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# Portugal

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Country's population (2017)\* **10,291,027**

Prison population total (2018) **12,806**

Prison population rate per 100.000 of national **126**

Nature of political system (2017)\* **Parliamentary Republic**

Death penalty **abolished since the 25 April 1976**

Number of penal facilities / institutions **49**

Human development index (2016)\* **41/188**

Occupancy rate **99 %**

Number of female prisoners **813**

## INTRODUCTION

In 1976, Portugal abolished the death penalty. In the same year, the ban on torture was written into the Constitution. On 18 September 2017, Portugal took part in the launch of a global alliance for torture-free trade. In spite of this constructive political stance, and although the number of prisoners in Portugal fell steeply in 2008 (there were 10,807 prisoners in 2008 compared to 13,918 in 2002), the national incarceration rate has been on the rise since 2010, with a 15% increase over the last eight years.

Adult prisoners make up the majority of the increase in the prison population. Portugal has developed its penal policy to prioritise educational interventions for juvenile offenders. Young people aged 16 or over can be incarcerated. Where possible, such offenders are placed in one of Portugal's eight educational centres. Should the Portuguese justice system anticipate any adjustments to a sentence – and many such adjustments may be made after the sentence is initially determined – the average duration of a prison sentence (31 months) would seem to suggest that short sentences are rarely granted. Though prison overpopulation is not yet a major issue in Portugal, it is nonetheless a cause for concern in certain of its penal institutions.

A legislative reform took effect in 2012. It was designed to harmonise existing structures within a single department (the Directorate General of Reintegration and Penal Services). The reform was applied at a national level and sought to standardise penal policies within a complex prison system. Portugal has two different types of penal institution for adults, distinguished by criteria that determine the “complexity of management [of the inmates]”.

The information presented here describes the Portuguese penal system and provides an overview of the legal and permanent framework. Prison Insider seeks to complete this document throughout 2019 by way of a collaborative project. It is our wish that the document should continually be developed and updated, balancing the rules of the law and their real-life application. To this end we ask for support from all concerned.

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\*Source: PNUD / DGRSP / WPB

## LIST OF ACRONYMS



<b>CGP</b>	<i>Corpo da guarda prisional (penitentiary police corps)</i>
<b>CPT</b>	<i>European Committee for the Prevention of Torture</i>
<b>DGPJ</b>	<i>Direção-Geral da Política de Justiça (Directorate General for justice policy)</i>
<b>DGRSP</b>	<i>Direção-Geral de Reinserção e Serviços Prisionais (Directorate General of reintegration and prison services)</i>
<b>GISP</b>	<i>and prison services)</i>
<b>LGBTI</b>	<i>Grupo de Intervenção de Segurança Prisional (Prison security intervention group)</i>
<b>MNP</b>	<i>Lesbian, gay, bisexual, transgender, and intersex</i>
<b>MST</b>	<i>National prevention mechanism</i>
<b>ONG</b>	<i>Sexually transmitted disease</i>
<b>OPCAT</b>	<i>Non-governmental organization</i>
<b>PEP</b>	<i>Optional Protocol to the Convention against Torture</i>
<b>PNUD</b>	<i>Personal educational project</i>
<b>RNR</b>	<i>United Nations Development Programme</i>
<b>SIDA</b>	<i>Risk-need-responsivity</i>
<b>SNS</b>	<i>Acquired immune deficiency syndrome</i>
<b>SPACE I</b>	<i>Serviço Nacional de Saúde (Health national service)</i>
<b>SPT</b>	<i>Subcommittee on Prevention of Torture</i>
<b>UNCAT</b>	<i>United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>
<b>VIH</b>	<i>Human immunodeficiency virus</i>
<b>WPB</b>	<i>Web page «World Prison Brief»</i>

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# PHYSICAL INTEGRITY

## | DEATH PENALTY \_

The death penalty **no, abolished since the 25 April 1976** *"Human life is sacrosanct. The death penalty does not exist in any possible scenario" (article 24, Constitution of the Portuguese Republic, 1976). A person subject to the death penalty in their home country cannot be extradited from Portugal.*

The date of the last execution **1849** -

Are convicted people placed in special facilities, blocks or cells **not applicable** -

There is no initiative to restore the death penalty.



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## DEATHS IN DETENTION

Prison authorities publish official statistics regarding deaths in detention

**regularly,  
on an annual  
basis**

Has a suicide prevention policy been implemented

**yes**

*An assessment of suicide risk is undertaken within 72 hours of a prisoner's admission. Each institution must also develop and implement a plan for suicide prevention measures (article 19 of the Regulations).*

An investigation is opened for

**violent  
deaths  
-  
suspicious  
deaths**

*In a case of violent death or of death by unexplained means, the director of the institution must safeguard the place of death and any available evidence until the criminal police arrive (article 64 of the Regulations).*

*The death of the prisoner is immediately communicated to:*

- the next of kin / family members
- the public prosecutor
- the criminal police service
- the inspection service of the Directorate General
- the health authorities

A suicide attempt does not result in punishment, except in one very particular case: the military justice system punishes those who attempt to end their lives in order to avoid military service or their duty in times of war. Assisting and encouraging others to commit suicide also constitutes an offence (article 135 of the Penal Code).

After a death, the law requires the penal authorities to immediately inform the partner of the deceased, the next of kin or any other person already named by the prisoner in question<sup>1</sup>.

<sup>1</sup>- European Monitoring Centre for Prisons; "Prison conditions in Portugal", 2013, p17.

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## VIOLENCE IN DETENTION

Does the Constitution or the legislation mention the prohibition of torture

yes

The ban on torture is written into article 25 of the [Constitution](#) and into articles 243 and 244 of the [Penal Code](#).

Did the country ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)

yes,  
9 February  
1989

### Violence committed by prison staff

Does each establishment keep an updated record of the aggressions committed by members of the prison staff

no

A register (not publicly available) is maintained within the DGRSP. It records all complaints from prisoners, including any violence on the part of prison staff. The MNP and the Ombudsman have access to the register. The prisoners' complaints are reported to the DGRSP's audit and inspection service (auditing and inspection services for prison services).

### Prevention of tortures and ill treatment

A medical examination is required upon entry to an institution. Amongst other things, the doctor must look for any signs of injuries.

A medical test is mandatory for every period spent in a disciplinary cell. The date and the time are recorded, and any injuries are noted and photographed ([article 174 of the Regulations](#)).

Medical personnel do not receive specific training to allow them to identify signs of torture. During their general training, doctors receive teaching on forensic medicine. Any doctor may complete special training to enable him/her to identify signs of torture on his/her own initiative, but such training is not mandatory, nor do penal authorities take responsibility for offering it.

### Violence committed by inmates against prison staff

Does each establishment keep an updated record of the aggression cases against the prison staff

yes

Every institution is required to establish a register of violent events.

No data concerning violent events, whatever they may be, are made public <sup>2</sup>.

Each prisoner who is subject to a disciplinary procedure is registered on an internal database specific to the institution in question ([articles 173 and 174 of the Regulations](#)).

### Violence between inmates

Does each establishment keep an updated record of the violent episodes between inmates

yes

For more information about international monitoring, see section [NPM and other organs of control](#).

For more information about organisations that support the victims of tortures, see section [External participants](#).

2- European Monitoring Centre for Prisons; "Prison conditions in Portugal", 2013, p43.

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## ARBITRARY OR SECRET DETENTION –

Is secret detention allowed

no

-

The prisoner has access to a lawyer in the hours following their arrest. Generally speaking, the prisoner has the right to contact their lawyer at any hour of the day or the night ([article 124 of the Code for enforcement of punishment and of custodial measures](#)).

The assistance of a lawyer is mandatory in certain cases that are explicitly foreseen by the law, or when the nature of the sentence – including imprisonment – rests on important legal technicalities ([article 147 of the Code for the enforcement of punishment](#)). If the defendant has not engaged a lawyer, the court requests the Bar Association to provide one ([article 124 of the Code for enforcement of punishment](#)).

The prisoner has the right to make contact by telephone with a trusted person. If the prisoner chooses to call their lawyer, they are usually not also entitled to contact a parent or a close relative.

An appeal against arbitrary detention is permitted, namely habeas corpus ([article 222 of the Code for Penal Procedure](#)). Any person who has been arrested and detained may present a double appeal to contest the procedure. The first part of the appeal is addressed to the Supreme Court of Justice, and the second to the Court of Justice of the European Union. The appeal must be based upon the claimed illegal nature of the detention. One or more of the following reasons may be used to justify the appeal:

- incompetence of the person who has authorised the imprisonment
- absence of legal basis for the detention
- excessive duration of pre-trial detention

*For more information about pre-trial detention, passing and duration, see section **Persons in pre-trial detention**.*

## PRISON POPULATION

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Do the authorities publish official statistics on prison population

**on a regular basis**

*The statistical data are updated every 15 days.*

Does the penitentiary administration have a computerised record keeping

**yes**

-

What is the total number of prisoners

**12,806**

*Excluding 155 persons currently residing in psychiatric institutions.*

Date: 15 November de 2018

Source: DGRSP



What is the incarceration rate (For the same date of the prison population)

**126**

-

Date: November 2018

Source: WPB

What is the number of entries

**5,186 admissions against 5,525 releases**

-

Date: 2017

Source: DGRSP

What is the average length of detention (in months)

**31 months**

-

Date: 2015

Source: SPACES<sup>1</sup>

Is there a classification of inmates according to their dangerousness

**yes**

-

The classification of inmates is revised

**on a frequent basis**

*Prisoners living in high-security conditions undergo a review of their classification every six months, or every three months for those prisoners under 21 years of age.*

Are the prisons overpopulated

**yes**

*99% (WPB, 15 November 2018)*

Does the overpopulation affect certain establishments

**yes**

*Overpopulation affects institutions of average complexity (see section on the Penal System). As of the 15 November 2018, the rate of overpopulation is 109.6% for such institutions.*

<sup>1</sup>- Council of Europe Annual Penal Statistics, "SPACE I - Population pénitentiaires 2015", 2016, p. 112.

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<b>Prison population</b>			
Penitentiary system	Has an international court sentenced the country because of its prison overpopulation	<b>no</b>	Neither the European Court of Human Rights nor any other international body has passed a judgment against Portugal on overpopulation in prisons or on the conditions of imprisonment. Certain individuals have recently lodged complaints on the basis of article 3 of the European Convention of Human Rights (prohibition of torture), regarding the material conditions of their detention <sup>2</sup> .  These recent complaints have now all been addressed, and the Portuguese government has paid compensation to the individuals (between €4,500 and €14,000).
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For more in-depth information	Has a regulatory body taken a stand on the prison overpopulation	<b>yes</b>	The MNP and the Ombudsman regularly deliver statements on prison overpopulation. A statement on this topic appears on a regular basis in the MNP's reports. The reports from the CPT also make reference to overpopulation.

## WOMEN



What is the number and percentage of female prisoners	<b>813</b>	<b>6 %</b>	
Date: 15 November 2018 Source: DGRSP			
What is the percentage of women in pre-trial detention	<b>23.6 %</b>	What is the percentage of foreign female incarcerated	<b>20.6 %</b>
Date: 31 December 2017 <sup>3</sup> Source: DGPJ		Date: 31 December 2017 <sup>3</sup> Source: DGPJ	
Are there special establishments, units or cells reserved for women	<b>yes</b>	<p>There are two penal institutions for women in Portugal:</p> <ul style="list-style-type: none"> <li>- the <a href="#">Tires prison</a></li> <li>- the <a href="#">Santa Cruz do Bispo prison</a></li> </ul> <p>Four institutions have designated units for women:</p> <ul style="list-style-type: none"> <li>- the <a href="#">Angra Heroísmo prison</a></li> <li>- the <a href="#">de Guarda prison</a></li> <li>- the <a href="#">Ponta Delgada prison</a></li> <li>- the <a href="#">São João de Deus hospital-prison</a></li> </ul>	
Are untried female prisoners separated from convicted ones	<b>yes</b>		-
Do all the establishments, units or cells, respect the separation between men and women	<b>yes</b>		-
Are conjugal visits allowed	<b>yes</b>	If it can be shown that the visitor is in a long-term relationship with the prisoner.	
Is the prison staff	<b>mostly female</b>		-

2- For examples, see the cases of *Bokor vs. Portugal*, *Dragan vs. Portugal*, *Butuc vs. Portugal*, *Dumitru vs. Portugal* and *Patenaude vs. Portugal*.

3- Latest published figure.



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Are pregnant women housed in specific units or cells | **yes** | -

Does the legislation provide for a sentence adjustment for pregnant women or women with young children | **no** | -

Where does the childbirth take place | **in an external health centre** | *Female prisoners give birth in hospital (article 34 of the Code for the enforcement of punishment).*

Do pregnant women receive proper prenatal care | **yes** | -

Are guards present in the delivery room | **no** | -

Is the use of constraints authorized during delivery | **no** | -

Are there special units for mothers with young children | **yes** | -

Can children stay with their mother | **yes** | *Women are permitted to keep their child with them until the age of three years. This may be extended to the age of five years in exceptional cases<sup>4</sup>. The law permits prisoners who are fathers to keep their child with them until the same age(s). To date there are no such reported cases.*

Are there specific units or cells to accommodate mothers with young children | **yes** | -

Frisking of female prisoners is performed by female prison staff.

Women's specific needs, such as access to sanitary products and to gynaecological consultations, are met.

Women prisoners have access to activities, to training, and to work opportunities.

Supervisory staff who work in areas designed for children wear uniforms.

The specific needs of children – food, clothes, healthcare, activities – are met by the penal authorities. Prisoners with children are allocated a separate living space to other inmates.

4- European Monitoring Centre for Prisons; "Prison conditions in Portugal", 2013, p30.

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**JUVENILES**

What is the Ministry in charge of juveniles | **Ministry of Justice DGRSP** | -

At what age can a minor be incarcerated | **16 years** | *A juvenile offender aged between 12 and 16 years may be placed in an educational centre.*

Do the authorities publish official statistics on incarcerated minors | **on a regular basis** | -

What is the number and percentage of incarcerated minors | **42** | **0.3 %**

Date: December 2017  
Source: DGRSP

Are untried female prisoners separated from convicted ones | **yes** | -

Does the law allow for individual cells | **yes** | -

Is schooling available | **yes** | *School and professional programmes are mandatory.*

Does the law prohibit strip searches for minors | **yes** | -

Does the law allow for placing minors in isolation | **yes** | -

Does the law allow for placing minors in disciplinary quarters | **yes** | -

A single institution – the Leiria “school prison” – houses only juvenile offenders aged 16 years and older, and young adults up to the age of 21 years. 347 places are available. In this institution the length of a sentence may be extended until the offender reaches the age of 25 years. Admission to this institution is not accompanied by legal obligations on the part of the staff team.

The decision whether to admit a juvenile offender to the Leiria prison or to an adult prison rests entirely at the discretion of the DGRSP. As a result, juvenile offenders are not necessarily separated from adult offenders <sup>5 & 6</sup>.

5- European Monitoring Centre for Prisons “Prison Conditions in Portugal”, 2013, p29.

6- Annual penal statistics of the Council of Europe, “SPACE I – Prison populations 2015”, 2016, p40.

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A juvenile offender aged between 12 and 16 years who has committed an offence receives educational interventions. Such offenders are housed in an educational centre, and may be placed there at any point up until the age of 21 years <sup>7</sup>.

There are eight educational centres in Portugal:

- Bela Vista educational centre
- Navarro de Paiva F educational centre
- Navarro de Paiva M educational centre
- Olivais educational centre
- Padre António Oliveira educational centre
- Santa Clara F educational centre
- Santa Clara M educational centre
- Santo António educational centre

The [general and disciplinary regulations of the educational centres](#), which date from the 20 December 2000, constitute the legal basis of the organisation, of the authority and of the operations of these centres. Each centre, however, has its own specific regulations.

The environments for juvenile offenders vary depending on the severity of the offence committed:

- Open environment: the juvenile offender is permitted to leave the educational centre alone, within previously agreed hours. S/he may meet his/her family at weekends and may enjoy 15 consecutive days of holiday.
- Semi-open environment: the juvenile offender is permitted to leave the educational centre, accompanied by a caseworker. S/he is not permitted to return home at weekends. S/he enjoys 15 consecutive days of holiday.
- Closed environment: the juvenile offender is not permitted to leave the educational centre.

A case management guide, designed according to the RNR (Risk-Need-Responsivity) model, is provided to each caseworker. PEP (Personal Educational Project) programmes are established in educational centres <sup>8</sup> and allow better monitoring and evaluation of educational interventions. The juvenile offender follows their programme on a voluntary (unpaid) basis. The programmes may consist of a medical project, a collaborative project with children’s activity centres, or even a practical project to learn a manual trade.

Whilst in prison, juvenile offenders also benefit from several other educational projects, some of which are mandatory and which are provided in all centres. These are:

- programme for re-adaptation and for prevention of future deviant behaviour;
- life skills training programme;
- suicide prevention programme;
- drugs prevention programme.

Each educational centre also develops its own particular projects <sup>9</sup>.

Support in the workplace, in training and in socio-educational activities is provided when the juvenile offender leaves the educational centre. In 2017, the rate of reintegration into society was 76.3% <sup>10</sup>.

*For more information about death penalty for minors, see section **Death penalty**.*

<sup>7</sup>- Directorate General for reintegration and penal services, “Monthly statistics – educational centres”, September 2018.

<sup>8</sup>- Directorate General for reintegration and penal services, “Report on activities and self-assessment, 2017” 2018, p276.

<sup>9</sup>- *Ibid*, p. 297.

<sup>10</sup>- *Ibid*, p. 286.

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## FOREIGNERS

What is the number and percentage of foreigners in detention

1,944

15 %

Date: 15 November 2018  
Source: DGSP

Can foreign prisoners be assisted by an interpreter

yes

The law ensures that translation and interpretation services are made available.

Can foreigners obtain legal aid when they can get a lawyer

yes

The process for accessing a lawyer is identical for Portuguese nationals and for foreigners.

Can foreigners be detained for illegal residency

no

In principle, foreigners in unofficial or illegal situations are not imprisoned. Remaining on Portuguese territory in such a situation does not constitute an offence. As part of a deportation process, the foreigner in question can be placed in a holding centre. A judge must make a decision on whether or not this is appropriate.

Can foreigners be deported from the country after their liberation

yes

Deportation of foreigners is not automatic. Expulsion as an additional penalty may be required according to a court decision (article 151 of Law 23/2007 - on the entry, permanent settlement, departure and removal of foreigners from Portuguese territory).

Do foreigners have the right to work

yes

-

The nationalities that are most represented in the Portuguese prisons are Cape Verdean, Brazilian, Angolan and Romanian.

Foreign prisoners are allowed to call home if they get permission from the warden and cover their own cost. The party contacted must have been identified and authorised beforehand by the facility director who can always use his/her discretion to decide how these calls are carried out.

Visits can be arranged for visitors who have to come from long distances from the prison by obtaining permission from either the warden of the facility or the DGRSP.

Immediately upon intake, foreign inmates are allowed to make a free phone call to inform their embassy or consulate about their detention. Foreigners have the right to be kept informed about the follow-up of this communication.

Foreign inmates may ask to carry out their sentence in their home country. They must be informed of this right and the procedures to follow<sup>11</sup>.



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## PEOPLE CONDEMNED TO LONG SENTENCES \_

A long sentence is considered as such from how many years	<b>5 years</b>	-
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Can sentences be cumulated	<b>yes</b>	<p><i>The statute calls for non-cumulative sentencing: similar sentences that are pronounced for different charges, can be accumulated only to the maximum legal limit of the longest sentence.</i></p> <p><i>E.g. If someone commits an offence which leads to a five-year prison sentence, and a few days later, commits another one carrying a two-year sentence, the total sentencing cannot exceed five years.</i></p>
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What is the number and percentage of people condemned to a life sentence	<b>not applicable</b>	-
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Is it possible to extend the sentence imposed	<b>no</b>	<i>There is no such legal mechanism.</i>
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Are there specific facilities for long sentences	<b>no</b>	<i>It appears that the larger and more secure facilities house inmates with long sentences and the small facilities are for those with short sentences.</i>
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There is no life sentencing under Portuguese law. The maximum sentence is 25 years.

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## UNTRIED PRISONERS

What is the percentage of people in pre-trial detention

17.1 %

-

Date: 15 November 2018  
Source: DGRSP

Are untried female prisoners separated from convicted ones

yes

According to the law, remand prisoners convicts must be kept separate. (Article 9 of the Code for Execution of Sentences and Measures of Deprivation of Liberty).

Is liberation on bail possible

no

There is no legal provision for bail as such. After sentencing, only the judge may decide what kind of bail can be granted. A judge may reduce a sentence that is shorter than one year to one punishable by fine.

[see section on **sentence adjustment policies**].



The Law of 29 August 2007 reforms the framework and limits the length of provisional detention. The maximum length of detention varies according to the circumstances. Generally speaking, temporary custody cannot exceed 18 months. This period can be extended to two years when the offences are linked to terrorism, organised crime, or crimes punishable by a prison sentence of more than eight years. The length of provisional detention can be extended up to three years in the case of particularly complex offences, implicating several individuals and in limited cases ([article 215 of the Criminal Procedure Code](#)).

Pre-trial detention is a coercive measure. Its implementation can be challenged in the 30 days following its issue ([article 219 of the Criminal Procedure Code](#)).

Every three months, the judge reviews the legality of the pre-trial detention. The detainee can, in parallel to this review, request at any time that the judge reexamine his pre-trial detention ([article 213 of the Criminal Procedure Code](#)).

In this case, as in any case of imprisonment, the habeas corpus petition is also appropriate, when the accused alleges to be unlawfully imprisoned. (Article 222 of the Code of Criminal Procedure)

The regime for the person placed in pre-trial detention is in the texts the same as for those who are convicted. They enjoy the same rights. The judge who orders pre-trial detention can - in the interests of the investigation or in the interests of security - decide to limit the number of visits or of phone calls. Only the judge is authorised to modify the regime of pre-trial detention of prisoners awaiting trial.

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## ETHNIC GROUPS \_

Is the gathering of information about ethnic group and religion allowed

no

*The Portuguese Constitution forbids the direct or indirect registration by the State of data relating to race and ethnicity.*

*Statistics relating to crime place temporary or permanent foreign residents whether documented or not into one generic category<sup>12</sup>.*

Are people of a special ethnic or religious group detained in separate quarters

no

-

## LGBTI PERSONS \_

Can LGBTI persons be imprisoned because of their sexual orientation or their gender identity

no

-

Are LGBTI persons detained separately from other inmates

no

*The law does not specifically mention LGBTI persons. It provides in general terms for special units for the enforcement of sentences or measures of deprivation of freedom for vulnerable persons or ones requiring special protection. Generally speaking, the allocation of housing and cells takes into account the circumstances of vulnerability.*

No particular protection is provided for LGBTI persons. A more general protection exists for vulnerable persons.

The assignment of transsexual people to an establishment depends on their civil status.

The law does not specifically mention transgender people. It provides in general terms for the possibility of special medical care or treatment.

## POLITICAL PRISONERS AND PRISONERS OF CONSCIENCE \_

Are there any dedicated prison facilities or blocks for political prisoners and prisoners of conscience

no

*This question does not apply to Portuguese law, which does not recognise either political prisoners or prisoners of conscience.*

Portugal does not recognise political prisoners or prisoners of conscience.

12- Gomes Sílvia "Foreigners and ethnic groups in prison: a few thoughts from Portugal", 2014.

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## | THE ELDERLY \_

Number and percentage of elderly inmates (>60 anos)	817	6 %
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Date: 2017  
Source: DGRSP

Does the prison administration keep a specific register listing elderly prisoners	yes	-
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Older people do not enjoy a specific detention regime. However, penitentiary establishments are organised into units by age group.

Elderly persons benefit from a suspended sentence from the age of 70 if their state of physical or mental health is incompatible with incarceration, or if they are no longer capable of comprehending the meaning of the sentence they are serving. The measure is only implemented in the case of serious, terminal and irreversible illnesses.



## | PERSONS WITH DISABILITIES \_

Are penitentiary establishments adapted to the needs of inmates with disabilities	no	-
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Are prison staff trained to take care of inmates with disabilities	no	-
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For more information about access to health care see section **The health**.



# PENITENTIARY SYSTEM

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## ORGANISATION

Name of the authority in charge of the prison administration | **Ministry of Justice** | -

Budget of the penitentiary administration | **238,395,085 €** | -

Date: 2018  
Source: Ministry of Justice<sup>1</sup>

Percentage of the ministerial budget allocated for prison administration | **17.2 %** | -

Date: 2018  
Source: Ministry of Justice<sup>2</sup>

There is a reception area in | **in all the establishments** | Upon arrival, the prisoner is placed in a reception unit for a maximum of 15 days.

Prison management falls within the remit of the Directorate General of Reintegration and Prison Services (DGRSP). Delegation of management is sometimes authorised, mainly for catering facilities and health services.

Does the law provide for contracting out the management of prisons | **yes** | The Special Penitentiary Establishment of Santa Cruz do Bispo for Women is operating under delegated management under a pilot scheme. The Santa Casa da Misericórdia do Porto charitable institution manages health services, catering, maintenance, spiritual guidance, education and vocational training. The DGRSP retains control over the management of the establishment, its security (prison staff) and the prison register.

The Portuguese prison service is placed under the authority of the General Directorate of Reintegration and Prison Services (DGRSP). Sentences, whether custodial or not, have been managed by a single department since 2012 (Legal Decree n° 63/2012).

The DGRSP distinguishes between two types of prison establishment following the criteria of "complexity of management":

- in November 2018, there were 21 highly complex establishments holding 10,262 people. The rate of prison occupancy for these establishments is 96.2%.
- in November 2018, the 27 less complex establishments, held 2,672 people. The rate of occupancy is 109.6%<sup>3</sup>.

Complexity of management is defined by the level of security - special, high or medium - the implemented programmes, the characteristics of the population and the number of people who stay there (circular n°13/2013).

The approved school of Leiria houses minors and young adults. Eight educational centres cater to minors aged 12 to 16 committed to public education.

[See the section on **Minors**]



1- Ministry of Justice, "2018 Justice portfolio", 2017, p. 30.

2- Ibid., p.28.

3- Directorate General of Reintegration and Prison Services, "Biweekly statistics per type of establishment", 2018.

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There are three detention regimes:

- the common regime
- the open regime
- the security regime

[Article 12 of the Code of enforcement of custodial sentences and measures](#) states the technical details and characteristics for each regime.

Persons detained under the common regime serve their sentence in high-security establishments or facilities. Activities and communal life take place within the prison facility.

Persons detained under an open regime serve their sentence in medium-security establishments or facilities. Engagement with the outside community is encouraged. There are two facets to the open regime:

- The “open regime on the inside” whereby activities take place within the establishment (or close by) and are subject to direct and continuous surveillance.
- The “open regime on the outside” whereby activities take place outside the facility and do not require surveillance.

Persons detained under the security regime serve their sentence in ‘special’ establishments or facilities [*See the section on **Real estate***]. Daily life, activities and links to the outside community are limited. Review of this form of custody takes place every six months (every three months for youths under 21). The decision to place or maintain a person under the security regime or to end such detention is taken by the director of the DGRSP.

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## PRISON FACILITIES

Total number of establishments | **49** | -

Date: 2018  
Source: DGRSP

Total capacity | **13,064** | -

Date: November 2018  
Source: DGRSP

Some prisons have more than 5,000 places | **no** | -

Does the penitentiary system include units or establishments designated "supermax" or with a high security level

**yes**

*High-security facilities have disciplinary blocks with reinforced security.*

*The Monsanto prison is the only 'special security' establishment, of the 'supermax' type<sup>4</sup>.*

Prison facilities are located on the outskirts of the cities

**no**

*The majority of prisons are located in town centres.*



The size of Portuguese prisons varies [according to the type of facility](#).

Medium-security prisons hold up to 350 places. The Cadeia de Apoio da Horta (Support prison of Horta), administratively part of Prison Angra do Heroísmo, is the smallest prison (17 places).

High-security prisons range from 169 (Súbal Prison) to 887 places (Lisbon Prison).

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## THE STAFF

Number of guards | **4,401** | -

Date: December 2017  
Source: DGRSP

Guard to inmate ratio | **1 guard for 3 prisoners** | -

Date: December 2017  
Source: DGRSP

Number of social and education workers | **882** | -

Date: December 2017  
Source: DGRSP<sup>5</sup>

Social and education worker to inmate ratio | **1 social and education worker for 15.2 prisoners** | -

Date: December 2017  
Source: Ibid

Can agents of the penitentiary administration join trade unions | **yes** | *The Sindicato Nacional do Corpo da Guarda Prisional (National association of prison officers) is the majority trade union.*

The functions of prison staff are the following:

- surveillance staff (Corpo da Guarda Prisional - CGP), constitute the greater majority of personnel (63.2% in 2017)
- administrative staff (data processing, registrar, financial management...)
- socio-educational staff
- health personnel
- management <sup>6</sup>

For prison officers, access to the profession is subject to competitive examinations and training, under the authority of the Ministry of Justice ([Prison Officers Statute](#)).

Training includes theoretical and on-the-job practical training lasting six months with sandwich courses.

Competitive examinations are open to candidates who satisfy the following requirements:

- Portuguese nationals
- aged from 21 to 28 in the year of the competitive examination
- measuring at least 1.60 metres for females or 1.65 metres for males
- holding the equivalent of the secondary school diploma (usually obtained at 18, at the end of compulsory education)
- with no criminal record
- in "good physical condition"
- up-to-date for all the mandatory vaccinations

<sup>5</sup>- Directorate General of Reintegration and Prison Services, "Status and self-evaluation report for 2017", 2018 p. 394.

<sup>6</sup>- Directorate General of Reintegration and Prison Services, "Status and self-evaluation report for 2017", 2018 pp. 393-394.

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## DAILY LIFE

### | CELLS \_

Does the law specify a minimum surface area per inmate

**no**

*The size of the prison cells and their furnishings conform to the [European Prison Rules](#), which recommend - without providing figures - that cells satisfy the minimum standards of human dignity<sup>1</sup>.*

Are the cells individual

**yes**

*Prisoners are held in individual cells. In exceptional circumstances, several prisoners can be confined to a single cell in the following cases :*  
*- to meet the needs of families (a father/mother and child)*  
*- to prevent physical or mental risks*  
*- where there is insufficient room in the facility*  
*([article 34 of the Prison Regulations](#))*

Does each prisoner have a bed, mattress, and bedding

**yes**

*Cells are equipped with a mattress, a bed, bedding, a chair and a cupboard.*

Is the size of windows regulated

**no**

Can the windows be opened

**yes**

Do the cells have electric lighting

**yes**

Are cells equipped with heating or air conditioning

**no**

*Prisoners can equip their cells with an electrical heater or air conditioner at their own expense.*

Can prisoners smoke in their cells

**no**

Assignment to a cell takes place after the prisoner's evaluation when entering the facility ([article 18 of the Regulations](#)). Assignment takes into consideration the specific vulnerability of the person and the eventual risks to other prisoners or the order and security of the establishment.



<sup>1</sup>- *European Prisons Observatory, "Prison conditions in Portugal", 2013, p. 10.*

*For more information related to the impact of overcrowding on the daily life of inmates see the section [Prison population](#).*

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## Food

Number of meals per day	<b>3</b>	An extra snack is served at teatime.
The price of meal per inmate	<b>3,20 €</b>	Contractors are awarded 3.20€ per day and per person to satisfy dietary needs.
Drinking water is always available for detainees	<b>yes</b>	-
Special dietary needs are respected (for religious, medical or cultural reasons)	<b>yes</b>	Specific diets are available for medical reasons and where possible, for religious or philosophical reasons (article 45 of the Regulations).
Meals are prepared by	<b>yes</b>	-
Where do inmates take their meals	<b>in a dining hall</b>	In the absence of a dining hall, the governor of the facility determines where meals are to be eaten. Prisoners placed in a disciplinary cell eat their meals in the cell.
Can inmates buy food products	<b>yes</b>	Each facility has a canteen service where prisoners can buy food and non-food products. The DGRSP determines which products are made available to the prisoners.  The cost of the products is deducted from the prisoner's personal account. The DGRSP determines the maximum amount of purchases (article 50 of the Regulations).  Automatic vending machines give access to coffee, water, soft drinks, baked goods, and tobacco (article 51 of the Regulations).
Are there refrigerators in all the cells	<b>no</b>	-
Are prisoners allowed to prepare meals in their cells	<b>no</b>	Prisoners in the open regime are allowed to cook in dedicated premises.
Can visitors bring food products	<b>yes</b>	Visitors are allowed to bring one food package every week weighing a maximum of 1kg. On the occasion of a birthday, they can bring a pre-sliced cake weighing a maximum of 2 kg. Beverages are forbidden (article 48 of the Regulations).
Are cells equipped with a suitable hotplate	<b>no</b>	-

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| **HYGIENE** \_

Inmates have access to a water source | **in the cell** | -

Do the cells have showers | **no** | -

Is there a toilet in every cell | **no** | *The regulations provide for a toilet or its equivalent in each cell (article 34 of the Regulations).*

Does the penitentiary administration provide hygiene products | **only for new arrivals and indigent prisoners** | *Prisoners can purchase personal hygiene products.*

Do the prison authorities supply cleaning products | **yes** | -

Bed linens are changed | **yes, every week** | -

Bed linen changes are the responsibility of inmates | **yes** | -

The prisoner is allowed one shower per day. The water must be hot.

The premises where the prisoners stay are equipped with a toilet.

Waste collection takes place once a day.

For more information related to the specific needs of women see the section **Women**.

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## ACTIVITIES

Are activities suggested to the prisoners

yes

*The prisoners have access to sports, social and cultural activities.*

Are there dedicated places for physical and sporting activities

yes

*In 2017, the prison population (12,991 inmates) had access to 304 sports activities. Indoor football, table tennis, volleyball and soccer are the main sports<sup>2</sup>.*

Are there dedicated places for cultural activities

yes

*In 2017, the prison population had collective access to 439 social and cultural activities. Activities "for the purpose of information" such as those encouraging reading and writing, are the most prevalent within the facilities. Together, debating, reading and writing represent 42.8% of organised activities<sup>3</sup>.*

Is there access to a library in each facility

yes

*The terms and frequency of access are determined by the director of each facility. The DGRSP has the obligation to promote partnerships with public, private, consular, or diplomatic institutions with a view to keeping the available materials permanently up-to-date (article 94 of the Regulations).*

Outside educational, cultural, artistic or sports entities organise social or cultural activities in prison. In 2017, there were 282 entities for social and cultural activities and 112 for physical and sports activities<sup>4</sup>.

The enrolment of prisoners in activities of their choice is subject to the approval of the facility's management. The DGRSP has the right to object.

*For more information related to religious activities see **Religion**.*

*For more information related to books in foreign languages see **Foreigners**.*

*For more information related to the objects (games, books) that can be brought by relatives see **Visits**.*

<sup>2</sup>- Directorate General of Reintegration and Prison Services, "Status and self-evaluation report 2017", 2018, pp. 106-107.

<sup>3</sup>- Directorate General of Reintegration and Prison Services, "Status and self-evaluation report 2017", 2018, pp. 103-105.

<sup>4</sup>- Directorate General of Reintegration and Prison Services, "Status and self-evaluation report 2017", 2018, p.103.



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| WORK \_

Prisoners have access to work

**yes**

*The facility's management must offer work to the prisoners, taking into account their skills and choices (article 41 of the Code governing the enforcement of sentences).*

*On 31 December 2017, 5,965 prisoners were in employment (46% of the prison population) <sup>5</sup>.*

Is work mandatory

**no**

-

Do inmates receive a salary for work

**yes**

-

The salary is

**below the compensation paid on the outside**

*The remuneration of persons deprived of their freedom is greatly inferior to that paid on the outside. It varies according to whether a person works for the prison establishment or for a private company. In the latter case, pay is higher but remains vastly inferior to that in the rest of the country.*

*Portuguese law enacts the general principles governing the organisation and remuneration of work (Chapter II of the Code governing the enforcement of sentences). Fair pay is due.*

*Remuneration is divided into four equal parts:  
 -personal purchases  
 -assistance on leaving prison (this sum is returned to the prisoner upon release from prison)  
 -where applicable: payment of fines, compensating civil parties and other penal obligations  
 where applicable: payment of family support*

Work is remunerated

**hourly (in most cases)**

*Piece work remuneration still subsists.*

Are there any deductions taken from salaried prisoners (social security, unemployment insurance, pension...)

**no**

*Social insurance contributions vary from one job to the next.*

*Private companies are not governed by labour law. They are free to integrate social inclusion and social protection mechanisms.*

*Work in the general interest (useful to the functioning of the establishment – kitchen, maintenance, laundry, etc.) paid for by the administration, is covered by workplace injury and sickness compensation.*

Do inmates have the right to join trade unions

**no**

-

<sup>5</sup>- Directorate General of Reintegration and Prison Services, "Status and self-evaluation report 2017", 2018, p. 88.

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Rules governing access to paid employment are established by the General Regulations for Prison Facilities ([Chapter III](#)).

The prisoner must state his/her interest and will to occupy a position of employment. It is necessary to submit a written request. The director of the facility has the discretion to assign the prisoner to a work station or not. Where applicable, the prisoner can be subjected to a medical, physical or mental health examination.

Prisoners are not covered by employment contracts.

For more information related to how inmates can use their salary see [Financial resources and destitution](#).

## EDUCATION AND PROFESSIONAL TRAINING



The Ministry in charge of education and professional training	<b>Ministry of Education and Higher Education</b>	-
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Academic training is accessible	<b>in all the establishments</b>	-
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Does the administration put in place measures to combat illiteracy	<b>yes</b>	<i>The services responsible for the enforcement of sentences inform the prisoners of work opportunities. Compulsory education shall be given as a priority to young prisoners or persons with literacy or numeracy needs (article 38 of the Code governing the enforcement of sentences)</i> <i>[See the section on <b>Activities</b>]</i>
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Can inmates obtain diplomas and take part in examinations	<b>yes</b>	-
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Is professional training accessible	<b>yes</b>	<i>The availability of occupational training programmes varies from one facility to the next. Vocational training courses are set up according to the needs and resources of each establishment. Priority is given to the training of young prisoners (article 40 of the Code governing the enforcement of sentences).</i>
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Are distance training courses offered	<b>yes</b>	-
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Outside entities participate in education in the prison environment ([article 71 of the Regulations](#)). These organisations must have received approval.

Class attendance counts as work. As such, the prisoner receives a gratuity ([article 39 of the Code governing the enforcement of sentences](#)).

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# HEALTH

## THE ORGANISATION OF THE HEALTH CARE

The Ministry in charge of the health system within the prison facilities | **Ministry of Justice** | -

Is there a nurse or a care unit in every prison facility | **yes** | -

## ACCESS TO HEALTH CARE

Is a medical examination performed at the entry into detention | **yes** | -

Is a medical record opened on entry into detention | **yes** | -

Is access to health care free of charge | **yes** | -

Access to an infirmary is provided following | **written request** | -

Is patient confidentiality respected when a prisoner is treated by a medical team | **yes** | -



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# SECURITY

## | SECURITY MEANS \_

Security functions are fulfilled by **prison administration** -

Do the penitentiary facilities have blocks or cells with high security level **firearms non-lethal weapons** -

The guards carry **palpation - denudation** -

Relatives are searched in the following way/s **per palpation** -

Professionals who enter prison (e.g. lawyers, doctors, visitors, volunteers) are searched per palpation **no** -

Searches of inmates are filmed **no** -

Are naked cavity searches carried out by a doctor **no** -

## | INCIDENTS \_

Is there a special intervention unit to maintain order **yes, GISP** -



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# DISCIPLINE

## | DISCIPLINARY REGIME \_

Are disciplinary offences investigated | **in some cases** | -

Is the imposition of a disciplinary sanction subject to adversarial debate | **yes** | -

Do inmates have the right to be assisted by a lawyer | **yes** | -

Can prisoners appeal against an abusive sanction | **yes** | -

Disciplinary sanctions can be collective | **no** | -



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| SOLITARY CONFINEMENT \_

An inmate can be placed in solitary confinement for

**a punishment  
-  
a protective  
measure**

*Isolation as a drastic measure can take two forms:*

- confinement in cells
- placement in a disciplinary cell

*Isolation as a protective measure can take two forms:*

- being held in a 'separation cell' so as to prevent escape or acts of violence, for example
- being held in the 'security chamber' in the event of 'psycho-emotional' or severe violent acts (according to article 92 of the Execution of Sentences Code and the Measures of Detention).

Can minors be placed in solitary confinement

**yes**

*Minors can be placed in solitary confinement, as well as educational centres.*

Are radicalised inmates isolated

**yes**

-

The decision to impose solitary confinement is made by

**the Prison  
Warden**

-

Is the decision to place a prisoner in solitary confinement subject to adversarial debate

**yes**

-

Is the length of solitary confinement limited

**yes**

*The maximum duration for solitary confinement is 30 days for confinement to one own's cell and 21 days for confinement in a disciplinary cell (according to article 113 of the Execution of Sentences Code).*

Is renewal possible

**yes**

-

The frequency of phone calls

**no**

*A prisoner in solitary confinement is refrained from outside contact or any visits, with the exception of his/her lawyer.*

Can inmates ask for a re-examination of the situation

**yes**

*The prisoner is informed, upon his/her disciplinary proceedings, by his/her lawyer the details of his/her defence case. He/she can also make an appeal in front of the Execution of Sentences Judge (according to article 110 of the Execution of Sentences Code).*

Solitary confinement, as part of a disciplinary measure, takes place in a controlled environment where security measures are reinforced.

A prisoner spends a full 22 or 23 hours in his/her cell before being placed in solitary confinement, depending on the decision of the Warden. During this time, the prisoner is refrained from having 'yard time' as well (according to article 173 and 174).



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The Prison Warden may authorised the prisoner to his/her own cell to continue vocational training if granted. However, prisoners placed in disciplinary cells are refrained from doing so.

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The visiting regime varies according to this type of isolation.

The confinement regime allows the prisoner to meet with relatives, however, a visit can not exceed one hour per week, outside normal hours.

A prisoner placed in a disciplinary cell can not receive any visitors, unless authorised by the Warden under special circumstances. However, the prisoner is allowed to communicate with his/her lawyer and a Chaplain.



## CONTACT WITH THE OUTSIDE WORLD

### | VISITS \_

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Do all inmates have the right to receive visits

**yes**

*There are two types of visitation rights granted to a prisoner :*

- regular visits by a family member or a relative. These visits take place twice a week for a maximum of one hour.
- extended visits by a family member or a loved one on a special occasion. The visits are put into place six months after the prisoner has been administered.

*Prisoners under a security regime are not allowed to receive extended visits.*

The time it takes to obtain permission for a visit permission is

**one month**

*The prisoner must follow procedures to receive visits, such as providing administration with the name of the visitor. The visitor himself will have to obtain a permit to finalise the process.*

*The visitor must present documents and paperwork as proof of identity and relation to the prisoner. He/she is then asked to complete a form which will be given to prison administration. The visitor must obtain a visitor's permit within 30 days of completing the paperwork and his/her first visit, which then must be validated by the Directorate General (DGRSP). Once finalised, the visitor will be authorised to continue his/her visits.*

Persons authorised to visit are

**family members and loved ones**

*The law makes no distinction and only indicates that "every inmate has the right to receive visits". The law also states that visits are intended for maintaining family, emotional and professional ties.*

Can children be present during visits

**yes**

*Children under 16 can visit a detained person only if he/she is a close relative (father, mother, brother or sister).*

*Penitentiary institutions may provide specific spaces for the visit. They get closer to a familial environment (article 112 of the Regulation).*

Are conjugal visits authorised

**yes**

*Conjugal visits are permitted when the detainee is not granted temporary permission. The law states that these visits are «regular».*

*The detained person and the visitor must be over the age of 18, except if they are married (rule 120).*

*The conjugal visits are authorized by the director of the establishment. A detained person may apply for one conjugal visit per month. The conjugal visit has a maximum duration of three hours (rule 122).*

*The conjugal visits take place in an appropriate space. The penitentiary provides detainees with written information on the prevention of sexually transmitted diseases. The visitor is required to bring bed linen (article 123 of the Regulations).*

If conjugal visits are authorised, inmates must prove

**emotional bonds**

*The inmate must, by law, prove a stable emotional relationship. The minimum duration is not specified (article 59 of the Code of Execution of Sentences).*

Are there visiting rooms with separation devices

**no**

*No separation device is usually present. The parlors of Monsanto Prison, the maximum-security institution, are the only ones with separation facilities.*



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Inmates receive two visits a week, each lasting up to one hour. These visits are preferably held during the weekends (article 111 of the Rules). The Institutional Head may authorize the accumulation of both visits on the same day.

The detainee can receive up to three people per visit. The substitution of one visitor for another during a visit is possible only if the visitor is a minor.

The detained person may, on their birthday, receive up to six visitors.

A visual control is exercised on the occasion of any parlor. This control is sometimes auditory.

The time spent on entry formalities is not counted.

The visitor is not authorized to hand over or receive any object or document directly from the detained person. It is obliged to go through the penitentiary service. The visitor is authorized to deposit:

- foodstuffs (drinks are not allowed)
- books and magazines
- photos, videos and games
- money



*For information related to searches of visitors see the section on **Security**.*

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## CORRESPONDENCE AND PHONE CALLS



Is correspondence authorised	<b>yes, but there are restrictions</b>	The prisoner may, at their expense, send and receive letters ( <a href="#">article 67 of the Code of Execution of Sentences</a> ).
Is correspondence subject to censorship	<b>no</b>	The correspondence may be read, on the reasoned order of the prison director, in the event of a «reasonable suspicion» of a risk to the security of the prison. Correspondence can then be retained. The decision not to send correspondence to the detainee must be sent to a judge. This decision is subject to control.
According to internal regulations, correspondence can be received in a sealed envelope	<b>yes</b>	The sending by sealed envelope is provided by the regulation. The correspondence between the detained person and his or her lawyer must be confidential ( <a href="#">article 61 of the Code of Execution of Sentences</a> ). The correspondence may, in the presence of the detained person, be opened.
Is the receipt of parcels allowed	<b>yes, but restrictions are planned</b>	Detainees can receive parcels once a month. The parcel must not exceed five kilos. It can not contain food. The sender must first be registered with the prison administration. As an exception, some prisoners who do not have regular visitors can receive two parcels per month of five kilos each. In this case they can also receive food, within a limit of one kilo.
Are phone calls authorised	<b>yes</b>	Detainees may make calls at their own expense. They may receive calls in case of particularly important personal or professional situations. The general regulations of each institution may have restrictions on prisoners placed under a security regime. Decision of restrictions are the responsibility of the prison director.
Is the cost of phone calls in line with market prices	<b>yes</b>	-
Can phones calls be wiretapped	<b>yes</b>	Listening to phone conversations is not automatic. However, the director of the institution may decide to do it for security reasons ( <a href="#">article 71 of the Code of Execution of Sentences</a> ).
Is the use of cell phones is authorised	<b>no</b>	-
Do inmates and their correspondents have access to video calls	<b>yes</b>	A videoconferencing device is set up for the prisoners justifying a long distance. Videoconferencing contacts must be authorized by the prison director at the request of the prisoner. The time during which the visit is interrupted by possible technical difficulties of operation is not considered as visiting time ( <a href="#">article 117 of the Regulation</a> ).
Is e-mailing possible	<b>no</b>	Correspondence by e-mail is possible in certain exceptional situations. It requires a special decision from the prison director. The situation must be particularly urgent or particularly important.

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A detained person has the right to make two phone calls a week of up to 10 minutes each. Each telephone call must be the subject of a specific request addressed to the director of the establishment, at least 24 hours before ([article 49 of the Rules](#)).

The detainee can reach their lawyer every day.

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The restriction or prohibition of telephone calls does not constitute a disciplinary sanction. However, phone calls may be subject to restrictions or prohibitions. Only five numbers are allowed on the calling cards and it is necessary to indicate which ones.

*For information related to confidential exchange with lawyers see the section on [Access to legal rights](#).*

*For information related to phone calls abroad see the section on [Foreigners](#).*



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## SENTENCE ADJUSTMENT POLICIES

Has a penalty adjustment system been implemented	<b>yes</b>	-
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Number of persons serving non-custodial sentences	<b>33,143</b>	<b>71 %</b>
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Date: 31 December 2017  
Source: Annual Statistic Report 2017, page 15

Can the sentence be adjusted as soon as it is pronounced (ab initio)	<b>yes</b>	-
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Can penalty adjustments be made during ongoing sentences	<b>yes</b>	<i>The sentence can be adjusted during sentence in the form of a house arrest under electronic surveillance. The duration of the remaining sentence to be completed must be less than one year (article 44 of the Penal Code).</i>
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Some categories of prisoners cannot apply for sentence adjustments	<b>no</b>	-
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In case of refusal of sentence adjustment, can the inmate contest this decision	<b>yes</b>	<i>The detainee may appeal the decision not to adjust their sentence. The appeal is made before the judge of the execution of the sentences.</i>
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Do special permissions for going out exist	<b>yes</b>	<i>The detained person may be granted judicial leave (decided by a judge) or administrative leave (decided by the prison administration) (article 76 of the Code of Execution of Penalties).  Administrative leave is possible for the maintenance of family ties, for the execution of a specific activity, or in a special way for an urgent or important event.  Accompaniment with a prison guard is mandatory when temporary absence is concerned: - a court appearance / participation in an investigative act - a visit to the hospital (requiring care that can not be provided at the prison)</i>
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A sentence of imprisonment of less than one year must be adjusted as soon as it is pronounced.

A sentence of imprisonment of less than one year may be imposed as a fine or house arrest under electronic surveillance. If the convicted person's personal situation so justifies, the maximum sentence can be increased to two years (due to pregnancy, serious illness, age – under 21 or over 65 years of age – etc.). (articles 43 and 44 of the Penal Code)

A prison sentence of less than one year may also be granted on day parole. The consent of the convicted person is necessary. This arrangement must allow the convicted person to pursue their professional activity or studies (article 46 of the Penal Code).

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A sentence of imprisonment of less than two years may be converted into community service. Each day of imprisonment corresponds to one hour of work. The maximum executable allotment is 480 hours. The consent of the convicted person is necessary ([article 58 of the Penal Code](#)).

A sentence of less than three years, related to a professional offense, may be replaced by a prohibition to practice a profession, function or activity ([article 43 of the Penal Code](#))

The sentence may be suspended as soon as it is pronounced. This suspension applies as long as the sentence imposed does not exceed five years. The period of suspension has the same duration as the prison sentence but can never be less ([article 50 of the Penal Code](#))

The court may also impose a probationary stay. Probation is mandatory when the perpetrator is under the age of 21, or when the sentence of imprisonment is more than three years ([article 54 of the Penal Code](#)).

If the sentenced person does not fulfill the obligations related to the adjustment of their sentence, the imprisonment becomes again executory. The time spent on the sentence is deducted from the time of imprisonment.

The court may still decide to waive the sentence. The penalty incurred must be less than six months. The absence of a need for a prison sentence must be demonstrated by the judge. The person is however found guilty ([article 74 of the Penal Code](#)).

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No information regarding the possibility of receiving a reduced sentence.

A conditional release can be pronounced, with the agreement of the sentenced person, on three conditions:

- half of the sentence is completed
- the sentence already executed is greater than six months
- the convicted person must show good behavior when incarcerated

If the sentence is more than six years imprisonment, parole is only possible once five-sixths of the sentence has been executed ([article 61 of the Penal Code](#)).

A «coping» mechanism for parole is planned. It allows the convicted person to apply for release one year before the normal legal limit. During this adjustment period, the sentenced person is subjected to house arrest under electronic surveillance.

*For information related to penalty adjustment and disciplinary sanctions see the section on **Disciplinary sanctions**.*

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## ACCESS TO LEGAL RIGHTS

### | LEGAL DEFENSE \_

The law provides for cases in which the assistance of the lawyer is mandatory (Article 64 of the Penal Code). Among the cases listed it can be noted:

- the obligatory presence of the lawyer during interrogations conducted by a judicial authority
- the mandatory presence of the lawyer during the inquiry and the hearing
- the mandatory presence of the lawyer at the hearing held in the absence of the accused

The assistance of the lawyer during the execution of the sentence is never compulsory. For example, the pronouncement of a disciplinary sanction, or the decision of placement in solitary confinement are not situations requiring the presence of a lawyer. The presence of the lawyer is independent of the possibility of challenging a decision. Thus the detained person is not required to be represented by a lawyer during their sentence adjustment procedure but may still appeal in the event of a negative decision.

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The accused person is systematically assisted by a public defender when the presence of the latter is made mandatory by law and they cannot afford to pay for the services of a lawyer.

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It is difficult for the accused person and his or her lawyer to prepare the defense before the trial. The difficulties are mainly the constraints of detention. It is, for example, impossible for the lawyer, according to the case law, to have the recording of telephone intercepts (which will be presented at the hearing) in order to listen to them with their client.

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The presence of the lawyer is not mandatory during interrogations, conducted by the police, of convicted persons. It is required for the accused or when the interrogation is conducted by a judge.

*For information related to pre-trial detention see the section on **Persons in pre-trial detention**.*



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## | GUARANTEES \_

Do inmates receive a copy of the internal prison rules	<b>yes</b>	<i>The rules of procedure are available in each library. A summary sheet of the rights and duties of the detainee is given to each entrant.</i>
Are the internal prison rules translated for foreign inmates	<b>yes</b>	<i>A summary sheet of the rights and duties of the detainee is given to each entrant. This document is translated into the most widely spoken foreign languages (article 9 of the Regulation).</i>
Do prisoners have access to a legal aid centre	<b>no</b>	-



## | COMPLAINTS \_

Detained persons have the opportunity to lodge a complaint against the prison administration.

The Regulations provide for several provisions:

- complaints, petitions, claims can be formulated individually or collectively
- secure boxes placed in all establishments allow the filing of a complaint- the detainee may lodge a complaint in writing and by post to the courts or any other national or European authority.
- detained persons may lodge a complaint with the prison administration, the chief overseer or the judge
- detainees can file a complaint in the register of complaints, which is mandatory in all state institutions (Article 177 of the Rules) <sup>1</sup>.

The complaints of detainees are reported to the audit and inspection service of the DGRSP (auditing and inspection services for prison services). They are independent as regards the decision as to whether or not open proceedings against a prison officer.

<sup>1</sup>- European Prisons Observatory, "Prison conditions in Portugal" 2013, p. 38.

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## NATIONAL PREVENTIVE MECHANISM (NPM) AND OTHER MONITORING BODIES

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is **ratified on 15 January 2013**

Has the NPM been established **yes** *The NPM was created in May 2013.*

Name of the NPM **Provedoria de Justica (Ombudsman)**

Has the NPM come into office **yes** *The NPM took office in March 2014.*

The composition of the NPM

**independent administrative authority represented by an individual assisted by a team.**

*The Mediator (NPM), João Costa, is the only one to hold this full-time position. About 15 people work alongside him on a part-time basis. The other part of their time is spent working with the Defender of Rights. This organization sometimes creates confusion among detainees who, when addressing the NPM, believe that they can refer the case to an individual petitioner. A badge system, recently introduced, allows inmates to distinguish between these two missions.*

Is the NPM independent from the Ministry in charge of the penitentiary system

**yes**

*The NPM must have "complete independence in the exercise of its tasks" (article 1, paragraph 4, of the Mediator Statute).*

Term of office of the NPM

**4 years**

Is the term of office renewable

**one time**

*The NPM is "independent and irremovable and its functions end only at the end of its term, unless otherwise provided by law" (article 7 of the Mediator Statute).*

Is the term of office revocable

**no**

The NPM has been appointed by

**the Parliament**

*The NPM is appointed by Parliament by a two-thirds majority and provided that this majority is greater than the absolute majority of the members in office (article 5 of the Mediator Statute).*

Are the NPM reports published

**yes**

*The Mediator has until 30 April each year to submit a report to Parliament. This report is published in the Official Journal of Parliament.*

Can the NPM make unannounced visits

**yes**

Has the Subcommittee for the Prevention of Torture (SPT) already visited the country

**yes, between 27 September and 7 October 2016**

Are there some facilities or blocks that cannot be monitored by the NPM

**no**

*The institutions of the autonomous regions (Azores) are not subject to the inspection and control of the Mediator, except for their activities carried out under the authority of the Portuguese public administration.*



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Is there any regional body that monitors the places of deprivation of liberty

**yes,  
the CPT**

Are the recommendations made by the NPM mandatory/binding

**no**

*The opinions of the NPM are non-binding recommendations. The NPM has significant public pressure but has no opportunity to force the execution of its recommendations, or even to seize a judge.*

If the country was already visited by the SPT, was the report of the visit published

**yes**

*A report is produced on 8 November 2018, following a visit from 1 May to 10 May of the same year. This report is, for the moment, confidential. The report was sent to the Portuguese Government and the NPM.*

If a regional body monitors places of deprivation of liberty, are their reports published

**yes**

*The CPT has made public reports in 1992, 1995, 1996, 1999, 2002, 2003, 2008, 2012, 2013, and 2016.*



The NPM can not be entered. Nor are they destined to receive complaints, unlike the Defender of Rights (Mediator). Anyone can draw their attention to a particular point.

A mechanism for following up NPM recommendations is established internally. It is provided by the members of the office. A table shows the observations and findings collected during the visits. It records the recommendations followed and those still in progress.

The Defender of Rights (Mediator) is another mechanism of control of penitentiary institutions. It is primarily competent to receive individual requests from detainees.

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## FOR MORE IN-DEPTH INFORMATION

### | KEY SITES \_

- The [DGRSP](#) : the Directorate General of Reintegration and Prison Services
- The [DGPJ](#) : the Directorate General for Justice Policy
- [World Prison Brief, Portugal](#) : key figures on prison systems
- [The Portuguese Prison Project](#) – A photographic exhibition of Portuguese prisons

### | LEGAL TEXTS (IN PORTUGUESE) \_

- The [Code for Execution of Sentences and Measures of Deprivation of Liberty](#)
- The [Code of Criminal Procedure](#)
- The [Penal Code](#)
- The [Constitution of the Portuguese Republic](#)
- The [General Regulations of Penitentiary Institutions](#)
- The [Regulation of the use of the means of constraint in the penitentiary services](#)
- The [Law 23/2007](#) on entry, stay, departure and removal of foreigners from the national territory
- The [Legislative Decree on the Status of Prison Supervisory Staff](#)
- The [decree on the classification of penitentiary establishments](#)
- The [European Prison Rules](#)
- Government statistics on [the prison population by type of institution](#), 2017
- Government statistics relating to [penitentiary staff](#), 2017
- Government statistics on [the prison population according to the criminal situation](#), 2018

### | REPORTS \_

- Ministry of Justice, [Activities Report](#), 2010 (in Portuguese)
- European Observatory of Prisons, [“The Prison conditions in Portugal”](#), 2013 (in English)
- [Report](#) of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishments (CPT), 2016 (in English)

### | SCIENTIFIC ARTICLES AND PRESS ARTICLES \_

- Gomes Silvia, [“Foreigners and ethnic groups in prison: reflections from Portugal”](#), 2014 (in English)
- [“Opening of the first private prison in July”](#), tvi24, 2004 (in Portuguese)

### | VIDEOS \_

- [Institutional Video](#) of the penitentiary establishment of Santa Cruz do Bispo, 2015 (in Portuguese)
- [“Dentro” Documentary](#) about a high security prison, 2001, (in Portuguese, sub-titles in French)



# Portugal

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