



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

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**Committee against Torture**  
**Sixty-eighth session**

**Summary record of the 1799th meeting**

Held at the Palais Wilson, Geneva, on Wednesday, 20 November 2019, at 3 p.m.

*Chair:* Mr. Modvig

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*The meeting was called to order at 3 p.m.*

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

*Seventh periodic report of Portugal (continued)* (CAT/C/PRT/7 and CAT/C/PRT/QPR/7)

1. *At the invitation of the Chair, the delegation of Portugal took places at the Committee table.*
2. **Mr. Mateus** (Portugal) said that, before the delegation replied to the Committee's questions, he wished to make it clear that the information provided and the State functions under consideration during the review were the responsibility of the central Government, regardless of whether functions were exercised by the authorities of the autonomous regions.
3. **Ms. Capinha** (Portugal) said that Portugal had a well-developed legal system for the prevention and punishment of torture and cruel, inhuman or degrading treatment, as was to be expected of a post-dictatorship society that recalled the odious nature of such crimes in its collective memory. The Portuguese Constitution not only prohibited torture, but stipulated that all evidence obtained by torture, coercion or infringement of the physical or moral integrity of the individual was null and void. Those principles were reinforced by the Code of Criminal Procedure and the Criminal Code, which provided that crimes of torture were punishable by 1 to 5 years' imprisonment, and by up to 16 years' imprisonment if there were aggravating circumstances. Those provisions focused on the act rather than the motives, but were sufficiently broad to cover the concept of torture committed on the basis of discrimination, as invoked by the prosecution in the Cova da Moura case.
4. Discrimination was classified as a separate offence under article 240 of the Criminal Code, and persons convicted of it were punishable by 6 months' to 5 years' imprisonment. Portuguese law made provision for discrimination on a vast array of grounds, including race, colour, ethnic or national origin, parentage, religion, sex, sexual orientation, gender identity and physical or intellectual disability. Like torture and abuse of authority, discrimination could also be taken into account as an aggravating circumstance in other crimes, such as murder, bodily harm, illegal restraint and threatening behaviour.
5. Article 118 of the Criminal Code provided that, for crimes of torture, the statutory limitation period expired 10 years after the commission of the offence, or 15 years after the commission of an aggravated offence. In crimes against the sexual freedom and self-determination of minors, including female genital mutilation, the criminal procedure would not end on the grounds of expiry of the statute of limitations before the victim reached 23 years of age. Crimes of torture defined as a crime against humanity in the Rome Statute of the International Criminal Court were not subject to any statute of limitations.
6. **Mr. Bravo** (Portugal) said that the judgment issued by Judge Neto de Moura in a domestic violence case had resulted in his reprimand and subsequent transfer to a civil law section where he no longer heard criminal cases. The case had focused attention on the need to strengthen training for judges on domestic violence and gender-based violence. Since 2017, the Centre for Judicial Studies had delivered several such training courses, which had been attended by hundreds of judges and prosecutors, and a further six courses were scheduled for 2020. Courses run by the Centre were open to other legal professionals and disseminated free of charge in the form of e-books. The Centre also participated in the Human Rights Education for Legal Professionals Programme of the Council of Europe, thus ensuring that all Portuguese jurists had access to online human rights training. Act No. 80/2019 stipulated that judges and prosecutors must undergo obligatory continuous training on human rights and domestic violence.
7. In the Cova da Moura case, an indictment had been filed against 18 officers of the Public Security Police for crimes including aggravated illegal restraint and torture. The suspects had not been suspended from duty but had been required to give proof of identity and residence. Of those accused who had subsequently been brought to trial, none had been convicted of torture as the evidence did not confirm that such an offence had taken place.

Eight defendants had been convicted of bodily harm with serious abuse of authority, falsification of documents and aggravated injury. One defendant had been ordered to serve an 18-month prison sentence; the rest had received suspended prison sentences of varying lengths. Five of the victims had been awarded €10,000 in compensation and another €7,500; however, the fact that both the Public Prosecution Service and the defence had appealed against the judgment meant that compensation would not be paid until a final judgment had been rendered. Regardless of the eventual outcome, the proceedings had proved that the police were not above the law and were subject to criminal justice on the same terms as other citizens. It had also increased awareness within the law enforcement agencies of the need for internal and external scrutiny.

8. **Ms. Capinha** (Portugal) said that detention for identification purposes was envisaged under article 250 of the Code of Criminal Procedure and was used only exceptionally when the police suspected that an individual was involved in a crime, was subject to an extradition or expulsion procedure, was staying in the national territory on an irregular basis, or was the subject of an arrest warrant. The police were first obliged to inform the person of the circumstances in relation to which he or she was being identified, and then to identify them in one of several ways. Only once all possible means of identification had been exhausted could the individual be taken to the nearest police station and held for the period of time necessary for identification to take place; that period could not exceed six hours. Order No. 12786/2009, which regulated the conditions of detention on the premises of the judicial police, the courts and the Public Prosecution Service, clearly stated that periods of detention for identification purposes counted towards the 48 hours within which detainees must be taken before a judge. Detainees had the right to contact a lawyer at all times, to be informed of the reasons for their detention and to be informed of their rights in a language they understood. All periods of detention counted towards any prison sentences handed down in the event of a conviction. Moreover, the Inspectorate-General of Justice Services systematically inspected all detention facilities of the judicial police, the courts and the Public Prosecution Service, carrying out unannounced visits during which inspectors were able to converse in private with detainees.

9. **Mr. Bravo** (Portugal) said that Portuguese criminal procedure was based on the right to a fair trial as set out in article 6 of the European Convention on Human Rights. Both article 32 (8) of the Constitution and article 126 of the Code of Criminal Procedure stated that evidence obtained through torture, coercion or infringement of physical or moral integrity was null and void. Furthermore, if such methods of obtaining evidence constituted a crime, then they might be invoked as evidence in criminal proceedings against the officers who had used them, in accordance with article 15 of the Convention against Torture. The higher courts had heard few cases concerning coercive methods of obtaining evidence; it was thought that the cases that had arisen had been heard by the courts of first instance and had not given rise to appeals.

10. **Ms. Afonso** (Portugal) said that, in Portuguese law, the general rule was that compensation should be sought through civil proceedings. However, in the event of a conviction, the criminal courts might ensure reparation for harm done, especially when required for the protection of the victim. In 2015, a broad legal definition of “victim” had been introduced which included not only the persons directly concerned by the crime, but also any family members affected. The law also provided for the concept of “especially vulnerable victims”, taking into account factors such as age, health status and disability.

11. **Ms. Capinha** (Portugal) said that, since the adoption of the National Counter-Terrorism Strategy in 2015, the Government had taken a number of steps in response to the threat of terrorism. For example, it had prepared an action plan for the prevention of radicalization and recruitment for terrorism, and the Counter-Terrorism Act had been amended to criminalize public support for terrorism and travel for the purpose of joining a terrorist organization. Other measures included the amendment of the Nationality Act to ensure that individuals seeking Portuguese nationality did not pose a danger owing to their involvement in terrorism, and legislative amendments to strengthen the High Council of Internal Security and the Counter-Terrorism Coordination Unit. Training, too, had been strengthened, through the provision of courses for judicial police officers during the previous 12 months. In taking those measures, the Government aimed to improve the

mobilization, coordination and cooperation of national bodies with direct or indirect responsibility for counter-terrorism, while respecting the principles of proportionality and appropriateness in the context of constitutional rights, freedoms and guarantees.

12. Both the Constitution and the relevant national laws already prohibited extradition to countries where there was reason to fear that the person extradited might be subjected to torture. In the extradition agreements concluded between Portugal and other States, it was standard practice to insert a clause providing for the obligatory refusal to extradite in the event of violations of fundamental constitutional principles, one of which was the prohibition of torture.

13. **Mr. Gradim** (Portugal) said that combating domestic violence was a top priority for his Government. In 2016, a multidisciplinary team had been created to retrospectively examine domestic violence murders with a view to drawing conclusions that would inform new preventive methodologies. As at September 2019, that team had issued seven reports, each containing a set of recommendations for State institutions. In 2017 and 2018, about 1,500 people each year had been convicted of domestic violence offences. Portugal had 25 emergency refuges and 40 shelters, and several State institutions implemented prevention and victim support programmes for persons affected by domestic violence, including women, children, older persons and persons with disabilities.

14. Although no complaints of female genital mutilation had been reported to the police in 2017 or 2018, the Government had taken a comprehensive approach to preventing and combating the practice, focusing on health services and cooperation with civil society. Awareness-raising campaigns had been conducted at airports, and leaflets had been distributed to Portuguese-speaking countries in Africa. The National Health Service maintained electronic health records that contained information on the patient's country of origin, the age at which she had been subjected to the practice and the location where it had occurred. Thanks to those records, 63 and 54 situations of female genital mutilation had been detected in 2018 and 2019, respectively. A pilot project had revealed that 61 per cent of the cases detected in 2019 concerned women from Guinea-Bissau and that those cases were not recent and had not occurred in Portugal. The Government was strengthening the capacity of the National Health Service to detect, report and diagnose cases and each year about 2,000 health professionals received training in preventing and combating female genital mutilation.

15. **Ms. Penedo** (Portugal) said that it was difficult to say whether there had been an increase in the number of cases of trafficking in persons. The figures cited by the national preventive mechanism were for the number of cases referred to the Observatory on Human Trafficking but not necessarily confirmed. Nevertheless, Portugal was taking steps to address trafficking for the purpose of labour exploitation at the national and European levels. For instance, in 2018, officers of the Immigration and Borders Service had carried out a major operation to break up a trafficking network in the Baixo Alentejo region, and representatives of the Service and of the Authority for Working Conditions had participated in the Joint Action Day of the European Multidisciplinary Platform against Criminal Threats.

16. Portugal was primarily a destination country, as opposed to a country of transit, for women and child victims of trafficking for the purpose of sexual exploitation. Victims were predominantly female, with an average age of 17 years, and tended to be nationals of African countries – principally Angola, Mali and Nigeria. Given the particular vulnerability of children to trafficking, as part of the 2019 action plan of the National Committee for Human Rights, Portugal had begun developing a protocol for the prevention and detection of trafficking in children and the protection of victims through the creation of a national referral mechanism. All 60 applications for residency permits submitted by victims of trafficking since 2013 had been granted.

17. **Mr. Ataíde** (Portugal) said that applications for international protection, including resettlement, had totalled 1,469 in 2016, 1,750 in 2017 and 1,272 in 2018. Refugee status had been granted to 103 persons in 2016, 119 persons in 2017 and 286 persons in 2018; subsidiary protection had been granted to 267 persons in 2016, 382 persons in 2017 and 405 persons in 2018. The proportion of applications approved had been 25 per cent in 2016,

29 per cent in 2017 and 54 per cent in 2018. The rise in that rate in 2018 was attributable to the granting of refugee status to applicants who had fled the civil war in Syria. The Ministry of Home Affairs was responsible for approving or rejecting applications for international protection. Where applications were made at the border, that duty fell to the director of the Immigration and Borders Service.

18. Between 2015 and 2017, the Government had committed to resettling 4,274 third-country nationals to ease the burden of the migrant crisis on Greece and Italy. However, owing to the lack of appropriate reception centres in Portugal, the Government had struggled to honour that commitment, even with the valuable assistance of civil society organizations. Nevertheless, it had still processed 1,552 applicants, which was the fifth highest number processed by any of the countries taking part in the relocation programme.

19. Act No. 27/2008 set out procedures for identifying victims of torture. A specialized team on human trafficking established by the Immigration and Borders Service was trained to identify and monitor risk indicators for that purpose. Beneficiaries of international protection were provided with health care on an equal footing with Portuguese nationals. Médecins du Monde carried out medical examinations of persons applying for international protection at the border.

20. Regarding the implementation of the Istanbul Protocol, all complaints of torture and ill-treatment were swiftly referred to the relevant authorities for investigation. All violations of fundamental rights were reported to the Inspectorate-General of Home Affairs.

21. Expulsions from the national territory could be ordered on the grounds of irregular entry or stay or a criminal conviction. Under article 143 of the Aliens Act, foreign nationals could not be removed to countries where they might be persecuted for reasons which, by law, justified the granting of asylum, or where they might be subjected to torture or inhuman or degrading treatment within the meaning of article 3 of the European Convention on Human Rights. It was down to the person concerned to raise their fear of persecution. There were no statistics on appeals against expulsion decisions on the grounds of risk of torture. A total of 316 expulsions had been carried out in 2018, 354 in 2017 and 375 in 2016. Most of those expelled had been nationals of either Brazil or Cabo Verde.

22. The duration of stays in temporary reception facilities met the necessary legal requirements and was subject to judicial review. Applicants for international protection at the border who did not meet the requirements to enter the country were automatically permitted to do so if they had not been informed of the decision on their application within seven working days. All final decisions of administrative and judicial bodies were sent to applicants in writing. The Immigration and Borders Service fully met its legal responsibilities to provide applicants for international protection with the necessary information in a language they could understand. Applications were immediately referred to the Portuguese Refugee Council, which provided applicants with legal counsel and information for the duration of the process. Decisions on applications were substantiated and notified in writing to applicants and their legal representatives, and could be challenged before the courts.

23. He could not confirm whether the national preventive mechanism had been apprised of the asylum application of Jojo Mbela, also known as Dior Sow, in June 2019. The applicant had been kept abreast of the processing of his application, provided with legal counsel and supported by the legal office of the Portuguese Refugee Council.

24. By order of the Ministry of Home Affairs of 24 July 2018, minors aged under 16 years could be held in temporary holding centres for no longer than seven days. By law, unaccompanied applicants for international protection aged under 16 years could not be held in temporary holding centres. Unaccompanied minors aged 16 years or over could be held in such facilities only where it was in their best interests. Such situations were routinely notified to the Office of the Prosecutor-General and the Family and Minors Court. Work was under way to establish family rooms at centres in Lisbon and Porto. In addition, a new centre was being built in Almoçageme to accommodate applicants for international protection.

25. **Mr. Pinto da Silva** (Portugal) said that the Inspectorate-General of Home Affairs had inspected four temporary holding centres and equivalent spaces in 2010, four in 2014 and two in 2017. Since it had begun monitoring coercive removals, it had monitored 4 out of 90 cases referred to it in 2015; 15 out of 369 in 2016; 14 out of 322 in 2017; 11 out of 276 in 2018; and 18 out of 244 so far in 2019. The total annual number of coercive removals had been steadily decreasing since 2008. Around two-thirds of all coercive removals from 2016 to 2018 had concerned Brazilian nationals. While the Inspectorate-General of Home Affairs had not launched any disciplinary proceedings in connection with its monitoring activities, it had made a number of recommendations to the Immigration and Borders Service on how the latter might improve its procedures, particularly with respect to the detention of children in temporary holding centres.

26. A total of 860 administrative proceedings had been initiated in respect of complaints against the police in 2018, of which 3 had led to inquiries, 18 to investigations, 41 to disciplinary procedures and 5 to penalties. In 2019, so far, 855 administrative proceedings had been initiated, primarily in response to complaints of assault or ill-treatment by officers. Nine separate disciplinary proceedings had been initiated following investigations into the Cova da Moura case, for assault and falsification of confessions. In three of the cases, the accused had been suspended from their functions for 90 days as a precautionary measure.

27. The Inspectorate-General of Home Affairs was responsible for high-level auditing and monitoring of all bodies and services whose activities were legally governed or regulated by the Ministry of Home Affairs. It was empowered to investigate any violations by law enforcement and security agents. In practice, it did not investigate all such violations, but only those it deemed the most serious. Administrative proceedings were launched in respect of less serious violations and enabled the Inspectorate to determine whether complaints merited further investigation.

28. **Mr. Mateus** (Portugal), responding to a question on juvenile detention centres asked at the previous meeting by Mr. Tuzmukhamedov, said that there was a juvenile prison in Leiria, which should not be confused with the six educational guardianship centres mentioned at that meeting.

29. **Mr. Santos** (Portugal) said that Porto prison currently housed 987 inmates, which was 91 fewer than in January 2019. Nonetheless, its occupancy rate stood at 143 per cent. The cells that had been referred to in relation to the visit by the Subcommittee on Prevention of Torture were two collective cells that were independent from the main prison wings and housed inmates on detoxification programmes or at risk of suicide. The construction of new prison sections was nearing completion.

30. Suicide had accounted for 15 of the 69 deaths recorded in prisons in 2017, 11 of the 54 deaths recorded in 2018, and 9 of the 54 deaths recorded so far in 2019. The law stated that all deaths of detainees must be reported to the Office of the Prosecutor-General, the police and the relevant inspection services. Autopsies were carried out as a matter of course for deaths in prisons and at the discretion of the Prosecutor-General for deaths in other places of detention. All causes of death in prisons – not only homicide or suicide – were routinely investigated. The Directorate-General for Prisons recognized that there was a need to better assess inmates' health needs.

31. As at 1 October 2019, 2,399 persons, or 18.8 per cent of all detainees, were being held in pretrial detention. Of those, 325 were women and 640 were foreign nationals. Among the prison population, there were 156 inmates aged between 16 and 20 years, of whom 13 were female. The juvenile prison in Leiria currently housed 175 inmates, of whom 81 were aged between 16 and 20 years, and ran programmes and activities catering specifically for young people. Although the legislation in force did not exclude young inmates from being confined to disciplinary cells, in practice that measure was very rarely imposed, and the relevant law would be revised. Similarly, while the law currently provided for other inmates to spend up to 21 days in a disciplinary cell, the latest government guidance capped the period at 15 days, in line with international standards.

32. Overcrowding in prisons was caused by a number of factors. In some cases, the authorities had no choice but to house inmates in prisons that already had a high occupancy

rate, as they were obliged to place them within a certain distance of their families or the trial court.

33. There were currently 4,363 prison guards in Portugal, including more than 400 new recruits. A further 22 guards were currently completing their initial training and would be in service by the end of 2019. In addition, the Government planned to hire at least 200 more guards by the end of 2020. Although there had been a number of strikes by prison guards in recent years, the Government had been able to secure the minimum service required by law through negotiation. In Lisbon and Porto, the disruption had led to protests erupting in prisons, but no violence on the part of inmates had been reported, and all incidents had been resolved without the use of force.

34. **Ms. Galhardo** (Portugal) said that health care in the country's 49 prisons and 6 juvenile detention centres was assured by the ministries of justice and health. Under the Ministry of Justice, health care was provided by both in-house and external health professionals. Upon arriving in prison, each detainee was examined by a nurse within 24 hours and by a physician within 72 hours. Examinations were carried out more promptly in urgent cases.

35. In the past three years, the Ministry of Justice had hired 90 nurses, 14 psychologists, 12 technicians and 10 doctors, including 6 psychiatrists. A further 390 external professionals, including 85 doctors, were due to be hired in 2019. Two psychiatric services, one in the north and one in the south, currently employed 10 full-time psychiatrists. Coordination between prisons and psychiatric services was assured through an internal referral network.

36. All other health care, including specialist consultations and treatment, emergency care, surgery, vaccinations and drug rehabilitation, was provided to detainees free of charge by the Ministry of Health through hospitals and health centres. Since 2016, specific programmes relating to laboratory tests, oral health, physiotherapy, psychology and vaccinations had been implemented.

37. In 2017, a working group had been established by the two ministries to improve detainees' access to health services. A national programme for the prevention, diagnosis and treatment of HIV and hepatitis had led to the development of 28 joint protocols between prisons and State hospitals, which provided for doctors to travel to prisons to administer treatment on site. Since 2018, the Directorate-General for Health had provided free influenza vaccinations for all inmates and prison guards. Lastly, the State was computerizing health records in prisons, and inmates' prescriptions were now processed digitally.

38. **Ms. Alvarenga** (Portugal) said that, between October 2018 and October 2019, the national preventive mechanism had carried out 28 visits to prisons and 5 to educational guardianship centres. It had received nearly 900 calls from detainees held in prisons nationwide in the past six months. Although the Ombudsman faced difficulties in visiting private detention centres, that was not a matter of concern, as other bodies, such as the Labour Inspectorate and the Directorate-General for Health, were able to perform that function. The Government had taken note of the shadow report submitted by the Office of the Ombudsman, particularly its recommendations aimed at facilitating communication between young persons in educational guardianship centres and their families. Proposals to strengthen the legislation in that area would be formulated and put to parliament.

39. The Government fully appreciated the importance of the United Nations Voluntary Fund for Victims of Torture; Portugal was already a contributor to the Fund.

40. **Ms. Pereira** (Portugal) said that gypsies, or *ciganos*, called themselves as such in Portugal and did not identify as Roma. The Government had taken affirmative action to remedy the discrimination historically faced by *cigano* communities, including through a comprehensive, multi-stakeholder integration strategy that involved those communities themselves.

41. According to the Commission for Equality and against Racial Discrimination, 346 complaints of discrimination had been registered in 2018, which represented a 93 per cent increase on the previous year. Racial and ethnic origin were the most commonly cited

reasons for the discrimination experienced. Of 178 complaints made in relation to racial discrimination, a third had come from *cigano* communities.

42. The High Commission for Migration had undertaken awareness-raising activities to inform citizens of their rights and to tell them who to contact about hate speech and discrimination. On 21 March 2019, the first International Day for the Elimination of Racial Discrimination, informative posts placed on the Commission's website and on social media had explained how to complain about offensive content posted online. Following a meeting in September 2018, the Commission for Equality and against Racial Discrimination had called on the media to refrain from referring to individuals on the basis of their racial or ethnic origin, colour, nationality or administrative situation, as part of its efforts to combat racism, xenophobia and intolerance.

43. **Ms. Vieira** (Portugal) said that 10 members of the National Republican Guard were on trial at the court in Aveiro for crimes of torture, bodily harm and abduction. The National Republican Guard had initiated disciplinary proceedings against each officer; however, as the trial was ongoing, no definitive legal decision had yet been handed down.

44. In Évora, the local public prosecution service had launched criminal proceedings against a captain of the National Republican Guard for alleged acts of torture, but the case had been shelved owing to a lack of evidence. However, during visits by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2012 and 2013, fresh allegations of assault had come to light. In 2016, the captain had been charged with torture and, on 12 April 2018, he had been sentenced to a term of imprisonment for crimes of torture but spared the ancillary penalty of being dismissed from service. The captain had appealed against the ruling and his appeal had been upheld on the grounds of a procedural irregularity. In June 2016, new disciplinary proceedings had been launched in relation to the subject of the criminal investigation. A final decision on the case was pending.

45. **Ms. Martins** (Portugal) said that the Public Security Police referred to international reference works when conducting training and also held seminars and awareness-raising events for civil society. Between 2012 and 2018, more than 800 training sessions on dealing with domestic violence had been provided to 12,000 police officers. In 2016, 43 law enforcement officers had attended a short course on human trafficking. The High Commission for Migration had provided training on diversity and intercultural dialogue for over a thousand members of the Public Security Police in 2017.

46. The training curriculum of the Immigration and Borders Service was structured in accordance with the Common Core Curriculum for Border and Coast Guard Basic Training in the European Union, which in turn included input from the Office of the United Nations High Commissioner for Refugees and other international bodies. Special emphasis was placed on the need to protect vulnerable populations. Over the past five years, the European Asylum Support Office had been providing additional training to Portuguese officials in the area of international protection, with a focus on interviewing techniques.

47. Officers who were deployed to peacekeeping missions received special training on human rights, the rule of law and gender issues, delivered in accordance with the United Nations Pre-deployment Training Standards.

48. Lastly, all prison officers followed a basic training module on human rights and principles of international standards, which covered aspects of multiculturalism and interpersonal communication techniques, as well as rules on the use of force. In-service training on multiculturalism, the use of force and suicide prevention was also provided. The Directorate-General for Reinsertion and Prison Services would be designing a system to evaluate the impact of training in 2020, for implementation in 2021.

49. **Mr. Guinote** (Portugal) said that Portuguese firearm regulations had been drafted in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The use of firearms by law enforcement officials was primarily intended to serve as a warning, and the aim was not to hit anyone. A distinction was made in the regulations between the use of firearms against people and simply the use of firearms. Specific rules existed concerning the use of firearms against people.



50. He could state categorically that no person of African descent had met his death at the hands of the Portuguese police in recent years. On the contrary, the police had done its utmost to reach out to minority communities. Under a 2016 project set up by the High Commission for Migration, awareness-raising activities on multiculturalism had been directed at young people, and 136 police officers had followed a course on diversity, intolerance and discrimination-based violence.

51. **Ms. Alvarenga** (Portugal) said that the basic training given to members of all three branches of the armed forces included training on human rights. At the Military University Institute, human rights were an integral part of the curriculum. Military personnel who were to be deployed abroad received training on the Geneva Conventions relating to the protection of victims of international armed conflicts and their additional protocols. Portugal followed United Nations standards in its recruitment procedures for international missions, and provided the necessary psychological and social support to personnel, as well as training on gender equality, the treatment of prisoners of war, torture, ill-treatment and sexual abuse.

52. **Mr. Heller Rouassant** (Country Rapporteur) said that it would be useful to know the legal value or status of annex 2 to the State Party's report, as that annex illustrated a much broader and more nuanced understanding of ill-treatment and discrimination than that provided for by article 243 of the Criminal Code. It seemed to him that the definitions included in that annex, particularly those pertaining to discrimination against the *cigano* community and the use of force by law enforcement officers, could be used to strengthen article 243 and the definition of torture contained therein.

53. The Cova da Moura trial appeared to reflect an exceptional incident rather than a trend in the State party. Nevertheless, he would appreciate receiving in writing the update given by the delegation so that the Committee could take it into account when formulating its concluding observations.

54. He wished to know whether the State party had considered his suggestion that the Inspectorate-General of Home Affairs should be granted autonomous status and made into a separate government ministry.

55. The State party should remedy the national preventive mechanism's lack of financial and human resources, as reported by the Subcommittee on Prevention of Torture, as a matter of priority. The delegation's assertion that the national preventive mechanism's inability to visit certain private places of detention was not of concern because other bodies, such as the Labour Inspectorate, could visit those places instead, was problematic. The Optional Protocol to the Convention against Torture specified that the mechanism must have access to all places of detention. Lastly, it seemed that the national preventive mechanism did not always send a multidisciplinary team to conduct its visits and that it had an inadequate number of physicians. Action should be taken to redress the mechanism's balance of skills to ensure that it was fully equipped to carry out its functions.

56. **Mr. Tuzmukhamedov** (Country Rapporteur) said that he would appreciate information on the availability of reparations to victims of torture regardless of the status of any criminal proceedings. He would also be grateful for clarification as to whether the definition of a victim of torture encompassed not only persons who had suffered injury, but also their relatives and persons who had been harmed while trying to assist in a situation of imminent torture. He welcomed the information provided about training but wondered whether broader courses on international law were provided, in addition to those on European jurisprudence.

57. He understood that the six-hour period allowed for identification of a detained person was counted as part of the maximum 48-hour custody period. However, that rule should be laid down in legislation. He would like confirmation that, during those six hours, the detainee had access to a lawyer and the opportunity to contact relatives or another person.

58. He welcomed the planned construction of a separate government-administered facility at Lisbon airport. He hoped that medical personnel and lawyers would not be required to pay a fee in order to have access to persons detained there.

59. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials stipulated that law enforcement officials must not use firearms against persons except to defend against the imminent threat of death or serious injury. There appeared to be some discrepancies between the Principles and the regulations applicable in the State party, for example the provision that firearms could be used against a person who was trying to escape, without it being specified that the person must present an imminent threat to life.

60. **Mr. Hani**, acknowledging that Portugal already contributed to the United Nations Voluntary Fund for Victims of Torture, asked whether it planned to increase its contribution. He also asked whether funds had been set aside in the next budget for the therapeutic unit to be established in the educational guardianship centres. He said that he would appreciate more information on the staffing problems in such centres, which had been highlighted in the report of the national preventive mechanism.

61. **Mr. Mateus** (Portugal) said that the delegation would provide a written reply on the Cova da Moura case. It would be difficult to change the status of the Inspectorate-General of Home Affairs, but the recommendation would be transmitted to the relevant ministry for consideration. The Inspectorate was responsible for monitoring all security forces and thus had a completely different mandate from that of the national preventive mechanism. The Government was aware that the national preventive mechanism needed more resources, an independent budget and staff with more varied skills, including medical specialists.

62. **Ms. Afonso** (Portugal) clarified that the relatives of a victim of torture were also considered victims: relatives included spouses, cohabiting partners, parents, siblings and dependents.

63. **Mr. Mateus** (Portugal) said that the Ministry of Justice recognized the pressing need for a therapeutic unit within the juvenile justice system. All government bodies were currently preparing their proposals for the 2020 budget and the Ministry of Justice would request funding for such a unit.

64. **Ms. Galhardo** (Portugal) said that the Portuguese contribution for 2020 to the United Nations Voluntary Fund for Victims of Torture had not yet been decided, but the delegation would recommend an increase.

65. **Mr. Pinto da Silva** (Portugal) said that the definition of ill-treatment used by the Inspectorate-General of Home Affairs, which included a list of situations that might be covered by the concept, served to alert the law enforcement services to the types of cases that the Inspectorate might deem to constitute ill-treatment.

66. **Ms. Capinha** (Portugal) said that Portuguese legal experts had found no incompatibility between the definition of torture in article 243 of the Criminal Code and that in the Convention. The Code had already been amended following the accession of Portugal to the Convention to stipulate that domestic violence could constitute torture. Nevertheless, the Government would continue to consider further amendments to the Code. The definition of ill-treatment drafted by the Inspectorate-General of Home Affairs was intended to provide operational guidance by listing a number of acts that could trigger disciplinary proceedings. From a legal standpoint, those acts might constitute torture or other offences such as assault. During the six hours of detention for identification purposes, the detainee's constitutional right of access to a lawyer was upheld; detainees could also contact another person of their choice. It was not necessary to change the law to ensure that those hours were included in the maximum 48-hour detention period; that interpretation had been confirmed by all relevant jurisprudence and was stipulated in internal regulations approved by a ministerial order. Colleagues from the police had assured her that police officers shared that understanding and applied it in practice.

67. **Mr. Bravo** (Portugal) said that the issue of excluding evidence obtained under torture did not arise, although it was sometimes necessary to declare evidence inadmissible owing to other violations of human rights, such as the right to privacy. Judges and prosecutors were nonetheless fully aware of their obligations to ensure the inadmissibility of such evidence.

68. **Mr. Mateus** (Portugal) reminded the Committee that, pursuant to a recent amendment to the Criminal Code, the six hours of detention for identification purposes were not only included in the permissible period of detention but counted as an entire day of detention. Any period of pretrial detention was similarly deducted from the eventual sentence. He agreed that access for lawyers and doctors to the relevant areas of the airport needed to be reviewed.

69. **Mr. Mateus** (Portugal) said that Portugal viewed the review by the Committee as an opportunity to learn and progress towards higher standards of protection of human rights. All the Committee's recommendations would be thoroughly assessed and taken into account in future political and legislative decisions.

70. He would like to emphasize his Government's commitment to the use of alternatives to detention. In recent years, the judicial culture in Portugal had undergone a dramatic change to address the issue of prison overcrowding. As a result, incarceration rates had been falling consistently since 2016, while the use of electronic tagging, community service, suspended sentences and probation had increased significantly.

71. **Mr. Macieira** (Portugal) said that he wished to reiterate the commitment of Portugal to respect, protect and fulfil human rights for all without discrimination. The support and recommendations of the human rights treaty bodies were essential to progress towards that goal, as were the contributions of civil society organizations and the national human rights institution.

72. **The Chair** thanked the delegation for the constructive dialogue and said that the Committee would select three urgent recommendations from its concluding observations and would request the State party to submit a follow-up report on their implementation within one year. The State party would also be invited to produce a plan for the implementation of the remaining recommendations.

*The meeting rose at 5.30 p.m.*