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1999 Country Reports on Human Rights Practices

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PORTUGAL

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

Internal security is primarily the responsibility of the Ministries of Justice and Internal Administration. Security forces are controlled by, and responsive to, the government. They occasionally committed human rights abuses.

Portugal has a market-based economy. 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.

The Government generally respects the human rights of its citizens; however, there were problems in a few areas. Credible reports continued that security personnel occasionally beat detainees. Prison conditions remained poor. There are lengthy delays in trials. Violence against women, trafficking in women, discrimination against Roma, and child labor 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.

The inspector general of internal administration (IGAI), the inspecting authority for the police forces, worked with Amnesty International (AI) in its 1998 investigations into the

excessive use of force by the police (see Section 1.c.).

An inmate reportedly died as a result of beatings by prison guards in Vale de Judeus in 1997 (see Section 1.c.).

IGAI also cooperated in the ongoing investigation into the death of Olivio Almada, whose body was found in the Tagus River in Lisbon in October 1996. Almada was last seen in the company of three police officers, but the police had no record of his arrest. An investigation resulted in no criminal charges against the officers concerned, but disciplinary proceedings then began because the initial investigation determined that Almada had been detained illegally.

Three PSP officers were convicted on criminal charges related to the death in custody in 1996 of Carlos Areujo. The officers appealed the verdict, and their case remains in the appeals process. Disciplinary proceedings against the officers were deferred until after the criminal case is resolved.

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 evidence obtained under torture in criminal proceedings; however, credible but infrequent reports continued that police and prison guards beat and otherwise abused detainees, particularly non-Europeans.

In late 1997, two police officers were accused of having violated sexually a female drug addict in 1994. The supervisors of the officers initially delayed the opening of an investigation, but in December 1997 the divisional commander in Lisbon suspended the officers and ordered an investigation, which was still in progress at year's end.

In April Amnesty International released a report covering the last 6 months of 1998, which noted the mistreatment of prisoners and excessive use of force by the police. In September 1997, Marcelino Soares, a 17-year-old inmate at the Caxias prison, reportedly was beaten and confined to an isolation cell for 3 days by guards for complaining that prison authorities had blocked visits by his brother. Allegations of beatings also were made against guards at the Vale de Judeus prison; such beatings reportedly caused the death of inmate Francisco Antonio Cordeiro in September 1997. Internal inquiries into these two cases proved inconclusive and were closed; criminal inquiries continue in the Soares case.

AI also brought to the IGAI's attention allegations that a Sintra police officer used electroshock torture. The subsequent investigation found that the allegations against the officer were true, and also established the complicity of two other officers. Separation was recommended for one of the officers by a preliminary inquiry, and deliberations of the police disciplinary council continue. The two other officers were suspended from duty. A criminal inquiry was also in progress.

Justice Ministry investigators confirmed that the gendarmerie, the Republican National Guard (GNR), used excessive force against protestors during a demonstration by farmers in Ourique in September. Allegations of police misconduct during a January street festival in Lisbon were under investigation.

Prison conditions continue to be poor; overcrowding continues to be the main problem. Health issues are also of increasing concern. In February the health services director of the Bureau of Prisons reported that 7 out of every 10 convicts entering the prison system were infected with AIDS, Hepatitis B, or Hepatitis C. An estimated 20 percent of the prison population is infected with AIDS. Tuberculosis is also on the rise. Prison health services, with staffing at 1970s levels in vastly different conditions, have difficulty coping with the current situation.

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

An independent ombudsman, chosen by the Parliament, investigates complaints of mistreatment by the police and prison authorities. IGAI also conducts internal investigations in cases of alleged mistreatment. Police officers receive training in human rights and proper investigative procedure. However, nongovernmental organizations (NGOs) have been critical of the slow pace of police investigations in general and internal investigations by the police in particular.

d. Arbitrary Arrest, Detention, or Exile

The Constitution provides protection against arbitrary arrest and detention, and the Government respects its provisions in practice.

Under the law, an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A person 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 charged formally. 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 that 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. However, it has been much criticized for a large backlog of pending trials resulting from inefficient functioning of the courts. Frequent criticism of this backlog nonetheless did not result in any specific actions by the Government during the year. The extremely slow pace of the judicial system was cited as contributing to a violation of Article 6 of the European Convention on Human Rights in a March report from the European Court of Human Rights.

In March 1998, the European Court of Human Rights ordered the Ministry of Justice to pay a fine to the plaintiff in a civil case in the town of Torres Vedras. The case involved a real estate company trying to regain its operating authority after a declaration of insolvency. The case was delayed for 6 years. This was the second time such a judgment was made against the judicial system.

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 sanction.

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.

The Government respects 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. The Roman Catholic Church is the dominant religion; it receives tax exemptions and other privileges unavailable to other denominations. Although the overwhelming majority of citizens are Roman Catholic, other religions practice freely.

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 law provides for granting refugee or asylee status in accordance with the provisions of the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Persons who qualify as refugees are entitled to residence permits. There were no reports of the forced expulsion of persons with a valid claim to refugee status. However, the Government almost never rules that an asylum seeker has a "valid" claim. A new law attempts to distinguish among political, humanitarian, and temporary refugees, but the Government continues to maintain that the majority are economic refugees using Portugal as a gateway to the other European Union "Schengen" Countries. The Government took in approximately 2,000 refugees from Kosovo during the year.

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

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. Portugal is a multiparty parliamentary democracy.

Women and minorities have full political rights and participate actively in political life. However, they are underrepresented in government and politics. Women head the Ministries of Health and of Environment. There are 46 female members in the 230-member Parliament. Race is rarely an issue in politics; persons of minority origin have achieved prominence in politics. Some persons advocate laws mandating female quotas on political party lists, but such legislation has not been passed. Some political parties nevertheless adopted their own internal quotas.

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 generally are 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, 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. In 1996 (latest statistics available), charges were filed in 136 rape cases and 2,329 cases of other violence against women. The law provides for criminal penalties in cases of violence by a spouse, and the judicial system shows no

apparent reluctance to prosecute suspects accused of abusing women. Changes to the Penal Code in 1998 granted prosecutors the ability to file charges independent of the victim when prosecution is judged "in the victim's interest." Traditional societal attitudes discourage many battered women from recourse to the judicial system.

A toll-free hot line for victims of domestic violence has operated since November 1998, from 9 a.m. to midnight 7 days a week. In its first 6 months of operation, approximately 64 percent of the calls related to acts of physical violence, while 30 percent related to psychological concerns. The majority of callers (66 percent) were themselves victims. Women between the ages of 25 and 35 accounted for about 29 percent of the calls, while about 31 percent were women between the ages of 35 and 45. Although calls came from all over the country, the vast majority came from the large urban centers of Lisbon and Porto.

Parliament addressed the issue of domestic violence several times during the year. A system of "safe houses" for victims of domestic violence was created. Educational campaigns for the public and specialized training for the police were strengthened. The creation of domestic violence units in the police, and of a new domestic violence category in the Attorney General's report on crime, were mandated. Perpetrators of domestic violence now can be barred from contact with their victims, and in extreme cases, the police can order the immediate expulsion of a perpetrator from the victim's dwelling. The law also calls for the development of new programs to teach anger management to the perpetrators of domestic violence and to assist victims with the professional development necessary to live independent lives.

Trafficking in women for the purposes of forced prostitution continues to be a problem (see Section 6.f.). Prostitution is linked closely to other types of organized crime, especially international narcotics trafficking. Specific legislation prohibits forced prostitution and trafficking in human beings. The Nest, an NGO, operates economic and social recovery programs for prostitutes.

The Civil Code provides for full legal equality for women. Sexual harassment, a problem that continues to gain 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 the legal protection available.

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, but not adjudicate, 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 increasingly are represented in university student bodies, business, science, and the professions. A gap remains between male and female salaries. Women earn the majority of university degrees.

Children

A 9-year period of education is compulsory. A study by the European Commission

indicated that only 50 percent of children receive preschool education. To counter this problem, the Ministry of Education instituted a pilot project on early childhood education in the Algarve region in 1997. This program proved successful. More teachers were hired, new schools were constructed in remote areas, and the law now calls for attendance at preschool before entry into the first grade. However, there is a serious gap between spaces available in preschools and the number of children seeking admission, especially in the case of private institutions. During the 1998-99 school year 207,109 children attended preschool. It is estimated that that number increased to 220,000 for the current (1999-2000) school year).

The National Children's Rights Commission is charged with 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 NGOs. The quasi-independent Institute for the Support of Children organized a network of 48 NGOs 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. The Institute for the Support of Children organizes public awareness programs, serves as an information clearinghouse for NGOs working on children's issues, and promotes legislation protecting children's rights. It provides telephone and in-person counseling, intervention, and prevention services in cases of child abuse and neglect. It also operates services assisting the at-risk youth known as "criancas da rua"--"street kids."

There is no societal pattern of abuse of children, although child labor remains a problem (see Section 6.d.).

Following the uncovering of a pedophile ring in Madeira in 1997, the Parliament passed a law in 1998 that enlarged the definition of pedophilia to include the consumers of child pornography as well as the producers.

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 generally is 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 of approximately 40,000 persons, who are the subject of some discrimination.

In March the UN Committee on the Elimination of Racial Discrimination conducted a periodic review of the Government's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. In its report, the Committee expressed concern about racial discrimination and xenophobia in the country, including violence against blacks, Roma, immigrants, and foreigners--frequently perpetrated by skinheads. While acknowledging efforts by the Government to combat such acts, the

Committee urged that the law be extended to prohibit all racist groups.

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. In August the Parliament approved a new set of antiracism laws, reiterating antidiscrimination sections in the Constitution and the Penal Code. The new laws prohibit and penalize racial discrimination in housing, business, and health services. They also provided for the creation of a new Commission for Equality and Against Racial Discrimination to work alongside the high commissioner for immigration and ethnic minorities.

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 permitted by the Constitution 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. No restrictions limit the formation of additional labor federations. Unions function without hindrance by the Government and are associated closely with political parties.

There are no restrictions on the ability of unions to join federations or of federations to affiliate 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 usually are resolved through negotiation. However, should a long strike occur in an essential sector such as health, energy, or transportation, the Government may order the strikers back to work for a specific period. The Government rarely has invoked this power, in part because most strikes last only 1 to 3 days, but the law was invoked in one transport strike in 1998. The law requires a "minimum level of service" to be provided during strikes in essential sectors, but this requirement is applied infrequently. When it is applied, minimum levels of service are established by agreement between the Government and the striking unions, although unions have complained, including to the International Labor Organization (ILO), that the minimum levels were 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. The General Directorate of Labor promptly examines complaints.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced labor, including by children, is prohibited and generally does not occur. Specific legislation prohibits trafficking in persons; however, trafficking in women for the purpose of forced prostitution is a problem (see Sections 5 and 6.f.).

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

The minimum working age is 16 years. There are instances of child labor, but the overall incidence is small and is concentrated geographically and sectorally. The greatest problems are reported in Braga, Porto, and Aveiro and tend to occur in the clothing, footwear, construction, and hotel industries. The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

The Government has worked actively to eliminate child labor and created a multiagency body, the National Commission to Combat Child Labor (CNCTI) in 1996 to coordinate those efforts. In 1997 the CNCTI expanded its efforts by enhancing cooperation with NGOs, establishing regional commissions and local intervention teams, and expanding its public education campaign. The Ministry of Education also has increased its budget allocated to alternative education plans for students in danger of dropping out of school.

The Commission is joined in its efforts by two NGOs, the National Confederation of Action on Child Labor (CNAATI) and the Institute of Support for Children (IAC). With the assistance of regional commissions, the CNCTI works through local intervention teams on public awareness measures to prevent child labor and on a case-by-case basis with school dropouts and with minors found to be working.

In a first-of-its-kind study, conducted in conjunction with the ILO in October 1998, the Government polled 26,500 families, with separate questionnaires for parents and children, to try to measure the incidence of child labor. According to this survey, as many as 20,000 to 40,000 children under the age of 16 may be engaged in some form of labor. The majority of these cases consist of daily chores on family farms, which do not prevent school attendance. However, the study estimates that as many as 11,000 children may be working for non-family employers, a figure that represents 0.2 percent of the labor force. More studies are planned.

The key enforcement mechanisms of labor laws falls to labor inspectors, and the number of cases has fallen significantly over the past several years as a result of these government efforts and a move towards a higher technology industrial base (with a corresponding need for higher skilled labor). The number of child labor cases detected by the inspectors fell from 341 to 167 over the last 4 years. Additional reductions may require fundamental social changes. Government officials are concerned that child labor continues in the home, where inspections are prohibited without a search warrant. Also, child labor among migrant agricultural workers appears to be facilitated by parents who are paid for every box of produce picked. These conditions make it difficult to root out child labor through increased enforcement alone; the authorities believe that public education measures also are needed over the longer term.

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 1999 the monthly minimum wage was approximately \$326 (61,300 escudos). Along with widespread rent controls, basic food and utility subsidies, and phased implementation of an assured minimum income, the minimum wage affords a basic standard of living for a worker and family. According to the latest figures available (October 1997), the average monthly wage was \$777 (136,300 escudos). With respect to income distribution, average wages ranged from a high of \$2,316 (405,300 escudos) per month for managers to \$587 (102,700 escudos) per month for manual laborers. Only 9.2 percent of the work force received the minimum wage.

Employees generally receive 14 months' pay for 11 months' work: the extra 3 months' pay are for a Christmas bonus, a vacation subsidy, and 22 days of annual leave. The maximum legal workday is 8 hours, and the maximum workweek is 40 hours. 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 legally are 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 in harmony with European Union standards, and the General Labor Inspectorate is responsible for their enforcement. However, the Inspectorate lacks sufficient funds and inspectors to combat the problem of work accidents effectively. A relatively large proportion of accidents occurs 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.

f. Trafficking in Persons

Specific legislation prohibits trafficking in persons. Under the Penal Code, trafficking in persons is punishable by 2 to 8 years' imprisonment.

However, trafficking in women for the purpose of forced prostitution continues to be a problem. International trafficking rings take Portuguese women abroad, often to Spain, and bring foreign women to Portugal. The Portuguese women involved tend to be from poorer areas and are often, but not always, drug users. Women from Brazil and from Lusophone Africa also are involved, as are women from non-Lusophone countries such as Senegal.

Russian Mafia organizations are present in the country in increasing numbers, largely as the networks behind the trafficking in Eastern European women. One such network reportedly sells Moldovan and Ukrainian women for the equivalent of around \$4,000 each. The authorities broke up one such ring during the year that was headed by a nuclear scientist from the former Soviet Union.

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