the promotion of 150 prison guards. A selection procedure of civil servants for the Directorate-General for Reinsertion and Prison Services headquarters and for prison establishments is also ongoing. Furthermore, the recruitment of 105 new probation



S. R.
MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

officers (*técnicos profissionais de reinserção social*) for the juvenile detention centres and for the electronic monitoring teams was recently authorised.

B.1. Lisbon Central Prison (§56-57)

The Ministry of Justice, continuing its efforts towards the closure of Lisbon Central Prison, submitted a plan to the Council of Ministers, so that the commitment may be taken at the highest level. The plan was approved by Council of Ministers Resolution no. 118/2022, of 29 November, which authorizes the necessary expenditure.

The plan contemplates the following steps, to be implemented until 2025:

- The plan primarily involves the renovation of already existing infrastructures in other prisons close to Lisbon, adapting degraded or underused pavilions, which will allow to increase the existing capacity and accommodation.
- In the first stage, the capacity and accommodation of existing but underused prison buildings will be increased. For that purpose, 9 existing prison pavilions in 3 prisons (Alcoentre, Linhó and Sintra) will be remodelled.
- In the second phase, pavilion 3 of the Tires Prison, currently vacant and in poor condition, will be renovated.
- In the last phase, a new pavilion, similar to pavilion 3, will be built in Tires. The renovation of the northern area of the Caxias Prison will also be, in this phase, part of the solution for the definitive closure of the Lisbon Prison.

The plan provides for works to be carried out until 2026. Therefore, only then will the closure of the prison be complete and definitive. However, as works in Linhó, Sintra, Alcoentre, Caxias and Tires are completed, transfers of prisoners may gradually take place. It is expected that in mid-2024 and/or early 2025, the first transfers of inmates may begin. The public procurement procedures for the renovation works are already ongoing.

Additionally, despite the intention to close the prison, investments have been made in the maintenance of the building while it remains in use. For example, a contract



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

to repair the roof of the central building (panopticon roof) in the amount of 75 thousand euros is underway.

B.2. Ill-treatment in prisons (§58)

The Portuguese Prison Service pursues a zero-tolerance policy regarding ill-treatment. The use of coercive means by prison staff is mandatorily followed by a telephone communication by the prison director to the Director-General for Reinsertion and Prison Services.

Additionally, between 2017 and 2021, CCTV were installed in 29 prisons and the progressive installation of this equipment in other prisons is ongoing.

The landline phones which will be installed in prison cells under the recent amendment to the General Regulation of Prisons will include the function of cell call bells, thus overcoming the problem of recurrent failures of the existing emergency buttons.

Regarding the rule that there should not be talk in a loud voice during meals in the dining rooms of some prisons, we clarify that it is not a formal prohibition. It is true that, in some prisons, to allow for the good functioning of the dining rooms, it is required that conversations be kept in a low tone of voice. However, there are no consequences (namely, of a disciplinary nature) for not complying.

B.3. Women's Prisons: alternatives to imprisonment (§63)

Law no. 94/2017 amending the Penal Code introduced a new system of home detention as a form of implementation of prison sentences up to two years, or the remaining two years of imprisonment in case of recall to prison following revocation of a non-custodial sentence. Those prison sentences are implemented in home detention whenever the Court finds that by this means the purposes of punishment are adequately and sufficiently fulfilled. Home detention implies an obligation to remain at home, with electronic monitoring, for the length of the prison sentence.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

A “rehabilitation plan”, which guides the implementation of the sentence, must be prepared by the probation service whenever the sentence exceeds six months or the offender is younger than 21 years old; the plan is subject to the approval of the Court of Execution of Sentences. The Court may allow the offender to leave home at certain times of the day for specific purposes, namely to attend rehabilitation programmes, to keep a job, to attend school or vocational training. The Court may additionally impose certain duties. Both the duties and the leaves of absence may be modified throughout the implementation of the sentence by the Court responsible for the execution of sentences. Law no. 94/2017 also eliminated from the Penal Code two penalties of a custodial nature: weekend detention and semi-detention, due to their inefficacy in practice.

B.4. Women’s Prisons: ill-treatment (§65-68)

Disrespectful or offensive treatment, including verbal abuse, constitutes a violation of the general duty of correction and a disciplinary offence by the Directorate-General for Reinsertion and Prison Services staff. Prison guards have a special duty under their Statute to maintain, in their relations with prisoners, correct language and courtesy. All reported situations infringing these rules are duly investigated by the Audit and Inspection Service and are decided according to the facts found.

In Tires prison, from the beginning of 2022 to June 2023, between 250 and 300 complaints from female inmates were registered, with those concerning mistreatment by prison workers and/or disrespectful or offensive treatment representing about 10% of the total. Of these, after the investigation procedure, only one complaint was held founded and the worker (a health professional) was subject to a disciplinary sanction.

Concerning the situation that took place in Santa Cruz do Bispo Women’s Prison on 2 May 2022, the inmate lodged a complaint according to Circular no. 9/2021, which was duly investigated and was considered unfounded. It is one of the four complaints addressed below, where the complaint was lodged after disciplinary proceedings were opened concerning the inmate’s behaviour.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Concerning allegations of contacts of sexual nature between male staff members and female prisoners, two situations were reported and investigated in the Audit and Inspection Service, giving rise to two disciplinary proceedings (no. AUD.D/2020/11 and AUD.D/2020/21). In one of them (involving kissing an inmate), the staff member was given a disciplinary sanction of 30 days of suspension, suspended for 1 year; in the second one, disciplinary proceedings are suspended because the prison guard is retired. It should be mentioned that, after the facts were brought to the knowledge of the Prison Service, both staff members were transferred to another prison.

It should be noted that a change in the usual profile of prisoners is developing, with a greater propensity for violence among younger prisoners from the major urban peripheries, which has been addressed in the context of the working groups and intergovernmental commission set up to specifically address the issue of juvenile group crime. In the prison context, these incidents are dealt with by disciplinary action (which requires the facts to be established) and, in more serious cases, by the assignment of the prisoner to a secure regime and, where necessary, a change of establishment. These events must be reported by the establishments to the central services. Where necessary, prisoners who are at risk of aggression are also reassigned. The progressive installation of CCTV equipment throughout the prison system will contribute to the dissuasion and investigation of inter-prisoner violence.

B.5. Women's Prisons: material conditions (§69-72)

Regarding personal hygiene items, the General Regulation of Prisons ensures that a hygiene kit is provided for all inmates on admission (articles 3 and 12). Inmates who are unable to afford personal hygiene products are provided with a basic kit on a regular basis (articles 43 and 238). There is also a kit provided for children living with their mothers, when they cannot afford to buy them (article 246). The CPT's recommendation to extend the offer of the kit to all female prisoners will be taken into account, in particular in the framework of the *Equality4all* project, even if undertaking such a commitment will be limited by financial constraints.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

As informed in the response to the CPT's preliminary observations, renovation works in sanitary facilities of multiple occupancy cells in Santa Cruz do Bispo Women's Prison were budgeted and planned for 2022, aimed at ensuring privacy for women using these facilities. We can now confirm that these works have been completed.

As to the recommendation to renovate the yards to render them less 'carceral', the Government agrees with the recommendation and will make efforts to improve the yards. For Santa Cruz do Bispo Women's Prison, a project is already being developed to that effect by the Serralves Foundation (an art foundation in Porto whose mission is to raise the public's awareness concerning contemporary art and the environment).

As already mentioned above, the Ministry of Justice is preparing a multi-annual investment plan for 2023-2027 for the Justice sector, to be submitted to the Council of Ministers. In this plan, it is foreseen to create an industrial laundry in Tires Prison, with an investment of 2 million euros and providing employment to 45 women prisoners.

B.6. Women's Prisons: regime (§75)

Since the CPT's visit, there has been significant progress at Tires Prison in terms of the occupation of inmates, with regard to work, education, vocational training, sports and occupational activities, as the following indicators show:

B.6.a. Work

	2022	2023
Inmates with occupation	133	170
External entities (companies and municipalities) operating in the prison	3	4
External jobs	52	91
Internal jobs, of which:	76	79



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Arraiolos carpet workshop	5	6
Cleaning and maintenance	71	73

B.6.b. Education

2022: 100 inmates attending education, of whom:

- Basic Skills (Literacy): 13;
- Basic Education (1st grade to 9th grade): 53;
- Secondary Education (10th to 12th grade): 37;
- Higher Education: 6;
- Portuguese for Foreigners: 5.

2023: 104 inmates attending education.

B.6.c. Vocational Training

2023: 2 courses scheduled to start in September – 30 inmates selected.

B.6.d. Sports

	2022	2023
Johnson's Academy	16	13
Rugby project	13	38
Yoga (note: a new yoga class is expected to open still in 2023)	--	16
Total	29	67

B.6.e. Art/Design

2023: 15 inmates attending the Jewellery Design course, provided by a jewellery designer as a volunteer.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

B.6.f. Rehabilitation Programmes

Currently, programmes aimed at the development of personal, social and emotional skills are being implemented, both by prison staff and external entities, namely:

- Moral and Ethical Development Programme (*Serviço de Acompanhamento e Execução de Penas*, i.e. prison social workers);
- Parenting Skills Programme (Psychology);
- Employability Skills Programme (La Caixa Foundation);
- Personal and Social Skills Programme – 1 Step+ (Johnson’s Academy);
- Positive Parenting Programme (Faculty of Psychology of the University of Lisbon).

B.7. Women’s prisons: mothers and their children (§80-83)

Immediately following the visit of the CPT, on 2 June 2022, a working group was created by the Directorate-General for Reinsertion and Prison Services in charge of drafting a Regulation on the care and protection of children accompanying their parents in prison.

The Regulation was signed on 1 June 2023. It covers issues such as the entrance and reception of children in prison, stressing the importance of assessing their psychological well-being and special intervention needs, namely in terms of health; the conditions of permanence/development in prison: adequate food for their age, health, including vaccination plan, access to recreational/pedagogical resources; the preservation of the child/mother relationship, including through a strict limitation of the placement of pregnant women or women with children in disciplinary cells; the promotion of ties with other elements of the family; the preparation of the exit from prison; and the definition of a life project for each child.

The importance of the issue is also illustrated by the fact that the Inspectorate-General of Justice Services included in its activity plan for 2023 an inspection on the conditions and care provided to inmates and their children in prison, the final report of which was submitted to the Minister of Justice in June 2023 (no. A-1/2023). The audit



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

has already taken into account the observations contained in the CPT's report, which was communicated to the Portuguese authorities during the course of the inspection.

B.7.a. Tires Prison

In what concerns *Casa das Mães* (the dedicated wing for mothers) of Tires Prison, it should be clarified that the women have the cells open every day, including on weekends.

Following the CPT delegation's observation regarding the non-availability of the children's room adjacent to the accommodation area (*sala lúdica*), which had not been in use in the context of the pandemic, the Director-General gave immediate instructions for the room to be made available, in the context of the downgrade of the COVID-related restrictions. Thus, on 6 June 2022, the Director of the Tires prison issued an Order, regarding the use of the two Children's Rooms of *Casa das Mães*, which determined that the recreational rooms must be open from 9am to 11.45am and from 2.15pm to 5pm, on working days, and during recreation periods on non-working days, aiming at favouring the interaction between mothers and their children, namely while the children are not in the nursery. In addition, it was established that, during open-air periods in Wing B, these rooms should keep the doors giving access to the outside fully open, so that mothers and children can also, optionally, be between one space and another during this period. During periods when there is no open-air recreation, mothers may remain in the playrooms with their children.

Additionally, in order to promote the relationship between children who are with their mothers in prison and their fathers, fathers are authorised, in addition to the visits already available, one extraordinary monthly visit, which will take place in the playrooms and with access to the outdoor area of pavilion B, on the first Tuesday of each month, from 4.30 to 5.30pm.

As to the recommendation of making available cooking and washing, as well as shared living areas for mothers and their children, the Government agrees that this would be desirable. However, the infrastructural conditions of the existing building presently do not allow it.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

As to the availability of indoor and outdoor areas where mothers and children can bond over play in an appropriate child-friendly environment, we confirm that (since the lifting of COVID-19 restrictions), the playroom (*sala lúdica*) is open daily. During open-air recreation hours, mothers and children can use both the outdoor area and the adjacent playroom; outside of open-air recreation times, the playroom remains open and is always available for the use of mothers and children, even on weekends. The playroom is only closed during meals, visitation hours and in the evening.

Concerning the provision of sanitary and hygiene products as needed, and food suitable for infants, Article 246 of the General Regulation of Prisons states the following: “The prison shall ensure the feeding of children, according to their needs and in accordance with medical indications; paediatric milk and infant porridge shall be provided to children, in accordance with medical indications, when prisoners lack the means to purchase them. The prison shall provide the necessary childcare and hygiene products, when prisoners lack the means to purchase them.”

Thus, with regard to the clothing of babies, all inmates with children are provided with a first set of clothes, as well as the necessary clothing related to the different stages of the children’s development. The supply of clothes is ensured by the prison with donations made by an association of voluntaries. In the case of inmates who lack the means to purchase baby products, a kit is provided by the prison, containing nappies, wipes, moisturising cream, nappy rash cream and others. The canteen has baby hygiene products available for purchase, such as shampoo, shower gel, moisturising cream, sponge, saline solution, nappies, wipes and nappy rash cream.

As to the placement of educators at the kindergarten, there are two permanent educators (who are permanent staff of the Directorate-General), assisted by four inmates who work at the kindergarten. The situation of absence of one of the educators, signalled in the CPT report, was due to a sick leave which occurred only for a period of 10 days. In any case, as the retirement of one of the educators is foreseen, the need for her replacement has already been signalled to the Human Resources department.

As to the provision of food which meets dietary needs of pregnant women and breastfeeding mothers, food is provided by an external company, in accordance with a set



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

of specifications approved for the contract of meals, taking into account, among others, the quantity and variety of food to be provided according to the specificities of each prisoner. Children's diet takes into account the needs related to the different stages of the child's development. The preparation of meals takes place in the prison kitchen.

Concerning the recommendation to improve the healthcare provision for children, namely through the engagement of doctors for the exclusive care of children (as, currently, general practitioners see both mothers and children), the Government will seek to comply with the recommendation. The prison has already requested the Healthcare Department of the Directorate-General to hire a paediatrician (9h/week) and a 24/24h nursing care service. The needs identified by all prisons will be taken into account depending on the budget of the Ministry of Justice for 2024.

It should be noted, however, that children of prisoners are entitled to use the National Health Service, so they can go to the Health Centres in the area of the prison or, in case of need, to the hospital paediatric emergency.

As to the presence of a prison officer during obstetric examinations and delivery, we confirm that this was the practice, though with measures to ensure privacy to the extent possible. Seeking to address the CPT's recommendation, the Directorate-General reflected on the possibility of reviewing this procedure and new procedures have been established. According to the new guidelines, in the situation of childbirth, the guard will remain outside the delivery room, waiting at the door, except when, on a case-by-case analysis, other measures are justified, either by the analysis of the surveillance staff or at the request of doctors, in view of the concrete behaviour of the inmate or the physical configuration of the room. It should be noted, however, that sometimes the inmate herself requests the guard to accompany her. Regarding obstetric examinations – a situation which, from the security point of view, is treated as other examinations –, a minimum of visual control is maintained, albeit at a distance, trying to ensure the privacy and confidentiality of the inmate (for example with the use of screens). The physical configuration of the examination room may allow for a relief of these measures.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

B.7.b. Santa Cruz do Bispo Women's Prison

The situation of the expecting mother who reported that she had been informed that she would not be allowed to keep her older child with her, pending the birth of her upcoming child, can be explained as follows. In Santa Cruz do Bispo Women's Prison, the cells that were designed for mothers and their children are located on the third floor. However, accommodating small children on the third floor would constitute a risk to their safety. For this reason, mothers are accommodated on the ground floor instead, in individual cells that have enough space for the mother's bed and the child's cradle but not two cradles. This is the reason why the inmate chose to let her older child go before giving birth.

B.8. Women's prisons: prisoners under a strict security regime (§80-83)

Regarding the security regime, all legal requirements are complied with, in particular the provisions of articles 193 to 220 of the General Regulation of Prisons. Inmates under this regime have a specific intervention plan in the areas of sports (gym), psychomotor stimulation and psychological support, in addition to the library.

Inmates with mental health conditions but who are not subject to an order of placement in a psychiatric unit receive clinical support and treatment.

No inmate deemed "criminally irresponsible" ("*inimputável*") is subject to the security regime. The inmate referred to in §95 – although in the past (2015) had been committed to a forensic unit outside the prison system for acts for which she had been considered "not criminally responsible" –, is no longer deprived of her liberty under such a decision, being now deprived of her liberty in Santa Cruz do Bispo Women's Prison and placed in security regime. During her stay in security regime, she received individualised and multidisciplinary treatment, with an emphasis on psychiatric care and clinical psychology. In addition, we inform that she is no longer under the security regime and she has been transferred to Tires Prison.

In relation to the malfunctioning of the call buttons, the situation was reported and is awaiting repair.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

As to the yards, they have already been renovated and rain protection covers have been placed so that they can be used even in winter.

Regarding the Tires Prison, there are no security cells. The only “special” cells in the prison are disciplinary cells, i.e., cells designed to accommodate inmates serving the most severe disciplinary sanction of confinement to a disciplinary cell.

Concerning the recommendation 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, the recommendation will be taken into account in the context of the ongoing revision of the Code governing the implementation of prison sentences. There are, however, security concerns to be considered, especially regarding the initial placement under security regime.

In fact, placement of inmates under a security regime is subject to the provisions of Article 15 of the Code. Inmates can be placed in security regime when: a) they have been sentenced or indicted, or are under strong suspicion of involvement in some types of crimes, namely terrorism, violent or highly organized criminality; b) they manifest a behaviour or commit acts that constitute a serious danger to others or to the prison’s order, discipline and security; c) there is a serious risk of an escape.

Placement under security regime is therefore, usually, a matter of great urgency. Furthermore, in many cases, the previous knowledge of the placement decision by the inmate may constitute an additional risk in itself. Also, the information on which the decision is based may be classified, especially when it is provided by an ongoing criminal investigation. As such, in most cases, a previous hearing of the inmate would not be possible.

It should nevertheless be possible to provide for a previous hearing of the inmate in the context of the legally mandated periodical review of the measure (every six months, or every three months, for inmates aged under 21), in any case notwithstanding the necessary safeguarding of classified or protected information. This possibility will be considered under the revision of the Code.

In any case, it should be noted that the decision of placement under security regime belongs to the Director-General and must be reasoned; it is mandatorily sent to the Public



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Prosecutor's Office representative at the Court of Execution of Sentences so that the legality of the decision is verified. Also, according to the case law of the Constitutional Court, the inmate is entitled to challenge the placement decision at the Court of Execution of Sentences.

B.9. Women's prisons: transgender persons (§99-102)

The Directorate-General for Reinsertion and Prison Services adopted a Manual on "Management and Treatment of Transgender Persons Deprived of their Liberty" (Circular no. 2/2022). It aims to safeguard the right to self-determination of gender identity and gender expression, and prevent discriminatory practices, providing technical and practical guidelines for the adequate management and support of transgender persons who are deprived of their liberty, taking into account their situation of vulnerability as well as the associated risks. The Manual includes a case assessment procedure, which ensures a multidisciplinary intervention to adapt decisions related to accommodation, security and sentence planning to the needs of the specific case. It includes recommendations and procedures for admission, identification and management, taking into consideration the issues of confidentiality and privacy of transgender persons in order to ensure their safety and that of others, as well as to meet their specific needs. The relevant criterion is now gender identity (the gender with which the person identifies), regardless of biological sex change.

In contrast to the previous situation (prisoners were assigned to prisons according to their biological sex or sex assigned at birth; in practice, this could result in the assignment to the Prison Hospital, as a protective measure in view of their special vulnerability), the new procedure ensures the transgender person the possibility to present and express themselves according to the gender with which they identify, which is taken into account in all decisions, namely in what concerns the assignment to a prison and its monitoring, always having as a guiding principle the balance between safety and well-being of the person deprived of liberty.

Besides the special care in the reception of the transgender person, with the application of the Suicide Prevention Programme, the Manual gives particular emphasis

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

to medical assistance, namely by ensuring the non-interruption of possible hormonal treatments or physical transformations initiated prior to detention, and to psychological monitoring, but also to aspects related to specific needs of security, privacy and confidentiality, taking care of practical and logistical issues, such as bathing in conditions of privacy, and body search procedures, to be carried out by an element of the same gender with which the person identifies.

The Directorate-General for Reinsertion and Prison Services is currently in the process of implementing and evaluating the Manual. The Manual allows a case-by-case gender differentiation, with a view to a selection that is sensitive both to the will of transgender prisoners and their safety, as well as security concerns. There are presently five inmates in the prison system who are in the process of gender transition, but who have already changed their civil identity according to the gender with which they identify.

Concerning the recommendation in §99, the inclusion of provisions regarding the treatment of transgender persons in law will be taken into account in the context of the ongoing revision of the Code governing the implementation of prison sentences.

The Prison Service management is attentive to all cases of discrimination. So far, only one case of potential discrimination has been detected, which was promptly remedied by sensitising the prison guard corps to the content of the Manual approved in the meantime.

B.10. Women's prisons: healthcare

B.10.a. Staff and facilities

The political will to improve health in detention is evidenced by the Ordinance of the Ministers of Justice, Science and Health creating a working group in charge of setting up a new Action Plan for Health in Prisons for the period 2023-2030. According to the ministerial Ordinance, the plan shall include the following:

- Assessment of the situation in Portugal;
- Identification of barriers and gaps in health promotion measures, disease prevention and access and continuity of care;



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

- Identification of measures to remove those barriers and to fill those gaps, with the respective technical and/or scientific support;
- Identification of measures aimed at social reintegration;
- Estimation of the financial impact of the proposed measures;
- Governance model for the implementation of the plan and its schedule;
- Evaluation model.

A holistic and continuous approach shall be adopted, considering, among others:

- Epidemiological monitoring;
- Health promotion and disease prevention;
- Access to health care, both by remote and in-person means;
- Organizational measures in the National Health Service and in the Prison System;
- Necessary financial and human resources;
- Research and development.

Tires Prison currently has the following clinical staff:

Professional category	Number of staff	Total number of hours per week
General practitioner	2	15
Nurse (DG staff)	2	70
Nurse (contractual)	9	125
Clinical psychologist (DG staff)	1	35
Clinical psychologist (contract)	1	12
Psychiatrist (contract)	1	8
Dentist (contract)	1	10



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Nutritionist (contract)	1	10
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Agreeing that the number of hours per health professionals should be reinforced, reinforcements in the fields of General Practice, Psychiatry, Psychology and Nursing were requested to the Healthcare Management Department of the Directorate-General for Reinsertion and Prison Services.

Santa Cruz do Bispo Women’s Prison operates based on a “shared management” model, which follows the provisions of the Shared Management Contract (C-2020/30), signed between Directorate-General for Reinsertion and Prison Services and *Santa Casa da Misericórdia do Porto*. The definition of the number of health professionals per shift is based on the contractual reference between the Directorate-General and *Santa Casa da Misericórdia do Porto*, which includes the mapping of staff. Despite this, *Santa Casa da Misericórdia do Porto* is actively contributing to increase the total number of working hours of certain groups of clinical professionals (including nurses). Despite this effort at the organisational level, we agree with the CPT’s recommendation, which is in line with that of the *Ordem dos Enfermeiros* (Portuguese Nurses Professional Association) during a recent visit to the establishment. The recommendation will be taken into account to the extent possible.

B.10.b. Medical screening on admission and drug treatment

On §111, the Government agrees with the recommendation. It is expected that, through the project that will be described below, new gender-specific and trauma-informed guidelines for the assessment and treatment of women prisoners will be designed. In any case, it should be mentioned that, upon admission into prison, inmates go through the admission assessment tool contained in the Integrated Technical Intervention Model (MITI), in use at the Directorate-General for Reinsertion and Prison Services.

The initial clinical assessment is based on the Directorate-General’s clinical process model, under Article 53 of the General Regulation of Prisons. According to this provision, at the consultation that takes place upon admission, information on the



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

prisoner's health status is recorded, and information on the clinical history is also collected from the National Health Service, if the prisoner consents to it. The same legal provision establishes that, at the admission consultation, special attention is paid to the following aspects: presence of mental health conditions; risk factors for suicide; withdrawal syndromes; communicable diseases and chronic pathologies; and signs of aggression, physical violence or sexual violence. Thus, with regard to issues related to trauma and sexual or other abuse, the topic is addressed at the admission consultation, in cases where warning signs for the situations are observable. In other cases, the follow-up is carried out in a psychology consultation.

Regarding Santa Cruz do Bispo Women's Prison, the clinical services include, since the beginning of their activity, a functional unit dedicated to the issue of addictive pathologies in prison (Addictive Pathologies Unit). The Addictive Pathologies Unit is a multidisciplinary unit which aims to not just to deliver on treatment but also to reduce risks and minimize damages related to consumption. To do so, it plans, implements and adapts strategies that aim at abstinence, which is encapsulated in the Unit's motto: to make the Women's Prison a large "drug-free establishment". Nevertheless, it is important to emphasise that any opiate substitution programmes in course before entering prison are continued in the prison, in articulation with the clinical services, whenever justifiable. Furthermore, new inductions of opiate substitution drugs will be carried out in clinical situations that justify them.

With this aim in mind, the Addictive Pathologies Unit promotes multiple programmes aimed at the target population, of which the following are of particular importance: drug and alcohol 'desabituating' programme; relapse prevention programme for alcohol; relapse prevention programme for illicit drugs; and illicit drugs consumption control programme. Regarding possible 'exchange programmes and availability of needles and syringes', the vision of this team is to promote abstinence, and therefore the consideration of safe practices of self-administration of narcotic substances in prison environment was not considered coherent. Moreover, given that the activity of this team has existed since 2005, we found that the detection of cases of intention to inject drugs has always been merely residual, if not null, in line with the data available on the subject at national level.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

In Tires prison, in situations of addiction, the prison service adopts a technical intervention based on a Motivational Interview that aims to work the inmate to change behaviour. Regarding the clinical approach, during the clinical interview at admission, the aspect of addiction and dependence is explored and, if an addiction is verified, the procedures for integration into a protocol programme for abstinence are triggered and the inmate is referred for clinical follow-up in psychology and psychiatry. Additionally, several awareness-raising and information actions on sexually transmitted diseases were carried out in partnership with the Association ‘Ser +’.

B.10.c. Access to care, medical files and medical confidentiality

The Ministry of Justice, together with the Ministry for Health, is currently implementing the second phase of the telemedicine project, which consists precisely of the digitalization of the clinical information of inmates, with a view to creating a single file for the patient, interconnected with the clinical data platform of the Ministry of Health

Concerning §124, we inform that pregnant women, women accompanying their children, women in particularly vulnerable situations and women placed in open regime are not subject to handcuffing. As a general rule, handcuffs are removed for medical procedures, provided that security reasons do not advise against it, unless health professionals request that they remain on.

B.10.d. Mental health

As to the recommendation regarding structured programmes in Tires Prison, the Prison Service expects to address these issues under the *Equality4All* project, described below, as its main objectives will be to prevent and combat gender-based violence and violence against children, in particular by raising awareness and training professionals who interact directly with victims and perpetrators, and to combat gender stereotypes as root causes of gender-based violence. As to mental health staffing levels and to structured programmes, we refer to the information provided above.

As regards the immediate observations made by the CPT delegation under Article 8, paragraph 5, of the Convention, and as was indicated orally during the meeting held on 3 June, the Portuguese authorities took immediate measures to address the situation of the



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

four women held in Santa Cruz do Bispo Women's Prison clinical services while waiting for a place in a mental health facility.

The Government wishes to clarify that the four women benefited from access to the prison gym twice a week and occupational therapy three times per week and that, upon leaving the dormitory, they would wear normal clothes.

In any case, after the CPT delegation brought the situation to the attention of the Portuguese authorities, action was immediately taken to address it. Concretely, the Director-General ordered, with immediate effect, that the women effectively exercised their rights to wear their own clothes and to spend time open air every day (given the absence of outdoor space in the clinical services, these women spend their open-air breaks in the playing field of Wing 1, from 3 to 5pm, weekdays and weekends), without prejudice to continuing to seek their transfer to a mental health facility of the National Health System/Ministry of Health.

Currently, none of the four women remain in the clinical services of Santa Cruz do Bispo. Regarding the two that still remained in October (one serving a pre-trial measure of preventive psychiatric confinement since 28 February 2022 and the other serving a security measure of confinement in a psychiatric facility since 18 May 2022), one was transferred and the other returned to liberty.

In general, women who, due to a mental health condition at the time of the crime, cannot be held criminally liable (*inimputáveis*) and those subject to a Court order of preventive (pre-trial) commitment to a psychiatric unit are (due to the lack of a psychiatric unit for women in the prison system) assigned to the clinical services of Santa Cruz do Bispo Women's Prison, temporarily, while awaiting for a place in a forensic unit. They are provided with a specific Programme that encompasses sports (gym), psychomotor stimulation (occupational therapy) and open-air recreation, which takes place in Wing 1 as the clinical services are located on floor 2, where there is no yard.

B.10.e. Self-harm

In Tires Prison, the Programme for Suicide Prevention (PiPS) is implemented. According to its procedures, inmates go through the 'alert checklist' (by the surveillance staff), the 'intake screening' (by the prison social workers – *Serviço de Acompanhamento*



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

e Execução de Penas) and the clinical assessment with a clinical psychologist. Once a case of high risk is identified, a referral is immediately made to a psychiatry consultation (either at the prison or outside) and/or articulation via Line 24 of the Prison Hospital, for clinical intervention in the field of mental health. In addition to the medical intervention, an allocation of the inmate that allows greater vigilance and monitoring, particularly during the night, is immediately ensured. In these cases, the inmate is closely monitored through psychiatry and psychology consultations, as well as by the surveillance (prison guards) and reintegration staff.

B.10.f. Chemical restraints

The Code governing the Implementation of Prison Sentences provides, in Article 37 in relation to the duties of clinical staff, that “it is the physician’s duty or the duty of any other legally authorised person exercising functions in the prison to monitor the evolution of the physical and mental health of the prisoners”. Article 35, in relation to coercively imposed healthcare, provides that “medical and surgical interventions and treatments may be coercively imposed on a prisoner in case of danger to life or serious danger to the body or health of other persons” and that “medical and surgical interventions and treatments may be coercively imposed on a prisoner in case of danger to life or serious danger to the body or health of other persons”. Medical-surgical interventions, treatment and feeding may also be coercively imposed if there is danger to the life or serious danger to the body or health of the prisoner and if his condition deprives him of the necessary discernment to assess the meaning and scope of the refusal.

The Guidelines for Prison Nursing in Prisons, which is part of the quality management system of the clinical services, was created to respond to the numerous situations of physical and mental health that arise 24 hours a day without the availability of simultaneous medical follow-up at the Santa Cruz do Bispo Women’s Prison. In practice, this document is a theoretical-operational support which provides, for a given clinical context, a validated set of interdependent interventions, falling into data collection interventions, non-pharmacological interventions and pharmacological interventions, under full respect for prior access determinations and an underlying theoretical support. This document includes all the ethical and legal norms required for



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

the substantiation of an instrument with legal validation within the scope of the action plans defined by the multidisciplinary team, validated by the various specialties that make up the health team at the Santa Cruz do Bispo Women's Prison, constituting, as such, a prescription and simultaneously a guide for the therapeutic attitude.

The aforementioned Guideline, in the context of 'anxiety', the first line of intervention foresees assessing the state of conscience, mood and anxiety level. Regarding the latter, it recommends the use, when necessary, of the Hamilton Anxiety Scale, and according to this validated measuring tool, anxiety may be normal, light, moderate or severe. In contexts of severe anxiety, psychomotor agitation may be triggered, causing serious danger to the health of the inmate. Only in these cases, through the assessment of highly trained and legally qualified health personnel, is the administration of medication clinically adjusted to the context, if necessary, envisaged.

Note that the Guideline in question is clear in assuming that the contact with the clinician and/or psychiatrist is expected to occur simultaneously or as soon as possible. Even so, the professional who administers the drug described above (or another applicable by the Guideline and consistent with the clinical context assessed) becomes responsible for monitoring the clinical evolution of the user (and may even determine additional measures beyond the pharmacological intervention, such as admission to the clinical services of the Santa Cruz do Bispo Women's Prison or, where justified, referral to Hospital Emergency Services, through the activation of the Medical Emergency Line.

In short, nursing procedures in Santa Cruz do Bispo Women's Prison comply with the legal and regulatory provisions, as well as the applicable procedure manuals, the Nurses' Professional Practice Regulations and the Code of Ethics for Nurses.

Compliance with the Guidelines for Prison Nursing Consultations is subject to a regular and rigorous monitoring and auditing process by the Quality Centre, under the NP EN ISO 9001:2015 QMS regulations.

It is also important to mention that the clinical service implies a great effort in the implementation of the Integrated Suicide Prevention Programme, which has been successful up until now. In particular, the possibility of immediately defining the notion of risk of occurrence of self-injury phenomena (and, logically, of suicide), by the health



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

professional present at the time, mainly the nurse, activating the necessary mechanisms for immediate clinical compensation and for rapid medical follow-up, are factors that contribute to the positive results.

Finally, in the Clinic of Santa Cruz do Bispo, following the recommendation of the last CPT Report, SOS prescribing was suspended. Since then, whenever urgent therapy is needed, the head psychiatrist of the clinic is contacted at night and prescribes the necessary medication. During the day there is a team of three psychiatrists present at the Clinic plus a professional on a contractual basis. In case of severe illness, patients are referred to the National Health Service or the Prison Hospital.

B.11. Women's prisons: other issues

B.11.a. Disciplinary sanctions

Concerning the issue of the maximum duration of disciplinary sanctions involving solitary confinement, which, according to the standards developed by the CPT, should not exceed 14 days, the Government clarifies that, although the law still allows this type of disciplinary punishment up to a maximum of 21 days (aggravated by one-third in case of recidivism), an Ordinance of the Director-General of 8 November 2019 is in force, recommending to prison directors that such sanctions do not exceed 14 days. Following the CPT's visit, this Ordinance was reiterated by a Circular sent by the Director-General to all directors.

Furthermore, the Ministry of Justice intends 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 in the present government mandate).

In Tires Prison, before the beginning of the implementation of a disciplinary measure involving confinement (confinement to a cell or disciplinary cell), a medical opinion is requested aimed at verifying if there are any health issues that prevent the execution of such measure. During implementation, the clinical services carry out a daily follow-up – as a general rule, three times per day. Thus, inmates are visited daily by the nurses and observed by the doctors as often as the latter deems necessary and/or as long as there is a signalling from the nurse to that effect. Moreover, all daily observations are



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

recorded in the prisoner's medical file. At any time, health professionals may advise against continuing to serve the measure, for physical and/or mental reasons, in which case it ceases immediately.

In Santa Cruz do Bispo Women's Prison, the clinical services have, in this domain, the responsibility of ensuring clinical supervision, in accordance with the legal and normative requirements that govern the admission and presence of a prisoner in a disciplinary cell. The clinical services have an Operational Procedure that standardizes the initial clinical evaluation and the formalization of the opinion prior to the admission of a prisoner in a disciplinary cell. Complementarily, a clinical evaluation is mandatory at least once a day, with the elaboration of records in the inmate's individual clinical file. If the clinical evaluation determines that the disciplinary procedure should be discontinued, the Director of the prison shall be immediately informed (as well as the clinical management of the Health Unit), and the respective clinical compensation measures shall be taken (which may include internment in the clinical services or other clinical measures deemed appropriate).

It should be clarified that disciplinary punishments do not involve the total prohibition of contact with the outside world. During implementation of the measure of disciplinary cell, there is no participation in prison activities and there are no visits, but there is access to newspapers and books, correspondence, and the contacts with the lawyer and the religious assistant are safeguarded. Visits may be authorised in special circumstances. During the implementation of the measure of confinement to a cell, the prison director may authorise weekly family visits.

However, the new Regulation on the care and protection of children accompanying their parents in prison contains a relevant improvement concerning the implementation of disciplinary measures to be served by inmates who are in prison with their child. For those prisoners, the execution of the disciplinary measure only takes place from Monday to Friday, during the hours corresponding to the operation of the kindergarten, and after the child reaches the age of 6 months, thus ensuring that the measure is served during the time the child is in kindergarten, so that the child is not deprived of the parent's company outside these hours.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

B.11.b. Body searches

Portuguese law on this matter is quite clear and its implementation has been carried out in a homogeneous manner (especially the provisions contained in Article 89 of the Code and Articles 5, 152 and 187 of the General Regulation). Article 152 of the General Regulation sets out in detail the situations in which strip searches may take place, as well as the cases in which they are mandatory. Squatting is not systematically carried out and shall be performed exclusively on specific circumstances where a strong suspicion exists of illegal or forbidden objects being carried inside the body of an inmate, for instance after contact with persons in or from the exterior of the prison, such as after visits or when returning from leave.

Search rules are not gender-based and are identical for all genders. Within the scope of the *Equality4all* project, the opportunity of any adaptation of search procedures to women prisoners shall be considered.

Nevertheless, in 2018, Circular no. 1/2018 was approved, further detailing the procedures, namely requiring the stripping to take place in two moments, so that the prisoner is never completely naked, with a view to greater dignity of the procedure. Failure to follow this mandatory procedure, if a formal complaint or relevant evidence were to be presented, will necessarily originate disciplinary action. Presently, all staff receive training on search rules and procedures during the initial training course, and additional training is also available for current staff, admittedly in lesser quantity than would be ideal. The Circular actually cites the CPT's recommendations in this regard. Following the findings of CPT, we will endeavour to reiterate these rules and reinforce staff awareness of the matter.

B.11.c. Gender specific prison management

The Government welcomes the recommendation of the development of specific guidelines and training for the management of women prisoners which take into consideration their specific needs, adopting a gender-responsive and trauma-informed approach. Steps are already being taken to implement a project that includes the development of a Manual (in collaboration with an external entity specialized in gender equality) as well as the provision of training.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

In April 2023, the Directorate-General for Reinsertion and Prison Services submitted an application for funding to the EU's 'Citizens, Equality, Rights and Values Programme' (CERV-2023-DAPHNE), with an overall budget of 1 and a half million euros. The project is entitled '*Equality4all* – empowering projects for equality' and its main objectives are to prevent and combat gender-based violence and violence against children, in particular by raising awareness and training professionals who interact directly with victims and perpetrators, and to combat gender stereotypes as root causes of gender-based violence.

The project is structured around three main areas and aims to develop actions to combat all forms of gender-based violence against women and girls, including in the context of deprivation of liberty, and domestic violence, as well as all forms of violence against LGBTIQ+ persons, and all forms of violence against children, including children living with their mothers in prison, as well as violence against groups at risk, such as persons with disabilities and/or mental health conditions.

Finally, the project also aims to strengthen child protection mechanisms by improving prevention, protection, support services based on children's rights and adapted to (potential) child victims/witnesses of violence and persons in need of protection, including multidisciplinary cooperation.

The project aims precisely to develop technical guidelines, procedure manuals and information/awareness raising and training materials, including recommendations on good practice in case management specifically targeting women deprived of their liberty, preventing any form of gender-based violence or any other form of victimization or re-victimization against women.

Concerning the training sessions on the Bangkok Rules and other specific training for staff entrusted with the care of women prisoners, the Directorate-General for Reinsertion and Prison Services provides specific training not only for surveillance staff, but also for women inmates, with a special focus on parenting issues. In 2022, in Santa Cruz do Bispo Women's Prison, these trainings were attended by 75 workers, 50 of whom were prison guards.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Besides, the Bangkok Rules were included in the curriculum of the human rights training courses provided at the Directorate-General's Training Centre. In 2022, this course was attended by two prison guards assigned to Tires Prison.

There was also a training in Santa Cruz do Bispo Women's Prison, aimed at sensitising both the inmates and staff, including prison guards, on the prevention of gender-based violence, promotion of gender equality and social diversity in the prison context. The Santa Cruz do Bispo Women's Prison also hosted the project 'Happy – API (*Aprender, Prevenir, Incluir*)', a community intervention project working with persons in vulnerable situations, promoted by an NGO, aiming to intervene with mothers with children in prison, developing their emotional, educational and relational skills. Given the high adherence and satisfaction of participants, the Santa Cruz do Bispo Women's Prison plans to hold, in 2023, other workshops on topics that it deemed necessary, such as healthy eating and relaxation. In Tires, training programmes available for the inmates include parenting skills (organised by the psychology service) and positive parenting (organized by the Faculty of Psychology of the University of Lisbon).

For 2023, the Training Plan of the Directorate-General foresees four trainings of seven hours each on 'Human Rights: challenges of daily prison life and analysis of cases', aimed especially at the Prison Guard Corps (to be held in Lisbon, Porto and Coimbra, and covering at least all the prisons of the mainland). The training adopts a practical perspective and focuses not only on the international standards that the prison administration is responsible for ensuring, but also on what professionals can do differently. The training includes the perspective of the Bangkok Rules. A total of about 60 trainees are expected to attend.

In October 2023, the National Preventive Mechanism will offer two sessions on the Bangkok Rules for the staff of Tires and Santa Cruz do Bispo Prisons. Also, the ongoing initial training for prison guards already included the human rights training course, which integrates the Bangkok Rules component.

Concerning the recommendation to review the policy of same-gender staffing for all prison establishments, the Government informs that all male prisons have a complement of female guards, who work mainly outside cellular areas. Numbers vary,



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

but a larger prison (circa 500/700 inmates) will usually have somewhere between 6 to 8 female guards. Current female security staff numbers 600, which corresponds to 17% of a total of 4.100 staff. In Tires Prison, there are 89 female guards and 22 male guards (25%). In Santa Cruz do Bispo Women's Prison, there are 81 female guards and 31 male guards (31%). Male staff generally work outside cellular areas.

As may be inferred from the numbers cited above, there is no same-gender staffing policy as such. While there is not a mandatory definition of tasks according to gender (beyond legal rules for the performance of searches by same-gender staff), there is a standard practice of staff placement according to a generic risk evaluation. Therefore, the presence of staff of the opposite gender to the inmate population in accommodation areas, or other areas of inmate concentration, is usually avoided, as in general for any situations where inmates or staff could be at risk.

There is a specific waiver for the Directorate-General by the Gender Equality Board from legal provisions regarding mandatory recruitment gender quotas. However, we do recognise that mixed teams simply work better and that a more balanced composition of staff gender is desirable, keeping in mind that this would require a very long-term policy which would have to encompass recruitment, training and procedures, as well as improved staffing levels. The Directorate-General has been unable, in these last years, to fulfil all job vacancies opened, irrespective of gender.

In sum, even though we are not opposed in principle to the recommendation, it must be said that its implementation would only be feasible in the long term. It would require a gradual increase in the number of places for women in the recruitment process and a gradual increase in the number of female guards in male prisons. In the long term, if staffing levels allow, and more female guards enter the system, it may be possible to consider experimenting with the model.

B.11.d. Contacts with the outside world

Conjugal visits resumed in Santa Cruz do Bispo Women's Prison after the withdrawal of COVID-19 restrictions. The prison has four rooms for the purpose and 58 women prisoners are currently benefitting from conjugal visits. In 2022, 116 such visits took place, both with partners living in society and with partners deprived of their liberty



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

in other prisons (a total of 11 prisons involved). Conjugal visits resumed in Tires in February 2023.

Regarding family visits, aiming at fostering the relationship between fathers and children who are under the care of their mothers in prison, providing interaction in a space as close as possible to their free environment, besides the regular visits, they can enjoy an extraordinary visit, which takes place in the playroom (*sala lúdica*) of Santa Cruz do Bispo, with access to the outdoor space of the nursery; an average of 100 such visits take place every month. In Tires, there is also such a room located in the *Casa das Mães* (mothers' pavilion), where these extra visits take place (fathers are authorised, in addition to the visits already available, one extraordinary monthly visit, which takes place in the playrooms and with access to the outdoor area). Regarding the other pavilions and the possibility of redecorating visiting rooms to make them more friendly, the recommendation will be taken into consideration, even if the number of people in the room during visitation hours making circulation of persons within the room more difficult, may pose difficulties.

Moreover, the Government approved an amendment to the General Regulation of Prisons (Decree-Law no. 58/2022, published on 8 September), which provides a legal basis for the installation of landline phones in prison cells, alongside the already existing telephone booths in the common areas of the prison wings. Once cells are equipped with these devices, inmates will be allowed to make personal phone calls to the outside (to previously approved numbers), with a duration of at least 15 minutes per day, as well as to their lawyer and other public interest numbers, with the same duration. The new law also provides for communications by video call (through devices provided by the prison), namely for persons who do not receive frequent visits. This legal amendment paves the way for the extension of the in-cell landline phones model (already successfully tried out in Portugal under pilot projects) to all prisons, except for inmates under the maximum-security regime. This new system will allow for communications in more dignified conditions and with more privacy, thus contributing to the maintenance and strengthening of family ties, crucial for their reintegration process. On the other hand, it prevents conflicts and tension that were more prone to occur in the queues for access to the common booths, thus contributing to an orderly and safe environment in prisons.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

The Directorate-General for Reinsertion and Prison Services included in the technical requirements of the telephones to be installed that they encompass the function of calling the guard, thus solving the problem of breakdowns of emergency call buttons. The technical requirements also include the possibility to call cells of other prisons, which will allow calls between family members detained in different prisons (when authorised by the prison administration). The Council of Ministers resolution approving the public announcement of the international public tender to be launched is under preparation.

Regarding the waiting time for entering telephone contacts on the inmates' telephone card, this is related to the reception of the documents proving the identity and the consent of the holder. As soon as the above documents are received in the system, the contact number is immediately entered. Moreover, whenever requested by the inmates, they are provided the opportunity of making a phone call, in order to expedite the process.

Regarding the visits using videocall technology, according to Circular no. 2/2021, in Santa Cruz do Bispo 617 video-visits took place in 2023 (until May), 502 of which with other prisons involved (23 prisons), and 115 with other family members; in 2022, 2.161 video visits took place, of which 1.462 with other inmates and 699 with other family members. In Tires, visits using videocall technology take place on a monthly basis, mostly for foreign inmates without support in Portugal and for inmates having family members in other prisons, but also for inmates whose families live far and have no means to visit them in person on a regular basis.

A new provision on video calls was added to the General Regulation of Prisons by the aforementioned amendment concerning telephone calls, stating that: (1) the prison Director may authorise communications by video call in justified situations, namely when the prisoner does not receive frequent visits or when there are family members or other persons with whom the prisoner has a significant personal relationship who are unable to visit regularly, due to the considerable distance or difficult access between their residence and the prison; (2) communications by video call shall be carried out exclusively through the prison establishment's equipment, in a place suitable for the purpose, according to the availability of the equipment (Decree-Law no. 58/2022, new Article 135-A).



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

The Government wishes to clarify that procedures regarding contacts between inmates and their lawyers in Tires follow the provisions of Articles 102-105 of the General Regulation of Prisons. These state that inmates have the right to communicate with their lawyer, personally and in private, in a place that ensures the confidentiality of the communication, the control of the visit being solely visual. The visiting hours for lawyers are on working days, 9 to 11.30am and 2.30 to 5.30pm. However, meetings with the lawyer may also take place outside the fixed days and hours, when the urgent nature and the damage that the postponement of the communication would cause to the proper exercise of legal representation are justified by the lawyer.

Communication with the lawyer depends on the request or consent of the prisoners, who, in case of refusal, declare it in writing. It is up to the inmates to contact the lawyer, as they are not allowed, as a general rule, to receive telephone calls from the outside. Notwithstanding this, in situations of urgency, upon reasoned request of the lawyer to the prison, a telephone contact from the outside shall be authorised (Article 134 of the Regulation).

B.11.e. Complaints and information

Circular no. 9/2021 of 28 September approved the Regulation on Complaints and Requests from Inmates, which sets out the principles and procedures for inmates to submit complaints and requests.

The Working Plan of the Audit and Inspection Service for 2022 included the goal of verifying compliance with procedures aimed at promoting the access of the inmate population to complaints and applications. The objective of these interventions was to verify the degree of compliance and fulfilment of these guidelines in the context of each establishment, pointing out any shortcomings and the necessary interventions to remedy them. In this context, several inspections were carried out in prisons throughout the country. The conclusions and recommendations of the respective reports were approved by the Director-General and the prison directors were notified thereof for implementation.

In 2022, 784 complaints were brought under Circular no. 9/2021. The issues addressed concerned a wide variety of matters (food, healthcare, contacts with the outside



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

world, conduct of other inmates or staff, requests for transfer, products available for sale, etc.).

The recommendations contained in the CPT report concerning the implementation of the Circular will be duly taken into consideration. In fact, the Directorate-General for Reinsertion and Prison Services, particularly through the Audit and Inspection Service, has been working on the improvement of the implementation of the Circular and the Circular itself is planned to be amended, based on the experience of its practical application.

It should be noted that Circular no. 9/2021 does not prevent an inmate from addressing themselves directly the Director-General, the Audit and Inspection Service or any external entity with requests, complaints, participations or suggestions.

Within the Directorate-General, regardless of the origin or form of the complaint, the Audit and Inspection Service has been assigned the responsibility of investigating the facts and circumstances that may constitute a violation of general or special duties and disciplinary infractions by the prison staff. To this end, in 2022, the Audit and Inspection Service carried out 9 disciplinary proceedings and 58 investigations and issued 38 opinions.

Concerning the four complaints lodged against prison guards in Santa Cruz do Bispo Women's Prison between March and May 2022, the processing of which was ongoing at the time of the visit of the CPT, as was explained to the CPT delegation at the time of the visit, all four complaints were subsequent to the drawing up of occurrence reports on inmates' misbehaviour towards prison guards. The proceedings following the four complaints awaited the outcome of the respective disciplinary proceedings. The complaints were treated at the legal office of the prison, they were found unfounded, and the cases were closed. The grounds of the decision were stated in detail. The complainants were notified of the closure of the cases. In none of the four situations there was an appeal to the prison Director, Director-General or the Audit and Inspection Service against the decision to close the case.

Article 117 of the Code governing the implementation of sentences enshrines the right to legal information, stating that the prison shall make available to the inmate written



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

legal information, namely penal and penitentiary legislation and doctrine, the General Regulation and applicable international conventions. It also establishes that foreign inmates shall be provided with information, in a language they understand, on the possibilities of transfer to their home country. Article 94 of the General Regulation states that the Code, the General Regulation and a compilation of the regulations and ordinances of the Director-General and the prison Director prison shall be available for consultation in all prison libraries.

Specifically, in Tires and Santa Cruz do Bispo Prisons, leaflets with the relevant information are provided to inmates and are available in Portuguese, English and Spanish. In order to update the information thereon, a new version is being finalized. Also, a leaflet for visitors is being finalized. Both leaflets will be translated once finalized.

A project to set up an Internet and Intranet Portal for inmates is currently underway, as is the procurement of a few hundred computers for this purpose. In addition to access to some websites in a secure way, the portal will provide access to information on prison legislation and regulations and the rules of the prison.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

C. PSYCHIATRIC INSTITUTIONS

C.1. Psychiatric Clinic of Santa Cruz do Bispo Prison: conditions (§156-163)

The Government notes with satisfaction the CPT acknowledgement of the significant efforts it made to improve the conditions at the Clinic, both concerning material conditions and staffing levels.

The increase in the number of inpatients in the Clinic is explained by the fact that the opening of the new units 2 and 3 has made it possible to accommodate individuals sentenced to a security measure who were either awaiting in liberty or serving the measure in prisons – situations that urgently needed to be brought to an end. As already described to the delegation during the visit, significant improvements have been made in the Clinic, including facilities (namely the opening of Units 2 and 3), reinforcement of clinical staff and the provision of more therapeutic activities.

There has been a permanent effort to increase human and material resources in order to enhance the range of psychopharmacological, psychotherapeutic and socio-emotional treatments, individualised and adapted to the needs of each patient, as will be described in more detail below.

It is relevant to inform the CPT that a new therapeutic space was recently opened in the Clinic, containing a Snoezelen room for cognitive stimulation and behavioural stabilisation of patients in periods of crisis and psychomotor agitation.

The current model of implementation of security measures of psychiatric confinement, set out in Decree-Law no. 70/2019, is a model that combines the possibility of serving the measure in facilities belonging to the Ministry of Justice or in those belonging to the Ministry of Health, depending on the level of security required. The Government recognises that it is necessary to continue the effort to make more beds available in the units of the National Health Service, in order to comply with the legal provision that establishes a preference for the implementation in a mental health unit of the NHS.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

As already noted with appreciation by the delegation, since 2019, around 60 inpatients have been transferred from Santa Cruz do Bispo to Magalhães Lemos Hospital.

The Government is convinced that the significant increase of beds in the National Health Service forensic units, which is taking place under the Ministry of Health within the purview of the Recovery and Resilience Plan, will strengthen very significantly the capacity of the forensic system, thus reducing the need to use psychiatric facilities of the prison system.

C.1.a. Separation of patients and treatment

All patients are, at the time of admission, assessed as to their behavioural level, degree of autonomy and level of risk. Inpatients with mental health conditions who share accommodation with individuals with intellectual impairment are patients with calm behaviour and no indicators of risk. Furthermore, most inpatients with mental health conditions, namely psychosis, show a marked impairment of their intellectual faculties, due to the course of the disease, in a similar way to patients with intellectual disabilities.

Thus, it has been ensured that the sharing of accommodation between inpatients allows for adequate and functional relationships, with well-being for both parties.

Regarding individualized treatment, according to needs, initial assessment is followed by the elaboration of a Therapeutic and Rehabilitation Plan, individualized and approved by the Court of Execution of Sentences. This Plan may contemplate schooling activities (from the 1st to the 12th grade), vocational training or work, as well as occupational therapy, such as:

- Health promotion projects:
 - Therapeutic Walk;
 - “*Saudavelmente*”;
 - Cognitive Stimulation Sessions;
- Personal and Social Skills Training;
- Arts (“The freedom of affections”) - with the collaboration of a renowned painter from the city of Porto;



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

- Volunteering from the Catholic University and the Faculty of Psychology of Porto University.

Besides these occupational activities, the Clinic offers programmes directed to specific problems, such as alcohol addiction, and projects involving animals, such as *Pelos Dois* (“For the Two of Us”), where inmates participate in the training of dogs that were abandoned and are being prepared for adoption.

C.1.b. Persons not criminally responsible but serving time

There are currently 6 persons in these circumstances.

One man, subject to a Court order of preventive (pre-trial) commitment (*internamento preventivo*) is in Angra do Heroísmo prison (Azores Islands), due to the fact that, being under a pre-trial measure, he needs to be in close proximity to the Court; however, there are no mental health forensic units in the Azores.

There are also three men whose decision of *inimputabilidade* (non-criminal responsibility due to mental health conditions) is recent and who are awaiting assessment with a view to a decision on their allocation.

Finally, there are two women under pre-trial commitment, who are waiting for a vacancy in a mental health unit with places for women. As explained above, women who, due to a mental health condition at the time of the crime, cannot be held criminally liable (*inimputáveis*) and those subject to a Court order of preventive (pre-trial) commitment to a psychiatric unit (*internamento preventivo*) are (due to the lack of a psychiatric unit for women in the prison system) assigned to the Clinical Services of Santa Cruz to Bispo Women’s Prison, temporarily, while awaiting for a place in a forensic unit. They are provided with a specific programme that encompasses sports (gym), psychomotor stimulation (occupational therapy) and open-air recreation, which takes place in Wing 1, as the clinical services are located on floor 2, where there is no yard.

The problem of the lack of sufficient places in forensic units is expected to improve considerably with the reconfiguration of the forensic system foreseen under the Recovery and Resilience Plan, as described below.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

C.1.c. Minor internees

There are very few cases of admission of internees under 18 years of age at the Clinic. However, all admissions are based on a Court decision, which the prison administration is obliged to comply with.

The [...] internee mentioned in the report entered the Psychiatric Clinic [...] following a judicial order for preventive (pre-trial) placement in a psychiatric facility. [...] As this was the time of the outbreak of the COVID-19 pandemic, during this period he remained in quarantine (prophylactic isolation), according to the contingency plan adopted to protect the prison population.

Those admitted to a mental health unit by judicial decision benefit from regular psychiatric and psychological evaluation from the date of their entry. This evaluation naturally includes mood and suicide risk issues. At the date of admission, the internee was assessed by the psychiatrist and the clinical psychologist, and he was observed daily by the nursing team (since medication intake is assisted by a nurse). No indicative signs of suicide risk were identified in any of the assessments carried out.

Regarding the separation of inpatients according to their age, it should be noted that the internee named in the report remained these four days in ‘quarantine’, without contact with other inpatients.

Concerning the issue, in general, of the separation of younger and older internees, it should be noted that the choice of the accommodation space for each internee is always based on an assessment of their psychopathological and personal conditions, to avoid situations of conflict or abuse. The sharing of accommodation is intended to enable the internees to establish appropriate and healthy interpersonal relationships that optimise treatment. In addition, internees have an individual Therapeutic and Rehabilitation Plan providing for activities appropriate to their pathology and age, thus ensuring relatively homogeneous groups in sports, artistic and other activities.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

C.1.d. Alternative facilities to the Clinic

As stated above, the current regime governing the implementation of security measures of confinement, set out in Decree-Law no. 70/2019, combines the possibility of serving the measure in facilities belonging to the Ministry of Justice or in those belonging to the Ministry of Health, depending on the level of security required. The law actually establishes a preference for the assignment to a mental health unit of the National Health Service, the assignment to a mental health unit of the prison system being designed as the exception. According to Article 7, after an assessment of risks and needs, the measure is implemented in a mental health unit of the health system, except where security requirements, based on serious danger to the person or of third parties, or of escape, require the assignment to a mental health unit integrated within the prison service.

Under the Recovery and Resilience Plan, the Ministry of Health intends to double the capacity of its mental health units for forensic patients, which will contribute to diminishing the number of patients serving the measure in the prison system, thus fully complying with the legal preference for the implementation in a mental health unit of the National Health Service. As already noted with appreciation by the delegation, since 2019, around 60 inpatients have been transferred from Santa Cruz do Bispo to Magalhães Lemos Hospital. 15 more places will be available during 2023. In 2024, under the aforementioned Plan, 40 new places will be available, following the renovation of a new pavilion. This will allow for the transfer of more patients from Santa Cruz do Bispo Clinic.

Meanwhile, permanent efforts are made to improve human and material resources at the Clinic, in order to enhance the range of psychopharmacological, psychotherapeutic and socio-emotional treatments, individualised and adapted to the needs of each patient.

A relevant example is the new therapeutic space which was recently opened in the Clinic, containing a Snoezelen room for cognitive stimulation and behavioural stabilisation of patients in periods of crisis and psychomotor agitation. Other works are ongoing to improve conditions in Units 1 and 3, as will be described below.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

C.2. Psychiatric Clinic of Santa Cruz do Bispo Prison: allegations of ill-treatment (§164-169)

Concerning the allegations in §164, the check of the integrity of the window bars is always carried out when the internee is outside the accommodation space. There is no record of complaints concerning aggressions with the metal rods used for checking window bars. The Government did not receive concrete factual information from the CPT, which prevented it from investigating the facts.

Concerning the awareness of the Clinic staff of the management of challenging patients, it should be noted that the Clinic has managed to keep a stable team, including guards, as current workers have already received specific training. When new staff members enter the Clinic, internal training is offered by the clinical staff.

Concerning the recommendation in §169, this was transmitted to the administration of the Clinic.

C.3. Psychiatric Clinic of Santa Cruz do Bispo Prison: patients' living conditions and activities (§170-§177)

Regarding the partition of sanitary facilities in collective cells, we inform that 93 accommodation spaces were intervened, ensuring privacy levels according to international standards. All spaces where inpatients are housed in the Transition House, Unit 2 and Unit 3, already comply with such standards. As for Unit 1, it is expected that, by the end of 2023, all sanitary facilities will comply with these requirements.

Concerning heating, the purchased equipment is in operation. Unit 2 is equipped with a heating system, keeping the temperature suitable for the season. In Unit 1, the ward space where the most vulnerable inpatients are accommodated has been air-conditioned. In order to fully air-condition Unit 1, the contracting procedure is under consideration.

The Government also informs that significant steps are being taken in order to upgrade the material conditions and activities available at the Clinic. One of the most recent improvements was the creation of a new clinical area with several offices



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

(medicine, psychology, nursing and occupational therapy). This new area, as already mentioned above, includes a therapeutic room (Snoezelen Room).

During the years 2023-2024, a greater intervention is planned to be carried out in the recreation areas of Units 1 and 3, with a view to creating spaces that enhance social interaction outdoors, through the placement of shelters and furniture decorated with works made by inmates in the painting/ceramics workshops, with a view to humanising the space. An increase to the green areas in Units 1 and 3 is also planned, which will be the responsibility of the inmates in collaboration with the nursing and occupational therapy team.

As for Unit 2, in addition to the existing horticulture and floriculture activities, an expansion to the area is planned with the creation of vertical vegetable gardens, an innovative project already available in Torres Novas Prison, combining the aims of occupation, healthy eating and solidarity.² Also, an internal work area and a better equipped lounge are being designed in Unit 1. The common and accommodation spaces are decorated according to festive seasons and relevant dates throughout the year.

As for the Clinic's policy of avoiding the permanence of patients in their room during the day and of promoting their permanence in the common areas, this is due to the intention of avoiding that staying in the room increases the anhedonia of these clinical cases. Thus, the Clinic has sought to organise socio-cultural and therapeutic activities, carried out in the common spaces, such as, for example, watching films or attending health education sessions promoted by the nursing team. A library has also been created in each unit to promote reading activities and meetings with writers and other guests of interest to this population.

Given the isolation period during the night, the direction of the Clinic considers it beneficial to keep the patients in common spaces and outside, developing activities that allow the participation of the largest number of inpatients. Nevertheless, rooms are not

² *Horticultura vertical, solidariedade horizontal* ('Vertical Horticulture, Horizontal Solidarity') is a social inclusion project funded by Foundation BPI, La Caixa Solidarity Award 2022 and by NGOs and private donors, which involves the installation of a vertical vegetable garden in the Torres Novas Prison, where about 40 inmates, working together with prison guards, are responsible for its management. It aims to improve the diet of the inmate population, as well as to support 100 needy families in the area, through the distribution of baskets composed of vegetables planted by inmates.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

closed at all times. Rooms are open during mealtimes and then closed during the period when occupations are available. Those internees who do not participate in activities enjoy recreation hours (two hours in the morning and two hours in the afternoon), aimed at fomenting social interaction. Also, rooms remain open whenever there is medical indication.

Regarding communication by loudspeaker, the ease of communication by loudspeaker combined with the complex physical characteristics of Unit 1, makes it difficult to abandon the practice. However, the recommendation to call inmates by their name only is accepted.

C.4. Psychiatric Clinic of Santa Cruz do Bispo Prison: Treatment (§178-185)

The Government fully agrees with the importance of teamwork and multidisciplinary approaches. Currently, at the Clinic, monthly team meetings take place aimed at drafting the individual Therapeutic and Rehabilitation Plans and periodically reviewing the situation of the internees. There are also monthly meetings between the Deputy Director and the team of clinical psychologists and occupational therapists. The recommendation of the CPT to convene more regular meetings of the whole multidisciplinary team is accepted and will be implemented.

Regarding medical assessment of patients upon their entry, this is done immediately except on weekends, in which case the assessment is carried out by the nursing team, which then forwards the relevant information to the medical team. The initial assessment always includes screening for communicable diseases.

C.5. Psychiatric Clinic of Santa Cruz do Bispo Prison: staff (§186-189)

An effort has been continuously made by the Prison Service to provide the Clinic with human resources that allow a good provision of health services.

Currently, the Clinic has the following staff:



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

General practitioner	2
Dentist	1
Nurse	32
Medical assistant	25
Nutritionist	1
Occupational therapist	3 (+1 in the process of recruitment)
Psychiatrist	4
Psychologist	3
Pharmacy technician	2
Reintegration officer	6
Administrative staff	2

Efforts were made also to provide the Clinic with a variety of relevant equipment, including: vital signs monitors and oximeters for each of the Units, articulated beds (3), shower chairs (2), resting chairs (5) for the ward and stretchers with side protection (2) and dressing trolleys (2) for the Units. A medication transport box and drawers for organising medication in the workrooms were also purchased. The Dental Office was equipped with RVG equipment: dental sensor coupled with X-ray which allows taking small X-rays for correct diagnosis and treatment in order to broaden the type of treatments to be provided to the prison population. Refrigeration equipment was placed in the pharmacy to ensure special needs of some medication.

C.6. Psychiatric Clinic of Santa Cruz do Bispo Prison: means of restraint (§190-198)

Concerning the measure of seclusion, its application is always based on medical indication, with immediate authorisation of the prison director. However, the Government agrees with the convenience of adopting specific procedures for psychiatric patients, as recommended by the CPT, and will seek to draft specific guidelines.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

The procedures in force with regard to assistance and clinical intervention and the administration of medication are strictly controlled, both in the registration of the clinical files of each in-patient and in the occurrence book, which is the responsibility of the nursing team on duty.

Concerning the observations and recommendations of §193, seclusion rooms are equipped with a toilet bucket and internees are provided with drinking water. Concerns related to the safety of patients advise against the existence of water taps and rigid objects in seclusion rooms. At any time, and whenever necessary, internees have immediate access to the toilet and to the shower room, which is located in an adjacent space, and they may benefit from the assistance of health professionals or do so autonomously.

Regarding the three bare cells, the Clinic has four isolation rooms for the temporary seclusion of medically decompensated patients. These are very short stays, with the duration strictly necessary for the stabilization of the patient. There is no furniture to reduce the risk of harm to the patient, except for a mattress. As it is rare to resort to seclusion more than one case at a time, only one of the rooms has been regularly used. The others are only used in exceptional situations where more than one patient simultaneously requires isolation.

Concerning the recommendation on electronic management of medical files, as mentioned above, within the scope of the telemedicine project, the Ministry of Justice is currently implementing together with the Ministry of Health the second phase of the project, which consists precisely in the digitalization of the clinical information of inmates, with a view to creating a single file for the patient, interconnected with the clinical data platform of the Ministry of Health.

C.7. Psychiatric Clinic of Santa Cruz do Bispo Prison: disciplinary measures (§199-201)

Disciplinary rules in the facility aim to ensure a life in common that is orderly and safe, which is instrumental in any residential unit inhabited by a significant number of people. Decree-Law no. 70/2019 aimed to institute a disciplinary regime based on strict



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

legality (aiming to end the informal sanctions in force in mental health units, without any formalized procedures).

The judgment of non-criminal liability made by the sentencing Court refers to the mental health state of the offender in the moment the crime was committed and cannot mean that the person is therefore incapable of conducting their behaviour in accordance with the unit's rules. The regime established in Article 19 of the Decree-Law does, however, provide for adaptations considering the specificity of this population. Disciplinary sanctions may only be applied to conducts typified in the Code and only the disciplinary measures expressly provided for in the Code may be applied. The application of a sanction must follow the procedures of a fair and equitable process, regulated by law. Article 19 excludes the applicability of the most serious disciplinary sanction (confinement to a disciplinary cell).

Also, when a breach of the rules is reported, the Director of the unit asks for a psychiatric assessment in order to ascertain whether the person, due to mental health conditions, was, at the time of the disciplinary offence, incapable of assessing the unlawfulness of their conduct or to act in accordance, in which scenario the case shall be closed. Where the case is not closed in accordance with this provision, the Director can simply make an oral warning to the person. Where the Director does not consider this sufficient, a fair procedure shall be followed, guaranteeing the rights to present evidence and to be assisted by a lawyer. The decision to impose a disciplinary sanction must be reasoned. Before the disciplinary measure is carried out, the doctor is heard on the existence of any circumstance that advises against its implementation, namely in relation to the internee's capacity to understand the sanction and its connection to the conduct, or the compatibility of the measure with their state of health and the rehabilitation plan.

The legislator considered this solution to be the one that best corresponded to the dignity of the person, without demeaning them through a presumption of inability to determine their conduct in accordance with the rules of cohabitation of the unit, while providing for adaptations, namely the non-continuation of the process when the clinical evaluation concludes that the person was, at the time of the commission of the offence,



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

incapable of understanding the unlawfulness of their conduct or to determine themselves in accordance.

Considering what is stated in §203, Portugal wishes to clarify that there is no mandatory minimum duration of three years. According to Article 91, no. 2 of the Penal Code, in case of offences punishable with a sentence of more than five years, the minimum period is three years unless the Court considers that terminating the measure earlier is compatible with general prevention and social peace.

C.8. Psychiatric Clinic of Santa Cruz do Bispo Prison: safeguards (§202-213)

C.8.a. Safeguards surrounding placement and discharge of patients

At the meetings held during the visit, the CPT delegation expressed concern about situations of prolonged confinement in mental health institutions of persons held not criminally responsible and recommended that the review of the security measure of confinement (which the Penal Code provides for every 2 years) should be carried out annually.

The Government welcomed the recommendation and took decisive steps to comply with it. In the law proposal submitted to Parliament in July 2022 to modify the Mental Health Law, an amendment was proposed to the Penal Code eliminating the possibility of lifelong security measures and also reducing to one year the intervals between reassessments of the need to proceed with the measure, as recommended by the CPT. The new Mental Health Law was approved by the Parliament and entered into force on 20 August 2023.

Considering what is stated in §206, it should be clarified that Articles 104 and 105 do not apply to those criminally irresponsible, but to those criminally responsible living with mental health conditions and thereby serving the sentence in a regular prison would be detrimental. However, the prison sentence is not converted into a security measure. The provisions concerning parole apply and the sentence is terminated when its maximum limit is reached.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Concerning §207, the aforementioned Decree-Law no. 70/2019 provides, under Article 24 (social support structures), that, after release from the mental health unit, responses must be ensured in the public, private or social sector, suitable for the residential or community care of those who need it. The characteristics, operation and financing of the responses shall be defined by the Ministries of Finance, Justice, Health and Social security.

In view of the entry into force of the new Mental Health Law, under which all security measures which have lasted beyond the limit of the criminal sentence provided for the act committed must cease, there is an ongoing dialogue between the Ministries of Justice, Health and Social Security in this regard. To prepare the release of these individuals, a working methodology has been implemented. The lessons learned will serve as the basis for the preparation of the instrument that will regulate the preparation of the release of internees in the future, under Article 24 of the Decree-Law.

C.8.b. Safeguards during placement

The participation of patients in the drafting of their Therapeutic and Rehabilitation Plan as well as their consent are always sought, except if their mental health state does not allow it.

The new Mental Health Law also strengthens the rights and guarantees of persons with mental health conditions. In particular, it establishes the rights to:

- Decide, freely and in an informed manner, at all times, to the extent of their capacity, on the healthcare proposed to them, except in the cases provided for in the law;
- To have their will and preferences respected, expressed at the time or in advance, except in the cases provided for in the law;
- Decide, freely and in an informed manner, at all times, to the extent of their capacity, on their participation in research and clinical trials or studies or training activities, in accordance with the law.

They also have the right to:



S. R.
MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

- Not be subjected to coercive measures, including isolation and physical or chemical means of restraint, save as provided by law;
- Not to be subjected to electroconvulsive therapy or transcranial magnetic stimulation, without their written consent, save as provided for in the law;
- Not to be subjected to psychosurgical interventions without their written consent and a favourable written opinion from two psychiatrists and a neurosurgeon designated by the National Coordination of Mental Health Policies.

Persons in need of mental healthcare who are subject to a prison sentence, security measure or pre-trial measure retain the referred rights. Even in the case of involuntary treatment, the person has a set of rights and guarantees, including the right to participate, to the extent of their capacity, in the preparation and implementation of the respective care plan and to be actively involved in decisions on the development of the therapeutic process.

Concerning §211, in the Clinic there is a leaflet available that characterises the Clinic, its existing activities, useful contacts and other important information, such as the visiting hours and the account number for bank deposits. All this in a clear and accessible language for the inpatient population. This information is widely disseminated and posted in the places created for this purpose. The Regulation is available in all libraries of the Clinic, for consultation by inpatients.

As regards legal assistance, in the case of ‘criminally irresponsible’ (*inimputáveis*) serving security measures in a psychiatric institution, the law states that legal representation is mandatory in proceedings related to the review of the measure and to the judicial review of administrative decisions that affect them (Articles 132 and 157 of the Code) so, in those cases, if they do not appoint a lawyer, an ex-officio lawyer will be appointed.

Finally, the Government confirms that the new Mental Health Law provides for the creation of a Commission for monitoring the implementation of the legal framework for involuntary treatment. The Commission is responsible, namely, for: visiting the inpatient units of local or regional mental health services; requesting information on the



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

inpatients' situation; receiving and considering complaints from persons undergoing involuntary treatment; collecting and analysing information; issuing recommendations; submitting an annual report to the Government. The Committee is comprised of three psychiatrists, two lawyers, a clinical psychologist, a nurse specialist in mental health, a social worker, a representative from an association of patients and a representative from an association of families.

C.9. Forensic unit of Magalhães Lemos Psychiatric Hospital (§214-229)

Regarding recommendations on §217, 218, 221 and 224, they have been transmitted to the Hospital to be analyzed and implemented.

Regarding recommendations §228 and 229, the National Coordination of Mental Health Policies informs that under the Recovery and Resilience Plan, there are plans in place to build three forensic units in NHS hospitals (Porto, Lisbon and Coimbra), as well as three transition units for the community (eight places each). The Ministry of Health's goal is to double the places of forensic patients by the end of 2026.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

ANNEXES

Annex 1: Law no. 35/2023, of 21 July (revised Mental Health Law).

Annex 2: Law no. 38-A/2023, of 2 August (amnesty and pardon of sentences).

Annex 3: Decree-Law no. 58/2022, of 8 September (amendment to the General Regulation of Prisons, concerning telephone communications).

Annex 4: Decree-Law no. 2/2023, of 2 January (use of bodycams by police forces).

Annex 5: Council of Ministers Resolution no. 118/2022, of 29 November (plan for closing the Lisbon Central Prison).

Annex 6: Regulation of 1 June 2023 on the care and protection of children accompanying their parents in prison.

Annex 7: Protocol between the Directorate-General for Reinsertion and Prison Services, the Inspectorate-General for Home Affairs and the Inspectorate-General for Justice Services, signed on 23 March 2023, on interinstitutional cooperation and communication regarding cases of inmates who, upon entering the prison system, allege or present signs of ill-treatment by police forces.

Annex 8: Ordinance of the Director-General for Reinsertion and Prison Services of 6 June 2022 reiterating Ordinance of 8 November 2019, on the maximum duration of disciplinary sanctions involving solitary confinement.

Annex 9: Circular of the Director-General for Reinsertion and Prison Services of 29 January 2018, on body searches.

Annex 10: Circular of the Directorate-General for Reinsertion and Prison Services of 6 June 2022, on the expeditious reporting of situations of inmates entering prison who allege they have been beaten by police forces.

Annex 11: Recommendation by the Inspector-General of Home Affairs of 28 September 2022, on handcuffing.

Annex 12: Annual Work Plan of the Directorate-General for Reinsertion and Prison Services for 2022.



MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral de Política Externa

Annex 13: Information provided by the Public Prosecutor's Office on the cases referred to under §38 of the CPT report.

Annexes 14-16: Tables of cases by the Inspectorate-General of Home Affairs.