

PORTUGAL

EXECUTIVE SUMMARY

Portugal, which includes the archipelagos of the Azores and Madeira, is a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections. National parliamentary elections on June 5 were free and fair. Security forces reported to civilian authorities.

There were no reports of widespread or systemic abuses. The most important human rights problems included excessive use of force and abuse of detainees and prisoners by police and prison guards, poor and unhealthy prison conditions, and the incarceration of juveniles with adults and pretrial detainees with convicted criminals.

Other problems included violence against women and children, discrimination against women, and trafficking in persons for sexual exploitation and forced labor.

The government usually prosecuted and punished officials who committed abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

While the constitution and law prohibit such practices, there were credible reports of excessive use of force by police and of mistreatment and other forms of abuse of detainees by prison guards.

During the year the Inspectorate General of Internal Administration (IGAI) investigated reports of mistreatment and abuse by police and prison guards. Complaints included physical abuse, threatening use of firearms, excessive use of

force, illegal detention, and abuse of power. The majority of the complaints were against the Public Security Police (PSP) and the Republican National Guard (GNR)—392 and 257 complaints, respectively, in 2010, the most recent year for which statistics were available. The IGAI investigated each complaint, and punishments for officers found to have committed abuses ranged from temporary suspension to prison sentences. During 2010, 738 investigations of members of the security forces were conducted. Punishment included letters of reprimand, temporary suspension from duty, prison sentences, mandatory retirement with pension cuts, and discharge from duty.

In its most recent visit to detention centers and prisons in the country in 2008, the Council of Europe's Committee for the Prevention of Torture (CPT) received numerous complaints of mistreatment by law enforcement officials, mainly concerning slaps, punches, and blows with objects such as batons and telephone books. The committee also received one specific complaint of threat with a firearm.

Prison and Detention Center Conditions

There were reports guards mistreated prisoners at some prisons. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates. Approximately 10 percent of the prison population had HIV/AIDS, and more than half of these (57 percent) were also infected with hepatitis C.

In 2010, the latest year for which data are available, there were 64 deaths in the country's prisons. According to the Directorate-General of Prison Services, 45 were caused by illness and 19 by suicide. The majority of deaths due to illness were caused by infectious diseases associated with drug abuse.

According to the Directorate-General of Prison Services, on December 30 there were 12,548 prisoners and detainees in the country's prisons (94.6 percent male inmates and 5.4 percent female inmates), 76 of whom were youths between 16 and 18 years old (74 boys and two girls). The maximum number of prisoners facilities were designed to accommodate was 12,077. During the year the prison system operated at 103.9 percent of capacity. There was a youth prison in Leiria, but elsewhere in the prison system juveniles were sometimes held with adults. Pretrial detainees were held with convicted criminals.

Under the government's "open regime" system, prisoners may earn the right to work outside of the prison and to see their families at home on a regular basis.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions. Prisoners had access to potable water.

An ombudsman can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; address the status and circumstances of confinement of juvenile offenders; and improve pretrial detention, bail, and recordkeeping procedures to assure that prisoners do not serve beyond the maximum sentence for the charged offense.

The government permitted visits by independent human rights observers and the CPT. During the year university researchers and news media visited prisons.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

There were approximately 50,000 law enforcement officials, including police and prison guards. The ministries of internal administration and justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the GNR, the Foreigners and Borders Service (SEF), and the PSP. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The Judiciary Police are responsible for criminal investigations and report to the Ministry of Justice.

An independent ombudsman chosen by parliament and the IGAI investigates complaints of abuse or mistreatment by police. However, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an

independent oversight agency to monitor the IGAI and the Ministry of Internal Administration.

Arrest Procedures and Treatment While in Detention

The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and authorities generally followed the guidelines. Persons can be arrested only on a judicial warrant, except that law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody.

Under the law an investigating judge determines whether an arrested person should be detained, released on bail, or released outright.

A suspect may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention for most crimes is a maximum of four months; if a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes, such as murder, armed robbery, terrorism, violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

Bail exists, but detainees are not released on their own recognizance. Depending on the severity of the crime, a detainee's release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police did not always inform detainees of their rights. In the report on its 2008 visit, the CPT stated that "facts found during the visit...clearly indicate that few detained persons have an effective right of access to a lawyer during police custody." The government assumed legal costs for indigent detainees.

A suspect in investigative detention must be brought to trial within 14 months of being charged formally. If a suspect is not in detention, there is no specified deadline for going to trial.

Pretrial Detention: Lengthy pretrial detention remained a problem. As of October 15, 2,412 individuals (19.6 percent of the prison population) were in pretrial

detention, a decrease from the previous year. The average detention time was eight months; approximately 20 percent of pretrial detainees spent more than one year in incarceration. Lengthy pretrial detention was usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. If a detainee is convicted, pretrial detention counts against his prison sentence. If found innocent, a detainee has the right to request compensation.

Amnesty: In December the president granted one reduction of prison sentence and one revocation of the penalty of expulsion from the country for one foreigner. There were 225 requests.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

Observers, including the media, business corporations, and legal observers, estimated the backlog of cases awaiting trial to be at least a year.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent. Jury trials are rare in criminal cases. When the crime in question is punishable by a prison sentence whose maximum limit is more than eight years, either the public prosecutor or the defendant may request a jury trial. Juries consist of three judges and four public members.

Trials are public. Defendants have the right to be present at their trial and to consult with an attorney upon arrest, at government expense if necessary. They can confront and question witnesses against them, present evidence on their own behalf, and have access to government-held evidence. Those convicted have the right of appeal. The law extends these rights to all citizens and foreign residents.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

The country is subject to the European Court of Human Rights (ECHR) under the European Convention on Human Rights. It complied with the court's decisions.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. All persons, both citizens and foreign residents, have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation, and they could appeal decisions to the ECHR. Civil cases do not have jury trials. There are administrative as well as judicial remedies for alleged wrongs.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Freedom of Press: According to the European Federation of Journalists, the law requires journalists to surrender confidential information and to disclose sources in criminal cases. However, the statute has been neither invoked nor tested.

Internet Freedom

There were neither government restrictions on access to the Internet nor reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In 2010 the country granted asylum to six people and resettlement status to an additional 30 persons.

Safe Country of Origin/Transit: The government considers other EU countries to be safe countries of origin and returned asylum seekers to their country of entry into the EU for adjudication of their applications.

Nonrefoulement: In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom might be threatened.

Temporary Protection: In addition to refugees and applicants for political asylum, the government also provided temporary protection to individuals who may not

qualify as refugees. The country granted humanitarian protection to 49 persons in 2010.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: On June 5, the country held national parliamentary elections that were considered free and fair. Madeira last held elections on October 9 while the most recent elections in the Azores were in 2008; both were considered free and fair.

Participation of Women and Minorities: The law reserves to each gender a minimum of one-third of the places on electoral lists in national, local, and European parliamentary elections. There were 65 women in the 230-member parliament and two women in the 12-seat cabinet. There was one member of a minority group in parliament; there was none in the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were no reports of corruption in the executive or legislative branches of the central government during the year. However, the media reported corruption involving local government officials.

Public officials were subject to financial disclosure laws. The Central Directorate for Combating Corruption, Fraud, and Economic and Financial Crime is the government agency responsible for combating corruption.

The constitution and law provide for public access to government information, and the government provided access in practice for citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

Government Human Rights Bodies: The country has an independent human rights ombudsman appointed by parliament who is responsible for defending the human rights, freedom, and legal rights of all citizens. The ombudsman's office operated independently and with the cooperation of the government.

The ombudsman had adequate resources and published mandatory annual reports as well as special reports such as on problems regarding women's rights, prisons, health, and the rights of children and senior citizens.

Parliament's First Committee for Constitutional Issues, Rights, Liberties, and Privileges exercises oversight over human rights problems. It drafts and submits bills and petitions for parliamentary approval. During the year new laws went into effect in areas including the reinforcement of protection of victims of crime, the right to compensation for work-related illnesses such as those contracted by uranium extraction workers, and measures to discourage violent hazing practices in schools.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, language, and social status, and the government effectively enforced these prohibitions.

Women

Rape and Domestic Violence: The law makes rape, including spousal rape, illegal, and the government generally enforced the law when the victim chose to press charges and the cases were not settled out of court through mediation by both parties' lawyers. During 2010, the latest year for which data is available, 90 cases of rape were reported to the Association for Victim Support (APAV), a nonprofit organization that provides confidential and free services nationwide to victims of any type of crime.

Violence against women, including domestic violence, continued to be a problem. Penalties for violence against women range up to 10 years' imprisonment. During 2010, 13,866 domestic violence crimes were reported to the APAV, including 237 cases of sexual offense and 87 cases of sexual violence. According to NGOs and media reports, there were 23 deaths related to domestic violence during the year.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes discouraged many abused women from using the judicial system. According to data from the Ministry of Justice, in 2008, the last year for which data was available, 1,157 individuals were convicted of domestic violence crimes, of a total of 2,430 domestic violence court cases.

The government encouraged abused women to file complaints with the appropriate authorities and offered the victim protection against the abuser. In addition, legislation allows third parties to file domestic violence reports. The government's Commission for Equality and Women's Rights operated 14 safe houses for victims of domestic violence and maintained an around-the-clock telephone service. Safe house services included food, shelter, and health and legal assistance. The government-sponsored Mission Against Domestic Violence conducted an awareness campaign against domestic violence, trained health professionals, proposed legislation to improve legal assistance to victims, and signed protocols with local authorities to assist victims.

Sexual Harassment: Sexual harassment is a crime. Penalties for sexual harassment range from one to eight years in prison. If perpetrated by a superior in the workplace, the penalty is up to two years in prison, or more in cases of aggravated coercion.

The Commission on Equality in the Workplace and in Employment, composed of representatives of the government, employers' organizations, and labor unions, examines, but does not adjudicate, complaints of sexual harassment. During the year reporting of sexual harassment rose. In 2010, 50 cases of sexual harassment were reported to the APAV.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception. Skilled attendants assisted all childbirths in the country in

2009, the last year for which data is available. Women were diagnosed and treated for sexually transmitted infections on an equal basis with men.

Discrimination: The civil code provides women full legal equality with men; however, in practice women experienced economic and other forms of discrimination. According to 2010 data from the National Statistics Institute, women made up 47 percent of the working population and were increasingly represented in business, science, academia, and the professions. However, according to the Ministry of Solidarity and Social Security, women's average salaries were approximately 27 percent lower than men's, and the gap was widening.

The state secretary for parliamentary affairs and equality addresses, among other topics, problems such as economic discrimination and integration of women into the mainstream of society.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents. Authorities registered all births.

Child Abuse: Child abuse was a problem. The APAV reported 580 crimes against children under the age of 18 during 2010, the latest year for which data was available. There were reports that Romani parents used minor children for street begging.

Sexual Exploitation of Children: Statutory rape is a crime. The minimum age for legal consensual sex is 16 years of age. Penalties for statutory rape range up to 10 years in prison. The law prohibits child pornography; penalties range up to eight years in prison.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

The Jewish community was estimated at 3,000. There were no reports of anti-Semitic acts during the year. The government does not collect such statistics, and none was reported to the ombudsman.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services. The government effectively enforced the law. The law also mandates access to public buildings for persons with disabilities, and the government implemented these provisions in practice; however, no such legislation covers private businesses or other facilities.

The Ministry of Solidarity and Social Security oversees the National Bureau for the Rehabilitation and Integration of Persons with Disabilities, which is responsible for the protection, professional training, rehabilitation, and social integration of persons with disabilities, as well as for the enforcement of related legislation.

National/Racial/Ethnic Minorities

The government estimated the Romani population at between 40,000 and 50,000 persons. On February 9, the European Roma Rights Center alleged the government had cut off water to an informal Romani settlement in Vidigueira; the water service was restored by May 26.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There were no official or other reports of societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law recognizes workers' right to form and join independent unions of their choice without previous authorization or excessive requirements; members of the armed forces are excluded from this provision. The law allows unions to conduct their activities without interference. The constitution and the labor code recognize and protect the right to bargain collectively. The law provides for the right to strike. If a long strike occurs in an essential sector such as justice, health, energy, or transportation, the government may order strikers back to work for a specified period. Police may join unions and have recourse within the legal system, but they may not strike. The law prohibits antiunion discrimination.

The government respected these rights in practice. There were few reports that antiunion discrimination occurred. The country's labor confederations are independent of the government and political parties, although some historical ties exist.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children. However, the government did not effectively enforce these laws, and such practices reportedly occurred. Women, men, and children were trafficked for forced labor. Men from Eastern Europe (typically from Ukraine, Moldova, Russia, and Romania) and African Portuguese-speaking countries were subjected through fraud, coercion, and debt bondage to conditions of forced labor in the farming and construction industries. Police and NGOs also have reported that family networks brought approximately 50 to 100 Romani children to the country and forced them to work as street beggars. Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum working age is 16 years. The Labor Conditions Authority (ACT) of the Ministry of Solidarity and Social Security enforced the law effectively and registered cases during the last two years (one or two per year). In recent years

there has been a greater social consciousness of child labor problems, increased awareness through government campaigns, and a reinforcement of investigations. However, there were reports that Romani parents used children for street begging.

The government's principal entity to investigate and respond to reports of illegal child labor is the ACT. The ACT sponsors and finances the Integrated Program for Education and Professional Training, which attempts to return to school minors who are victims or at risk of child labor. During the 2010-11 school year the program worked with 183 groups of students throughout the country.

d. Acceptable Conditions of Work

The minimum wage, which covers full-time workers, rural workers, and domestic employees who are 18 years of age and older, was 485 euros (\$631) per month. The legal workday may not exceed 10 hours, and the maximum workweek is 40 hours. There is a maximum of two hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours' rest between workdays. Premium pay for overtime worked on a rest day or public holiday is 100 percent; overtime performed on a normal working day is paid at a premium of 50 percent for the first hour and 75 percent for subsequent time worked. The Ministry of Solidarity and Social Security effectively monitored compliance through its regional inspectors.

Employers are legally responsible for accidents at work and are required by law to carry accident insurance. The ACT develops safety standards and is responsible for their enforcement. The ACT's inspectors sufficiently and regularly monitored these standards both proactively according to regulations and advanced scheduling, and reactively in response to complaints filed. Inspection findings were generally effectively enforced. Workers injured on the job rarely initiated lawsuits, as insurance policies covering medical and compensation costs covered the majority of workers. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively enforced this right. According to the ACT, there were 130 deaths from work-related accidents in 2010.