



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

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Committee against Torture

List of issues prior to submission of the eighth periodic report of Portugal*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,¹ the Committee requested the State party to provide information on follow-up to the Committee’s recommendations on the national preventive mechanism, allegations of excessive use of force, including racially motivated violence, and conditions of detention (paras. 16, 18 (a) and 22 (a), respectively). Noting that a reply concerning the information sought by the Committee was provided on 25 November 2020,² and with reference to the letter dated 1 March 2021 from the Committee’s Rapporteur for follow-up to concluding observations a.i.,³ the Committee considers that the recommendations included in paragraphs 16, 18 (a) and 22 (a) have not yet been fully implemented.

Articles 1 and 4

2. With reference to the Committee’s previous concluding observations,⁴ please provide updated information on any recent steps taken to include a definition of torture covering all the elements contained in article 1 of the Convention under the State party’s legislation (article 243 of the Criminal Code), including the explicit identification of discrimination of any kind among the purposes for inflicting torture. Please further explain any steps taken to ensure that all acts of torture, not only those that amount to a crime against humanity, are exempted from any statute of limitations.

* Adopted by the Committee at its seventy-sixth session (17 April–12 May 2023).

¹ CAT/C/PRT/CO/7, para. 47.

² See CAT/C/PRT/FCO/7.

³ See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FPRT%2F44485&Lang=en.

⁴ CAT/C/PRT/CO/7, paras. 9–12.



Article 2⁵

3. With reference to the Committee's previous concluding observations,⁶ please provide information on the steps taken to strengthen the legal safeguards for persons deprived of their liberty and to ensure that:

(a) In practice, all detainees have prompt and confidential access to a lawyer or to legal aid services from the very outset of deprivation of liberty, including during the investigation and interrogation stages;

(b) The Code of Criminal Procedure has been amended to guarantee that the time spent in custody for identification purposes is considered part of the 48-hour period within which a detained person must be brought before a judge;

(c) Custody facilities are equipped with closed-circuit television cameras and that audio or video recordings of interviews are systematically used in criminal investigations as a basic safeguard and as part of efforts to prevent torture and ill-treatment, and that such recordings are kept in centralized secure facilities; please clarify whether the defence lawyers of interrogated persons have access to those recordings;

(d) The provision of legal safeguards by public officials is effectively monitored and public officials are subjected to disciplinary or criminal penalties for failing to provide fundamental legal safeguards to detained persons; please provide information on any such cases since 2019.

4. With reference to the Committee's previous concluding observations⁷ and the State party's follow-up replies⁸ and in view of the adoption of Decree-Law No. 80/2021 of 6 October 2021, please provide information on measures taken to provide the Provedor de Justiça (Ombudsperson), in its capacity as the national preventive mechanism, with a specific budget and adequate human resources to discharge its preventive mandate independently and effectively. Please clarify whether any steps have been taken to ensure that the national preventive mechanism has the legal authority and practical capacity to access any place where the mechanism has information that people are or may be deprived of liberty, including psychiatric institutions and social institutions, especially those run by private companies, in accordance with articles 4, 19 and 20 of the Optional Protocol.⁹ Please report on the measures taken by the State party in response to the recommendations made by the national preventive mechanism during the period under review.

5. Bearing in mind the Committee's previous concluding observations,¹⁰ please describe the measures taken to address the low prosecution and conviction rates for cases of gender-based violence against women and children, including domestic violence, since the adoption of the previous concluding observations and to ensure that all cases of gender-based violence, especially those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims or their families receive redress, including adequate compensation. Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints of gender-based violence and the investigations, prosecutions, convictions and sentences resulting from those complaints

⁵ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also section V of the same general comment.

⁶ CAT/C/PRT/CO/7, paras. 13 and 14.

⁷ Ibid., paras. 15 and 16.

⁸ CAT/C/PRT/FCO/7, paras. 1–4. See also letter dated 1 March 2021 from the Rapporteur for follow-up to concluding observations a.i.

⁹ CAT/OP/PRT/1, paras. 24 and 25.

¹⁰ CAT/C/PRT/CO/7, paras. 41 and 42.

during the reporting period. In addition, please indicate the measures taken to ensure the effective implementation of the action plan on preventing and combating violence against women and domestic violence (2018–2030)¹¹ and provide information on results achieved. Please provide information on legislative measures planned to criminalize femicide as a specific criminal offence and on steps taken to introduce further amendments to the definition of rape in the Criminal Code so that it is entirely based on the absence of free consent of the victim. Please provide information on the efforts made to strengthen support services for women victims of gender-based violence, including by ensuring a sufficient number of adequately funded crisis centres providing legal and psychosocial assistance to victims.¹²

6. Please provide information on efforts made to effectively investigate cases of trafficking in persons, including the implementation of Directive No. 1/2021, issued by the Office of the General Prosecutor, which provides guidelines for investigating trafficking cases and providing protection and support to victims, to address the low level of reporting of such crimes and the low rate of prosecutions and convictions.¹³ Please include statistical data, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints of trafficking in persons and the investigations, prosecutions, convictions and sentences resulting from those complaints since the consideration of the State party's previous periodic report. Please also provide information on the provision of redress to victims of trafficking, including data on the number of persons who benefited from protection and support measures for victims in the reporting period. Please indicate the measures taken to enhance the training of the national referral mechanism's personnel, law enforcement officers, prosecutors, judges, border staff and personnel in detention centres for migrants and other first responders, including social and medical workers, on the effective identification of potential victims of trafficking in persons seeking asylum in the State party, particularly child victims.¹⁴ Furthermore, please comment on any legislative and policy steps foreseen to address the lack of provisions in the State party's criminal legislation on the non-punishment of victims of trafficking for their involvement in unlawful activities.

Article 3

7. Please provide information on the number of asylum applications received during the period under review, the number of successful applications and the number of asylum-seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin or receiving country, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's previous periodic report. Please provide details of the grounds on which they were sent back, including the list of countries to which individuals were returned. Please also provide updated information on any appeals that have been made and their outcome. Please indicate the number of returns, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof and any instances in which the State party has offered such diplomatic assurances or guarantees.

8. Please describe the guarantees and safeguards in place to ensure that all individuals under the State party's jurisdiction, including migrants in irregular situations and those subjected to accelerated procedures,¹⁵ have unhindered, prompt and adequate access to counsel, including legal aid services¹⁶ and receive appropriate and individual consideration of their application for international protection by the competent authorities and that such applications can be subjected to a fair and impartial review by an independent decision-making mechanism on expulsion, return or extradition, with suspensive effect. Please provide detailed information on the measures taken to identify persons in vulnerable situations seeking asylum in the State party, including victims of torture or ill-treatment, trauma,

¹¹ CCPR/C/PRT/CO/5, paras. 22 and 23.

¹² CEDAW/C/PRT/CO/10, paras. 22 and 23.

¹³ CCPR/C/PRT/CO/5, paras. 32 and 33.

¹⁴ CEDAW/C/PRT/CO/10, paras. 24 and 25.

¹⁵ CCPR/C/PRT/CO/5, paras. 34 (b) and 35 (b).

¹⁶ CAT/C/PRT/CO/7, para. 40 (d); and CAT/OP/PRT/1, para. 43.

gender-based violence or trafficking,¹⁷ and to ensure that their specific needs are taken into consideration and addressed in a timely manner.

Articles 5–9

9. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please indicate what measures have been adopted by the State party during the period under review to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). In particular, please provide information on cases in which the State party has agreed to extradite a person for torture or related offences since 2019. Please indicate whether the State party has rejected, for any reason, the request of a State party for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings. Please clarify what treaties or agreements on mutual legal and judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

10. Please provide information about training programmes delivered during the reporting period, indicating whether they were mandatory or optional, how often they were given and how many officials have already completed them in relation to the total number of such officials, in particular information on:

(a) Training for law enforcement personnel, security and prison personnel, judges, medical personnel, immigration and border control officers and other persons involved in the custody, interrogation or treatment of detainees on the provisions of the Convention and the absolute prohibition of torture as well as rules, instructions and methods of interrogation, including non-coercive investigation techniques;

(b) Training for immigration and border control officers and other public officials on the principle of non-refoulement and the practices that make it possible to identify asylum-seekers who may be victims of torture, gender-based violence or trafficking in persons;

(c) Training for law enforcement personnel on the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(d) Training for all relevant personnel, in particular medical professionals, judges, prosecutors, members of the national preventive mechanism and other public officials working with persons deprived of their liberty, on accurately recording and describing injuries upon admission and during the stay in the places of deprivation of liberty and on detecting and documenting the physical and psychological sequelae of torture to enable personnel to enhance the quality of investigations or monitoring activities; please indicate whether all programmes contain specific training with regard to the *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)*, including its 2022 revised edition;

(e) The development and implementation of a regular assessment of the effectiveness and impact of such training and educational programmes on the reduction of cases of torture and ill-treatment; please provide information about the methodology used to assess the effectiveness of those programmes in reducing cases of torture and ill-treatment.

Article 11

11. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and

¹⁷ CCPR/C/PRT/CO/5, paras. 33 (c) and 35 (c)

practices or arrangements for custody, in particular those that may have been introduced or updated since the consideration of the State party's previous periodic report. Please indicate the frequency with which they are reviewed. Please also provide information on the measures taken to monitor and prevent ethnic and racial profiling by law enforcement officials.¹⁸

12. Recalling the Committee's previous concluding observations¹⁹ and the State party's follow-up replies,²⁰ please describe additional measures taken by the State party to further progress in reducing and managing the prison population, to improve the material conditions in all places of detention and to provide employment, vocational and recreational activities, including to detainees on remand. Moreover, please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please comment on whether any steps have been taken to reduce the duration of pretrial detention (article 215 of the Code of Criminal Procedure).²¹ Please also assess the impact of initiatives to promote the use of alternatives to pretrial detention and imprisonment.

13. Please clarify whether any steps have been taken to address the shortage of prison staff, including health-care personnel, and concerns about deficiencies in access to appropriate health-care services, including mental health care, in places of detention.²² Please explain the steps taken by the State party to ensure the identification, monitoring and protection of vulnerable detainees at risk of suicide and to provide them with appropriate assistance, including psychiatric care and other preventive measures.²³ Please also indicate whether protocols are in place to meet the requirements of prisoners with particular needs, such as prisoners with drug addiction and persons with disabilities, and, in particular, elaborate on specific rehabilitation and reintegration programmes and services specifically tailored for prisoners with drug addiction. Please explain further efforts made to prevent and combat inter-prisoner violence, including efforts to recruit and train enough prison personnel and document and investigate all incidents of violence, while ensuring that prison officials are held accountable in cases in which they fail to take reasonable measures to prevent and respond to such violence, and provide data on investigations into and accountability for such incidents.²⁴

14. With regard to the Committee's previous concluding observations,²⁵ please provide statistical data regarding deaths in custody during the period under consideration, disaggregated by place of detention, sex, age, ethnic origin or nationality and cause of death. Please provide information on the manner in which those deaths were investigated, the results of the investigations and the measures taken to prevent similar cases in the future.

15. With reference to the Committee's previous concluding observations,²⁶ please describe the measures taken to bring the State party's legislation (arts. 105 and 113 (3) of Act No. 115/2009) and practice regarding solitary confinement into line with international standards, particularly rules 43 to 46 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), and to ensure the prohibition on imposing solitary confinement and similar measures on persons under the age of 18 years.²⁷ Please include data on the use of solitary confinement and other isolation or segregation regimes during the period under review and indicate their duration.

16. Please describe the steps taken to ensure that truncheons and any force are used in accordance with the law and only when strictly necessary and that such use is proportionate

¹⁸ [A/HRC/51/54/Add.2](#), paras. 26 and 30.

¹⁹ [CAT/C/PRT/CO/7](#), paras. 21 and 22.

²⁰ [CAT/C/PRT/FCO/7](#), paras. 32–45. See also letter dated 1 March 2021 from the Rapporteur for follow-up to concluding observations a.i.

²¹ [CCPR/C/PRT/CO/5](#), paras. 40 and 41; and [CCPR/C/PRT/FCO/5](#), paras. 74–84.

²² [CAT/OP/PRT/1](#), paras. 83–87 and 94–103.

²³ [CCPR/C/PRT/CO/5](#), paras. 28 and 29.

²⁴ [CAT/OP/PRT/1](#), paras. 37, 78 and 82.

²⁵ [CAT/C/PRT/CO/7](#), paras. 27 and 28.

²⁶ *Ibid.*, paras. 25 and 26.

²⁷ [CCPR/C/PRT/CO/5](#), paras. 30 and 31; and [CAT/OP/PRT/1](#), paras. 76, 77 and 81. See also rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

in penitentiary facilities. Please provide data on any open investigations and prosecutions completed in this regard. In addition, please clarify what measures the State party has taken to adopt precise and strict instructions on restricting the use of body searches and that they are conducted only in exceptional cases, using the least intrusive means possible, with full respect for the dignity of the person.

17. With reference to the Committee's previous concluding observations,²⁸ please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including care homes. Please indicate any steps taken by the State party to ensure effective legal safeguards and access to effective remedies for all patients, whether they are hospitalized voluntarily or involuntarily, to guarantee that their placement is monitored and subjected to periodic review and that they are fully informed about the treatment prescribed for them and are given an opportunity to refuse the treatment or any other medical intervention, including forced sterilization.²⁹ Please explain any steps taken to prevent the institutionalization of persons with intellectual or psychosocial disabilities and to increase the availability of community-based mental health services. Please provide information on any existing independent complaint mechanism in psychiatric and social institutions as well as data on complaints of torture or ill-treatment in psychiatric institutions and the results of the investigations into such allegations.

18. Please provide information on any new measures that have been adopted relating to the application of means of restraint and the administration of tranquilizers to persons deprived of their liberty, particularly in health-care and detention settings, including psychiatric institutions.

19. With regard to the Committee's previous concluding observations,³⁰ please provide information on the measures taken during the reporting period to ensure that the detention of asylum-seekers and migrants, including at the border, is used only as a measure of last resort, where justified as reasonable, necessary and proportionate, and for as short a period as possible and to further implement alternatives to detention in practice.³¹

Articles 12 and 13

20. Please provide updated statistical data, disaggregated by the sex, age and ethnicity or nationality of the victims, on complaints of acts of torture, ill-treatment and excessive use of force recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings and convictions, the criminal or disciplinary sanctions applied and redress received by the victims or their families. Please provide examples of relevant cases and judicial decisions. Please also clarify whether the State party has established an independent and effective mechanism for addressing complaints of torture and ill-treatment in all places of deprivation of liberty.³² In particular, please provide information on steps taken to establish an independent complaint mechanism, equipped with sufficient resources, to address allegations of police brutality,³³ including those allegedly inflicted by the members of the Public Security Police, the National Republican Guard and the Immigration and Border Service.

21. With reference to the Committee's previous concluding observations,³⁴ please indicate the steps taken to ensure that the use of electrical discharge weapons by law enforcement officials is strictly compliant with the principles of necessity, proportionality, advance warning (where feasible) and precaution. Please also provide information on any instances of alleged excessive use of force that have occurred as a result of using such devices and on the outcomes of any investigations into those cases.

²⁸ CAT/C/PRT/CO/7, paras. 35 and 36.

²⁹ CEDAW/C/PRT/CO/10, paras. 40 (c) and 41 (c); and CCPR/C/PRT/CO/5, paras. 18 and 19 (b).

³⁰ CAT/C/PRT/CO/7, paras. 39 and 40.

³¹ CCPR/C/PRT/CO/5, paras. 34 (d) and 35 (d).

³² Ibid., paras. 26 and 27.

³³ A/HRC/51/54/Add.2, para. 77.

³⁴ CAT/C/PRT/CO/7, paras. 29 and 30.

22. With respect to the Committee's previous concluding observations³⁵ and the State party's follow-up replies³⁶ please provide information on measures taken to address allegations of racially motivated violence and ill-treatment, abuse of authority, frequent police brutality and excessive use of force deployed by law enforcement, in particular incidents reported to have occurred during apprehension by the police, transportation to the police station and interviews, notably but not exclusively against persons belonging to certain racial and ethnic groups.³⁷ Please provide data on instances of racially motivated violence reported and investigated since 2019, disaggregated by type of motive or basis for discrimination and by the sex, age group and ethnic origin or nationality of the victim. Please provide information on the results of such investigations, including the number of convictions and any redress afforded to the victims, and comment on information received regarding the underreporting of and the very low conviction rates for such crimes. Please indicate the steps taken to strengthen accountability measures for law enforcement officers and initiatives aimed at preventing discriminatory practices in the police force, in line with Law No. 55/2020, which defines the objectives, priorities and guidelines for criminal policy for the biennium 2020–2022, and measures taken to train police officers on hate crimes and the excessive use of force.

Article 14

23. Please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts or other State bodies actually provided to victims of torture or ill-treatment or their families since 2019. Please include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided. Please also provide information on any ongoing reparation programmes, including the treatment of trauma and other forms of rehabilitation, provided to victims of torture or ill-treatment and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

24. Please provide information for the reporting period on the number of cases in which accused persons or their lawyers claimed that their or their clients' statements had been obtained under torture, the number of cases in which courts declared evidence inadmissible on the grounds that it had been obtained by means of torture or ill-treatment and the number of cases in which law enforcement officers involved in such illegal interrogation techniques were investigated and prosecuted.

Article 16

25. Please provide information on steps taken to combat hate crimes³⁸ and to ensure that human rights defenders, in particular those working to combat racism and xenophobia, are protected from harassment and reprisal of any sort.³⁹ Please provide data on reported and investigated instances of hate crimes based on racist, xenophobic, religious, ethnic or sexual orientation or gender identity grounds since 2019, disaggregated by type of motive or basis for discrimination and by the sex, age group and ethnic origin or nationality of the victim. Please provide information on the results of such investigations. Please also clarify whether any steps have been taken to amend article 240 of the Criminal Code with the aim of combating racial discrimination and hate crimes, in line with international human rights standards⁴⁰ and as envisaged in the National Plan to Combat Racism and Discrimination 2021–2025.⁴¹

³⁵ *Ibid.*, paras. 17 and 18.

³⁶ CAT/C/PRT/FCO/7, paras. 5–31. See also letter dated 1 March 2021 from the Rapporteur for follow-up to concluding observations a.i.

³⁷ A/HRC/51/54/Add.2, paras. 26–28; and CCPR/C/PRT/CO/5, paras. 24 and 25.

³⁸ CCPR/C/PRT/CO/5, paras. 14 and 15.

³⁹ See, for example, communication PRT 1/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25639>.

⁴⁰ E/C.12/PRT/CO/5, paras. 12 and 13.

⁴¹ A/HRC/51/54/Add.2, paras. 11, 32, 44 (i) and 76.

Other issues

26. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that counter-terrorism measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to counter-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

27. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for older persons, institutions for juveniles, hospitals or institutions for persons with intellectual or psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

28. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party's previous periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
