



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Seventy-seventh session

**List of issues to be taken up in connection with the consideration of the
third periodic report of PORTUGAL (CCPR/C/PRT/2002/3), adopted
by the Human Rights Committee on 20 March 2003**

Principle of non-discrimination (arts. 2 and 26)

1. Please provide information on the rights and duties reserved by the Constitution and by law exclusively for Portuguese citizens. Please specify which rights are not guaranteed by the Constitution and by law for aliens and stateless persons (paragraph 2.2 of the report).
2. Does the State party consider the legislation providing for the expulsion of aliens sentenced for certain categories of crimes as an ancillary punishment to be in accordance with article 26 of the Covenant? What steps are taken to ensure that such expulsions do not infringe the right to a normal family life, in accordance with article 17 of the Covenant (paragraph 13.31 of the report)?
3. Please provide information on the content and practical implementation of the criminal legislation banning discrimination and incitement to national, racial and religious hatred. What problems have been encountered in implementing this legislation?

Right to life and prohibition of torture (arts. 6 and 7)

4. Please give information on any cases of the disproportionate use of force and ill-treatment by the police, particularly at the time of arrest and during detention (in police custody). Please provide information on the investigations resulting from the deaths of Paulo Silva, Alvaro Rosa Cardoso and Antonio Mendes in 2000 and of Antonio Pereira in 2002. What action has been taken over the accusations of police violence against a group of Brazilians in Costa de Caparica on 30 June 2002?

5. Please provide information on any cases of ill-treatment and abuse of authority in prisons by prison staff and on violence among prisoners, as well as on steps taken to control, reduce and prevent such acts. Have any genuine and independent investigations been conducted into the allegations of ill-treatment by prison officers in the prisons in Custóias and de Linhó (Sintra)? What was the outcome of the investigations into the violent death of two prisoners in October 2001 in the prison in Vale de Judeus (Alcoentre)?

6. In view of the ban on voluntary termination of pregnancy,

(a) Please indicate whether steps have been taken to promote contraception and family planning;

(b) Please provide information, including statistics, on the number of illegal abortions.

Security of person and protection against arbitrary arrest (art. 9)

7. Please provide information on the rights of persons held in detention (custody) to be examined by a doctor and to be assisted by a lawyer of their own choosing. According to the periodic report, legal assistance by counsel is mandatory at the first interrogation of the accused and may also be provided at the request of the accused in cases where the public prosecutor conducts a brief interrogation before the court hearing (paragraph 14.36 of the report). Please specify at what point in police custody these interrogations may be held. Can police officers conduct interrogations? Are all cases of detention (custody) systematically recorded in the registers provided for this purpose?

8. According the periodic report, if the time limits for pre-trial detention are exceeded, the accused must be immediately released. The judge may, however, decide to apply other measures of restraint, some of which may be very restrictive. Do time limits also apply to the implementation of these other measures? Please provide a full list of cases in which the legal time limits for pre-trial detention have been exceeded and indicate whether there are any mechanisms for automatic release at a later stage. Please explain in more detail what the consequences are, in law and in practice, of appeals to the Constitutional Court in respect of the time limits for pre-trial detention (section 7 and paragraph 9.34 of the report).

9. Please provide statistics on the average stay in pre-trial detention and more precise information on the percentage of persons held in pre-trial detention who are subsequently convicted. What are the reasons for the high proportion (about one third) of persons held in pre-trial detention in relation to the prison population as a whole?
10. How can the fact that there is no guarantee of adequate compensation for persons subjected to pre-trial detention in cases where State officials have not done anything unlawful or committed any serious mistake be justified in the light of article 9, paragraph 5, of the Covenant (paragraph 9.36 of the report)?
11. Many of the provisions relating to terrorism in the Penal Code and Code of Penal Procedure are of an exceptional nature (paragraphs 9.7, 13.7, 14.35, 17.2, 17.28 and 17.47 of the report). Please give the definition of terrorist acts used in domestic criminal law and give examples, where appropriate, of sentences handed down on the perpetrators of such acts.

Treatment of person deprived of their liberty (art. 10)

12. According to the periodic report, detainees subject to disciplinary internment in a single room may only lodge an appeal if the period of internment exceeds eight days. Please explain the reasons for this restriction. The medical examination due to be carried out before internment and medical supervision during internment are not always guaranteed in practice. Please comment (paragraphs 10.20 et seq. of the report).
13. Please give information on detention conditions, particularly in terms of hygiene and access to medical and dental care, and the extent to which they meet international standards. Have the authorities any plans to reduce the prison population? Is it true that, in practice, judges are reluctant to make use of alternatives to prison sentences? What are the authorities doing to combat the spread of contagious diseases, which are reportedly very prevalent in prisons, and to treat them?
14. Please provide more specific information on the functioning and effectiveness of the system of monthly visits by judges to prisons. Which other bodies or organizations are authorized to visit, inspect and report on the situation in prison? Please specify the function performed by the judges responsible for the execution of sentences with regard to the supervision of the prison system. Are the results of their investigations made public?

Treatment of aliens and refugees (art. 13)

15. Please specify the basis on which asylum applications are deemed inadmissible and indicate whether appeals against inadmissibility decisions have suspensory effect. Please give more details about the special rules that apply to the admissibility of applications made at borders. What is the status of asylum-seekers awaiting a decision on the admissibility of their application, particularly with regard to access to employment and medical care (paragraph 13.42 of the report)?

Principle of non-retroactivity of criminal law (art. 15)

16. (a) During the Committee's consideration of Portugal's second periodic report, the State party stated that the principle of the most favourable law was applied during criminal proceedings but not after the final decision had been made. Is this rule still in force? If so, how can it be reconciled with article 15 of the Covenant?

(b) Article 30 of the Constitution prohibits indeterminate sentences while, according to paragraph 15.1 of the report, which refers back to paragraph 576 of the previous periodic report, "relatively indeterminate" sentences have been handed down. Please clarify how things stand in this area, particularly with regard to article 15 of the Covenant.

Privacy and family life (art. 17)

17. According to the periodic report, not only journalists but also lawyers and doctors may be required to give evidence despite their duty of secrecy (paras. 17.33 et seq.). Does the law specify in precisely which cases the duty of secrecy does not apply?

Freedom of thought, conscience and religion (arts. 18 and 19)

18. Please provide information on the initial results of the entry into force of the Religious Freedom Act, No. 16/2001 of 21 June 2001 (paragraph 18.2 of the report).

19. Please specify which activities may incur penalties related to the right of broadcasting (paragraph 19.38 of the report). Can such penalties take the form of withdrawal of this right?

Protection of the family (arts. 23 and 24)

20. Please provide information on the extent of the phenomenon of the illegal employment of children under the age of 16. Has the law set a maximum number of hours per week that such children may work?

Right to participation in public life (art. 25)

21. According to article 26, paragraph 3, of the Constitution, a person may be stripped of citizenship in cases and in the manner stipulated by law. Please indicate whether there is a law which has this effect.

22. Please specify in which cases and under which conditions political rights can be suspended, as mentioned in several places in the periodic report (e.g. paras. 25.15, 25.41 and 25.42). Which political rights are concerned? Please give examples of the suspension of political rights.

Rights of persons belonging to minorities (art. 27)

23. The Roma suffer from prejudice and discrimination, particularly with regard to access to housing, employment and social services. Does the State party have specific information, including statistical information, on the situation of these communities and does it carry out regular studies on the impact of measures to help them?

24. The Roma are often victims of police violence. What measures have been taken by the Government to protect the Roma, particularly against police violence? What initial results have been achieved by the “cross-cultural secretariat” and does this body include Roma representatives (para. 27.9)?

Dissemination of the Covenant and Optional Protocol

25. Describe the measures taken to disseminate information on the submission of reports and on their consideration by the Committee, particularly on the Committee’s concluding observations.
