



CPT/Inf (96) 31

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

from 14 to 26 May 1995

The Portuguese Government has requested the publication of this report and of its interim report in response. The interim report of the Portuguese Government is set out in document CPT/Inf (96) 32.

Strasbourg, 21 November 1996

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Copy of the letter transmitting the CPT's report

Strasbourg, 20 December 1995

Dear Mr. Caetano da Silva,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Portugal drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Portugal from 14 to 26 May 1995. The report was adopted by the CPT at its twenty-seventh meeting, held from 4 to 7 December 1995.

I would draw your attention in particular to paragraph 188 of the report, in which the CPT requests the Portuguese authorities to provide an interim and a follow-up report on action taken upon its report. The CPT would be grateful if it were possible, in the event of the reports forwarded being in Portuguese, for them to be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Claude NICOLAY
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

Mr João José Gomes Caetano da Silva
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereafter referred to as "the Convention") a delegation of the CPT carried out a visit to Portugal from 14 to 26 May 1995. The visit formed part of the CPT's programme of periodic visits for 1995, and was the second periodic visit to Portugal to be carried out by the Committee (the first having taken place in January 1992¹).

2. The delegation consisted of the following members of the CPT:

- Mr Claude NICOLAY, President of the CPT (Head of the Delegation);
- Mr Constantin ECONOMIDES;
- Mrs Nadia GEVERS LEUVEN-LACHINSKY;
- Mrs Gisela PERREN-KLINGLER;
- Mr Leopoldo TORRES BOURSAULT.

It was assisted by:

- Mr Rodney MORGAN, Professor of Criminal Justice, University of Bristol, United Kingdom (expert);
- Ms Silvia CAMILO (interpreter);
- Ms Sophie ENDERLIN (interpreter);
- Ms Melanie ROE (interpreter);
- Ms Kathryn TEIXEIRA DINIZ (interpreter).

The delegation was also accompanied by the following members of the CPT's Secretariat:

- Mr Mark KELLY;
- Mr Jan MALINOWSKI.

¹ The CPT's report on that visit was published in July 1994, together with the response of the Portuguese Government (cf. document CPT/Inf (94) 9).

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

Judicial Police

- Serious Crime Squad at Avenida José Malhoa, Lisbon;
- Headquarters at Rua S. Bento da Vitória, Oporto.

Public Security Police

- Police Station at Avenida Movimento Forças Armadas, Amadora;
- Police Station at Rua André Resende, Benfica;
- Holding facilities at the Governo Civil, Lisbon (follow-up visit);
- Police Station at Praça da Alegria, Lisbon (follow-up visit);
- Divisional Headquarters at Rua de Goa, Matosinhos;
- Holding facilities at Largo 1º de Dezembro, Oporto;
- Police Station at Rua de Naulila, Oporto;
- Police Station at Praça de Infante D. Henrique, Oporto;
- Police Station at Praça Coronel Pacheco, Oporto;
- Police Station at Largo dos Restauradores, Seixal;
- Headquarters at Avenida Luisa Tódy, Setúbal;
- Police Station at Avenida da República, Vila Nova de Gaia.

National Republican Guard

- Rua Central Station, Lever;
- Headquarters at Avenida Jaime Cortesão, Setúbal.

Prisons

- Judicial Police Prison, Lisbon (follow-up visit);
- Judicial Police Prison, Oporto;
- Linhó Prison, Sintra (follow-up visit);
- Oporto Prison (C Wing).

Detention Centres for minors

- Padre Antonio de Oliveira Re-education Centre, Caxias;
- Observation and Social Action Centre, Lisbon.

Other establishments

- San João de Deus Prison Hospital, Caxias.

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the authorities and organisations with which the delegation held talks is set out in Appendix II to this report.

D. Co-operation between the CPT and the Portuguese authorities

5. The CPT's delegation was received by the Minister for the Interior, Dr Manuel Joaquim Dias Loureiro and the Minister for Justice, Dr Alvaro José Brilhante Laborinho Lucio. Those meetings were conducted in a spirit of full cooperation. The delegation also held fruitful consultations with senior officials of those Ministries and of the Ministries of Defence, Foreign Affairs and Health, both during and at the end of the visit.

The delegation also had interesting discussions with the Ombudsman, Dr José Menéres Pimentel and a number of senior members of his staff, and with the General Public Prosecutor of the Republic, Dr José Narciso da Cunha Rodrigues.

6. With one exception, the delegation received a very satisfactory reception from both management and staff at the places of detention visited.

The exception occurred at the Public Security Police holding facilities in Lisbon (at the Governo Civil), where the Officer in charge refused to allow the delegation to interview detainees in private, "on security grounds". After a delay of more than 30 minutes, during which the delegation was obliged to contact its liaison officer at the Ministry of the Interior, the situation was resolved and the delegation was able to interview the detainees concerned. Such a delay was all the more surprising, given that a CPT delegation had already visited the establishment on two previous occasions (once during the first periodic visit and once during the 1995 visit). Moreover, the Portuguese authorities had been notified in advance of the CPT's intention to visit the holding facilities.

Nonetheless, it should be highlighted that, in general, the delegation found that management and staff at local level were well informed about the CPT's mandate and prepared to offer the delegation every facility necessary for its work. The CPT is convinced that the timely and appropriate dissemination of information on the Committee's mandate to all relevant authorities contributed significantly to the cooperation enjoyed by its delegation throughout the visit to Portugal.

7. As regards cooperation in the context of the ongoing dialogue between the Portuguese authorities and the CPT, the Committee regrets that the follow-up report in response to its report on the first periodic visit to Portugal in 1992 (which was due in October 1993) was made available to the Committee (in Portuguese) only during the course of the 1995 visit.

In consequence, the CPT was unable to take into account the information set out in the follow-up report during the preparation and carrying-out of its second periodic visit. **The CPT wishes to stress the importance of the timely submission of both interim and follow-up reports in the maintenance of a constructive on-going dialogue between the Committee and Parties to the Convention.**

Of course, **it is also important that the content of visit reports drawn up by the CPT are brought to the attention of all the relevant authorities in an appropriate form.** In this respect, the Committee must point out that the authorities in charge of certain places visited stated that they had not been made aware of the CPT's findings regarding their establishments as set out in the report on its 1992 visit.

8. Finally, the CPT wishes to express its appreciation for the assistance provided to its delegation by Dr Mário Gomes Dias, Dra Teresa Cunha Rêgo, and Dr Henrique Dias da Silva, the Government's liaison officers in, respectively, the Ministries of the Interior, Foreign Affairs and Justice.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. General information

9. As during the first periodic visit to Portugal, the CPT's delegation visited police establishments under the control of three distinct police forces: the Judicial Police (Policia Judiciária - PJ); the Public Security Police (Policia de Segurança Publica - PSP) and the National Republican Guard (Guarda Nacional Republicana - GNR).

10. The legislation and subsidiary rules concerning the detention, treatment and questioning of persons detained by the police were summarised in the report drawn up after the CPT's first periodic visit (cf. CPT/Inf (94) 9, paragraphs 10 and 11 and Appendix 3).

One important development has been the insertion in the revised Criminal Code (which entered into force on 1 October 1995) of the new offence of torture and other cruel, degrading or inhuman treatment under the general heading of crimes against humanity. The revised Code provides for a penalty of up to sixteen years imprisonment for the most serious cases. Further, it creates the offence of failure, on the part of the hierarchical superior, to report such conduct within three days of acquiring knowledge of its commission.

The CPT welcomes this development.

2. Torture and other forms of ill-treatment

a. introduction

11. In the course of its visit, the CPT's delegation spoke to many persons about their experiences while in police custody. Such persons were interviewed in the police establishments visited and in the Judicial Police Prisons in Lisbon and Oporto. The delegation also visited Oporto Prison with the express purpose of speaking with prisoners on remand about their treatment by the police.

12. A significant proportion of the persons interviewed alleged that they had been ill-treated while in police custody. As during the CPT's visit to Portugal in 1992, the principal form of ill-treatment alleged was physical assault (i.e. kicks and blows with fists, truncheons or batons). Further, the delegation again heard a few allegations that detained persons had been subjected to simultaneous blows to both ears with telephone directories or beaten on the soles of their feet (falaka).

Moreover, there were frequent allegations about the excessive use of force (in particular, the infliction of blows with batons) by police officers at the time of arrest. A number of detainees also alleged that they had been physically assaulted by members of the public, in the presence of police officers who did not intervene to prevent them being injured.

On examination by the delegation's doctors, a number of the persons who alleged that they had been ill-treated were found to display marks or conditions consistent with their allegations.

13. It might be added that the existence of such ill-treatment by the police was affirmed by representatives of non-governmental organisations with which the delegation held talks and supported by other information with which it was supplied.

b. Public Security Police

14. A considerable number of persons who were or had recently been detained by the **Public Security Police** alleged that they had been ill-treated by police officers from that force.

As an example, a person interviewed at the Public Security Police holding facilities in Lisbon alleged that some six hours earlier, shortly after his arrest, he had been ill-treated by plainclothes police officers in the PSP station at Rua André Resende, Benfica. He alleged that, on his arrival there, he had been handcuffed to a fellow detainee and made to sit on the floor of a garage. He claimed that, while in that position, police officers had struck them both repeatedly with a distinctive black baton, which he described in some detail.

A medical examination revealed two elongated marks across the back at shoulder-blade level, one of about 10 cm and the other of about 25 cm long, each of which were some 2 cm wide; they were striped throughout their length (red-white-red) and sensitive to the touch, although no swelling was perceptible. Similar marks were observed on the left shoulder (5 cm), on the lateral part of the upper left arm over the caput humeri (3-4 cm), on the right lower arm (10 cm) and on the left shin (4 cm). These findings are fully consistent with the detainee's allegations that he had been struck with a baton some six hours earlier.

15. The delegation heard a number of other allegations of ill-treatment of detainees held at the Benfica PSP station, including that of a minor who claimed that, several months earlier, he had been detained there overnight. He told the CPT's delegation that he and another detainee had received kicks and baton blows while held in a cell. Further, he claimed that he had witnessed his fellow detainee being made to kneel on the shaft of a brown wooden club with a heavy head, under which plainclothes officers had obliged him to place his hands.

16. When the CPT's delegation visited the premises occupied by plainclothes police officers at Benfica police station, it found a black baton and a brown club fitting the description given by the above-mentioned detainees of the instruments allegedly used to inflict ill-treatment (cf. paragraphs 14 and 15). It also found several other non-standard batons and a baseball bat, none of which were labelled as evidence.

17. Unlabelled, non-standard clubs or batons (quite unlike ordinary police truncheons) were found in a number of other PSP establishments.

Particular reference should be made to the display of weapons found in an office of the Justice and Tax Department of the PSP in Amadora. The wall behind a desk at which detainees were interviewed was adorned by a substantial number of replica handguns, home-made batons and nunchaku sticks² crafted in metal and wood. In a corner of the same room, the delegation found a 90 cm long club, fashioned from a length of four phase industrial cable, from one end of which the insulation had been stripped, allowing the metal wires inside to be soldered together to form a very heavy head.

A similar collection of such objects was seen by the delegation at Seixal PSP Station.

In both establishments (as in other places where such items were found) the police officers present provided divergent explanations for their presence. Perhaps the most convincing explanation, given by a police officer at Amadora, was that they provoked a certain degree of respect from detainees.

18. Reference should also be made to the information gathered by the delegation during its visit to the PSP Station at Avenida da República, Vila Nova de Gaia. Acting on suggestions from prisoners at Oporto Judicial Police Prison and Oporto Prison, the delegation chose to visit that establishment late on a Sunday evening. Some five minutes after the delegation's arrival, a detained person was brought into the station and handcuffed to a bench in the reception area. Almost immediately, he began loudly to complain that he had just been ill-treated by one of the plainclothes officers present. Interviewed in private, he alleged that, at the time of his detention, he had been punched by that officer and then thrown to the ground, where he was again punched while his arms were twisted behind him.

19. On examination by one of the delegation's doctors he displayed injuries including: a fresh 1 cm x 3 mm abrasion on the dorsal side of the knuckle on the little finger of the right hand; a fresh abrasion, just less than 1cm round, on the lateral face of the olecranon, with some gravel and clotted blood; further gravel-filled indentations on the right side of the forehead and a 3 cm x 1 mm scratch. The detainee claimed that these injuries had been sustained when he was thrown to the ground.

He also displayed a number of injuries which he claimed were the result of punches and of having a foot placed on his neck: 2 bruises in the lower hairline, paramedial - the first 1 cm x 1 mm and reddish, the second, semi-spherical and centred upon a reddish spot - both bruises lying within a larger area of reddish discoloration measuring 5 cm x 6-7 cm; a reddish 2 cm x 1 cm haematoma with 2 minor skin abrasions on the front of the neck and pain on palpation of the mid axillary area of the right flank at the level of the lower 8th rib; pain on palpation of the proximal sternocleidomastoid muscle, on the left side, behind the angle of the mandibular, and pain on palpation of the soft tissue on the angle of the left mandibular.

It should be added that following this interview/examination, the police officer in charge of the station decided to release the person concerned. No attempt was made to explain the condition in which he had arrived and no note was taken of the fact that he had complained of police ill-treatment.

² Originally used as a Japanese martial arts weapon, nunchaku sticks consist of two rounded rods of equal length, joined by a chain or strap.

20. A few allegations were heard of even more serious forms of ill-treatment by PSP officers.

Particular reference should be made to an inmate interviewed in Oporto Prison, who alleged that, several months earlier, he had been beaten on the soles of his feet with a metal shower rod by police officers, in the staff washroom at the Public Security Police station at Rua de Naulila in Oporto. He claimed that, whilst ill-treating him, the police officers had requested information about criminal offences.

In view of the time which had elapsed since the alleged ill-treatment and the prisoner's statement that he no longer bore marks or had medical complaints, he was not medically examined by the delegation's doctors. Nevertheless, the delegation subsequently visited the PSP station at Rua de Naulila (which had recently been redesignated as a traffic police station and was no longer used to hold detainees). It found that the staff washroom was located in an area to which detainees would not normally have had access and that its equipment included a number of metal shower rods which could easily be removed from their sockets.

21. It should also be mentioned that, in reports drawn up following inspection visits to nineteen Public Security Police stations in the Lisbon area on 26/27 May and on 6/7 July 1995, the Ombudsman recorded a number of complaints of ill-treatment of persons detained by the PSP (cf. paragraph 65).

c. National Republican Guard

22. The delegation did not gather any evidence of ill-treatment in either of the GNR establishments which it visited. Nevertheless, a number of allegations of rough treatment by GNR officers were made by persons being held in the prisons visited.

Further, in two cases, the medical records completed on reception at Oporto Prison recorded allegations of ill-treatment by GNR officers and injuries which were consistent with those allegations. In the first case, a prisoner admitted in March 1993 alleged that he had been struck by three officers at Carvalhos GNR Station. The accompanying medical certificate recorded a peri-orbital ecchymosis of the left eye and excoriations on the dorsum of the nose. In the second case, a prisoner who had been held at Carvalhos GNR Station in April 1994 alleged that he had been assaulted by a named officer. The medical certificate recorded two large haematomas (one of 15 cm and the other of 6-8 cm in diameter) on his back, a wound on the left thigh and excoriations on the left hand.

d. Judicial Police

23. The CPT's delegation heard comparatively few allegations of ill-treatment by the **Judicial Police**; however, a particularly grave allegation was heard concerning the Serious Crime Squad (the DCCB) in Lisbon. A prisoner interviewed by the delegation at Lisbon Judicial Police Prison claimed that he had been questioned in the premises of the DCCB between 15 and 17 February 1995. He stated that during those interrogations he had been ill-treated on several occasions, including through the infliction of blows to the back of his calves with a baton.

The person concerned provided a detailed description of the office where those events had allegedly taken place and of an object he had seen there, which he thought could have been used to ill-treat him (he was apparently lying face down on the floor when the blows in question were inflicted).

24. Notwithstanding the time which had elapsed since the alleged ill-treatment had taken place, on examination by one of the delegation's doctors, the prisoner displayed sensitivity and solidity on palpation of the lateral part of the right musculus gastrocnemius. This finding is consistent with the prisoner's allegation.

25. The delegation was able to confirm (from records held at the prison) that the above-mentioned prisoner had indeed been in the custody of the DCCB between the dates concerned. In the course of a subsequent visit to the premises of the DCCB, the delegation saw an office, the location and layout of which fitted perfectly the description given by the prisoner. In that office it found a home-made baton (a length of thick multi-strand electric cable folded in two, with a slightly thinner electric cord tightly wound around it) which closely corresponded with the prisoner's description of the object which he had seen there.

26. The delegation expressed its concern about the provenance of the above-mentioned baton at the final meeting held with the Portuguese authorities on 26 May 1995. Subsequently, by letter of 30 May 1995, the Deputy Director General of the Judicial Police forwarded documents which purport to demonstrate that the baton concerned had been seized by the police on 19 May 1995. The delegation was concerned that this explanation could not account for the fact that, on 16 May 1995, a detailed description of such an object was provided by a person who, some three months previously, had been held in the office in which the above-mentioned baton was found.

The Head of the delegation wrote to the Portuguese authorities on 16 June 1995, requesting that a more detailed, independent, investigation be carried out into the origin of the baton. In response, in early December 1995 the recently appointed Minister for Justice, Mr José Vera Jardim, ordered an inquiry into the matter and requested that the General Public Prosecutor of the Republic appoint a public prosecutor to oversee the investigation. **The CPT would like to be informed at the earliest opportunity of the findings of this investigation and of any further action taken as a result.**

- e. assessment and proposals for further action

27. In the report drawn up after the first visit to Portugal, the CPT was led to conclude that the ill-treatment of persons in police custody was a relatively common phenomenon. In its interim report, the Portuguese Ministry of the Interior characterised that conclusion as "manifestly excessive" (cf. paragraph 6, first sub-paragraph of the response).

Regrettably, in the light of both the information gathered during the second periodic visit and of the statistics about complaints of ill-treatment in recent years provided by the Portuguese authorities in their follow-up report, the CPT does not feel able to modify the above-mentioned conclusion, especially insofar as the Public Security Police is concerned. Indeed, the Committee feels that the Portuguese authorities may well have underestimated the scale of the problem of ill-treatment of persons deprived of their liberty by the police.

Firm and unequivocal action is required to address this situation.

28. **The CPT recommends that senior law enforcement officials be required to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be dealt with severely. In this context, the attention of police officers should be drawn in particular to the new provisions of the Criminal Code to which reference was made in paragraph 10.**

29. As regards the allegations heard of ill-treatment at the time of arrest, the CPT fully recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone the officers concerned have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and possibly also by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Further, once arrested persons have been brought under control, there can never be any justification for them being struck by police officers.

Moreover, it is axiomatic that it would be completely unacceptable for police officers not to intervene if they witness a person whom they intend to detain being assaulted by members of the public.

In the light of the information gathered during the visit, **the CPT recommends that police officers be reminded of these precepts.**

30. The CPT welcomes the efforts being made in respect of the provision of suitable education on human rights questions and of adequate professional training of higher ranking police officers. However, the Committee would stress that such education should be made available to officers of all ranks and categories and should be ongoing (cf. also paragraph 2 of the CPT's observations on the interim report submitted by the Portuguese authorities).

Accordingly, **the CPT wishes to reiterate the following recommendations:**

- **that a very high priority be given to human rights education and professional training - both initial and ongoing - for police officers of all ranks and categories. Experts not belonging to the police forces should be involved in this education and training;**
- **that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that, during the training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills.**

31. Naturally, one of the most effective means of preventing ill-treatment by public officials lies in the diligent examination of all complaints of such treatment and, where appropriate, the imposition of suitable penalties; this will have a very strong dissuasive effect.

In this respect, the follow-up report submitted by the Portuguese authorities in response to the CPT's 1992 report clarifies that all forms of ill-treatment inflicted by law enforcement officials acting in that capacity are liable to prosecution, without requiring a formal complaint from the victim. However, the CPT's delegation was told by several persons who alleged ill-treatment by the police that they had complained to the public prosecutor and/or judge before whom they were brought about the way they had been treated, but that he had displayed little interest in the matter. This was allegedly the case even when the detainee displayed severe bruising on visible parts of his body.

The CPT presumes that it does not have to recall the duties of public prosecutors and judges in a State which accepts the principle of the rule of law.

As regards administrative/disciplinary procedures applied in cases of alleged ill-treatment by the police, **the CPT would like to receive information on these procedures, including full details of the guarantees ensuring their objectivity.**

32. The potential importance of the role which could be played by doctors appointed to carry out forensic tasks should also be emphasised. The findings of such doctors will carry considerable weight in legal and/or disciplinary proceedings; it is therefore essential that they be closely involved in cases of alleged ill-treatment by the police.

Reference should be made in this connection to a meeting held between the delegation and the Director of the Lisbon Institute of Forensic Medicine and the Head of the Medico-Legal Clinic of the Institute. It transpired from that meeting that forensic doctors are only occasionally called upon to examine persons who allege that they have been ill-treated by the police (some six cases during the previous year).

The delegation was also told that there is often a significant time-lag between the time of the alleged ill-treatment and an order being issued by the competent judge for a forensic examination to be performed. As a result, any identifiable marks or injuries which might have been attributable to ill-treatment will often have healed.

33. In the light of the above remarks, **the CPT recommends:**

- **that whenever a public prosecutor or investigating judge receives a complaint of ill-treatment by the police, or observes that someone brought before him could have been a victim of ill-treatment, he should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor;**
- **that persons taken into police custody who are subsequently released without being brought before a public prosecutor or judge should be able independently to solicit a medical examination/certificate from the relevant forensic institute.**

34. Finally, as regards the numerous unlabelled weapons found by its delegation in areas in which detained persons may be held or interrogated, **the CPT recommends that urgent steps be taken to ensure, (i) that any weapons held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location designed for that purpose, and (ii) that no other non standard-issue weapons are held on police premises.**

3. Material conditions of detention

35. The general criteria employed by the CPT vis-à-vis material conditions of detention in establishments of law enforcement agencies should be reiterated (cf. also paragraph 21 of the 1992 report). All cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

36. In its 1992 report, the CPT criticised the material conditions of detention in several of the establishments visited and recommended that the situation in those establishments be reviewed. It also recommended that appropriate steps be taken to ensure that the conditions of detention in all police establishments meet the criteria set out above.

The CPT was pleased to note that both information provided by the Portuguese authorities and the findings of its delegation during the second periodic visit show that genuine efforts are being made to improve conditions of detention in police establishments.

37. Neither the PJ Headquarters at Rua S. Bento da Vitória in Oporto nor the Serious Crime Squad (DCCB) in Lisbon possessed cells or other detention facilities. This did not present a problem in Oporto, because the Headquarters were located directly above Oporto PJ Prison, which accommodated, inter alia, persons required for questioning by the Judicial Police³. However, the DCCB in Lisbon did not have ready access to such a facility.

At the DCCB, the delegation was told that, when an interrogation lasted until late in the evening, the detainee concerned could be accommodated in a fully equipped bed, in a room shared by police officers sleeping on the premises overnight. However, some detainees met by the delegation who said that they had been questioned at night at the DCCB alleged that, during brief rest periods, they had been handcuffed to an item of furniture. It should be added that prison staff stated - and documentary evidence gathered by the delegation confirmed - that detainees had been returned from the DCCB to prison establishments in the small hours of the morning (i.e. between 2 and 5 am).

In the view of the Committee, DCCB officers should have access to secure temporary holding facilities, thereby relieving them of the need to shackle persons to benches or similar objects.

38. A follow-up visit was carried out to the holding facilities of the PSP in Lisbon (at the Governo Civil). The delegation was pleased to find that conditions were markedly better than had been the case in 1992 - the cells were clean and freshly-painted, their artificial lighting had been upgraded and the ventilation system repaired. However, two significant shortcomings remained - the lack of natural light and the failure to provide mattresses to detainees held overnight.

³ As regards the conditions of detention in Oporto PJ Prison, see paragraphs 85 to 89.

39. The equivalent PSP holding facilities in Oporto (at Largo 1° de Dezembro) were also visited; the establishment possessed five cells.

Two cells for men measured respectively approximately 13 m² (with three beds) and 28 m² (with five beds). Both were equipped with a sanitary annex containing a wash basin and a lavatory. A cell for women measured some 11 m², contained three beds and provided similar conditions of detention to the cells for men. A fourth cell contained one bed, measured around 7 m² and was equipped with a call system enabling detainees to attract attention should they wish to use the nearby sanitary facilities (shower and lavatory). The delegation was told that this cell could be used to hold a detainee (of either sex) whom it was thought inappropriate to place in a multiple occupancy cell. All of these cells benefitted from reasonably good natural light and artificial lighting, had adequate ventilation and were equipped with mattresses and blankets. Nevertheless, it should be said that all four were in a rather dilapidated condition.

The fifth cell was in a distinctly better state of repair and considerably cleaner. It measured some 14 m² and contained four beds, each fully equipped with a mattress, sheets, pillow, pillowcase, blanket and candlewick bedspread. A call system was in operation and detainees were apparently released to use the aforementioned sanitary facilities. This, the delegation was told by police officers, was a cell for the "better-class persons" (apparently including doctors, lawyers and teachers) who occasionally passed through the premises. In the view of the Committee, it would be highly desirable to seek to uphold similar standards of maintenance and cleanliness throughout the establishment.

40. There were two cells at the PSP Divisional Headquarters at Rua de Goa, Matosinhos. They both measured approximately 20 m² and one was equipped with three and the other with four beds. Natural light and artificial lighting appeared to be adequate, as did ventilation. However, the cells were equipped with uncovered foam mattresses, one of which had apparently been burnt by a detainee and all of which were very dirty. The officer in charge of the police station recognised that they were unhygienic and represented a fire risk.

41. The two cells at the Setúbal PSP Headquarters were of an adequate size (approximately 7.5 and 9 m²) for the use to which they were put (each holding no more than two persons overnight). They were equipped with a wooden-topped concrete plinth, a washbasin and a partitioned lavatory. Artificial lighting was poor, though the cells benefitted from some natural light, and ventilation was acceptable. The delegation noted that blankets were available; further, it was told that mattresses were provided to persons detained overnight. One hour after having requested to see them, the delegation observed a number of mattresses being unloaded from a police van; it received assurances that the four persons already in custody would each receive a mattress.

It should be added that the cells were exposed to the elements by large barred doors opening to a covered part of an inner courtyard; an arrangement which meant that they would become rather cold at night and during the winter months. Moreover, they were not equipped with a call system and, at night, no police officers were on duty within earshot.

42. Material conditions of detention at Benfica PSP Station were of a high standard. The two cells, each measuring some 8.5 m², benefited from access to natural light, and had good artificial light and ventilation. They were equipped with a wash basin and a partitioned lavatory. Regrettably, damage to the wash basin in one of the cells (which had apparently been caused by a detainee) had also left the other cell without running water.

Both cells were fitted with a sleeping platform and blankets were available. Mattresses were not supplied to detainees required to remain at Benfica PSP Station overnight; however, such stays were apparently a rare occurrence.

43. Seixal PSP Station possessed a cell measuring some 6 m² which was equipped with two wooden beds (with a mattress and blanket) and a lavatory. The CPT wishes to emphasise that a cell of this size provides only cramped overnight accommodation for two persons. Artificial lighting was good and some natural light and ventilation was provided by a window opening to an inner courtyard.

44. The CPT's delegation also visited a total of six PSP stations (including the PSP station at Praça da Alegria in Lisbon, first visited in 1992) which were not equipped with detention facilities. The delegation found that, in each of those establishments, persons taken into custody were kept in the front entrance hallway, in general handcuffed to a bench. In the report on the first periodic visit to Portugal, the CPT made clear that it is unacceptable for detained persons to be kept shackled to a piece of furniture in full view of persons visiting a police station; it must reiterate that proper cellular accommodation should be provided.

45. The GNR Headquarters in Setúbal possessed two cells each measuring less than 3.5 m² and equipped with a concrete sleeping platform (with a mattress and blanket) and a lavatory. They had good lighting, although they did not benefit from natural light, and ventilation was very poor.

The delegation was informed that the cells could be used inter alia to accommodate persons detained overnight. The CPT wishes to stress that, by virtue of their size, the cells should only be used for temporary holding purposes (i.e. detention for a maximum of a few hours); no one should be held in them overnight.

46. The material conditions seen at the Rua Central GNR Station in Lever could be described as very good. The two cells each measured just under 10 m² and benefitted from good natural light, artificial lighting and ventilation. Each was equipped with a sanitary annex containing a wash basin, lavatory and bidet. The only criticism which could be made of these facilities is that they were not fitted with sleeping platforms - detainees slept on mattresses on the floor.

47. The CPT recommends that conditions of detention in the different establishments visited by the delegation be reviewed, in the light of the remarks made in paragraphs 37 to 46.

Further, it recommends that the Portuguese authorities continue to make efforts to ensure that the conditions of detention in police establishments in general meet all the requirements indicated in paragraph 35.

4. Safeguards against the ill-treatment of detained persons

a. introduction

48. In the report drawn up following the first periodic visit to Portugal, the CPT examined in some detail the safeguards against ill-treatment offered to detained persons (including notification of custody, access to a lawyer and access to a doctor). A number of recommendations were made on this subject (cf. CPT/Inf (94) 9, paragraphs 38 et seq.); in particular, it was recommended that detained persons should have the right, as from the outset of their custody, to inform a close relative or third party of their detention (any possibility to delay the exercise of that right to be clearly circumscribed and made subject to appropriate safeguards); that the right of persons detained by the police to have access to a doctor (including one of their own choice) should be expressly guaranteed; that a form setting out their rights in a straightforward manner should be given to detainees at the outset of their period in police custody; and that a code of conduct for police interviews should be drawn up.

As indicated in the CPT's letter to the Portuguese authorities of 22 March 1995, the response (interim report) contained no substantive replies to any of these core recommendations. However, in their follow-up report, the Portuguese authorities make reference to the development of a draft information sheet for detained persons setting out some of their rights (cf. further paragraphs 57 and 58). This is an interesting development; however, the CPT remains convinced of the need to place all of these rights on a firm legal footing.

49. One matter not mentioned in the Committee's first report is the legal status of persons deprived of their liberty under Article 250 of the Code of Criminal Procedure; this provides that when there are grounds for suspicion, persons may be deprived of their liberty by the police for up to 6 hours for identification purposes. It would appear that such persons do not benefit from the safeguards set out in Article 61(1) of the Code of Criminal Procedure unless, and until, they are suspected of a criminal offence (from which moment they formally become a detainee - or "arguido").

In this regard it should be emphasised that the safeguards offered to persons detained by the police should apply as from the very outset of their custody, regardless of the reason for which they have been detained. Accordingly, **the CPT recommends that the Portuguese authorities take steps to ensure that persons detained under Article 250 of the Code of Criminal Procedure benefit from the rights set out in Article 61(1) of the Code and the other safeguards discussed in this report, as from the moment when they are first obliged to remain with the police.**

b. notification of custody

50. Some persons who were, or who had recently been, in the custody of the police told the delegation that they had been informed of the possibility to have the fact of their detention notified to a close relative or third party of their choice. A few such persons had themselves been allowed to telephone a person of their choice. Other detained persons stated that they had not been given an opportunity to notify anyone of the fact of their detention.

51. The information about the exercise of this right which had been recorded by the police varied from case to case. On occasion, the fact that the person had been informed of the possibility to notify a third party of his detention had been recorded. In other cases, the police had recorded that, at the request of the detainee, a specified third party had been notified. However, in many cases, no reference whatsoever had been made to the operation of this fundamental safeguard.

In short, it remained true that there was no guarantee that a person taken into police custody would be able to notify a close relative or other third party - the matter remained entirely at the discretion of the police.

52. The draft information sheet referred to in paragraph 48 provides that a detained person has the right immediately to inform a member of his family, or another person of his choice, of his situation. While welcoming this development, **the CPT recommends that the right to have someone informed of the fact of one's custody be given a firm legal basis.**

c. access to a lawyer

53. The CPT has noted that the relevant provisions of the Code of Criminal Procedure⁴ have been interpreted as entitling detainees to the assistance of a lawyer as from the outset of police custody. Nevertheless, the information gathered during the second periodic visit confirmed that it remained extremely rare for detained persons to have access to a lawyer before their first court appearance. According to the Portuguese authorities⁵ this is because no important procedural acts, apart from the identification of the detainee, can be carried out at that stage and, more specifically, detainees cannot be questioned by the police officers who carry out the arrest.

This explanation would appear to overlook the general delegation of investigatory powers from the Public Prosecutor to the Judicial Police in the Lisbon, Oporto and Coimbra districts, to which reference was made in the CPT's 1992 report. In fact, it is clear that the Judicial Police can and frequently do interrogate detained persons not only after they have been remanded in custody but also before their first judicial hearing.

Further, although PSP and GNR officers are not in principle authorised to question detainees, the delegation's findings indicate that some such officers may seek to persuade arrested persons to volunteer information. No doubt, any such information gathered would not have a specific evidential value; nonetheless, it could have a significant influence on subsequent events.

⁴ cf. Section 61 (1) of the Code of Criminal Procedure

⁵ cf. Section 17.B on p. 13 of the response of the Portuguese authorities (CPT/Inf (94) 9).

54. These different factors indicate how important it is for steps to be taken to render effective the right of detained persons to have access to a lawyer as from the outset of their custody. In this respect, it should be noted that, although the above-mentioned draft information sheet states that a detained person has the right to contact a lawyer, only the court may appoint a lawyer for a detainee without the means to pay for legal assistance. It follows that indigent persons would not normally be in a position to consult a lawyer before their first court appearance.

The CPT recommends that the Portuguese authorities take appropriate steps to ensure that all persons taken into police custody are placed in a position effectively to exercise their right to have access to a lawyer, as from the outset of their custody. Preferably, they should benefit from the presence of a lawyer during questioning.

d. access to a doctor

55. There had been no change in the situation as regards the medical examination of persons held in police custody since the CPT's first periodic visit to Portugal (cf. paragraphs 45 and 46 of document CPT/Inf (94) 9). However, the draft information sheet for detained persons states that medical assistance shall be provided to detainees who require such attention.

In this respect, **the CPT wishes to reiterate the following recommendations:**

- **a person detained by the police to have a right of access to a doctor of his own choice, in addition to any doctor called by the police;**
- **all medical examinations of persons in police custody to be conducted out of the hearing and, unless the doctor concerned requests otherwise, out of the sight of police officers;**
- **the results of all medical examinations as well as relevant statements by the detainee and the doctor's conclusions to be formally recorded by the doctor and made available to the detainee and his lawyer.**

56. In the course of the second periodic visit, the delegation noted the presence of many drug-addicted detainees in the police premises visited, some of whom were suffering from withdrawal symptoms and were clearly in pain or acute discomfort. Moreover, the delegation also met a number of persons with other somatic or mental conditions which required immediate attention. The presence of such persons in police custody creates difficulties which are far from easy to resolve. In this respect, **the CPT would like to receive information from the Portuguese authorities about the training and/or instructions given to police officers about the attitude to adopt towards such detainees.**

e. information on rights

57. As already indicated above, in the report on the first periodic visit to Portugal, the CPT recommended that a form setting out the detainees' rights in a straightforward manner be given systematically to such persons at the outset of their custody. It further recommended that the form should be available in different languages and that the detainee should be asked to sign a statement attesting that he has been informed of his rights. At the time of the CPT's second periodic visit to Portugal, this recommendation had yet to be implemented; police officers still apparently read the provisions of section 61 (1) of the Code of Criminal Procedure to detainees (cf. also paragraph 47 of document CPT/Inf (94) 9).

However, reference has already been made to the preparation of a draft information sheet, to be given to persons who have been detained by the police or admitted to prison. The sheet indicates inter alia:

- that a detained person has the right immediately to inform a member of his family, or another person of his choice, of his situation;
- that he has the right to contact his lawyer or to request that one be appointed by the court to assist him (such assistance being free of charge if the person concerned does not have the means to pay for that service himself);
- that he shall be provided with necessary medical assistance from the outset of his detention.

58. The CPT has welcomed this development (cf. paragraph 52) and **trusts that measures taken to implement the recommendations set out in paragraphs 49 to 56 above will, as appropriate, be taken into account in any future revisions of the information sheet. It recommends that the information sheet:**

- **be formally adopted as soon as possible;**
- **be translated into an appropriate range of languages;**
- **be given without delay to detained persons and that the latter be asked to sign a statement indicating that they have received a copy of the information sheet.**

f. conduct of interrogations

59. The Judicial Police may interrogate persons taken into police custody both before and after their first judicial hearing (cf. paragraph 53). In their response, the Portuguese authorities indicated that Judicial Police officers receive a 36 hour training module on interview and examination techniques; however, it would appear that no action has been taken on the CPT's recommendation that a code of conduct for police interrogations be drawn up. **The Committee must therefore recommend that such a code be drawn up without delay.**

As indicated in the CPT's first visit report, the code should address inter alia the following matters: the systematic informing of the detainee of the identity (name and/or identity number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which an interview may take place; whether the detainee may be required to stand while being questioned; the interviewing of persons who are under the influence of drugs, alcohol, medicine, or who are in a post-traumatic state. The code should also provide that a record be kept of the time at which interviews start and end, of any request made by the detainee during an interview, and of the persons present during each interview.

The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards.

60. It has already been mentioned that Public Security Police and National Republican Guard officers cannot question detained persons, although they are obliged to record "voluntary statements".

The CPT would like to be informed whether the performance of an unlawful interview of a detainee by a PSP or GNR officer attracts disciplinary and/or criminal sanctions.

61. The CPT considers that the electronic recording of police interrogations represents another important safeguard for detainees, as well as offering advantages for the police. In particular, it can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of allegations of ill-treatment and the correct attribution of blame. However, according to the information received by the delegation, such a system is apparently not in use in Portugal.

The CPT invites the Portuguese authorities to consider the possibility of introducing a system for the electronic recording of police interrogations. The system should offer all appropriate safeguards (for example, the consent of the detainee and the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy).

g. custody registers

62. From its examination of the custody registers and related papers in the police establishments visited, the delegation noted that certain aspects of a person's custody were not systematically recorded and that the information which was recorded tended to be spread over a variety of registers and documents.

The CPT considers that the fundamental safeguards afforded to persons in police custody can be reinforced (and the work of police officers facilitated) by the existence of a single and comprehensive custody record for each person detained. Such a custody record should contain information on all relevant aspects of a detainee's custody and action taken regarding them (time of and reason(s) for the arrest; time of arrival on police premises; when informed of rights; signs of injury, health problems, mental disorder etc.; contacts with and/or visits from next of kin, lawyer, doctor or consular official; when offered food; when questioned; when brought before the relevant judge, when transferred, released, etc.). For certain matters (for example, personal belongings removed, the fact of being informed of his rights and of invoking or waiving them), the detainee's signature should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record.

The CPT recommends that the Portuguese authorities explore the possibility of developing such an individualised custody record.

63. It should be added that, in several of the police stations visited, the delegation encountered persons being held for identification purposes under Article 250 of the Code of Criminal Procedure (cf. paragraph 49). Notwithstanding that Article 250 (4) of the Code specifies that such a detention must be recorded in writing, no record had been made of the fact that they had been taken into custody.

The CPT recommends that whenever a person is detained in a police establishment, for whatever reason (including for identification purposes) and for whatever length of time, the fact of his detention is recorded without delay.

h. inspection procedures

64. The CPT has taken note of the draft decree for the creation of an inspectorate with wide powers of investigation and inspection extending to all the services falling under the authority of the Ministry of the Interior. **The CPT would like to receive in due course a copy of the decree creating that body and information on any investigations and/or inspections which it may have undertaken in respect of the PSP and the GNR.**

65. Reference has already been made to two recent reports produced by the Ombudsman following visits to 19 PSP stations in the Lisbon area (cf. paragraph 21). The delegation was told that those visits form part of an ongoing programme of inspection of police establishments.

In the view of the CPT, such visits can play an important role in the prevention of ill-treatment; it would be desirable for the Ombudsman to extend this initiative to forces other than the PSP and to visit police establishments throughout Portugal. **The Committee wishes to receive further information about the planned scope and scale of future visits to police stations in Portugal by the Ombudsman, together with copies of any reports produced after such visits.**

66. Finally, the CPT considers that regular and unannounced visits by the competent judicial authorities or public prosecutors to places where persons are detained by the police can also make a significant contribution to the prevention of ill-treatment. However, from the information gathered during the visit, it would seem that such visits rarely occur.

The CPT recommends that competent judicial authorities and/or public prosecutors be encouraged to exercise such on-the-spot supervision of places of detention.

- i. return to police custody for further questioning of persons held in prison

67. The CPT's delegation found that it was a relatively common practice for persons who had been remanded in custody following a judicial hearing to be returned from prison to Judicial Police premises for further questioning. Such transfers are authorised by Ministerial Order (No. 352/80) and may be effected on the sole authority of a PJ officer of at least the rank of Inspector. The PJ officer escorting a remand prisoner leaves a signed receipt with the prison, on which the time of exit from, and return to, prison premises is recorded. The delegation's perusal of the receipts held in certain of the establishments visited showed that some prisoners had been repeatedly returned to PJ premises for lengthy periods. It should be noted, in this context, that some of the allegations of ill-treatment received by the delegation related to periods during which they had been returned to police custody.

From the standpoint of the prevention of ill-treatment, it would be far preferable for further questioning of persons committed to prison to take place within the establishment concerned rather than on police premises. The return of remand prisoners to police custody for further questioning should only be sought and authorised when it is absolutely unavoidable; consequently, it would be appropriate for such a measure to require the express authorisation of the competent judicial authority. Further, in principle, a person returned to police custody should not be kept on police premises overnight.

B. Prisons

1. Introduction

68. In the course of the second periodic visit to Portugal, the CPT's delegation visited four prison establishments. Lisbon Judicial Police Prison and Linhó Prison received follow-up visits and Oporto Judicial Police Prison was visited for the first time.

The delegation also visited one part of Oporto Prison - C wing - with the principal purpose of speaking to prisoners about their treatment by the police. Nevertheless, the delegation did examine a number of aspects of the conditions of detention in C wing (cf. further paragraphs 90 to 94).

69. The report on the Committee's first periodic visit paid attention inter alia to the issues of overcrowding, integral sanitation and regime activities. This report reconsiders those issues in relation to the establishments visited in 1995 and offers an assessment of the progress which has been made since the CPT's first visit, together with some proposals for further action.

2. Torture and other forms of ill-treatment

70. The delegation heard no allegations of torture of prisoners by prison staff in any of the establishments visited or in other prisons in Portugal. Further, the delegation received very few allegations of other forms of ill-treatment of inmates by prison staff in Portugal, with the notable exception of Lisbon Judicial Police Prison.

71. A considerable number of allegations of physical ill-treatment of prisoners by prison staff were heard at Lisbon Judicial Police Prison. The allegations were consistent as regards the form of ill-treatment involved (blows with truncheons); the locations in which it had occurred (the corridor outside the inmates' accommodation and the cells in the establishment's reception unit); the time at which it had taken place (at night) and the circumstances which were thought to have provoked it (querulous or unruly behaviour by prisoners).

Particular reference should be made to a prisoner seen in a cell in the reception unit. He alleged that, on the previous evening, while suffering from withdrawal symptoms, he had banged the cell door in order to attract attention. The door was opened by prison guards, who allegedly dragged him into the corridor, where they kicked him and struck him with a truncheon on the left shoulder. On examination by one of the delegation's doctors he displayed reddish subcutaneous bruising of 5 to 6 cm in diameter on the left acromioclavicular joint and a pale 5 cm haematoma posterior of the right acromion. These findings are consistent with the inmate's allegations.

72. It is particularly noteworthy in this context that, according to information gathered by the CPT's delegation, cell doors could be opened at night by prison officers, without any record being made of that fact. Further, prison staff admitted that inmates were on occasion transferred to the reception cells at night to "cool off" and that such transfers were not recorded; if the prisoner was returned to a normal cell or dormitory before the following morning, senior staff would not even be informed orally.

Clearly, such a situation is open to abuse.

73. In the light of the above (and bearing in mind that similar allegations about the Lisbon Judicial Police Prison had been heard during the first periodic visit⁶), at its final meeting with the Portuguese authorities the delegation requested that a thorough and independent investigation be carried out into the possible ill-treatment of prisoners in the establishment. **The CPT wishes to receive - as soon as possible - information on the conduct of that investigation, together with details of the findings and of any action taken upon them.**

74. Finally, notwithstanding the positive finding referred to in paragraph 70, and in order to obtain a nationwide view of the situation, **the Committee would like to receive the following information for 1994 and 1995:**

- **the number of complaints of ill-treatment lodged against prison officers in Portugal and the number of disciplinary/criminal proceedings initiated as a result of such complaints;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison officers.**

Further, the CPT would appreciate receiving regularly updated information on this subject from the Portuguese authorities.

3. Conditions of detention

a. follow-up visits

i. Lisbon Judicial Police Prison

75. The CPT's delegation found that some improvements had been made to conditions of detention at Lisbon Judicial Police Prison since the first periodic visit; in particular, all prisoners held there now had ready access to a lavatory at all times. More generally, the establishment's state of repair was somewhat better. However, the fundamental problems identified in 1992 persisted.

⁶ cf. paragraph 58 of document CPT/Inf (94) 9.

76. The establishment remained grossly overcrowded. It was accommodating 169 prisoners (as compared to 155 in January 1992) in cells and dormitories with a total capacity of 80 places.

As during the first visit, approximately half of the prisoners were accommodated in four dormitories with sanitary annexes, each of which measured approximately 36 m². 24 prisoners lived in each dormitory (as compared to 22 in 1992), 2 of whom slept on mattresses on the floor.

The situation was little better in the other three types of accommodation provided: two rooms, measuring approximately 12 m² with sanitary annex, each accommodated 7 prisoners (as compared to 6 in 1992); and sets of interconnecting 6.5 m² cells with sanitary annexes each held 3 prisoners, as did sets of three cells, which measured some 6.7 m². Additional bunk beds had been placed in the small communal areas located next to the last-mentioned cells.

In short, notwithstanding the CPT's 1992 recommendation that immediate steps be taken to reduce substantially the number of prisoners held in the Judicial Police Prison, some three and a half years after the first visit, the level of overcrowding exceeded the establishment's capacity by more than 100%.

77. Further, the regime activities offered to prisoners remained unsatisfactory.

All inmates were now offered at least one hour of outdoor exercise every day; this is a most welcome development. Further, a group of around 20 prisoners were able to play sports every afternoon.

However, the vast majority of prisoners were offered no work, and no educational courses were provided; the typical prisoner remained idle for almost the whole day.

ii. Linhó Prison

78. The delegation found that there had been a number of significant improvements in the conditions of detention at Linhó Prison since the 1992 visit.

79. The Committee's recommendations that broken windows be reglazed had been met by replacing all of the windows throughout the establishment. Further, six entirely new sanitary annexes had been installed in the accommodation areas. Each annex contained between five and seven lavatories, three urinals and three wash basins, as well as a distinct area in which slopping-out buckets were emptied. All of those areas were spotlessly clean.

80. Regrettably, the positive impact of those changes was somewhat blunted by the fact that the establishment was significantly more overcrowded than it had been in 1992 - 595 prisoners were being held in accommodation with a capacity of 440 (as against 484 prisoners in accommodation with a capacity of 460, during the first periodic visit). As a result, over half of the inmate population were being held 2 to a cell, in cells measuring around 7 m². As the Committee has already had occasion to point out, at this level of occupation the cells concerned offer only cramped accommodation.

81. A total of 302 work places were available at Linhó - both in workshops within the prison walls and at the farm located a short distance away. The prison "quarry", criticised by the Committee in the report on its first visit, remained in operation on a part-time basis. Even although the number of inmates working there had been reduced from 24 to 16, and they had been provided with appropriate protective clothing, **the Committee must reiterate its recommendation that stone breaking activities at Linhó be replaced by other work of a more challenging and vocational nature.**

82. A substantial investment had been made to improve the educational opportunities for inmates. A large unused building had been converted to provide new premises for the school, which now provided a total of 150 places (as opposed to 100 in 1992). Moreover, there were plans to increase the capacity to 175 places by 1996.

At the time of the visit, the 126 prisoners who were attending the school were following courses at elementary, intermediate and advanced levels in subjects ranging from Portuguese and mathematics to social sciences, the visual arts and economics. The CPT can only welcome these improvements and **trusts that every effort will continue to be made to increase the number of inmates taking part in full-time education.**

83. In the report on its first periodic visit, the Committee expressed concern about the situation of the so-called "inactive" population. At the time of the second visit, some 152 inmates were classified as inactive (i.e. neither working nor attending school). There had been a modest improvement in the out-of-cell time which was offered to them. A rota system had been introduced which had reduced the continuous period of 27 hours for which such prisoners had been locked in their cells to 19 hours on alternate days. During their out-of-cell time such inmates could make free use not only of the exercise yards, but also of the renovated common rooms in both wings A and B.

Notwithstanding the above, their conditions of detention still left considerable room for improvement.

84. Finally, **the delegation was concerned to learn that the number of "educational technicians" had been reduced from five to four.** Those officials were responsible for dealing with the practical problems and written requests/complaints of nearly 600 prisoners. The delegation was told by prisoners that this led to considerable delays in dealing with even straightforward requests. This was confirmed by the prison staff with whom the delegation raised the subject.

b. Oporto Judicial Police Prison

85. Oporto Judicial Police Prison was located on three sub-basement levels of the building which housed the Oporto headquarters of the Judicial Police (on which, cf. paragraph 37). The establishment had an official capacity of 41 and, on the day of the visit was accommodating 36 male inmates (including 2 minors) on remand. According to the Director, the establishment might be called upon to accommodate up to 45 inmates.

The delegation was told that, although a small number of prisoners had been there for up to two years, most inmates stayed for between fifteen days and two months.

86. The material conditions of detention in many parts of the establishment were far from satisfactory.

An average cell measured some 6 m² and contained a bed or beds, table and chair and a locker. Of an adequate size for one prisoner, such cells were being used to hold up to three. At that level of occupancy they provided extremely cramped accommodation. However, they did enjoy good natural light, artificial lighting and ventilation.

Conditions were slightly less cramped in the dormitories (4 persons in c. 20 m², 6 persons in c. 17 m²; 7 persons in c. 24 m²), though still far from ideal from the standpoint of living space. The dormitories were properly furnished, and had adequate artificial lighting and ventilation. They were also fitted with integral sanitation (a lavatory and wash basin) in a partitioned annex. However, as the dormitories did not face the exposed rear of the building, access to natural light was mediocre.

A further two cells were located on a floor above the detention area. Both measured around 10 m² and were appropriately equipped. Natural and artificial light were good, as was ventilation.

87. A renovation programme was underway and, at the time of the visit, work had been completed in a number of cells - on the lower floor non-partitioned lavatories were being fitted and, on the upper floor (where the walls were too thick to instal integral sanitation), it was intended to provide unlimited access to new sanitary facilities.

88. The unrenovated cells were not fitted with integral sanitation and prisoners were compelled to rely upon buckets in their cells to comply with the needs of nature. These buckets would be collected each morning by inmates who had been assigned cleaning duties and their contents "slopped out" in the annex set aside for that purpose. The annex in question was in a thoroughly decrepit condition - the slopping out facility consisted of a wooden hatch which could be lifted to reveal an open sewer. A shower for inmates and a staff lavatory were also located in this area.

89. Oporto Judicial Police Prison did not offer any regime activities worthy of the name. Inmates were not even allowed to take outdoor exercise. The establishment was equipped with a properly surfaced and adequately sized exercise yard, but the delegation was told that this was not in use because there were insufficient staff to supervise the activities of the inmates. At best, prisoners might be allowed to circulate in the corridors for around 40 minutes after having cleaned their cells. Otherwise (with the exception of visits for 1 hour per week and time spent showering) they were locked in their cells with little or nothing to occupy their time. The more fortunate among them had been provided by friends or relatives with a radio or television for use in their cell.

c. Oporto Prison

90. Oporto Prison is located in the suburb of Custodias. Adult male inmates on remand were accommodated in four parallel wings (each of three storeys) which were connected by a long corridor. The prison also provided separate accommodation for women inmates and for juveniles. Notwithstanding its official capacity of 500, at the time of the visit the establishment was holding some 1120 prisoners.

As already indicated, the primary purpose of the visit to Oporto Prison was to interview persons who had recently been in police custody. Consequently, the delegation focused its attention on C wing, which accommodated almost all newly arrived prisoners. The delegation also spoke with a number of prisoners held under special security regimes on the top floor of C wing.

91. As was the case throughout the rest of the establishment, C wing was extremely overcrowded. The cells in which the majority of inmates were held measured approximately 7 m²; they were of an acceptable size for one person, but represented cramped accommodation for two. However, at the time of the visit, most of the 214 prisoners in C wing were being held two to a cell and a substantial minority were being held three to a cell.

Living space for those held in the wing's two dormitories (five inmates in 16.5 m² and seven inmates in 24 m²) was also unsatisfactory.

92. The cells and dormitories benefitted from good natural light, artificial lighting and ventilation, but were in a dirty and dilapidated condition, as was the wing as a whole. Beds apart, the little furniture which was provided (shelves, cupboards) was often in an unserviceable condition.

Further, although the cells and dormitories were fitted with wash basins, they were not equipped with integral sanitation and prisoners had to satisfy the needs of nature in plastic buckets in their cells.

93. The vast majority of prisoners in C wing were not offered regime activities of any meaningful kind. They were allowed at least one hour of outdoor exercise per day; however, there were no organised educational or sporting activities and only a few privileged prisoners had work.

94. The difficulties experienced by prisoners in C wing were compounded by a lack of effective staff supervision. The delegation observed that supervisory staff only rarely ventured into the wing while the cells were unlocked. As a result, prisoners minded to exploit their fellow inmates (whether for pecuniary advantage or physical gratification) enjoyed a virtually free hand. Many of the newly-arrived prisoners interviewed by the CPT's delegation stated that they lived in daily terror of a small group of powerful inmates, who held sway within the wing. These claims were borne out by the delegation's own observations.

d. assessment and proposals for further action

95. In many of its reports, the CPT has underlined the harmful effects of overcrowding, inadequate access to proper sanitary facilities and poor regime activities. The Committee is particularly concerned when it finds a combination of those factors. The cumulative effect of such conditions will be extremely detrimental for prisoners and, under certain circumstances, could be considered to amount to inhuman and degrading treatment.

As already indicated, all three of the above factors were present in Oporto Judicial Police Prison and in C wing at Oporto Prison. Further, in both establishments, additional elements rendered the position of the prisoners concerned even more objectionable. In Oporto Judicial Police Prison there was a complete denial of outdoor exercise; in C wing at Oporto Prison, prisoners lived in a potentially perilous environment as a direct result of a lack of effective staff supervision. In the view of the CPT, most prisoners at Oporto Judicial Police Prison and all inmates in C wing at Oporto Prison were being held in inhuman and degrading conditions.

96. As regards the two establishments which were the subject of follow-up visits, namely Lisbon Judicial Police Prison and Linhó Prison, some notable improvements had been made since the first periodic visit. Nevertheless, in particular at Lisbon Judicial Police Prison, much remained to be done before conditions of detention could be considered satisfactory.

97. Overcrowding, an ill which the Committee understands affects the whole of the Portuguese prison system, was the principal obstacle to providing better conditions of detention in all the establishments visited.

In their interim and follow-up reports in reply to the CPT's report on the first periodic visit, the Portuguese authorities have indicated that a major prison building/renovation programme is underway. Apparently, 855 new prison places have been brought into service already and further places shall shortly become available.

98. The Committee welcomes the action being taken by the Portuguese authorities to tackle this key problem; however, it has some doubts about whether building new prison accommodation will, in itself, provide a lasting solution.

Indeed, some European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. It is noteworthy that, in those countries which enjoy uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level.

The CPT recommends that a very high priority continue to be given to measures designed to bring about a permanent end to overcrowding, taking into account the above remarks.

99. The Committee recognises that some progress has been made in providing prisoners with better access to proper sanitary facilities. In particular, ready access to a lavatory at all times is now guaranteed at Lisbon Judicial Police Prison. However, the situation was still not completely satisfactory in the other prisons visited. At Linhó, prisoners still did not have ready access to the renovated sanitary annexes at all times and, in particular, at night. At Oporto Judicial Police Prison, unscreened lavatories were being installed in cells which could be occupied by as many as three persons; even if the latter establishment were to be in a position to hold one prisoner per cell, the inmate concerned could still be said to be living in a lavatory. In C wing at Oporto Prison, the slopping out system remained fully operative.

The Committee must reiterate the view that either the lavatories installed in cells should be properly partitioned from prisoners' living space (preferably in a sanitary annex) or other means should be found to enable all prisoners who need to use a lavatory to be released from their cells without undue delay (including at night) (cf. paragraph 152 of the report on the first visit). **The CPT recommends that a very high priority continue to be given to plans to provide all prisoners in Portugal with ready access to a lavatory at all times, taking into account the above remarks.**

100. In its first report (and in its preliminary observations on the response of the Portuguese authorities), the Committee requested detailed information about plans to improve access to sanitary facilities and, more particularly, on the timescale within which it is envisaged that the necessary work will be completed. **The CPT would like to receive this information as soon as possible.**

101. Finally, **the CPT recommends that, in prisons or parts of prisons where inmates do not yet have ready access at all times to proper sanitary facilities, prison officers receive instructions to the effect that a request made by a prisoner to be released from his cell or dormitory during the day for the purpose of using a lavatory should be granted, unless significant security considerations require otherwise.**

102. The improvement of regime activities is an objective which, to a large extent, is dependent on reducing overcrowding. Nevertheless, even in the existing circumstances there can be no justification for denying prisoners outdoor exercise. **The CPT recommends that steps be taken immediately to ensure that inmates at Oporto Judicial Police Prison are offered at least one hour of outdoor exercise every day.**

103. Aside from the above-mentioned measure, the highest priority should be given to addressing the problems observed in Lisbon and Oporto Judicial Police Prisons. Both establishments were operating as remand prisons, without any programmes of activities commensurate with that function; in fact, there was little scope to develop additional activities within the existing premises. **The CPT recommends that, as soon as the required places become available, prisoners held on remand in the Judicial Police Prisons in Lisbon and Oporto be relocated to normal remand prisons.**

As regards the regime to be offered in remand prisons, **the CPT recommends that the objective be to ensure that prisoners can spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value).**

The CPT has already made certain comments concerning the situation at Linhó Prison (cf. paragraphs 81, 82 and 84). Further, **the CPT recommends that additional activities be developed for sentenced prisoners classified as "inactive" at Linhó Prison (and, if appropriate, in other establishments for sentenced prisoners where such inmates are to be found).**

104. Finally, having regard to the gravity of the situation observed by its delegation in C wing at Oporto Prison, the CPT feels constrained to recall that the act of depriving a person of his liberty entails the correlative duty for the State to safeguard the physical and mental welfare of that person until such time as his liberty is restored.

The CPT recommends that the conditions of detention in C Wing at Oporto Prison be the subject of a full review, with the aim of ensuring that the physical and mental integrity of inmates held there is guaranteed.

4. Health care services

- a. staff and facilities in the prisons visited

105. The CPT attaches considerable importance to the principle that prisoners are entitled to the same level of health care as persons living in the community at large. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment, should be geared accordingly.

106. The report on the CPT's first periodic visit to Portugal identified a number of shortfalls in health care service staffing levels, leading the Committee to conclude that the staffing level in all three civil prisons visited in 1992 was insufficient to assure the provision of health care to prisoners by an appropriately qualified person (cf. CPT/Inf (94) 9, paragraph 119). The response and the follow-up report of the Portuguese Government suggested that serious efforts were being made to remedy such shortfalls, both by creating new posts and by converting existing part-time posts into full-time positions.

107. In the course of the second periodic visit to Portugal, the CPT's delegation observed that the staffing level of health care services had been significantly augmented in the two prisons visited on a follow-up basis.

At the Lisbon Judicial Police Prison, a doctor attended the prison on a half-time basis (as compared to four to eight hours per week at the time of the first periodic visit) and the prison had three full-time nursing posts (as against a maximum of ten hours of nurses' attendance per week in January 1992). Linhó Prison benefited from the equivalent of one full-time doctor (in what had previously been a part-time position), and nursing care was assured by six full-time nurses (whereas in January 1992 two nurses provided the equivalent of less than one full-time post).

108. At Oporto Judicial Police Prison, the health care staff consisted of a doctor who visited the prison every weekday and a nurse who was present in the prison for two hours on weekdays.

It should be recalled, in this respect, that there is a considerable turnover of inmates at Oporto Judicial Police Prison and that it represents the main point of entry into the prison system in the Oporto area. It follows that it will be very difficult for one nurse to screen all incoming prisoners and attend to the general needs of the longer-term population in the space of a daily two-hour visit. **The Committee recommends that the level of nursing provision at Oporto Judicial Police Prison be reinforced.**

109. At the time of the visit, the health care service at Oporto Prison was in a state of crisis. One full-time doctor and the equivalent of three full-time nurses⁷ were attempting to provide health care to more than 1000 male prisoners. There was a daily average of some 20 consultations, whereas the waiting list exceeded 100. Consequently, the delegation was not surprised to learn that inmates had to wait for a very long time to receive medical attention.

The CPT recommends that immediate steps be taken to reinforce the health care team responsible for male prisoners at Oporto Prison. As regards doctors, it should be emphasised that a health care team responsible for more than 1000 inmates should include at least two full-time doctors.

The 54 women held at Oporto Prison were better served; they benefited from the services of a half-time doctor.

110. The information gathered during the second periodic visit indicates that little action has been taken to implement the CPT's 1992 recommendation⁸ that someone competent to provide first aid (preferably someone with a recognised nursing qualification) always be present on prison premises. **The CPT recommends that the Portuguese authorities take urgent steps to comply with that recommendation.**

111. The health-care facilities seen at Lisbon Judicial Police Prison and at Linhó and Oporto Prisons were of an adequate standard and in a satisfactory state of cleanliness.

By contrast, the facilities seen at Oporto Judicial Police Prison were extremely rudimentary. The medical room was cramped, inadequately lit and too small to accommodate even an examination couch. The delegation was told that, if the need arose, the doctor could make use of a bed in the nearby prison officers' quarters. Clearly, such an arrangement is unsatisfactory for all concerned. **The Committee recommends that immediate steps be taken to improve the health care facilities at Oporto Judicial Police Prison in the light of these remarks.**

⁷ The delegation was told that it was planned to create two additional nursing posts.
⁸ cf. CPT/Inf (94) 9, paragraph 129.

b. medical screening on reception

112. In its report on the 1992 periodic visit to Portugal, the CPT recommended that every newly-arrived prisoner be properly interviewed and, if necessary, physically examined by a medical doctor as soon as possible after his admission; save for in exceptional circumstances, that interview/examination to be carried out on the day of admission, especially insofar as remand establishments are concerned (cf. CPT/Inf (94) 9, paragraph 126, second sub-paragraph). Subsequently, in its 3rd General Report, the CPT commented that medical screening on admission could also be performed by a fully qualified nurse, reporting to a doctor⁹.

In their response, the Portuguese authorities referred to Article 6 (4) of Legislative Decree no. 265/77, which requires that prisoners be medically examined within 72 hours of their admission to prison (cf. paragraph 68 of the Ministry of Justice response), but did not otherwise address the Committee's recommendation.

113. The CPT's delegation found that, in the four prisons visited in the course of the 1995 periodic visit, newly admitted inmates were in principle seen by health care staff - a doctor or a qualified nurse - within 12 to 24 hours of their admission. Most of those interviewed by a nurse were subsequently seen by a doctor within a few days.

However, at Lisbon Judicial Police Prison, the delegation heard that inmates admitted during the weekend could wait for a day or more before being seen by health care staff. **The CPT must reiterate the recommendation referred to in paragraph 112.**

114. The CPT's delegation found that the content of the medical screening on reception varied from prison to prison.

Inmates admitted to the Lisbon or Oporto Judicial Police Prisons were interviewed by health care staff, but were seldom - and if so, only superficially - physically examined. Moreover, at the Lisbon Judicial Police Prison, both the doctor and nurses stated that it was very rare for newly arrived inmates to be asked to undress during an examination (cf. also paragraphs 119 and 120). Some prisoners were offered an HIV, hepatitis B and/or tuberculosis screening test, on occasion with the support of outside institutions; the delegation was told that this often involved significant delays in tests being performed or in receiving the results thereof.

At Linhó and Oporto Prisons, newly-arrived inmates were routinely tested for HIV and hepatitis B, and tuberculosis screening was available at Linhó. As regards HIV testing in these two prisons, the delegation was informed that it was formally regarded as voluntary, though it was said to be strongly recommended; a prisoner who chose not to be tested had to sign a statement of refusal.

⁹ cf. paragraph 33 of document CPT/Inf (93) 12.

115. The CPT is particularly concerned by the absence of a systematic tuberculosis screening programme in certain of the establishments visited. The delegation was told that only a limited number of Portuguese prisons had access to the national tuberculosis screening programme (known as "S.L.A.T."). This is all the more disturbing in view of the increasing number of prisoners suffering from that disease. As an example of the scale of the problem, the delegation was told by the doctor at Lisbon Judicial Police Prison that, on average, four prisoners suffering from active tuberculosis were admitted to the prison every month.

It should be added that the visiting delegation met a prisoner suffering from active pulmonary tuberculosis at the Lisbon Judicial Police Prison; he had been sharing a cell with a number of other prisoners for several days. Health care staff, who were aware of his condition and of the risk of transmission, had not taken the necessary steps to ensure his medical isolation and treatment.

116. The CPT wishes to receive detailed information on the subject of medical screening on reception in the Portuguese prison system, with particular reference to current rules and intended developments in respect of HIV and tuberculosis screening. The CPT also wishes to be informed of whether it is intended to extend the S.L.A.T. tuberculosis screening programme to all prisons in Portugal.

As regards, more particularly, prisoners identified as having tuberculosis, **the CPT recommends that appropriate steps be taken to minimise the risk of that disease being transmitted to other prisoners or to staff.**

117. The CPT also wishes to emphasise that a prison health care service should ensure that information about transmissible diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) is regularly circulated, both to prisoners and to prison staff. Where appropriate, medical control of those with whom a particular prisoner has regular contact (fellow prisoners, prison staff, frequent visitors) should be carried out.

As regards more particularly AIDS, appropriate counselling should be provided both before and, if necessary, after any screening test. Prison staff should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality.

c. the role of prison health care services in the prevention of ill-treatment

118. Prison health care services can make a significant contribution to the prevention of ill-treatment of detained persons, through the systematic recording of injuries and, when appropriate, the provision of general information to the relevant authorities. Information could also be forwarded on specific cases, though as a rule such action should only be undertaken with the consent of the prisoner concerned.

119. The CPT has noted in this connection that the Director General of Prison Services has instructed Prison Directors to order a specialist medical examination of prisoners who bear injuries at the time of their first admission or return to the prison and to forward a copy of the result of such examinations to the Directorate General of Prison Services (cf. Circular No. 10 of 14 May 1992).

Nevertheless, the information gathered by the delegation indicates that the physical examination of prisoners following their admission to prison was at best superficial and inmates were very rarely asked to undress during examination. The injuries displayed by a prisoner were often recorded in a laconic and imprecise manner; further, the statements of the prisoner were very seldom noted down and most prison doctors interviewed by the delegation recognised that they never recorded their conclusions.

120. In this connection, the CPT considers that the record drawn up following a medical examination of a newly admitted prisoner (or a prisoner returning to the establishment) should contain:

- (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
- (ii) an account of objective medical findings based on a thorough examination, and
- (iii) the doctor's conclusions in the light of (i) and (ii).

The CPT recommends that steps be taken to ensure that practice in Portugal is brought into line with the above considerations. Further, the result of the medical examination referred to above should be made available to the prisoner concerned. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

d. health care provided to prisoners

121. It will remain difficult to provide a satisfactory level of health care in prison establishments in Portugal - let alone to pursue a health policy of a preventive nature - until such time as the more general problems of overcrowding, poor hygiene and inadequate regime activities are resolved (cf. paragraphs 95 to 104 above).

122. In principle, prisoners requiring specialist or in-patient hospital treatment can be referred to the San João de Deus Prison Hospital at Caxias (cf. paragraphs 125 to 127) or to a general hospital. However, at Lisbon Judicial Police Prison, the CPT's delegation was told that waiting lists for consultation or ambulatory treatment at the Prison Hospital averaged between two and six weeks, depending on the speciality. By contrast, at the Prison Hospital the delegation was told that there was no waiting list; an appointment would normally be made for the day following the reception of a request.

Further, according to prison health care staff, general hospitals were reluctant to admit prisoners as in-patients.

The CPT would like to receive the comments of the Portuguese authorities on these issues.

123. It should be stressed once again that in any prison system there will be many prisoners who, whilst not requiring admission to a psychiatric institution, would benefit from appropriate psychiatric or psychological care. The possibility to refer patients to a psychiatric hospital or unit, whether for admission or for ambulatory consultation, does not respond to the needs of all prisoners (cf. also CPT/Inf (94) 9, paragraph 123).

The situation in this respect had improved, though only marginally, in the prisons which had been visited by the CPT in 1992. Both Lisbon Judicial Police Prison and Linhó Prison received weekly visits from a psychiatrist (previously no psychiatric care was available in either of them). Further, Linhó benefitted from regular visits by two psychologists.

As regards the prisons visited for the first time, Oporto Prison was visited by a psychiatrist; however, no psychiatric or psychological support was offered to inmates held at Oporto Judicial Police Prison.

The CPT recommends that steps be taken to provide inmates at Oporto Judicial Police Prison with an adequately resourced psychiatric/psychological service for so long as that establishment continues to operate as a remand facility.

124. Finally, the CPT was concerned to learn that virtually no conservative dental services were available to prisoners; in most cases only extractions were offered.

The CPT recommends that the Portuguese authorities take steps to improve the dental services available to prisoners.

e. San João de Deus Prison Hospital at Caxias

125. The Prison Hospital at Caxias provided out-patient consultations (between 100 and 150 daily consultations) as well as in-patient care, covering a wide range of surgical and non-surgical specialities. The Prison Hospital had 130 general hospital beds (including six for women prisoners) and 18 psychiatric beds (including two for women); at the time of the visit 150 general and 15 psychiatric in-patients were being cared for. The hospital appeared to be adequately equipped and staffed.

126. The only criticism which can be levelled at the Prison Hospital concerns the material conditions of detention in some of its dormitory accommodation. The dormitories were in principle foreseen for six patients each. However, some were being used to accommodate eight patients in rather cramped conditions.

The CPT would like to receive information on any measures envisaged by the Portuguese authorities to address the problem of overcrowding at San João de Deus Prison Hospital.

127. The delegation was informed of the imminent opening of a specialised prison psychiatric clinic at Sintra, with a capacity of approximately 100 patients. This would free a certain amount of space at the Prison Hospital, which was to be used to house the out-patient consultation polyclinic. **The CPT wishes to receive further details about the Sintra Prison Psychiatric Clinic and to be informed of the date on which it entered into service.**

f. further remarks

128. The confidentiality of medical data was not assured in all the prisons visited.

At Oporto Judicial Police Prison, several prison officers who were called upon to perform nursing functions had access to prisoners' medical files (which were kept in an open cupboard). It should be added that one particular prison officer had worked as an auxiliary for many years; her duties included the preparation and distribution of medicines. Whilst the delegation was impressed by her dedication, it is unreasonable to expect a staff member who has no nursing training to perform nursing duties.

At Oporto Prison, consultations took place in the doctor's room while the door to the waiting room remained open, thus compromising the privacy of doctor-patient discussions. Further, the prison management could request - and would be given - information on the HIV status of inmates, and certain prisoners assisting health care staff had access to medical files.

The CPT trusts that the reinforcement of health care staff resources in Portuguese prisons will serve to remedy the majority of these shortcomings. **It recommends that steps be taken to ensure the strict confidentiality of medical data.**

129. The CPT wishes to emphasise that the quality of the medical records kept of care provided to patients can have an important bearing both on the capacity of a health care service to anticipate and respond to the particular needs of individual patients and on its ability to detect and react to pathological trends within the patient group as a whole.

It follows that it is desirable for a doctor's notes to be set out on a standardised medical form, which could also include a range of other information about the patient's medical history and current state of health. It might be added that such a form can be a useful means of ensuring the continuity of medical care received by patients, in cases where they are transferred to other establishments.

The CPT's delegation was told that there were plans to develop just such a comprehensive medical form, which would accompany inmates throughout their stay in the prison system. The Committee welcomes this initiative and **invites the Portuguese authorities to pursue the adoption of a standardised medical record form for use by doctors working in prisons.**

130. Lastly, the CPT was favourably impressed by the pilot programme for the treatment of drug addicted prisoners ("Criar"), implementation of which had commenced in a number of Portuguese prisons, including the Lisbon Judicial Police Prison and Linhó Prison. The CPT can only encourage such initiatives.

The delegation heard that the programme was to be developed further, inter alia by opening therapeutic communities with a closed regime, as an avenue for the early release of prisoners (cf. also the follow-up report of the Ministry of Justice, page 11). **The CPT would like to be informed of any further developments in this field, especially as regards evaluation of the Criar programme.**

5. Other issues related to the CPT's mandate

a. solitary confinement

131. In the report on its first periodic visit to Portugal, the CPT paid particular attention to the situation of prisoners held, under conditions resembling solitary confinement, in the security unit at Vale de Judeus Prison. The Committee has noted from the follow-up report that the unit concerned has reverted to its original function as a reception/observation unit and no longer holds prisoners undergoing a solitary-confinement type regime.

Nevertheless, in the course of the second periodic visit, the CPT's delegation was concerned to find that a number of prisoners were being held under conditions akin to solitary confinement in the security unit at Linhó Prison. They were subject to a very restrictive regime, similar to that described in paragraph 66 of the Committee's report on its first visit.

132. As had been the case at Vale de Judeus, the inmates in the security unit at Linhó Prison had been placed there on the basis of Articles 111 and 113 of the Prison Rules¹⁰. These are provisions which - according to the response of the Portuguese authorities - should only be used when "strictly necessary" (cf. paragraph 19 of the response). However, the response does not include details of any specific measures taken to ensure that prisoners cannot be held under a very restrictive regime for inordinately long periods of time (cf. paragraph 10 of the CPT's observations on the response of the Portuguese authorities). It should be noted, in this respect, that although Article 113 of the Prison Rules lays down time limits for detention in a special security cell, it sets no maximum length of detention in a "security establishment or section", such as that at Linhó.

133. **The Committee recommends that the placement of prisoners in security establishments or sections under Articles 111 and 113 of the Prison Rules be reviewed in order to ensure that:**

- **the regime applied to the occupants of such units includes purposeful activities and guarantees appropriate human contact;**
- **no prisoner is held in such a unit for longer than is strictly necessary;**
- **no mentally-ill person is held in such a unit.**

The Committee would also like to receive further information on the criteria used to determine whether placement in a security establishment or section is "strictly necessary" and on the purpose which placement in such units is intended to serve (long-term management of prisoners considered to be "dangerous"; containment of inmates considered to represent an escape risk; detention of prisoners who threaten good order and discipline etc.).

¹⁰ Execução das Medidas Privativas de Liberdade, Decreto-Lei No. 265/79, as amended.

134. In its 1992 report, the Committee also recommended that all prisoners held under solitary-confinement type regimes be informed in writing of the reasons for their placement (it being understood that those reasons need not include facts which it would be reasonable to withhold on security grounds); that they should be given an opportunity to present their views on the matter to the relevant authority before any final decision on placement in, or renewal of, solitary confinement is taken; and that placement in solitary confinement for an extended period should be subject to a full review at least once every three months, if necessary based upon a medico-social report.

Discussions with both the prisoners being held under Articles 111 and 113 in the security unit at Linhó Prison and staff at that establishment suggested that the inmates concerned did not benefit from all of the aforementioned safeguards.

135. The response of the Portuguese authorities makes clear that, in cases where segregation in a security unit is imposed in response to suspected criminal behaviour, the prisoner concerned will be informed of the nature of any criminal proceedings which are subsequently taken against him. However, in the view of the Committee, all prisoners held under solitary-confinement type regimes should benefit from a broader range of procedural safeguards.

The Committee recommends that concrete steps be taken to ensure that the procedural safeguards identified in the first sub-paragraph of paragraph 134 are fully respected in practice. It wishes to receive full details of the measures taken by the Portuguese authorities in this respect.

136. **The Committee also wishes to recall that it is an essential safeguard that the exact time of placement in a solitary confinement-type regime and the reason therefor be recorded in an appropriate register.** This had not been the case as regards at least one of the prisoners met by the delegation during its visit to the security unit at Linhó.

137. Finally, the Committee wishes to stress that, whenever a prisoner placed in solitary confinement, for whatever reason, asks for a medical doctor - or a prison officer asks for one on his behalf - the doctor should be called immediately to examine the prisoner. The results of the medical examination, including an assessment of the prisoner's mental and physical state and, if necessary, the likely consequences of continuing solitary confinement, should be set out in a written report, to be sent to the relevant authorities.

The CPT recommends that the Portuguese authorities take the necessary steps to ensure that the regulations and practice in this area are in accordance with the requirements set out in this paragraph.

b. discipline

138. The disciplinary cells at the Judicial Police Prison in Lisbon had been taken out of service since the Committee's first periodic visit. However, as already mentioned (cf. paragraph 72), the establishment's reception cells may on occasion have been used for quasi-disciplinary purposes. **The Committee recommends that appropriate steps be taken to ensure that staff at Lisbon Judicial Police Prison cannot have resort to an unofficial (and uncontrolled) disciplinary system.**

139. Material conditions in the disciplinary unit at Linhó Prison were unchanged and, in particular, the four bar-fronted disciplinary cells to which reference was made in the report on the first visit¹¹ were still being used to hold prisoners undergoing disciplinary sanctions. As the Committee has already had occasion to observe, these cells constitute an unduly harsh environment in which to place such prisoners. The cells in question should only be used as a temporary holding area for prisoners exhibiting violent behaviour. **The Committee recommends that they no longer be used for any other purpose.**

140. The disciplinary cell at the Oporto Judicial Police Prison measured just under 7 m² and was fitted with a sleeping platform, a lavatory and a wash basin. It had recently been renovated to a high standard and provided clean and decent conditions of detention. Mattresses and blankets were provided to persons held there overnight.

141. The response of the Portuguese Government makes clear that instructions have been issued by the Directorate of Prison Administration to the effect that prisoners undergoing cellular confinement as a punishment are to be offered one hour of outdoor exercise every day (cf. paragraph 88 of the response). Nevertheless, in the course of the second periodic visit, the delegation found that prisoners undergoing that disciplinary sanction in the establishments visited were still not being offered outdoor exercise. This situation is not acceptable.

The CPT recommends that all necessary steps be taken - without delay - in order to ensure that all prisoners without exception are offered the opportunity to take at least one hour of outdoor exercise every day.

¹¹ cf. paragraph 136 of document CPT/Inf (94) 9.

c. complaints and inspection procedures

142. The importance accorded by the Portuguese authorities to the provision of effective complaints and inspection procedures is highlighted by the fact that, on 27 April 1993, the Minister of Justice appointed a Committee to examine, inter alia, the role and degree of autonomy of prison inspectorate services (cf. paragraph 89 of the response). The inspectorate services have subsequently been re-structured in order to render them more accessible to prisoners and to increase their impact and effectiveness. As part of that process, the co-ordination of their work has been entrusted to a magistrate. The Committee welcomes these developments and **would like to receive an account of the recent activities of the restructured inspectorate services, together with copies of any reports on prison inspections which they may have produced.**

143. The follow-up report from the Portuguese authorities states that prisoners may correspond, without control by the prison authorities, with the President of the Republic, the President of the National Assembly, the Prime Minister, the General Public Prosecutor of the Republic, the supervisory judge, the Minister for Justice, the Director General of the Prison Service, consular and diplomatic authorities and the European Commission of Human Rights.

The CPT would like to receive further information about the legal provisions regulating this right and invites the Portuguese authorities to consider granting prisoners a similar right of confidential access to the President of the CPT.

d. contact with the outside world

144. The CPT's delegation was concerned to find that there had been no change in the visiting room at the Judicial Police Prison in Lisbon since the 1992 visit. That room, which three years ago had been described as "inhuman" by senior staff in the establishment, continued to provide a most repressive visiting environment. The response of the Portuguese authorities accepts that the room is inadequate and makes reference to planned alterations (cf. paragraph 90 of the response).

Regrettably, similar facilities were seen at the Oporto Judicial Police Prison. There - as in Lisbon - prisoners and visitors stood facing each other on opposite sides of a barrier which consisted of wire mesh enclosing metal bars. The lighting in the room was poor and, at the time of the delegation's visit, a cacophonous noise was being created by four prisoners and twelve visitors who could only hear each other if they shouted. The delegation was told that the room could be used by as many as seven prisoners and twenty-one visitors, at which level of occupancy the din must be deafening.

The Committee recommends that urgent steps be taken to improve the facilities for family visits at Lisbon and Oporto Judicial Police Prisons.

145. The visiting facilities at Linhó Prison remained of an acceptable standard and those at Oporto Prison were not visited by the delegation.

146. In its 1992 report, the CPT emphasised the importance of giving prisoners (especially those who do not receive regular visits) improved opportunities for telephone contact with their families. It was therefore very pleased to note from the response (and to confirm by its on-site observations in the establishments visited) that prisoners are being given more regular access to card-operated telephones.

The Committee welcomes this development **and would like to receive confirmation that card-operated telephones have now been installed in all prisons in Portugal, for use by both convicted and unconvicted prisoners.**

e. call systems

147. The delegation found that, in line with the CPT's 1992 recommendation, the in-cell call system at Lisbon Judicial Police Prison had been repaired. Oporto Judicial Police Prison was equipped with a modern and effective call system linked to a central monitoring point. By contrast, the call system at Linhó Prison remained out of service, as did that in C wing at Oporto Prison.

The CPT wishes to recall that call systems can significantly reduce the risk of a prisoner in need of assistance being left unattended. **It recommends that a high priority be given to work designed to provide all cells with such a system, preferably linked to a central monitoring point, staffed on a permanent basis.**

f. carrying of firearms in direct contact with prisoners

148. At the Judicial Police Prison in Lisbon it became apparent that certain custodial officers who worked inside the prison in direct contact with prisoners carried firearms whilst on duty. There appeared to be no clear policy on this question at that establishment or in other prisons in Portugal.

149. In the view of the CPT, **the carrying of firearms by staff who are in direct contact with prisoners is a dangerous and undesirable practice. It could lead to high-risk situations for both prisoners and prison officers.** In this respect, reference might also be made to the provisions of Rule 63(3) of the European Prison Rules, which stipulate that:

"Except in exceptional circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been fully trained in their use."

C. Detention centres for minors

1. Introduction

150. The CPT's delegation visited two centres for minors in Portugal: **the Observation and Social Action Centre (COAS)** in Lisbon, a place of provisional placement and assessment, and **the Padre Antonio de Oliveira Re-education Centre** in Caxias, an establishment for the execution of definitive placement measures. Both centres admitted boys aged twelve or more and under the age of criminal responsibility (16 years of age); however, they could continue to accommodate minors until they reached the age of 18 and, exceptionally, younger boys could also be admitted.

The delegation was informed that the period of assessment¹² at the Lisbon COAS was two months. The competent authority would then make a formal decision regarding the regime to be followed by the minor and, where appropriate, the institution where a placement measure should be effected. The delegation was informed that a boy can nevertheless remain at the Lisbon COAS for several months or even years, in so-called social cases (homeless or abandoned boys) or if placement in a suitable home or institution proved difficult.

The average length of stay at the Padre Antonio de Oliveira Re-education Centre was of some two years. In addition to inmates undergoing a placement measure, the Centre also provided benevolent accommodation for a small number of boys no longer undergoing such a measure, until they reached the age of eighteen; they were housed in quite distinct premises.

2. Ill-treatment of detained minors

151. With one exception, the CPT's delegation heard no allegations of ill-treatment of minors held in the establishments visited and gathered no other evidence of such treatment. More generally, day to day relations between minors and staff appeared to be good.

152. The exception related to a case mentioned to the CPT's delegation by several minors at the Lisbon COAS and subsequently confirmed by the Centre's Director. It appears that, some months earlier, a member of staff (a monitor) twisted a young boy's wrist and kicked him twice. The Director of the Lisbon COAS declared that he considered such treatment unacceptable and that, consequently, action had been taken expeditiously at an administrative level and the monitor concerned dismissed.

¹² Assessment could also be carried out on an ambulatory basis.

153. More generally, at both establishments visited, some boys stated that an occasional slap could be given by monitors to encourage them to behave in an appropriate manner. Indeed, a monitor with whom the delegation spoke at the Padre Antonio de Oliveira Re-education Centre said that the administration of a "pedagogic" slap was not entirely unknown.

In the interests of the prevention of ill-treatment, the CPT believes that it would be preferable for all forms of physical chastisement of children to be both formally prohibited and avoided in practice.

3. Conditions of detention

154. The **Lisbon COAS** had an official capacity of 45 boys and, at the time of the visit, was accommodating 52 (of whom, the most recent arrival was aged 7). The Centre's premises were relatively modern and were spacious, well-equipped and in a reasonable state of repair.

155. After an initial assessment in an admissions unit (originally designed as an isolation or secure facility), boys were distributed roughly according to their age, with one section reserved for those who were considered less manageable.

The younger boys were accommodated in good-sized dormitories with four or five beds each. Most of the older boys were accommodated in rooms designed for single occupancy (of approximately 7.5 m²). However, the delegation was told that, in some of the rooms, an additional boy had to sleep on a mattress on the floor. In this respect, **the CPT would point out that the size of the rooms rendered them barely appropriate for double occupancy.**

On the whole, inmate accommodation was comfortably furnished, well lit and ventilated. Rooms in the admissions unit had barred windows and, due to their location, benefitted from limited access to natural light; however, they were only used for sleeping purposes. One other room (said to have been adapted to accommodate a particularly troublesome and destructive minor) had a double grid of bars on the window and was spartanly furnished with a bed, table and chair.

156. The CPT's delegation received contradictory information as regards access to sanitary facilities during the night. Whilst the management and staff of the Centre stated that doors were only locked during two hours after the boys went to sleep (i.e. from 11pm to 1am), boys interviewed by the delegation affirmed that the period of time during which they were locked in their rooms was much longer. Some of the younger boys told the delegation that on occasion they had to urinate out of the window while locked. Further, those accommodated in the admissions unit stated that they were locked throughout the night and were provided with buckets in order to allow them to comply with the needs of nature during that time.

The CPT recommends that appropriate steps be taken to ensure that boys held at the Lisbon COAS have ready access to proper sanitary facilities at all times (including at night).

157. Efforts were made to keep all boys occupied during the day. For this purpose, the Centre had numerous and well-equipped activity rooms and workshops (dance, theatre, photography, plastic arts, pottery, etc.) and sports facilities. The Centre also offered primary education, and some boys were allowed to attend an outside secondary school. Further, the minors also had access to common rooms, equipped with TV, games, etc.

158. At the time of the visit, the **Padre Antonio de Oliveira Re-education Centre** was operating well under its potential capacity. Some 40 boys undergoing a placement measure were distributed between three units, mostly in rooms designed for individual occupancy, which were of an adequate size for that purpose (7 to 8 m²) and some in dormitories, all of which were reasonably furnished, well lit and ventilated. However, the delegation observed a large number of broken window panes; **the CPT recommends that broken window panes in premises used by inmates be replaced.**

159. As at the Lisbon COAS, inmates at the Padre Antonio de Oliveira Re-education Centre were provided with a range of activities during the day (school, vocational training and workshops, sport and leisure activities); they also had access to large and reasonably equipped common rooms.

The regime was relatively relaxed. Boys were graded, having regard to their behaviour and reliability; this grading determined whether or not the boys concerned were allowed to leave the Centre and the conditions applicable to their absence (i.e. duration of absence; supervised/unsupervised).

160. Certain members of staff at the Padre Antonio de Oliveira Re-education Centre stated that the Centre was not suitably staffed and equipped to guide and motivate the more troublesome or disturbed boys. This was said to be aggravated by the fact that it was relatively easy for boys to leave the Centre without permission and by the variety of reasons for which they had been placed there (vagrancy, mendicancy, parental ill-treatment, unruliness, drug abuse, criminality). Similar remarks, regarding the difficulties and negative effects of having a heterogeneous group of boys, were made by staff at the Lisbon COAS.

It should be added that certain boys, particularly at the Padre Antonio de Oliveira Re-education Centre, expressed concern about being drawn into drug abuse by other inmates; one boy stated that he had constantly to resist such pressures.

The CPT would like to receive the views of the Portuguese authorities on these matters.

4. Discipline

161. In both detention centres for minors visited, the sanctions which could be imposed ranged from a verbal reprimand to isolation. The most common sanctions appeared to be reprimand, reparation of damage caused or, particularly at the Padre Antonio de Oliveira Re-education Centre, the payment of a fine or loss of pocket money. Sanctions were imposed initially by educators. In most cases the Director merely had to be informed of the measure; however, the most serious cases required his/her approval.

162. The CPT was particularly concerned to learn that there was no formal limit to the duration of an isolation measure; its delegation was told that such measures would normally fall short of 48 hours, although on occasion the time spent in isolation could rise to 5 days. However, members of staff at the Padre Antonio de Oliveira Re-education Centre told the delegation that a boy had in the recent past been admitted to that Centre subject to a thirty day isolation measure; apparently, the Centre had had to apply that measure, which had been decided by a higher authority.

Further, a boy interviewed at the Lisbon COAS told the delegation that he had been confined to his room as a punishment during a period of 15 days, a measure which had been lifted on the first day of the delegation's visit.

As regards the material conditions in which isolation measures were implemented, at the Lisbon COAS, boys subject to such a sanction remained in their own room; however, at the Padre Antonio de Oliveira Re-education Centre they were placed in a bare room (furnished only with a mattress and a chamber pot). In neither centre were children allowed outdoor exercise while in isolation as a disciplinary measure, though they were allowed out of the room to use the sanitary facilities and, at the Padre Antonio de Oliveira Re-education Centre, to eat.

163. The CPT's delegation gathered no evidence of undue resort to disciplinary sanctions. Nevertheless, existing procedures in this very sensitive area could usefully be developed as regards both formal safeguards and the recording of sanctions imposed.

The CPT recommends:

- **that a minor be guaranteed a right to be heard on the subject of the offence which it is alleged he has committed;**
- **that there be a formally recognised right of appeal to a higher authority against sanctions imposed (e.g. to the Director of the Centre, as regards sanctions imposed by educators, and to the competent judge, as regards sanctions imposed by the Director);**
- **that a specific register be kept in each Centre, containing full details of all disciplinary sanctions imposed.**

164. As regards, more particularly, sanctions involving the isolation of a minor, **the CPT recommends:**

- **that resort to that sanction be regarded as an exceptional measure and made the subject of a notification to the competent judge;**
- **that it be served in a suitably equipped room (with at least a bed, table and chair);**
- **that minors undergoing a measure of isolation as a sanction be provided with reading matter and allowed at least one hour of outdoor exercise every day;**
- **that the maximum possible duration of such a measure be formally laid down and that the measure never be applied for longer than is strictly necessary.**

5. Medical issues

165. The level of medical provision at the Lisbon COAS and at the Padre Antonio de Oliveira Re-education Centre seemed on the whole to be adequate. General medical care of minors in the two centres was provided by doctors attending them on a part-time basis and a nurse (at the Lisbon COAS) or an educator (at the Padre Antonio de Oliveira Re-education Centre). In addition, specialist care, including dental care, was assured by outside professionals/institutions.

It appeared that, on occasion (including in certain psychiatric cases), the two Centres relied upon San João de Deus Prison Hospital at Caxias. **The CPT would like to receive further information on this matter.**

166. From conversations held with staff in the two Centres visited, it transpired that certain medical information was included in the minor's administrative file. Moreover, standardised medical record forms were not in use at either establishment (cf. also paragraph 129).

At the Padre Antonio de Oliveira Re-education Centre, medical information (apparently including the result of HIV antibody screening) was handled by non-medical members of staff. The CPT would emphasise that such information should be protected by strict medical confidentiality and **recommends that appropriate measures be taken to ensure that this is the case.**

Further, **the CPT would like to receive information about the approach adopted as regards HIV testing of minors, including in respect of the provision of counselling.**

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

167. In the course of the second periodic visit to Portugal, the CPT's delegation spoke to many persons about their experiences while in police custody, of whom a significant proportion alleged that they had been ill-treated.

As during the CPT's first visit to Portugal in 1992, the principal form of ill-treatment alleged was physical assault (i.e. kicks and blows with fists, truncheons or batons). Further, the delegation again heard a few allegations that detained persons had been subjected to simultaneous blows to both ears with telephone directories or beaten on the soles of their feet. There were also frequent allegations about the excessive use of force at the time of arrest.

The allegations of ill-treatment concerned principally the Public Security Police (PSP) and, to a lesser extent, the National Republican Guard (GNR). The delegation heard comparatively few allegations of ill-treatment by the Judicial Police (PJ); however, the report makes reference to a particularly grave allegation concerning the Serious Crime Squad (the DCCB) of the PJ in Lisbon.

168. On examination by the delegation's doctors, a number of the persons who alleged that they had been ill-treated by the police were found to display marks or conditions consistent with their allegations.

Reference should also be made to the numerous non-standard clubs or batons (quite unlike ordinary police truncheons) which were found in a number of the PSP stations visited by the delegation. Moreover, in certain cases (notably at the PSP Station at Rua André Resende, Benfica and at Rua Naulila, Oporto), the CPT's delegation found objects fitting the descriptions previously received of instruments allegedly used to ill-treat detained persons. Similarly, at the DCCB in Lisbon, the delegation found a home-made baton which closely corresponded to a prisoner's description of an object which he thought could have been used to ill-treat him.

169. In the light of both the information gathered during the second periodic visit and of the statistics about complaints of ill-treatment in recent years provided by the Portuguese authorities, the CPT has not felt able to modify the conclusion drawn following its 1992 visit, namely that the ill-treatment of persons in police custody is a relatively common phenomenon. That conclusion remains especially pertinent as regards the Public Security Police.

170. In order to address this situation, the CPT has recommended that senior law enforcement officials be required to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be dealt with severely. Further, it has reiterated its 1992 recommendations that a very high priority be given to human rights education and professional training for law enforcement officials of all ranks and categories, that an aptitude for interpersonal communication be a major factor in the process of recruiting law enforcement officials and that, during the training of such officials, considerable emphasis be placed on acquiring and developing interpersonal communication skills.

The Committee has also emphasised that one of the most effective means of preventing ill-treatment by public officials lies in the diligent examination of all complaints of such treatment and, where appropriate, the imposition of suitable penalties; this will have a very strong dissuasive effect.

171. Further, the CPT has highlighted the potential importance of the role of forensic doctors in the prevention of ill-treatment, given the considerable weight that their findings will have in legal or disciplinary proceedings. It has recommended that whenever a public prosecutor or investigating judge receives a complaint of ill-treatment by the police, or observes that someone brought before him could have been a victim of ill-treatment, he should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor. It has also been recommended that persons taken into police custody who are subsequently released without being brought before a public prosecutor or judge should be able independently to solicit a medical examination/certificate from the relevant forensic institute.

172. As regards, more particularly, the allegations heard of ill-treatment at the time of arrest, the CPT has recommended that police officers be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for striking them.

173. In the report drawn up following the first periodic visit to Portugal, the CPT examined in some detail the safeguards against ill-treatment which are offered to detained persons. A number of recommendations were made on this subject (in particular, as regards notification of custody, access to a lawyer and access to a doctor). Regrettably, there has been little progress in implementing those core recommendations. One interesting development has been the production of a draft information sheet for detained persons, setting out some of their rights; however, the Committee has made clear that this does not obviate the need to place all the rights of detained persons on a firm legal footing.

Consequently, the CPT has reiterated its 1992 recommendations and has made a number of other recommendations and remarks about the safeguards to be afforded to all persons detained by the police (including as regards the conduct of interrogations, custody registers, inspection procedures and the return to police custody for further questioning of persons held in prison).

174. The CPT was pleased to note that genuine efforts are being made to improve material conditions of detention in police establishments.

A marked amelioration was observed in the holding facilities of the PSP in Lisbon (at the Governo Civil), although there was still room for improvement as regards access to natural light and the provision of mattresses.

Good (or even very good) material conditions were found in a few of the establishments visited; however, in certain other establishments, the CPT's delegation identified shortcomings concerning inter alia the size of cells, sleeping arrangements and lighting.

175. The CPT has recommended that conditions of detention in the police establishments visited be reviewed in the light of its remarks. More generally, it has recommended that the Portuguese authorities continue to make efforts to ensure that the conditions of detention in police establishments in general meet all the criteria in the Committee's report.

B. Prisons

176. The CPT's delegation received no allegations of torture of prisoners by prison staff in any of the establishments visited or in other prisons in Portugal. Further, with the notable exception of Lisbon Judicial Police Prison, very few allegations were received of other forms of ill-treatment of inmates by prison staff in Portugal.

A considerable number of allegations of physical ill-treatment of prisoners by prison staff were heard at Lisbon Judicial Police Prison. The allegations - which were similar to those heard during the first periodic visit - were consistent in a number of important respects. Moreover, a prisoner seen by the delegation's doctor displayed injuries which were consistent with his allegations of ill-treatment.

Those factors, taken together with other indications of the existence of unofficial quasi-disciplinary practices at the establishment, have led the CPT to insist upon the need for a thorough and independent investigation into the possible ill-treatment of prisoners at Lisbon Judicial Police Prison. The Committee has asked to receive - as soon as possible - information on the conduct of that investigation, together with details of its findings and of any action taken upon them.

177. In its consideration of the conditions of detention in the establishments visited, the Committee has paid particular attention to the issues of the eradication of overcrowding, provision of ready access to a lavatory at all times and improvement of regime activities.

178. At the two establishments which were the subject of follow-up visits - Lisbon Judicial Police Prison and Linhó Prison - some notable improvements had been made since the first periodic visit. Nevertheless, both establishments remained blighted by overcrowding; there were significant limitations upon access to toilet facilities at Linhó; and the regimes offered to most prisoners at Lisbon Judicial Police Prison and to "inactive" inmates at Linhó were underdeveloped.

179. Overcrowding, inadequate access to proper sanitary facilities and poor regime activities were all present in Oporto Judicial Police Prison and C wing at Oporto Prison (the only part of the establishment visited by the CPT's delegation). In both establishments, additional elements rendered the position of the prisoners held there even more objectionable. In Oporto Judicial Police Prison, there was a complete denial of outdoor exercise and in C wing at Oporto Prison, inmates lived in a potentially perilous environment, as a direct result of a lack of effective staff supervision. In the view of the CPT, most inmates at Oporto Judicial Police Prison and all inmates in C wing at Oporto Prison were being held in inhuman and degrading conditions.

180. The Committee has recognised that the reduction of overcrowding has a pivotal role to play in improving other aspects of conditions of detention in the establishments visited. It has noted, in this respect, that a major prison building/renovation programme is underway. However, the CPT has expressed doubts about whether building new prison accommodation will, in itself, provide a lasting solution; it may well be that more radical policies will be required to tackle this phenomenon. The Committee has recommended that a very high priority continue to be given to measures designed to bring about a permanent end to overcrowding.

The Committee has requested detailed information about the plans of the Portuguese authorities to provide inmates with ready access to a lavatory at all times. It has recommended that a very high priority be given to this goal and that, in prisons or parts of prisons where inmates do not yet have ready access at all times to proper sanitary facilities, prison officers receive instructions to the effect that a request made by a prisoner to be released from his cell or dormitory during the day for the purpose of using a lavatory should be granted, unless significant security considerations require otherwise.

The CPT has also recommended a number of short to medium term measures designed to improve regime activities: e.g. immediate steps to ensure that inmates at Oporto Judicial Police Prison are offered at least one hour of outdoor exercise every day; prisoners held on remand in the Lisbon and Oporto Judicial Police Prisons to be relocated to normal remand prisons; additional activities to be developed for "inactive" prisoners at Linhó Prison (and, if appropriate, in other establishments for sentenced prisoners where such inmates are to be found).

181. Having regard to the gravity of the situation observed by its delegation in C wing at Oporto Prison, the CPT has called upon the Portuguese authorities to carry out a full review of conditions of detention there, with the aim of ensuring that the physical and mental integrity of inmates is guaranteed.

182. As regards prison health care services, the CPT has noted that staffing levels had been significantly augmented in the two establishments visited on a follow-up basis. By contrast, the health care service at Oporto Prison was in a state of crisis; one full-time doctor and the equivalent of three full-time nurses were attempting to provide health care to more than 1000 male prisoners. The CPT has therefore recommended that immediate steps be taken to reinforce the health care team responsible for male prisoners at that establishment. As regards Oporto Judicial Police Prison, the Committee has recommended that nursing provision be reinforced and health care facilities improved. Further, the CPT has made comments on a number of other health-related matters.

183. The Committee has also made a number of recommendations and comments about a variety of other issues of relevance to its mandate (solitary confinement, discipline, complaints and inspection procedures, contact with the outside world, call systems and the carrying of firearms in direct contact with prisoners). Of these, it would emphasise its recommendations that the necessary steps be taken - without delay - in order to ensure that all prisoners (including those undergoing cellular confinement as a punishment) are offered at least one hour of outdoor exercise every day, and that urgent steps be taken to improve the facilities for family visits at Lisbon and Oporto Judicial Police Prisons.

C. Detention centres for minors

184. With one exception, the CPT's delegation heard no allegations of ill-treatment of minors held in either of the establishments visited. The exception related to a monitor at the Observation and Social Action Centre (COAS) in Lisbon who apparently had twisted a young boy's wrist and kicked him twice some months before the CPT's visit. Action had been taken at an administrative level and the member of staff concerned had been dismissed.

However, it appeared that, at both the Lisbon COAS and at the Padre Antonio de Oliveira Re-education Centre, the administration of a "pedagogic" slap was not entirely unknown. In the interests of prevention of ill-treatment, it would be far preferable for all forms of physical chastisement of children to be both formally prohibited and avoided in practice.

185. Material conditions were found, on the whole, to be quite satisfactory, as were activities and health care. However, some recommendations and comments have been made with a view to remedying certain specific shortcomings (occupancy level in certain rooms, access to sanitary facilities, etc.).

186. A number of remarks have also been made concerning the disciplinary sanctions which could be applied. The CPT was particularly concerned to note that there was no formal limit to the length of time for which a minor could be subjected to the disciplinary sanction of isolation; further, in some cases such measures were served in extremely spartan conditions.

The CPT has therefore recommended that resort to isolation as a sanction be regarded as an exceptional measure and made the subject of a notification to the competent judge; that it be served in a suitably equipped room; that minors undergoing such a measure be provided with reading matter and allowed at least one hour of outdoor exercise every day; that its maximum possible duration be formally laid down and that the measure never be applied for longer than is strictly necessary.

More generally, the CPT has made a number of recommendations designed to develop existing disciplinary procedures as regards both formal safeguards and the recording of sanctions imposed.

D. Action on the CPT's recommendations, comments and requests for information

187. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

188. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Portuguese authorities:

- i) to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken (N.B. the CPT has indicated the urgency of certain of its recommendations);
- ii) to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Portuguese authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX I

SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

A. Police establishments

1. Torture and other forms of ill-treatment

recommendations

- senior law enforcement officials to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be dealt with severely. In this context, the attention of police officers to be drawn in particular to the new provisions of the Criminal Code concerning the offences of torture and other cruel, degrading or inhuman treatment and of failure, on the part of a hierarchical superior, to report such conduct within three days of acquiring knowledge of its commission (paragraph 28);
- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest, that once arrested persons have been brought under control there can be no justification for striking them, and that it would be completely unacceptable for police officers not to intervene if they witness a person whom they intend to detain being assaulted by members of the public (paragraph 29);
- a very high priority to be given to human rights education and professional training -both initial and ongoing - for police officers of all ranks and categories. Experts not belonging to the police forces to be involved in that education and training (paragraph 30);
- an aptitude for interpersonal communication to be a major factor in the process of recruiting police officers and considerable emphasis to be placed on acquiring and developing interpersonal communication skills during the training of such officers (paragraph 30);
- whenever they receive a complaint of ill-treatment by the police or observe that someone brought before them could have been a victim of ill-treatment, public prosecutors or investigating judges should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor (paragraph 33)
- persons taken into police custody who are subsequently released without being brought before a public prosecutor or judge should be able independently to solicit a medical examination/certificate from the relevant forensic institute (paragraph 33);
- urgent steps to be taken to ensure that any weapons held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location designed for that purpose, and that no other non standard-issue weapons are held on police premises (paragraph 34).

requests for information

- the findings of the investigation ordered by the Minister for Justice to which reference is made in paragraph 26 and of any further action taken as a result (paragraph 26);
- information on the administrative/disciplinary procedures applied in cases of alleged ill-treatment by the police, including full details of the guarantees ensuring their objectivity (paragraph 31).

2. Material conditions of detention

recommendations

- conditions of detention in the different establishments visited by the delegation to be reviewed, in the light of the remarks made in paragraphs 37 to 46 (paragraph 47);
- continued efforts to be made to ensure that the conditions of detention in police establishments in general meet all the requirements indicated in paragraph 35 (paragraph 47).

3. Safeguards against the ill-treatment of detained persons

recommendations

- steps to be taken to ensure that persons detained under Article 250 of the Code of Criminal Procedure benefit from the rights set out in Article 61(1) of that Code and the other safeguards discussed in the CPT's report, as from the moment when they are first obliged to remain with the police (paragraph 49);
- the right to have someone informed of the fact of one's custody to be given a firm legal basis (paragraph 52);
- appropriate steps to be taken to ensure that all persons taken into police custody are placed in a position effectively to exercise their right to have access to a lawyer, as from the outset of their custody. Preferably, they should benefit from the presence of a lawyer during questioning (paragraph 54);
- a person detained by the police to have a right of access to a doctor of his own choice, in addition to any doctor called by the police (paragraph 55);
- all medical examinations of persons in police custody to be conducted out of the hearing and, unless the doctor concerned requests otherwise, out of the sight of police officers (paragraph 55);
- the results of all medical examinations as well as relevant statements by the detainee and the doctor's conclusions to be formally recorded by the doctor and made available to the detainee and his lawyer (paragraph 55);

- the draft information sheet for persons detained by the police to be formally adopted as soon as possible, translated into an appropriate range of languages, given without delay to detained persons and the latter asked to sign a statement indicating that they have received a copy (paragraph 58);
- a code of conduct for police interrogations to be drawn up without delay. The code of conduct to address inter alia the following matters: the systematic informing of the detainee of the identity (name and/or identity number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which an interview may take place; whether the detainee may be required to stand while being questioned; the interviewing of persons who are under the influence of drugs, alcohol, medicine, or who are in a post-traumatic state; the code also to provide that a record be kept of the time at which interviews start and end, of any request made by the detainee during an interview, and of the persons present during each interview. The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) to be the subject of specific safeguards (paragraph 59);
- the possibility of developing an individualised custody record to be explored. Such a custody record should contain information on all relevant aspects of a detainee's custody and action taken regarding them (time of and reason(s) for the arrest; time of arrival on police premises; when informed of rights; signs of injury, health problems, mental disorder etc.; contacts with and/or visits from next of kin, lawyer, doctor or consular official; when offered food; when questioned; when brought before the relevant judge, when transferred, released, etc.). For certain matters (for example, personal belongings removed, the fact of being informed of his rights and of invoking or waiving them), the detainee's signature should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record (paragraph 62);
- whenever a person is detained in a police establishment, for whatever reason (including for identification purposes) and for whatever length of time, the fact of his detention to be recorded without delay (paragraph 63);
- competent judicial authorities and/or public prosecutors to be encouraged to exercise on-the-spot supervision of places of detention (paragraph 66).

comments

- the CPT trusts that the measures taken to implement the recommendations set out in paragraphs 49 to 56 will, as appropriate, be taken into account in any future revisions of the information sheet for persons detained by the police (paragraph 58);
- the Portuguese authorities are invited to consider the possibility of introducing a system for the electronic recording of police interrogations. The system should offer all appropriate safeguards (for example, the consent of the detainee and the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy) (paragraph 61);

- from the standpoint of the prevention of ill-treatment, it would be far preferable for further questioning of persons committed to prison to take place within the establishment concerned rather than on police premises. The return of remand prisoners to police custody for further questioning should only be sought and authorised when it is absolutely unavoidable; consequently, it would be appropriate for such a measure to require the express authorisation of the competent judicial authority. Further, in principle, a person returned to police custody should not be kept on police premises overnight (paragraph 67).

requests for information

- details of the training and/or instructions given to police officers about the attitude to adopt towards detainees who are drug-addicts or who suffer from somatic or mental conditions (paragraph 56);
- whether the performance of an unlawful interview of a detainee by a Public Security Police or National Republican Guard officer attracts disciplinary and/or criminal sanctions (paragraph 60);
- a copy of the decree creating the Ministry of the Interior inspectorate, and information on any investigations and/or inspections which it may have undertaken in respect of the Public Security Police and the National Republican Guard (paragraph 64);
- the planned scope and scale of future visits to police stations in Portugal by the Ombudsman, together with copies of any reports produced after such visits (paragraph 65).

B. Prisons

1. Torture and other forms of ill-treatment

requests for information

- information on the conduct of the investigation into the possible ill-treatment of prisoners in Lisbon Judicial Police Prison, together with details of the findings and of any action taken upon them (paragraph 73);
- for 1994 and 1995:
 - the number of complaints of ill-treatment lodged against prison officers in Portugal and the number of disciplinary/criminal proceedings initiated as a result of such complaints;
 - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison officers (paragraph 74);
- regularly updated information on the number of complaints of ill-treatment lodged against prison officers in Portugal, on the number of criminal/disciplinary proceedings initiated as a result of such complaints and on the criminal/disciplinary sanctions imposed (paragraph 74).

2. Conditions of detention

recommendations

- stone breaking activities at Linhó Prison to be replaced by other work of a more challenging and vocational nature (paragraph 81);
- a very high priority to continue to be given to measures designed to bring about a permanent end to overcrowding, taking into account the Committee's remarks in paragraph 98 (paragraph 98);
- a very high priority to continue to be given to plans to provide all prisoners in Portugal with ready access to a lavatory at all times, taking into account the Committee's remarks in paragraph 99 (paragraph 99);
- in prisons or parts of prisons where inmates do not yet have ready access at all times to proper sanitary facilities, prison officers to receive instructions to the effect that a request made by a prisoner to be released from his cell or dormitory during the day for the purpose of using a lavatory is to be granted, unless significant security considerations require otherwise (paragraph 101);

- steps to be taken immediately to ensure that inmates at Oporto Judicial Police Prison are offered at least one hour of outdoor exercise every day (paragraph 102);
- remand prisoners held at the Judicial Police Prisons in Lisbon and Oporto to be relocated to normal remand prisons as soon as the required places become available (paragraph 103);
- as regards the regime offered in remand prisons, the objective to be to ensure that prisoners can spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature (group association activities, education, sport, work with vocational value) (paragraph 103);
- additional activities to be developed for sentenced prisoners classified as "inactive" at Linhó Prison (and, if appropriate, in other establishments for sentenced prisoners where such inmates are to be found) (paragraph 103);
- conditions of detention in C Wing at Oporto Prison to be the subject of a full review, with the aim of ensuring that the physical and mental integrity of inmates held there is guaranteed (paragraph 104).

comments

- the CPT trusts that every effort will continue to be made to increase the number of inmates taking part in full-time education at Linhó Prison (paragraph 82);
- it is a matter of concern that the number of "educational technicians" at Linhó Prison has been reduced from five to four (paragraph 84).

requests for information

- details of plans to improve prisoners' access to sanitary facilities and, more particularly, on the timescale within which it is envisaged that the necessary work will be completed (paragraph 100).

3. Health care services

recommendations

- the level of nursing provision at Oporto Judicial Police Prison to be reinforced (paragraph 108);
- immediate steps to be taken to reinforce the health care team responsible for male prisoners at Oporto Prison, bearing in mind inter alia that a health care team responsible for more than 1000 inmates should include at least two full-time doctors (paragraph 109);
- urgent steps to be taken to ensure that someone competent to provide first aid (preferably someone with a recognised nursing qualification) is always present on prison premises (paragraph 110);
- immediate steps to be taken to improve the health care facilities at Oporto Judicial Police Prison (paragraph 111);
- every newly arrived prisoner to be properly interviewed and, if necessary, physically examined by a member of the prison health-care service as soon as possible after his admission; save for exceptional circumstances, medical interviews/examinations to be carried out on the day of admission, especially insofar as remand establishments are concerned (paragraph 113);
- appropriate steps to be taken to minimise the risk of tuberculosis being transmitted to other prisoners or to staff by prisoners identified as having that disease (paragraph 116);
- the record drawn up following a medical examination of a newly admitted prisoner (or a prisoner returning to the establishment) to contain (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) an account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii); the result of that medical examination to be made available to the prisoner concerned; the same approach to be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 120);
- for so long as Oporto Judicial Police Prison continues to operate as a remand facility, inmates held there to be provided with an adequately resourced psychiatric/psychological service (paragraph 123);
- steps to be taken to improve the dental services available to prisoners (paragraph 124);
- the strict confidentiality of medical data to be guaranteed (paragraph 128).

comments

- a prison health care service should ensure that information about transmissible diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) is regularly circulated, both to prisoners and to prison staff. Where appropriate, medical control of those with whom a particular prisoner has regular contact (fellow prisoners, prison staff, frequent visitors) should be carried out (paragraph 117);
- appropriate counselling should be provided both before and, if necessary, after any HIV screening test. Prison staff should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding HIV-positivity and given appropriate instructions concerning non-discrimination and confidentiality (paragraph 117);
- the Portuguese authorities are invited to pursue the adoption of a standardised medical record form for use by doctors working in prisons (paragraph 129).

requests for information

- detailed information on the subject of medical screening on reception in the Portuguese prison system, with particular reference to current rules and intended developments in respect of HIV and tuberculosis screening; whether it is intended to extend the S.L.A.T. tuberculosis screening programme to all prisons in Portugal (paragraph 116);
- comments on the length of the waiting lists at the San João de Deus Prison Hospital at Caxias and on whether general hospitals are reluctant to admit prisoners as in-patients (paragraph 122);
- any measures envisaged by the Portuguese authorities to address the problem of overcrowding at the Prison Hospital at Caxias (paragraph 126);
- further details about the Sintra Prison Psychiatric Clinic, including the date on which it entered into service (paragraph 127);
- any further developments in respect of the treatment of drug addicted prisoners, especially as regards the evaluation of the "Criar" programme (paragraph 130).

4. Other issues related to the CPT's mandate

recommendations

- the placement of prisoners in security establishments or sections under Articles 111 and 113 of the Prison Rules to be reviewed in order to ensure that:
 - the regime applied to the occupants of such units offers them purposeful activities and guarantees them appropriate human contact;
 - no prisoner is held in such a unit for longer than is strictly necessary;
 - no mentally-ill person is held in such a unit (paragraph 133);
- concrete steps to be taken to ensure that all prisoners held under solitary confinement-type regimes are informed in writing of the reasons for their placement (it being understood that those reasons need not include facts which it would be reasonable to withhold on security grounds); that they are given an opportunity to present their views on the matter to the relevant authority before any final decision on placement in, or renewal of, solitary confinement is taken; and that placement in solitary confinement for an extended period is subject to a full review at least once every three months, if necessary based upon a medico-social report. Full details of the measures concerned to be transmitted to the CPT (paragraph 135);
- the necessary steps to be taken to ensure that whenever a prisoner placed in solitary confinement, for whatever reason, asks for a medical doctor - or a prison officer asks for one on his behalf - the doctor is called immediately to examine the prisoner. The results of the medical examination, including an assessment of the prisoner's mental and physical state and, if necessary, the likely consequences of continuing solitary confinement, to be set out in a written report and sent to the relevant authorities (paragraph 137);
- appropriate steps to be taken to ensure that staff at Lisbon Judicial Police Prison cannot have resort to an unofficial (and uncontrolled) disciplinary system (paragraph 138);
- the bar-fronted disciplinary cells at Linhó Prison no longer to be used other than as a temporary holding area for prisoners exhibiting violent behaviour (paragraph 139);
- all necessary steps to be taken - without delay - in order to ensure that all prisoners without exception are offered the opportunity to take at least one hour of outdoor exercise every day (paragraph 141);
- urgent steps to be taken to improve the facilities for family visits at Lisbon and Oporto Judicial Police Prisons (paragraph 144);
- a high priority to be given to work designed to provide all cells with a call system, preferably linked to a central monitoring point, staffed on a permanent basis (paragraph 147).

comments

- it is an essential safeguard that the exact time of placement in a solitary confinement-type regime and the reason therefor be recorded in an appropriate register (paragraph 136);
- the Portuguese authorities are invited to consider granting prisoners the right of confidential access to the President of the CPT (paragraph 143);
- the carrying of firearms by staff who are in direct contact with prisoners is a dangerous and undesirable practice, which could lead to high-risk situations for both prisoners and prison officers (paragraph 149).

requests for information

- the criteria used to determine whether placement in a security establishment or section is "strictly necessary" and the purpose which placement in such units is intended to serve (long-term management of prisoners considered to be "dangerous"; containment of inmates considered to represent an escape risk; detention of prisoners who threaten good order and discipline etc.) (paragraph 133);
- an account of the recent activities of the restructured prison inspectorate services, together with copies of any inspection reports which they may have produced (paragraph 142);
- the legal provisions regulating the right of prisoners to correspond, without control by the prison authorities, with the President of the Republic, the President of the National Assembly, the Prime Minister, the General Public Prosecutor of the Republic, the supervisory judge, the Minister for Justice, the Director General of the Prison Service, consular and diplomatic authorities and the European Commission of Human Rights (paragraph 143);
- confirmation that card-operated telephones have now been installed in all prisons in Portugal, for use by both convicted and unconvicted prisoners (paragraph 146).

C. Detention centres for minors

1. Ill-treatment of detained minors

comments

- in the interests of the prevention of ill-treatment, it would be preferable for all forms of physical chastisement of children to be both formally prohibited and avoided in practice (paragraph 153).

2. Conditions of detention

recommendations

- appropriate steps to be taken to ensure that boys held at the Observation and Social Action Centre (COAS) in Lisbon have ready access to proper sanitary facilities at all times (including at night) (paragraph 156);
- broken window panes in premises used by inmates at the Padre Antonio de Oliveira Re-education Centre to be replaced (paragraph 158).

comments

- the size of the single rooms at the Lisbon COAS rendered them barely appropriate for double occupancy (paragraph 155).

requests for information

- the views of the Portuguese authorities on the issues raised in paragraph 160 (paragraph 160).

3. Discipline

recommendations

- as regards disciplinary procedures, the following formal safeguards to be introduced:
 - a minor to be guaranteed a right to be heard on the subject of the offence which it is alleged he has committed;
 - a right of appeal to a higher authority against sanctions imposed (e.g. to the Director of the Centre, as regards sanctions imposed by educators, and to the competent judge, as regards sanctions imposed by the Director);
 - a specific register to be kept in each Centre, containing full details of all disciplinary sanctions imposed (paragraph 163);

- as regards sanctions involving the isolation of a minor:
 - resort to that sanction to be regarded as an exceptional measure and made the subject of a notification to the competent judge;
 - the sanction to be served in a suitably equipped room (with at least a bed, table and chair);
 - minors undergoing such a measure to be provided with reading matter and to be allowed at least one hour of outdoor exercise every day;
 - the maximum possible duration of that measure to be formally laid down and the measure never to be applied for longer than is strictly necessary (paragraph 164).

4. Medical issues

recommendations

- the strict confidentiality of medical data to be guaranteed (paragraph 166).

requests for information

- details on the system of referrals to San João de Deus Prison Hospital at Caxias (paragraph 165);
- the approach adopted as regards HIV testing of minors, including in respect of the provision of counselling (paragraph 166).

APPENDIX II

**LIST OF THE NATIONAL AUTHORITIES AND
NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE
DELEGATION HELD CONSULTATIONS**

A. National authorities

Ministry of the Interior

Dr Manuel Joaquin Dias Loureiro
Dr Mário Gomes Dias

Minister for the Interior
Legal Auditor

Superintendent António Chumbinho
Commissar Matos Nogueira

Public Security Police
Public Security Police

Colonel João Luis Ares

National Republican Guard

Ministry of Justice

Dr Alvaro José Brilhante Laborinho Lúcio
Dr Henrique Dias da Silva

Minister for Justice
Assistant to the Minister for Justice

Dr Manuel Marques Ferreira
Dr Celso Manata
Dra Maria José Mota de Matos

Director General of the Prison Service
Deputy Director of the Prison Service
Head of Division, General Directorate of the
Prison Service

Dr José João Semedo Moreira

General Directorate of the Prison Service

Dr Mário Mendes
Dra Isabel Patricio

Director General of the Judicial Police
Judicial Police

Dra Rosa Maria Clemente

Deputy Director General of the Minors
Protection Service

Ministry of Health

Dr João Nunes Abreu

Director General of Health

Ministry of Defence

Brigadier Rodolfo António
Cabrit Bacelar Begonha

Director of the Military Judicial Police

Ministry of Foreign Affairs

Dra Teresa Cunha Rêgo

General Directorate of Multilateral Affairs

Other National authorities

Dr José Narciso da Cunha Rodrigues

General Public Prosecutor of the Republic

Dr José Meneres Pimentel

Ombudsman

Dr António Nadais

Deputy Ombudsman

Dr António Vilhena de Carvalho

Coordinator in the Ombudsman's Office

B. Non-governmental organisations

Forum Justiça e Liberdade

O Companheiro

