

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/PRT/CO/5-6)

PORTUGAL

(...)

C. Principal subjects of concern and recommendations

(...)

Fundamental safeguards

8. The Committee regrets that, despite its previous concluding observations (CAT/C/PRT/CO/4, para. 7), the State party has not taken steps to guarantee that the time spent in detention for identification purposes (maximum 6 hours) is deducted from the total period of police custody (48 hours), particularly in the light of the explanations provided by the State party that detention for identification purposes can be used whenever there are sufficient grounds to believe that the person might have perpetrated a crime. The Committee is concerned that persons detained for identification purposes and suspected of a crime might not be afforded, in practice, the same safeguards as other detained persons under the regular procedure during this six-hour period. The Committee bears in mind, in this regard, that there have been instances in which detained persons have not been informed of their rights from the outset of the detention. The Committee also notes that the right to access to a lawyer promptly upon detention is not effective in practice for those who cannot afford a private lawyer, since access to an ex officio lawyer is guaranteed only at the detention hearing before the judge (arts. 2, 11, and 12).

The State party should:

(...)

(b) Ensure that suspects are informed of and are able to exercise their rights at the very moment of their deprivation of liberty, and are informed of the reasons for their detention;

(c) Guarantee access to an ex officio lawyer, including consultations in private, as from the moment of deprivation of liberty and during interviews with law enforcement officials;

(...)

Prompt, effective and impartial investigations

9. The Committee regrets the lack of data concerning criminal investigations into, and prosecutions and sanctions for, the crime of torture and ill-treatment (art. 243 of the Criminal Code) during the period covered by the State party's report. The Committee is also concerned at the lack of clarification on the competence of the internal and external inspection services of each branch of police and prison services to carry out investigations into alleged acts of torture and ill-treatment, and on how these inspection services relate to the Public Prosecutor's Office when they are conducting criminal and disciplinary investigations in parallel. As regards the information provided on disciplinary proceedings from 2008 to 2010, the Committee notes with concern the limited number of punishments imposed in cases of ill-treatment by police and prison officers, as well as the large number of cases closed due to lack of evidence, even where allegations of ill-treatment by police forces and by prison staff have been documented by monitoring bodies. The Committee is concerned at information indicating that, with regard to prisoners alleging ill-treatment, a full medical examination out of the hearing and sight of prison officers does not always take place, and that injuries observed upon admission or sustained in prison thereafter are not properly recorded (arts. 2, 12, 13 and 16).

The State party should:

(a) **Ensure that all reports of torture or ill-treatment are investigated promptly, effectively and impartially by appropriate independent bodies at the criminal level, irrespective of disciplinary investigations;**

(...)

(c) **Prosecute persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that their victims are afforded appropriate redress;**

(...)

Domestic violence

17. The Committee welcomes the legislative and other measures aimed at preventing and combating domestic violence (para. 5 (e) above), including the criminalization of domestic violence and corporal punishment of children under article 152 of the Criminal Code and the adoption of the Fourth National Action Plan against Domestic Violence (2011–2013). However, the Committee recalls its previous concern (CAT/C/PRT/CO/4, para. 15) regarding the high prevalence of this phenomenon, including the high number of deaths, and notes the insufficient data provided regarding prosecutions, type of sanctions imposed and reparation in these cases (arts. 2, 12, 13 and 16).

The State party should continue its efforts to combat domestic violence, inter alia, by:

(a) Ensuring the effective implementation of the legal framework and the Fourth National Action Plan against Domestic Violence, including by promptly, effectively and impartially investigating all incidents of violence against women and prosecuting those responsible;

(b) Continuing to conduct public awareness-raising campaigns to fight domestic violence and gender stereotypes, particularly among young people, and increasing training for law enforcement officers, judges, lawyers and social workers;

(c) Undertaking research into the impact of preventive measures and criminal justice responses to counter domestic violence, with a view to increasing their efficiency; and

(d) Compiling and providing the Committee with disaggregated data on the number of complaints, investigations, prosecutions and sentences handed down for acts of domestic violence, on the provision of redress to the victims and on the difficulties experienced in preventing such acts.

Ill-treatment of Roma and other minorities

18. While welcoming the measures for the integration of immigrants and the recent adoption of the Strategy for Inclusion of the Roma Communities (2013-2020), the Committee is concerned at reports of discrimination and abuses against Roma and other minorities by the police, including allegations of excessive use of force against various members of the Roma community, including minors, during an arrest in Regalde, Vila Verde Municipality, in 2012. The Committee is further concerned at reports that mention the perceived lack of confidence of victims in the judicial system, which may result in underreporting (arts. 2, 12, 13 and 16).

The State party should:

(a) Take effective measures to ensure the protection of members of the Roma community, including through enhanced monitoring, and to encourage reporting of any ill-treatment, for example through the Special Programme on Proximity Policing. All acts of violence and racial discrimination should be promptly, impartially and effectively investigated, the alleged perpetrators brought to justice, and redress provided to the victims;

(b) Publicly condemn attacks against Roma, ethnic and other minorities, and increase the number of awareness-raising campaigns, including among the police, promoting tolerance and respect for diversity; and

(c) Enhance training for law enforcement officials on combating crimes against minorities and encourage the recruitment of members of the Roma community into the police force.

(...)

24. The Committee requests the State party to provide, by 22 November 2014, follow-up information in response to the Committee's recommendations related to: (a) ensuring or strengthening legal safeguards for persons detained; (b) conducting prompt, impartial and effective investigations; and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraph 8 (b), (c) and paragraph 9 (a), (c) of the present concluding observations. In addition, the Committee requests follow-up information on domestic violence and ill-treatment of Roma and other minorities, as contained in paragraphs 17 and 18 of the present document.

(...)
