



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

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Summary record of the first part (public)* of the 1186th meeting

Held at the Palais Wilson, Geneva, on Thursday, 7 November 2013, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1186/Add.1.

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The meeting was called to order at 10 a.m.

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

Fifth and sixth periodic reports of Portugal (CAT/C/PRT/5-6; CAT/C/PRT/Q/6; HRI/CORE/PRT/2011)

1. *At the invitation of the Chairperson, the delegation of Portugal took places at the Committee table.*
2. **Mr. Bartolo** (Portugal) said that Portugal had a long-standing commitment to combating torture and took great pride in teaching children in Portuguese schools that the country was one of the first in Europe, indeed in the world, to have abolished the most cruel, inhuman and degrading punishment in existence, namely the death penalty. Portugal duly carried out its obligations under the Convention and consistently took account of the absolute nature of the prohibition of torture. It had actively worked to implement the Committee's recommendations following the consideration of its previous report in 2007. It had also ratified the Optional Protocol to the Convention against Torture. The Ombudsman would perform the functions of the national preventive mechanism. The prevention and punishment of ill-treatment of prisoners was one of the Government's key priorities. Regulations governing the use of coercive means, a new Code on the Execution of Sentences and Security Measures and general prison regulations had been adopted. Such texts, which had simultaneously helped to increase transparency, strengthen monitoring capacity and align legislation with the highest international standards, were presented in greater detail in the report. The report had been prepared by the National Human Rights Commission — established in 2010 to follow up on a recommendation resulting from the universal periodic review — and the Commission had ensured that civil society representatives had been given the opportunity to have their say.
3. Efforts had been made in relation to training, particularly that of prison guards, the duration of which had been increased to six months. Emphasis had also been placed on inspecting places of detention, an essential means of ensuring that the rights of persons deprived of liberty were respected by the police. In 2012, as in previous years, the Inspectorate-General of Internal Administration had carried out visits to several police detention facilities. It had made recommendations and suggestions, which, on the whole, had been accepted. An Inspectorate-General of Judicial Services had been established within the criminal police. All persons deprived of their liberty were now immediately informed of their rights and the reasons for their detention. Efforts had also been made to combat inter-prisoner violence, which was often linked to drug use. A programme to prevent the entry and circulation of drugs and other illegal substances in prisons, adopted in 2009, had yielded encouraging results. Work on sanitation facilities aimed at improving detention conditions had been undertaken in some prisons. More extensive work had also been carried out in an effort to increase prison capacity. Recognizing the need to protect juvenile prisoners, the authorities had established a new national network of educational centres. Such centres, which were secure and protected, had been designed to respond to the rehabilitation and reinsertion needs of juveniles. An act had been adopted to prevent and punish the practice of female genital mutilation; the first action plan to tackle the issue had been implemented in 2009.
4. Combating domestic violence and violence against women were Portugal's two main human rights priorities. In 2009, an Act on the prevention of domestic violence and assistance to victims and an Act on the compensation of victims of violent crimes and domestic violence had been adopted. A telephone helpline had been set up and the country had 36 shelters which could take in up to 619 women. Portugal had ratified the Council of Europe Convention on Action against Trafficking in Human Beings and had implemented a

second National Action Plan against Trafficking covering the period 2011–2013. It had also ratified the Convention on the Rights of Persons with Disabilities in 2009 and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in 2012. In 2013, it had ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Fully recognizing the persisting difficulties in preventing torture, and despite the current economic situation having affected public expenditure, Portugal was committed to progressing with the implementation of the provisions of the Convention and guaranteeing respect for and the promotion of the highest human rights standards.

5. **The Chairperson** (Country Rapporteur) asked whether the State party had taken the necessary legislative measures to amend article 243 of the Criminal Code to include discrimination as a possible motive for torture. He wished to know whether such grounds had already been invoked by Portuguese courts to convict perpetrators of acts of torture and ill-treatment. Had the current economic situation had an impact on the budget of the Ombudsman (*Provedor de Justiça*)? He wished to know whether the Ombudsman had received complaints of violations of the provisions of the Convention, and if so, what action it had taken in response. According to some sources, a number of cases brought by civilians in 2000 for acts of torture by police officers had still not been resolved. He asked the delegation to comment on the matter. Had the number of cases brought before the courts increased since the adoption of new domestic violence legislation in 2009? The report stated that the Act on the prevention of domestic violence gave police the option of arresting an aggressor, without having to catch the person in flagrante delicto. Had the number of arrests increased since the adoption of that new provision? Pursuant to the new Act, the courts had 48 hours in which to take measures against the aggressor, but had immediate measures been established to protect the victim during that period? What conclusions had the State party drawn from the use of electronic bracelets and what measures had been put in place to help victims?

6. He asked the delegation to provide data on victims of trafficking disaggregated by sex and ethnicity and, where appropriate, the rehabilitation measures provided by the courts. Had the State party taken measures to ensure that the victims, who were often in an irregular situation, were not dissuaded from filing a complaint? Had the Committee's recommendation to deduct the time spent in detention for the purposes of identification from the duration of police custody been implemented? In the event of a suspect being subject to physical violence while in custody, the incident must be referred to the prosecutor within 48 hours and the person concerned must be examined without delay by a doctor, failing which the proceedings were deemed null and void. In that regard, he wished to know whether police officers who failed to request such examinations were punished.

7. The report stated that the introduction of the principle of necessity had been one of the major changes to the pretrial detention regime. He wished to know how that principle was applied in practice and how it had been interpreted by the courts. He requested further information on the different detention regimes provided for under the Code of Criminal Procedure. Could the periods of detention mentioned in paragraph 14 of the report be extended? Had the courts already awarded damages and interest for unlawful pretrial detention? He also enquired as to whether the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning the conditions of detention in high security prisons and the disciplinary punishment of solitary confinement had been addressed. Lastly, he asked the delegation to provide further information on the principles governing the surrender of persons subject to a European arrest warrant.

8. **Ms. Sveaass** (Country Rapporteur) welcomed the Portuguese delegation and congratulated the State party on the establishment of the national preventive mechanism on 9 May 2013, whose functions were performed by the Ombudsman (*Provedor de Justiça*). However, she said that the institution's capacity to act needed to be strengthened.

9. She requested further information on the investigation procedures and follow-up given to cases of torture or ill-treatment involving police officers or prison guards. The report stated that the inspections conducted, particularly in police stations, had failed to find any cases of non-compliance with statutory obligations and that the number of complaints of torture in the prison system was very low. However, in its reports, the CPT had described a very different reality, and had stressed that police officers must constantly be reminded of the need to limit the use of force to what was necessary and proportional. The CPT had described different types of ill-treatment, such as slaps, punches, kicks, blows with batons to the body and intimidation or threats using a weapon. She wished to know what measures had been taken to address the matter and how the State party intended to improve training for security officers and the inspection service in order to prevent such behaviour in future. Who else apart from the public prosecutor could request forensic medical examinations? She requested further clarification on the degree of independence granted to the general inspection service and wished to know whether judges and public prosecutors had been involved in its work. According to information received, the procedures for filing a complaint of ill-treatment were complex and subsequent investigations rarely came to fruition. She asked the delegation to provide further information on recent developments in that area and disaggregated data on the prevalence of ill-treatment by law enforcement officials. How were the *Virgolino Borges* and *Leonor Cipriano* cases, reported by Amnesty International progressing?

10. The police's handling of demonstrations also raised questions, owing to the use of unlawful detention measures and excessive force, and the inability of demonstrators placed in custody to contact a lawyer. The use of excessive force had also been noted during arrests. The treatment of the Roma in September 2012 in Regalde (use of tasers and waterboarding) was not acceptable. She wished to know whether such abuses had been investigated, whether the investigations had come to a conclusion and whether the investigation mechanisms were sufficient.

11. As to training, the State party had stated that knowledge of human rights issues was part of the evaluation and selection criteria for persons wishing to join the criminal police and that the legal and constitutional principles of necessity, adequacy and proportionality in the use of force lay at the heart of training programmes. She asked the delegation to provide specific information on training methods and the evaluation of their effectiveness and results. It was important that such training primarily took a practical approach. She also requested information on the training provided to personnel, particularly medical personnel, who handled asylum requests. Were medical reports concerning the torture suffered in the country of origin routinely prepared? Was a person's state of mental health and injuries evaluated upon arrival at the airport, reception centre or detention facility?

12. She also wished to know what changes had been brought about by the adoption of the new Code on the Execution of Sentences, particularly in prisons. Had the Code been fully implemented? What measures had the State party taken to address prison overcrowding in the light of the financial crisis affecting the country? How was the plan to close down the central prison in Lisbon progressing? Regarding the complaints of violence in prisons, she asked the delegation to provide information on the outcome of the cases, describe the disciplinary measures taken and explain the high proportion of acquittals. She also requested further information on the evidence gathered as part of such complaints and asked whether prisoners' statements and medical assessments had been taken into account and recorded, stored and made available to prisoners and their lawyers, and whether

medical examinations had been conducted without the presence of prison guards. She asked the delegation to provide further details of the use of long periods of solitary confinement, lasting up to 30 days, which the Committee considered excessive, as a disciplinary measure for prisoners. She also requested information on the number and causes of deaths in prison, the suicide prevention and counselling programmes and the measures taken to effectively prevent inter-prisoner violence. Lastly, she wished to know whether the State party had progressed with its plans to close the psychiatric prison hospital of Santa Cruz do Bispo, which had failed to ensure appropriate treatment for persons with mental illness. The State party should also review the care provided to such patients, find alternatives to the use of physical restraints and immediately put an end to the practice of leaving patients naked in solitary confinement.

13. In the light of the State party's very brief response to the questions concerning reparation and compensation measures, she drew the delegation's attention to the Committee's general comment No. 3 on the implementation of article 14 by States parties (CAT/C/GC/3) and requested further information on the reparation and rehabilitation measures provided to victims. She wished to know whether victims must initiate proceedings in order to receive compensation and whether the health-care system played a role in their rehabilitation.

14. She also wished to know whether the State party's security forces continued to use taser weapons. She welcomed the fact that female genital mutilation had been included as an offence in the Criminal Code and constituted grounds for granting refugee status. She congratulated the State party on the measures it had taken to eliminate domestic violence but noted that the figures for that form of violence remained extremely high and asked what had been done to improve the training of persons responsible for combating the problem and to punish the perpetrators of such acts more effectively. As to trafficking, although progress had been noted, shortcomings still remained and the State party continued to be a country of origin, transit and destination for victims of trafficking for sexual exploitation or forced labour. She asked the delegation to provide further information on recent developments in that area and data on the number of complaints lodged, charges brought and convictions recorded.

15. **Ms. Gaer** said that, according to the data provided by the State party, the majority of deaths in custody were due to infectious diseases (mainly AIDS and hepatitis). She wished to know what steps had been taken to combat those causes of death. As to trafficking, she questioned the effectiveness of the current policy and wished to know whether the targets contained in the national plans aimed at combating trafficking had been met.

16. **Ms. Belmir** said that the State party should reduce the maximum duration of pretrial detention, which, at present, could last up to 18 months. Concerning juvenile justice, she said that the State party should take further steps to fully comply with international standards.

17. **Mr. Wang Xuexian** said that, according to the data available, foreigners were overrepresented in prisons and received particularly harsh sentences. He asked what had been done to address the situation. What steps had the State party taken to enforce the article of the Portuguese Constitution prohibiting racist or fascist organizations?

18. **Mr. Mariño Menéndez** requested further information on the deportation cases mentioned in paragraph 29 of the report.

19. **The Chairperson** (Country Rapporteur), noting that drug problems were among the main reasons for inter-prisoner violence, asked what efforts had been made to prevent access to such substances in prisons. Turning to the extremely worrying use of tasers by the security forces, he requested further information on the measures taken to restrict the use of such weapons.

The first part (public) of the meeting rose at 12 p.m.