



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Summary record of the 1189th meeting

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Chairperson: Mr. Grossman

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Combined fifth and sixth periodic reports of Portugal (continued) (CAT/C/PRT/5-6)

1. *At the invitation of the Chairperson, the delegation of Portugal took places at the Committee table.*
2. **Mr. Santos Pais** (Portugal) said that articles 240 and 243 of the Criminal Code were sufficiently broad in nature to cover racially motivated acts of torture. Under article 71 of the Code, such motives were considered an aggravating circumstance. The economic crisis had obliged the Government to make swingeing across-the-board budget cuts and Parliament was expected to approve a reduction of 6 per cent in the budget of the Office of the Ombudsman in 2014. The Office had already provided the Committee against Torture with statistics on the number of complaints it received. With regard to domestic violence, he referred the Committee to paragraphs 112–141 of the State party’s combined fifth and sixth periodic reports.
3. **Mr. Albano** (Portugal) said that 91 per cent of the Third National Action Plan against Domestic Violence, 2007–2010, had been put into effect. At the mid-point of the Fourth Plan, 2011–2013, 88 per cent of the Plan had been or was being implemented. Focus had been placed on support for victims and attention to their health, and on increased efforts to investigate crimes of domestic violence and prosecute their perpetrators. Between 40 and 44 deaths a year resulting from domestic violence had been reported since 2010. To date, 20 persons had died in 2013. The police investigated cases of alleged domestic violence around 30,000 times a year; to date they had responded to 12,780 such incidents in 2013. After a decrease in the number of complaints of domestic violence in 2011 and 2012, the number of complaints appeared to be rising.
4. The authorities had found that efforts to raise awareness played a key role in combating domestic violence. They had conducted information campaigns on domestic violence and murder, dating violence and electronic surveillance of perpetrators. The number of arrests and convictions for acts of domestic violence had risen sharply as a result of legislation passed in 2009. The electronic tagging of offenders had risen from 3 instances in 2009 to 178 in the first nine months of 2013.
5. Under a teleassistance programme launched in 2008, 141 devices had been allocated to victims of domestic violence in 2013. Under the Labour Code, employees had the right to request a transfer within the same company in order to protect themselves from domestic violence. The Directorate-General of Internal Affairs (DGAI) was working with the law enforcement agencies on procedures to detect the risk of homicide in situations of domestic violence and to speed up the assessment of such situations. Members of the National Republican Guard and the Public Security Police attended courses prepared with the help of the Commission for Citizenship and Gender Equality. Special investigation units and victim support centres had been established in both forces. Some 300 public health workers had undergone special training on domestic violence in 2011 and 2013, and medical personnel were involved in risk assessment in families for children up to the age of 18. The regional health authorities in the Algarve had established guidelines for detecting and responding to cases of domestic violence. At the national level, numerous brochures and other material had been produced.
6. In addition to the Shelters Network, the National Network of Domestic Violence Centres ran 36 centres with a total capacity of 619 people. In all, around 5,200 women and children had been cared for by the networks since 2010. Experts from the Employment and Vocational Training Institute helped victims to find work and become independent. There

were also 134 counselling centres for victims of domestic violence in the State party. NGOs played an important role in assisting victims of domestic violence and almost €80,000 had been allocated to provide emergency shelter for victims and support thereafter. Urgent measures, including removal of the offender from the family home, could be taken within 48 hours of the reporting of acts of domestic violence.

7. **Ms. Pereira** (Portugal) said that domestic and other forms of violence and ill-treatment inflicted on older persons were addressed by the law. A telephone information service established for older persons in 1999 received around 23,000 calls annually. The Ombudsman's Office had made several recommendations regarding older persons, including a proposal for the regular inspection of homes in Madeira and the Azores. According to the Portuguese Association for Victim Support, 82 per cent of victims of violent acts between 2000 and 2012 had been women, more than half of whom had been aged from 65 to 75, and 68 per cent of the aggressors had been men. Of the more than 14,000 criminal cases dealt with by the Association in that period, 80 per cent had been related to domestic violence.

8. In 2013, the Ministry of Health had established a comprehensive plan for dealing with interpersonal violence. It was designed to coordinate the response to cases of domestic violence by the various public services, and also to promote equal access to health care, prevent all forms of interpersonal violence, support victims and step up prosecution of the perpetrators. Special teams based in clinics and hospitals would be formed to focus on the prevention of violence and on the plight of children caught up in violence between adults. They would comprise social workers, medical staff specializing in domestic violence, and psychologists or psychiatrists.

9. **Mr. Santos Pais** (Portugal) said that the Support Unit for Migrant Victims and Victims of Racial and Ethnical Discrimination (UAVIDRE) provided legal aid and counselling free of charge to immigrants who had been subjected to racial discrimination or who had fallen victim to crime. He referred the Committee to paragraphs 155–157 of his Government's report.

10. **Ms. Ávila** (Portugal) said that a third national action plan for the integration of immigrants would be launched in 2014. Its predecessors had been implemented between 2007 and 2013. National immigrant support centres in Lisbon, Porto and Faro provided information and support to immigrants free of charge. A network of 86 local support centres was also in place. An immigration observatory established in 2003 served as a forum for policymakers and academics. The Choices Programme reached 71,000 children from disadvantaged backgrounds, many of them from immigrant and Roma families, and supported 130 projects with a budget of €38 million. In a pilot project coordinated by the High Commissioner for Immigration and Intercultural Dialogue (ACIDI) under the aegis of the European Fund for the Integration of Third Country Nationals, intercultural mediators had been appointed to various sectors of the public service. UAVIDRE had assisted more than 3,000 immigrants with regard to matters that included racial discrimination between 2005 and 2012 and the Commission for Equality and Against Racial Discrimination had received 623 complaints in the same period.

11. Awareness-raising initiatives included the "Entreculturas" (intercultural) board established in 1991 to facilitate the integration of migrant children in the state school system, the creation of a pool of about 30 expert trainers who ran information campaigns around the country, the publication of brochures in several languages on the rights of immigrants and the establishment of a telephone helpline for immigrants, for which translation was available in around 60 languages. ACIDI had published a Portuguese edition of *A Diversity Toolkit for factual programmes in public service television*, produced by the European Union (EU) Agency for Fundamental Rights. The Portuguese public television corporation had based its code of ethics on the toolkit. An annual prize of €5,000

was awarded to journalists who portrayed a positive image of immigrants or intercultural dialogue.

12. Portugal had hosted a Roma community for centuries and an estimated 40,000 to 50,000 Roma currently lived in the country. As Portuguese citizens, they enjoyed the same rights of access to public services and welfare programmes as other Portuguese. A seven-year strategy for the inclusion of Roma communities had been launched in 2013 and aimed to break down prejudice. It would focus on education, health, housing and employment. An advisory group for the integration of Roma communities had been set up in June 2013 under the auspices of ACIDI to monitor implementation of the strategy. Mediators had been appointed at the municipal level in order to facilitate dialogue and access to local public services by the Roma.

13. **Mr. Albano** (Portugal), replying to a series of questions regarding human trafficking, said that the primary objective of the first National Plan against Trafficking in Human Beings 2007–2010 had been the establishment and strengthening of the national reference mechanisms, with particular focus on victim support and protection. The Observatory on Trafficking in Human Beings had been set up in 2008, and significant progress had been achieved in identifying and investigating cases of trafficking and in providing subsequent support to victims. The second National Plan, for the period 2011–2013, promoted awareness-raising, prevention, training and investigation, with special focus on trafficking for the purpose of sexual and labour exploitation. The execution rate of the first Plan had been nearly 94 per cent, while a progress report had found that 87 per cent of the measures envisaged in the second Plan were being implemented.

14. A number of legislative measures had also been taken regarding trafficking, including the adoption of the 2007 Law on Foreign Nationals. The Criminal Code had been amended to comply with the European directive on preventing and combating trafficking in human beings and protecting its victims. Several other instruments had also been amended to give law enforcement more investigative leeway and channel confiscated proceeds of trafficking towards victim support.

15. Training was a key element of the national plans. Accordingly, an agreement had been concluded between the Commission for Citizenship and Gender Equality and the Centre for Judicial Studies to improve the training of judges and public prosecutors. Several training sessions had also been held for law enforcement officials and labour inspectors, with prevention as the primary focus. A manual of best practices had been designed on the basis of relevant national legislation and international instruments, and the “Anti-Human Trafficking Manual for Criminal Justice Practitioners”, prepared by the United Nations Office on Drugs and Crime, had been translated into Portuguese. A document describing the rights of trafficking victims was available online to health-care professionals and the general public. Considerable awareness-raising efforts were also under way. For example, the border service had launched a campaign on online safety, including a comic book version aimed at a younger audience. The legal processing of trafficking cases, from identification to verdict, was being analysed and the study’s findings should be published in December 2013.

16. Identified victims of trafficking were entitled to a 30 to 60-day reflection period during which safe accommodation, food, medical and psychological care, interpretation services and legal assistance were guaranteed. They were also eligible for one-year renewable residence permits. A helpline operated six days a week.

17. Civil society was highly involved in combating trafficking, and Government-NGO cooperation had been consolidated with the establishment of the National Support and Protection Network for Victims of Trafficking. The goal of the network was to share information with a view to preventing trafficking and protecting and reintegrating its

victims. A checklist of indicators, questions and protocols for the identification of victims had been developed and circulated to NGOs and labour inspectors.

18. Providing a statistical overview of trafficking cases between 2008 and 2012, he said that over 600 suspected victims had been flagged for investigation, of whom 51 per cent had been women and 48 per cent had been Portuguese.

19. **Mr. Santos Pais** (Portugal) expressed surprise at reports that arrested individuals were not always brought before a judge within the 48-hour statutory period, as government studies on the question had found the opposite.

20. **Ms. Redinha** (Portugal) said that pretrial detention was an exceptional measure whose application was strictly governed by law and could only be imposed for specific serious offences or if the suspect had entered or resided in Portugal illegally or was the subject of an expulsion or extradition request. In Portugal, the concept of “preventive detention” encompassed pretrial detention and post-trial detention pending an appeal, both of which were explicitly provided for in the Code of Criminal Procedure. When a lower court conviction was upheld, post-trial preventive detention could be extended by half of the imposed sentence. Pretrial detention was served in specially designed units. On 31 December 2012, there had been over 2,660 pretrial detainees out of a total prison population of over 13,600. Assessing the necessity, adequacy and proportionality of coercive measures was mandatory under article 193 of the Code. Pursuant to a 2007 reform, persons held in pretrial detention and eventually acquitted were entitled to State compensation. In 2011, a complainant had received €15,000 as compensation for 4 months’ unjustified pretrial detention.

21. **Mr. Santos Pais** (Portugal) said that there were provisions for refusing extradition within the framework of the European Arrest Warrant, and the authorities had availed themselves of them on a number of occasions. For example, in the case of George Wright, extradition to the United States had been denied on the grounds that he was a Portuguese national and had spent a significant amount of time in Portugal since committing the offence for which he was wanted. There was also the sensitive ongoing case of an Indian national who had been deported on the assurance that he would not receive a death sentence. However, when the Indian authorities had initiated proceedings not covered by the extradition agreement, the Supreme Court of Portugal had quashed the extradition order; the case was still the subject of diplomatic contacts.

22. A judge or public prosecutor was notified by fax of all arrests within two hours and no cases of excessive use of force by the police had been reported. Criminal investigations were always launched when there was a suspicion of torture and were not contingent on a complaint by the alleged victim. Furthermore, the public prosecutor was obliged to inform the prison inspection service of such investigations. When the allegations were against a civil servant, disciplinary proceedings were also initiated.

23. **Ms. Ávila** (Portugal) recalled that her Government had ratified most of the international human rights instruments, had issued a standing invitation to all special procedures mandate holders and fully recognized the authority of treaty bodies, including the authority to receive individual complaints. All international norms were directly and immediately applicable once published in the official gazette.

24. She stressed that the Government had always cooperated with national and international investigations into alleged rendition flights. It also responded to civil society requests made in conformity with national access to information laws. For example, in October 2012, the Ministry of Foreign Affairs had replied to a request by Access Info Europe regarding flights that had allegedly taken place between 2003 and 2005.

25. **Mr. Santos Pais** (Portugal) said that law enforcement officials had considered Reprieve's report *The Journey of Death*. The criminal investigation had taken two years to complete, during which time over 100 alleged cases had been exhaustively followed up and more than 200 people questioned. No evidence of rendition flights had been found and the case had been closed, although it could be reopened if new evidence came to light. Public prosecutors were unequivocally independent of the Government.

26. **The Chairperson** (Country Rapporteur) invited the delegation to comment on how the Government followed up the Ombudsman's recommendations. Regarding the Roma, he asked whether they were referred to as gypsies, whether the administrative complaints mechanism had ever been used and, if so, what the outcome had been. He enquired whether other discriminatory acts or practices, aside from torture, were considered offences and what the definition of "victim" was in cases of racial discrimination.

27. He wished to know whether the prison inspection authorities met international standards. Although no allegations had ever led the Committee to launch an article 20 procedure against Portugal, issues had been raised, notably by the European Committee for the Prevention of Torture regarding solitary confinement. In that connection, he asked whether those concerns had led to any policy changes. Regarding limits on pretrial detention, he asked whether the principle of necessity was defined in case law and whether periods of detention were renewable.

28. On rendition flights, he said the fact that the authorities denied events that everyone else knew had occurred aroused suspicion. He asked how the State party distinguished between regular overflight and landing clearances and those requested for unlawful prisoner transfers.

29. **Ms. Sveaass** (Country Rapporteur) commended the State party for its campaigns regarding violence against women and said that they could serve as a model for other countries. She asked whether the support provided by NGOs and shelters to women victims of domestic violence included forensic documentation of their injuries. She welcomed the State party's focus on preventing trafficking and supporting victims and its apparent efforts to bring more cases to court. She requested data on persons in pretrial detention as well as further explanations about the referral system for complaints of torture or ill-treatment and about the penalties that had been imposed on persons found guilty of torture. Lastly, she wished to know about plans to close Lisbon Central Prison and to monitor detention conditions more closely.

30. **Mr. Bruni** repeated his previous question, namely: how had the public prosecution service evaluated the report entitled "The Journey of Death", which had been published by the organization Reprieve? The level of detail of the information cited in the report allowed only two explanations: one was that it had been falsified and the second that it contained facts. Even if the report was the result of an elaborate fraud, those responsible must be prosecuted. In either case an evaluation was necessary.

31. He asked whether, under Portuguese criminal procedure, counsel could be present during the interrogation of terrorist suspects. With regard to prison overcrowding, he enquired whether the Government's stated plans to make major investments in improving prison conditions had been hampered by the economic crisis. He wished to know whether the Government had reduced the maximum length of solitary confinement from 30 days to 14 days in keeping with the recommendations made to Portugal by the European Committee for the Prevention of Torture.

32. **Mr. Mariño Menéndez** asked what lessons the Government had gleaned from its experiences in the former East Timor relating to the violence that had been committed there and the exercise of universal jurisdiction by the Portuguese courts. Expressing concern at the relatively high dropout rate among Roma children, he requested further information on

measures included in Government programmes to address that problem. He enquired whether the Government kept statistics on child labour, especially the worst forms of such labour, and on compulsory schooling, particularly in relation to the most vulnerable children. He wished to know whether legal entities had criminal responsibility in cases of sexual exploitation and trafficking in persons. Lastly, he enquired whether there was a monitoring programme for immigrants who reached Portugal by sea and, if not, whether the authorities envisaged establishing one.

33. **Ms. Gaer** requested clarification of what was meant by “statistical secrecy” in the State party’s replies. She asked what percentage of trafficking victims tended to be concentrated in resort areas in Portugal. If they were there in numbers, were the police receiving any necessary additional training to cope with the situation? With regard to the denial of extradition by Portugal in the George Wright case, she asked whether, if the situation was reversed, the State party would be satisfied with nationality and elapsed time between the crime and the request as grounds for such denial.

34. **Mr. Wang Xuexian** reiterated his previous question as to whether foreigners made up a disproportionate number of the prison population in Portugal.

35. **Mr. Nuno Bártolo** (Portugal) said that, if warranted by the emergence of new information, the public prosecution service would reopen the investigation into whether or not CIA-operated “rendition flights” had passed through Portuguese territory. He pointed out, however, that no such allegations had been levelled against Portugal, unlike other EU member States. Furthermore, no complaint alleging Portuguese collusion with the CIA had ever been lodged with the European Court of Human Rights by the purported victims of such illegal activities. The European Parliament, which had been working actively on that issue for several years encouraged member States to undertake in-depth and independent investigations into allegations of illegal transfers of detainees. The public prosecution service, which was completely independent, had carried out such an investigation and had concluded that there was no evidence to suggest that Portuguese leaders or other public officials had colluded in perpetrating such offences or that any such criminal activity had taken place in Portuguese territory. Lastly, Portugal was a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance, and the Portuguese Parliament was expected to ratify that treaty in the near future.

36. **Mr. Santos Pais** (Portugal) said that the investigation had further concluded that the rules concerning the use of Portuguese airspace, which derived from international law, and those for aircraft landings, which derived from national law, had been respected. The body that handled the administrative complaint procedure in cases of racial discrimination was the Commission for Equality and Against Racial Discrimination.

37. **Mr. Albano** (Portugal) said that plans aimed at promoting gender equality and preventing human trafficking and domestic violence would be prepared in January 2014 on the basis of evaluations of previous plans in those areas. Alleged victims of domestic violence were taken to a forensic doctor within 24 hours of lodging a complaint in order to document any evidence of psychological and/or physical violence. Statistics did not necessarily indicate that the areas with the highest incidence of trafficking were those most frequently visited by tourists.

38. **Ms. Ávila** (Portugal), referring to the Roma population, said that the Portuguese National Strategy gave priority to the inclusion of Roma history, cultural heritage and language in textbooks and teaching. The Strategy also called for increasing Roma access to preschool education in order to promote the earliest possible educational success and family involvement, encouraging the completion of compulsory schooling and promoting the participation of Roma pupils in extracurricular activities.

39. **Ms. Redinha** (Portugal) said that her country continued to maintain a 30-day maximum period for solitary confinement, which was reduced to 24 hours in the case of young offenders under the age of 16. Under the new Code for the Enforcement of Sentences, such measures were reviewed by the sentence enforcement judge, and the prisoner in question was notified of the decision of the Director-General for Prison Services.

40. Between 2008 and 2012, the number of registered complaints of discrimination on grounds of race, religion or sexual orientation had been fewer than 3 (statistical secret) in 2008, 13 in 2009, 15 in 2010, fewer than 3 (statistical secret) in 2011 and 6 in 2012. There had been fewer than three convictions in such cases over the same period. The concept of statistical secrecy was a data protection device used in the field of justice administration not only in Portugal but in other EU member States as well. Its mention denoted that the figure in question was less than 3 statistical units; a statement of the actual figure might make it easy to identify the individual or individuals concerned.

41. **Mr. Santos Pais** (Portugal) said that the Code of Criminal Procedure was very strict when it came to rules for the application of pretrial detention; that lessened the need to rely on case law for guidance in that area. With regard to complaints of torture, a criminal investigation was always initiated by the public prosecution service, irrespective of the agency with which the complaint had been lodged. Some cases could give rise to both criminal and disciplinary proceedings, the former involving a violation of the Criminal Code and the latter a violation of the police code of ethics, for example.

42. A suspect was required by law to have access to counsel as from the first judicial interrogation. In cases of suspected terrorism or organized crime, the public prosecutor could ban the suspect from communicating with third parties for up to 48 hours prior to the hearing with the investigating judge, but that ban did not apply to the suspect's lawyer.

43. **Ms. Lopes** (Portugal) said that the Ministry of Justice managed 49 prisons, which currently housed some 14,000 prisoners, despite a prison capacity of only around 12,000. With a view to the urgent improvement of prison conditions, the Ministry of Justice had drawn up an investment plan aimed at refurbishing existing facilities or building new ones. The plan called for the refurbishment of eight prisons and the addition of capacity for 1,129 prisoners; total investment would be €31 million.

44. There were no plans to close Lisbon Central Prison, which was the largest in Portugal. The dilapidated wings were scheduled to be refurbished in January 2014.

45. Psychiatrists at Santa Cruz do Bispo psychiatric hospital, when questioned by the local prison governor about the procedure requiring forensic psychiatric patients to be temporarily placed in isolation cells without any clothes, said that the procedure was intended to avert the risk of suicide. The psychiatrists were independent of the prison service.

46. **Ms. Pereira** (Portugal) said that preventive inpatient care for forensic psychiatric patients was provided preferably in non-prison mental health-care units or in prisons with mental health-care facilities when deemed necessary or appropriate. Such care was administered on the basis of an individual therapeutic and rehabilitation plan drawn up by mental-health professionals. The mental-health programme was awaiting a Government initiative to develop new psychosocial rehabilitation facilities and residential occupational support differentiated for adults, young persons and children. The psychiatric hospitals in Lisbon had units for patients charged with criminal offences. Additional psychiatric care was provided by hospitals run by religious orders.

47. Means of restraint necessary to protect the patients and staff of such hospitals were regulated under a law issued by the Directorate-General of Health that did not provide for

the use of mechanical restraining methods; instead, it allowed isolation in a padded cell or the use of a chemical restraint. Such procedures could be applied only for purposes of patient and staff security or to enable the patient to overcome a crisis.

48. **Mr. Santos Pais** (Portugal) said that the experience of East Timor had indeed been a very important one for his country because the Prosecutor-General at the time had had to deal with the question of applying article 5 of the Portuguese Criminal Code in order to assert universal jurisdiction for crimes committed in that territory. The problem was that, although Portugal had been the administering Power at the time, it had had no effective powers in the territory itself.

49. With regard to the promotion of the education of Roma children, some needy Roma families received social assistance in the form of a minimum income. The Ministry of Education had also been operating a programme for several years that provided education to Roma children from nomadic families by means of a coordinated network of teams of teachers in various parts of the country.

50. Measures taken by the Government to address the issue of child labour had either reduced or entirely eliminated most problems in that area. There were no major flows of immigrants entering Portugal by sea; however, the Aliens and Borders Service was working closely with the EU agency Frontex in dealing with such immigrants.

51. The extradition of George Wright had been denied on a combination of grounds, including nationality, humanitarian considerations and the excessive length of time which had elapsed between the perpetration of the crime and the extradition request. That had been the decision of the public prosecution service. He could not elaborate further.

52. The Constitution did not allow for the collection of data on ethnicity for any kind of statistics, given the potential for abuse of such data, notably for purposes of discrimination.

53. **The Chairperson** thanked the delegation for its thorough and informative replies to the Committee's questions.

54. **Mr. Nuno Bártolo** (Portugal) said that replies to any remaining unanswered questions would be transmitted to the Committee in writing.

The meeting rose at 6.05 p.m.