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## U.S. Department of State

### Portugal Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

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#### PORTUGAL

The Portuguese Republic is a constitutional democracy with a President, an independent judiciary, a Prime Minister, and a Legislative Assembly freely elected by secret ballot in multiparty elections.

Internal security is primarily the responsibility of the Ministries of Justice and Internal Administration. Security forces are controlled by, and responsive to, the Government.

Portugal has a market-based economy and is a member of the European Union. An increasing proportion of the labor force is employed in services, while employment in agriculture continues to decline and has been static or declining slightly in the industrial sector.

Citizens enjoy a broad range of civil and other human rights, which the Government generally respects. Civil rights are outlined in the Constitution with specific reference to the Universal Declaration of Human Rights. The principal human rights problem is the occasional beating of detainees or prisoners by police or prison personnel. Credible although infrequent reports of this problem continued, as did reports of poor conditions in prisons. Violence against women, child labor, and discrimination against Roma are problems.

#### RESPECT FOR HUMAN RIGHTS

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

### a. Political and other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

A Public Security Police officer in the city of Evora was detained in December 1996 after fatally shooting a suspected

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\* A separate report on Macau, recognized by both China and Portugal as Chinese territory under Portuguese administration, follows this report.

burglar at the time of arrest. The police officer's apprehension and his subsequent beating at the hands of inmates were protested by police across the country. These events led to the dismissal of the head of the Public Security Police for failing to maintain discipline and to the appointment in January of the first nonmilitary chief of that organization. The inspector general of the Interior Ministry is investigating the suspicious deaths of two other detainees in late 1996.

The trial of a National Republican Guard (GNR) officer, Fernando Alexio dos Santos, who confessed to the highly publicized 1996 killing and decapitation of a detainee, resulted in a sentence in December of 17 years in prison. Another GNR member who was present at the killing was sentenced to 6 years in prison, and a third soldier received a 5-year suspended sentence. Four other accused GNR members were found innocent.

### b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution forbids torture, inhuman or degrading treatment or punishment, and the use of obtained under torture in criminal proceedings. An independent Ombudsman, chosen by the Legislative Assembly (parliament), investigates complaints of mistreatment by police and prison authorities. The police inspector general conducts internal investigations in cases of alleged mistreatment.

In December 1996, delegates from Amnesty International (AI) met with the President and with senior government ministers to discuss continuing mistreatment of detainees by the police. AI and the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment cite kicking, punching, and beating with truncheons or other blunt objects as the most common forms of mistreatment. Both organizations were critical of the slow pace of investigations into allegations of mistreatment. According to civil rights groups, the victims of abuse are often African immigrants and other non-Europeans.

However, the inspector general of the Interior Ministry released a report in November citing improvements in the treatment of detainees by the police. In 200 surprise visits to jails and prisons by inspectors, no recent cases of police violence were uncovered. The report added that "this is the opposite of 1996, one of the worst years for police brutality...." Police officers receive training in human rights and proper investigative procedure.

The 1996 case of a magistrate who claimed to be mistreated by the GNR ended with the magistrate's dismissal from his position and his conviction on charges of drunk driving and assault of a police officer, for which he was fined.

The case of Paulo Portugal of Almada, who brought charges against six GNR officers for alleged brutality in 1991, was finally resolved in 1996, when the judge ruled in May that all charges--including countercharges by the GNR officers--be dropped.

Prison conditions are poor. The Council of Europe Committee and the national director of prisons identified overcrowding as the main problem, which the Government plans to remedy through a combination of new prisons and the increased use of noncustodial penalties. A 1996 report by the independent Ombudsman identified sanitary conditions, medical care, security, and food quality as problem areas. Prisoners complain of insufficient heating during the cool, wet winters.

The Government permits prison visits by human rights monitors. Human rights organizations report no difficulties in gaining access to inmates at detention facilities.

#### d. Arbitrary Arrest, Detention, or Exile

Under the law, an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. Persons may not be held more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of 6 months for each suspected crime. If a formal charge has not been filed within that period, the detainee must be released. In cases of serious crimes, for example, murder or armed robbery, or of more than one suspect, investigative detention may last for up to 2 years and may be extended by a judge to 3 years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 18 months of being formally charged. If a suspect is not in detention, there is no specified period for going to trial. A detainee has access to lawyers; the State assumes the cost if necessary.

Exile is illegal and is not practiced.

#### e. Denial of Fair Public Trial

The judiciary is independent and impartial. The court system, laid out in the Constitution, consists of a Constitutional Court, a Supreme Court of Justice, and judicial courts of first and second instance. There is also a supreme court of administration, which deals with administrative and tax disputes, and which is supported by lower administrative courts. An audit court is in the Ministry of Finance.

All trials are public except those which may offend the dignity of the victim, such as in cases of sexual abuse of children. The accused is presumed innocent. In trials for serious crimes, a panel of three judges presides. For lesser crimes, a single judge presides. At the request of the accused, a jury may be used in trials for major crimes; in practice, requests for jury trials are extremely rare.

The judicial system provides citizens with a fair legal process. It has been much criticized, however, for a large backlog of pending trials resulting from inefficient functioning of the courts.

There were no reports of political prisoners.

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

The Constitution forbids such practices, and the Government respects these provisions in practice. Violations are subject to effective legal sanctions.

## **Section 2 Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

Freedom of speech and the press is provided for in the Constitution, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and the press, including academic freedom.

### **b. Freedom of Peaceful Assembly and Association**

The law provides for these rights, and the authorities generally respect these provisions.

### **c. Freedom of Religion**

The Constitution provides for freedom of religion, and the Government respects these rights in practice. Although the overwhelming majority of citizens are Roman Catholic, the President underscored the importance of religious tolerance and diversity through such gestures as attending in March the opening of an Ismailite center in Lisbon.

### **d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation**

The Constitution and laws provide for these rights, and the Government respects them in practice.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Persons who qualify as refugees are entitled to residence permits. The issue of first asylum did not arise in 1997. There were no reports of forced expulsions of persons having a valid claim to refugee status.

However, the Government almost never rules that an asylum seeker has a "valid" claim. During 1997, 220 persons filed for asylum, most of them from Zaire, Liberia, and Sierra Leone, and none were found to have valid claims. Persons arriving at the airport were returned either to their country of origin or to the country from which their flights originated. Persons already in the country were given 15 days to depart voluntarily. Of these, most remained in the country clandestinely.

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

Portugal is a multiparty, parliamentary democracy. The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections on the basis of universal suffrage.

Women and minorities have full political rights. Women head 2 of 17 ministries: Health and Environment. Women are represented in all major political parties but constitute only 13 percent of the deputies in the legislature, where 3 of the 15 committees are chaired by women. Race is rarely an issue in politics. Persons of minority origin have achieved prominence in politics.

## **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of local and international groups operate freely, investigating and publishing their findings on human rights cases. Government officials are generally cooperative, although most groups complain of slow investigations or remedial actions.

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution forbids discrimination based on ancestry, sex, race, language, origin, religion, political or ideological convictions, education, economic situation, or social condition, and the Government enforces these prohibitions.

#### **Women**

Domestic and other violence against women is reportedly a common but hidden problem for which few seek legal recourse. The Portuguese Association for the Support of Victims received 400 calls for assistance during 1996. With greater publicity and a new toll-free telephone line, over 700 women sought help or shelter from the Association in 1997. The law provides for criminal penalties in cases of violence by a spouse. However, traditional societal attitudes discourage many battered women from recourse to the judicial system.

In March the Government enacted the "Global Plan for Equal Opportunity," which is aimed at improving social, political, and workplace conditions for women. The new law also addresses violence against women and provides funds for new women's shelters, a hot line for battered women, and training for police officials. The Government's high commissioner for the promotion of equality and of the family conducted an awareness campaign to raise the profile of domestic abuse. A subsidiary organization, the Commission on Equality and the Rights of Women, initiated a program in Lisbon to provide free legal advice to victims of abuse. The judicial system shows no apparent reluctance to prosecute suspects accused of abusing women.

In March a special parliamentary session was held to discuss the problem of trafficking in women. Speakers noted that trafficking involves both Portuguese women being taken abroad, usually to Spain, and foreign women being brought into Portugal. Press reports indicate that about half of the women in organized prostitution rings are foreign nationals, usually from Latin America or central Europe. The deaths of eight women in an arson attack on a nightclub by a rival nightclub owner focused public attention on the problem. Prostitution is closely linked to other types of organized crime, especially international narcotics trafficking. Specific legislation prohibits forced prostitution and trafficking in human beings. "The Nest," a nongovernmental organization, operates economic and social recovery programs for prostitutes.

The Civil Code provides for full legal equality for women. Sexual harassment, an issue gaining public attention, is covered in the Penal Code as a sex crime, but only if perpetrated by a superior and in the workplace. As in the case of violence, socially ingrained attitudes discourage many women from taking advantage of their legal protection.

The Commission on Equality in the Workplace and in Employment, made up of representatives of the Government, employers' organizations, and labor unions, is empowered to examine complaints of sexual harassment but receives few. It does review numerous complaints of discrimination by employers against pregnant workers and new mothers, who are protected by law.

Women are increasingly represented in universities, business, science, and the professions. Traditional attitudes of male dominance persist but are changing gradually.

## Children

Nine years of education are compulsory. A study by the European Commission indicated that only 50 percent of children receive preschool education, compared with at least 75 percent in most European Union countries. To counter this problem, the Ministry of Education instituted a pilot project on early childhood education in the Algarve region. The Ministry plans to expand the program to the national level, if it proves successful during the 1997 school year. The Government's goal is to provide preschool education for 60 to 70 percent of 3- and 4-year-olds and 90 percent of 5-year-olds by the year 2000.

The National Children's Rights Commission was inaugurated in January with the mission of implementing the principles of the International Convention on the Rights of the Child. The Commission operates under the aegis of the High Commissioner for the Promotion of Equality and of the Family and includes representatives from the Ministries of Justice, Health, Education, and Solidarity, as well as from leading nongovernmental organizations. The quasi-independent Institute for the Support of Children organized a network of 48 nongovernmental organizations dedicated to helping at-risk youth. The University of Minho's Institute for the Study of Children is a research center dedicated solely to the study of children's issues.

There is no societal pattern of abuse of children, although child labor remains a problem (see Section 6.d.). A pedophile ring was uncovered in Madeira in the fall involving Madeiran children and Madeiran, Belgian, and Dutch adults.

## People With Disabilities

There is no discrimination against disabled persons in employment, education, or the provision of other state services. Their access to public facilities is mandated by legislation, which is generally complied with. However, no such legislation covers private businesses or other facilities.

## National/Racial/Ethnic Minorities

The principal minority groups are immigrants, legal and illegal, from Portugal's former African colonies. There is also a resident Romani population. Fifteen skinheads were convicted in June for the 1995 beating death of a Cape Verdean immigrant; they received jail sentences ranging from 2 to 18 years. The law permits victims and antiracism associations to participate in race-related criminal trials by lodging criminal complaints, retaining their own lawyers, and calling witnesses.

A Romani family forced to move in 1996 in the face of local hostility was evicted by another municipal government following complaints by local residents that alleged Romani involvement in criminal activity. In April all adult members of this family were jailed on drug charges, although one package of alleged narcotics was later revealed to be flour. The family patriarch accused the police of unfairly targeting him because a family member had earlier implicated 13 National Republican Guard members in narcotics trafficking. Press coverage of the incident focused on the fact that the Government's High Commissioner for Immigration and Ethnic Minorities submitted a report to the Prime Minister that called on the central Government to act against popular militias, which are groups of citizens who engage in intimidation of Romani communities with the aim of forcing them to abandon settlements.

## Section 6 Worker Rights

### a. The Right of Association

Workers in both the private and public sectors have the right to associate freely and to establish committees in the workplace to defend their interests. The Constitution provides for the right to establish unions by profession or industry. Trade union associations have the right to participate in the preparation of labor legislation. Strikes are constitutionally permitted for any reason, including political causes; they are common and generally are resolved through direct negotiations. The authorities respect all provisions of the law on labor's rights.

Two principal labor federations exist. There are no restrictions on the formation of additional labor federations. Unions function without hindrance by the Government and are closely associated with political parties. There are no restrictions on the ability of unions to join federations or on federations affiliating with international labor bodies.

#### b. The Right to Organize and Bargain Collectively

Unions are free to organize without interference by the Government or by employers. Collective bargaining is provided for in the Constitution and is practiced extensively in the public and private sectors.

Collective bargaining disputes rarely lead to prolonged strikes. Should a long strike occur in an essential sector such as health, energy, or transportation, the Government may order the workers back to work for a specific period. This did not occur in 1997. The Government has rarely invoked this power, in part because most strikes are limited to 1 to 3 days. The law requires a "minimum level of service" to be provided during strikes in essential sectors, but this requirement has been infrequently applied. When it has, minimum levels of service have been established by agreement between the Government and the striking unions, although unions have complained, including to the International Labor Organization, that the minimum levels have been set too high. When collective bargaining fails, the Government may appoint a mediator, at the request of either management or labor.

The law prohibits antiunion discrimination, and the authorities enforce this prohibition in practice. Complaints are promptly examined by the General Directorate of Labor.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

Forced labor, including by children, is prohibited and does not occur.

#### d. Status of Child Labor Practices and Minimum Age for Employment

On January 1, the minimum working age was raised from 15 to 16 years. The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

The two main labor federations and observers from other European countries have charged that a number of companies in the footwear, textile, construction, and hotel industries exploit child labor. The Ministry of Employment's Inspectorate General of Labor (IGT) reports that hundreds of children under age 16 are employed illegally, mainly in the northern cities of Porto and Braga, but that the number is declining. Union observers agree that the number of illegally employed children is falling but believe that the Government should allocate more resources to combat the problem.

The Government created the National Commission to Combat Child Labor (CNCTI) in 1996 with the

aim of eradicating child labor. The Commission coordinates the efforts of the four ministries with primary responsibility for combating child labor: Employment, Education, Social Security, and Justice. It has stiffened sanctions against companies caught violating the minimum working age law, developed alternative curriculums for schools to retain students, and targeted subsidies for poor families vulnerable to the temptation to permit their underage children to work. The "medium-term social pact" signed by business, labor, and government representatives in 1996 contains a specific commitment to support CNCTI's operations.

In 1997 the CNCTI, the Ministry of Employment, and the General Union of Workers (UGT) undertook a public education campaign targeted at high-risk communities to convince parents to keep their children in school. The Ministry of Employment published a "blacklist" of companies caught illegally employing children and denied those companies access to European Union funding or benefits.

#### e. Acceptable Conditions of Work

Minimum wage legislation covers full-time workers as well as rural workers and domestic employees ages 18 years and over. For 1997 the monthly minimum wage was about \$315 (Esc 56,700) and was generally enforced. Along with widespread rent controls, basic food and utility subsidies, and phased implementation of a minimum guaranteed income, the minimum wage affords a basic standard of living for a worker and family. Average monthly earnings range from about \$460 (Esc 83,469) for skilled and low-level personnel to about \$1,580 (Esc 284,263) for higher management personnel.

Employees generally receive 14 months' pay for 11 months' work: 1 month's pay for a Christmas bonus, 1 for a vacation subsidy, and 1 for 22 days of annual leave. The maximum legal workday is 8 hours and the maximum workweek is 40 hours. For public sector employees, the maximum workweek is 39 hours, with a reduction to 35 hours to be phased in by 1999. There is a maximum of 2 hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Employment and Social Security monitors compliance through its regional inspectors.

Employers are legally responsible for accidents at work and are required by law to carry accident insurance. An existing body of legislation regulates safety and health, but labor unions continue to argue for stiffer laws. The General Directorate of Hygiene and Labor Security develops safety standards, and the General Labor Inspectorate is responsible for their enforcement, but the Inspectorate lacks sufficient funds and inspectors to combat the problem of work accidents effectively. A relatively large proportion of accidents is in the construction industry. Poor environmental controls in textile production also cause considerable concern. While the ability of workers to remove themselves from situations where these hazards exist is limited, it is difficult to fire workers for any reason. Workers injured on the job rarely initiate lawsuits.

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