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## Portugal

### Country Reports on Human Rights Practices - [2005](#)

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Portugal, with a population of approximately 10.4 million, is a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections. National parliamentary elections on February 20 were free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported:

- police and prison guards beat and abused detainees
- poor prison conditions
- lengthy pretrial and preventive detention
- trafficking in persons, foreign laborers and women

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings; however, security forces killed eight persons during the year. Most of the killings took place during the pursuit of suspects, either on foot or in car chases, after the suspects failed to obey repeated verbal orders by security forces. One killing occurred inside a police station when a prisoner attempted to escape through a bathroom window. The eight killings were under investigation by the government's Inspectorate General of Internal Administration (IGAI).

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, there were credible reports of disproportionate use of force by police and of mistreatment and other forms of abuse by prison guards against detainees.

During the year the IGAI investigated new reports of mistreatment and abuse by police and prison guards (see section 1.d.).

An internal prison inquiry into the beating of Albino Libânio in 2003 found that he had sustained multiple injuries from an assault that may have amounted to torture. A criminal investigation into the matter was pending, and disciplinary proceedings against several prison officers were ongoing.

In December a trial began of three police officers who were accused of assault in 1995.

#### Prison and Detention Center Conditions

Prison conditions remained poor, and guards continued to mistreat prisoners. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates.

Most of the guidelines and legislative proposals the government adopted in 2004 to reform the prison system had not been put in practice. However, some improvements were made during the year, including the opening of several new detention facilities, a decrease in prison overcrowding, an increase in personnel training and implementation of a new prison administration program in the Santa Cruz do Bispo

Prison.

Approximately 30 percent of the prison population had hepatitis B or C, and 14 percent were HIV-positive. According to the Ministry of Justice, 55 persons died in prisons during the first 6 months of the year, 49 of them from unspecified illnesses. Six were reported as suicides. One-third of the total deaths occurred while under preventive detention. The government started a new AIDS prevention and treatment program in two major prisons on a three-year trial basis.

Although there was a youth prison in Leiria, at times juveniles were held with adults elsewhere in the prison system. Pretrial detainees were held with convicted criminals.

The government permitted visits by independent human rights observers during the year.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

There were approximately 50 thousand law enforcement officials, including police and prison guards. The Ministries of Justice and Internal Administration are primarily responsible for internal security. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service (SEF) has jurisdiction on immigration and border issues.

Some members of the security forces committed a number of human rights abuses. In 2004 the IGAI received 276 complaints of human rights abuses. The majority of the complaints were against the PSP and the GNR, 166 and 94 respectively. The complaints included injuries or threats with firearms, excessive use of force, illegal detention, and abuse of power.

The major problems with the police forces were understaffing, insufficient training with firearms, and inconsistent or weak law enforcement. According to a former senior IGAI official, the increase in the number of persons killed by security forces during the year could be linked to the lack of adequate firearm training. There were no indications that police corruption was widespread. During the year police officers received professional training, and the government regulated their actions through mechanisms established by law.

An independent ombudsman is chosen by the parliament and the IGAI to investigate complaints of abuse or mistreatment by police; however, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and Ministry of Interior.

#### Arrest and Detention

The law provides detailed guidelines covering all aspects of arrest and custody, and the authorities generally followed the laws in practice. Persons can only be arrested based on a court ordered warrant. However, warrantless arrests by law enforcement officials and citizens can be made in cases where there is probable cause to believe a crime has been or is being committed and in cases where the person to be arrested is an escaped convict or detention prisoner.

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 for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of six months for each suspected crime. If a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes such as murder or armed robbery, or of those involving more than one suspect, investigative detention may last for up to two years and may be extended by a judge to three 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. Detainees have access to lawyers from time of arrest, and the government assumes any necessary costs.

In 2004 the IGAI received 17 complaints linked to arbitrary arrests, which were duly investigated.

There were no reports of political detainees. Lengthy pretrial detention was a problem; however, the government made progress in addressing the problem.

By year's end 2,325 individuals (18 percent of the prison population) were in "preventive detention," which was a decrease from the previous year. According to the Director General for Prisons, the number of pretrial detainees has decreased by approximately one thousand since 2003 due to more efficient legal practices and a doubling in the number of electronic monitoring devices for detainees. Detention time for detainees who remained under preventive detention in prison also decreased significantly. The average detention time was 8 months (down from 26 months), while approximately 20 percent of preventive detainees spent more than 1 year in prison.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

The court system 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 handles administrative and tax disputes and is supported by lower administrative courts. There is an audit court in the Ministry of Finance.

There were more than 500 courts in the country, and approximately 3 thousand magistrates and judges; however, staff shortages, budget restrictions, court delays, and the lack of computerization continued to be serious problems that contributed to inefficiency and a backlog of cases.

Critics, including the media, business corporations and legal observers, estimated the backlog of pending trials was at least a year. A two-day strike in October by judges, district attorneys, court employees, and notaries to protest proposed decreases in benefits and a freeze on automatic promotions did not substantially affect the backlog of cases.

#### Trial Procedures

Jury trials can be requested for criminal cases but are rare. Civil cases do not have jury trials. Defendants are presumed innocent and have the right of appeal and the right to consult with an attorney in a timely manner, at government expense if needed. They can confront and question witnesses against them, present evidence on their behalf, and have access to government held evidence. These rights were generally followed in practice.

#### Political Prisoners

There were no reports of political prisoners.

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

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

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

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

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press and judiciary and a functioning democratic political system combined to ensure freedom of speech and of the press.

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

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

##### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The 2001 Religious Freedom Act created a legislative framework for religions established in the country for at least 30 years, or recognized internationally for at least 60 years. The act provides all other qualifying religions with benefits previously reserved for the Catholic Church: full tax-exempt status, legal recognition for marriage and other rites, chaplain visits to prisons and hospitals, and respect for traditional holidays. In December 2003 rules were enacted to govern the commission that supervises implementation of the act. In 2004 procedures were published in the national gazette, *Diario da Republica*, on how to create a registry of religious entities.

The Catholic Church maintains a separate agreement with the government under the terms of the 1940 Concordat. In May 2004 the government signed an amended concordat with the Vatican to comply with the 2001 Religious Freedom Act. The new concordat was approved by Parliament and the president and ratified in 2004. It recognized for the first time the juridical personality of the Portuguese Episcopal Conference. It also allows the Catholic Church to receive 0.5 percent of the income tax that citizens can allocate to various institutions in their annual tax returns.

#### Societal Abuses and Discrimination

The Jewish population was approximately 700. There were no reports of anti-Semitic acts. Government efforts to promote antiracism and tolerance education included the president's participation in a ceremony in September to commemorate the anniversary of the founding of Lisbon's 19<sup>th</sup> century synagogue, which was restored for religious services and cultural events. The government also provided matching funding to help build a new mosque in Lisbon.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The country's system for granting refugee status was active and accessible. The country's refugee population was estimated at 377. According to the Ministry of the Interior, there were 113 requests for political asylum, primarily from African and Central and South American countries.

During the year the government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and 1967 protocol, although the exact number was not available.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage.

#### Elections and Political Parties

Free and fair national parliamentary elections were held February 20. The Socialist Party won a ruling majority, ending a governing coalition between the Social Democrat Party (PSD) and the Christian Democrat/People's Party (PP).

There were 58 women in the 230-member parliament. There were two women in the cabinet. There were no minorities in parliament or the cabinet.

#### Government Corruption and Transparency

There were no reports of government corruption during the year.

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

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, most of the groups continued to complain about the slow pace of investigations or remedial actions.

The country has an independent human rights ombudsman who is responsible for defending human rights, freedom, privileges, and the legitimate rights of all citizens. The ombudsman had adequate resources and published mandatory annual reports and special reports on such issues as women's rights, prisons, and the rights of children and senior citizens.

Within parliament there is an independent First Committee for Constitutional Issues, Rights, and Liberties and Privileges, which has oversight over human rights issues. It drafts and submits bills and petitions for parliamentary approval. During the year these included improvement of civil protection laws, additional legislation on crimes of moral harassment in the workplace, arson, and parental rights.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, and social status; however, discrimination against women and ethnic minorities persisted.

#### Women

Violence against women, including domestic violence, continued to be a problem. While there was no clear evidence that violence against women increased, more cases of violence were reported. In January the government established the Portuguese Structure against Domestic Violence (EMCVD), which launched a nationwide awareness campaign against domestic violence, trained health professionals, proposed legislation to improve legal assistance to victims, increased the number of safe houses for victims of domestic violence, and signed protocols with local authorities to assist victims.

Of the nearly 10,041 cases of violence during the first 9 months of the year reported to the Association for Victim Support (APAV), more than 83 percent involved domestic violence. The APAV is a nonprofit, charitable organization that provides confidential and free services nationwide to victims of any type of crime. (Most reported domestic violence cases are registered by the PSP and GNR, who redirect victims to APAV for assistance.) The PSP alone detained 500 suspects of domestic violence during this time period, resulting in 83 arrests.

According to women's rights NGO, the Union of Women Alternative and Response, 39 women were killed by their husbands or partners in the 12 month period that ended in November.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes still discouraged many battered women from using the judicial system.

According to the head of the newly established government-sponsored Mission Against Domestic Violence, only 10 percent of cases were brought to trial. The vast majority were resolved outside of the court system by lawyers who mediated between the parties. In 2003, according to the Ministry of Justice, there were 677 court cases related to domestic violence. Of that number, 43 percent ended were closed without prosecutions.

The government's Commission for Equality and Women's Rights ran 14 safe houses for victims of domestic violence and also maintained a 24-hour-a-day, 7-day-a-week phone service. The safe house services included food, shelter, and health and legal assistance.

The law specifically makes rape, including spousal rape, illegal, and the government generally enforced these laws. However, statistics were not available for the number of abusers who were prosecuted, convicted, or punished.

Prostitution was legal and common, and there were reports of violence against prostitutes. Only pimping, running brothels, and the procurement of prostitutes are illegal and legally punishable. Trafficking in women for the purpose of sexual exploitation continued to be a problem (see section 5, Trafficking).

Sexual harassment is a crime if perpetrated by a superior in the workplace. The penalty is two to three years in prison.

The Commission on Equality in the Workplace and in Employment (CITE), which is composed of representatives of the government, employers' organizations, and labor unions, is empowered to examine, but not adjudicate, complaints of sexual harassment. Reporting of sexual harassment was on the rise. According to a study conducted by the Higher Institute for Labor and Entrepreneurial Sciences and published by CITE, one out of three women has been victim to sexual harassment, which ranged from offensive gazes to sexual propositions, insults and threats to coerced or unwelcome touching.

The civil code provides women with full legal equality with men; however, in practice women experienced economic and other forms of discrimination. Of the 349,847 students enrolled in higher education in the 2004-05 school year, 55 percent were women. Although women made up 47.3 percent of the working population and increasingly were represented in business, science, academia, and the professions, their average salaries were about 30 percent less than men's.

Discrimination by employers against pregnant workers and new mothers was a common problem.

## Children

The government was strongly committed to children's rights and welfare. Nine years of compulsory, free, and universal education was provided for children through the age of 15. The majority of children attended school; however 45 percent dropped out before completing high school. The government also provided preschool education for children age four and older upon entry into primary school.

The government provided free or low cost health care for all children until the age of 15; girls and boys had equal access.

Child abuse was a problem. The nonprofit APAV reported 396 cases of crimes against children under 18 during the first 9 months of the year. Most of the cases involved domestic violence.

The high-profile trial of a pedophilia operation at the Casa Pia children's home in Lisbon that began in November 2004 continued at year's end. The 8 defendants faced charges ranging from procurement and rape to homosexual acts with adolescents and sexual abuse of minors for abusing 46 children.

Trafficking of children for sexual exploitation and forced labor remained a problem (see section 5, Trafficking).

## Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The law also criminalizes the trafficking of children under 16 years of age for the purpose of sexual exploitation. Each law that can be applied to traffickers, such as facilitating the illegal entry of persons, employing an illegal immigrant, false documentation, extortion, fraud, and sexual exploitation, carries a penalty of between one and eight years' imprisonment. By citing the violation of multiple provisions, judges have handed down longer sentences.

According to the latest available statistics, the government in 2004 initiated 408 investigations and 248 prosecutions related to immigration crimes, including trafficking in persons. The government's annual statistical summaries are for classes of crimes that include trafficking but do not isolate trafficking in person crimes in a separate category. Prison sentences ranged from 18 months to 15 years; however, many were in the 11- to 15-year range.

The government assisted other countries with international investigations of trafficking. In January 2004 the government established an antitrafficking task force to ensure coordination and communication among relevant government bodies and NGOs. In December the government launched a pilot project to combat prostitution and the trafficking of women for sexual exploitation in the country. It involved the Ministries of Justice and Interior, the Commission for the Equality and Rights of Women, the High Commission for Immigration and Minorities, the IOM, various NGOs, and the police and security forces. The project's main goals are to establish a full-time body and database within the Ministry of Interior to monitor trafficking-related developments, open a safe house for trafficking victims, and create a registry for filing legal complaints that can be used by police security forces.

The country is a destination for men and women trafficked from Ukraine, Moldova, Russia, Romania, and Brazil for the purposes of forced labor and sexual exploitation. There were reports that immigrant children were used for street begging. Some trafficking victims were transited through the country to other European countries. Most trafficked persons were Eastern European males who ended up working in construction or in other low-wage industries, such as textile manufacturing, woodworking, metalworking, and marble cutting. Some trafficked women (mostly from Eastern Europe and Brazil) worked as prostitutes. Trafficked persons usually lived in hiding in poor conditions, often with little or no sanitation facilities and in cramped spaces. Some trafficked workers were not paid, and some were "housed" within the factory or construction site. Moldovan, Russian, and Ukrainian organized crime groups reportedly conducted most of the trafficking of Eastern Europeans. The traffickers frequently demanded additional payments and a share of earnings following their victims' arrival in the country, usually under threat of physical harm. They often withheld the identification documents of the trafficked persons and threatened to harm family members who remained in the country of origin.

The government may refer victims to NGOs for short and long-term assistance and may provide short- or long-term residency for victims willing to cooperate with law enforcement. The government's high commissioner for migration and minorities is responsible for coordinating assistance to immigrants, including trafficking victims.

During the year the government targeted information campaigns toward immigrant populations and to persons in source countries vulnerable to exploitation and trafficking. The government also placed immigration liaison officers in prominent source countries.

#### Persons with Disabilities

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

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

#### National/Racial/Ethnic Minorities

The government effectively protected the civil and political rights of minority groups. The principal minority groups were immigrants, legal and illegal, from the country's former African colonies, Brazil, and Eastern Europe. Approximately 500 thousand legal immigrants lived in the country, representing an estimated 5 percent of the population. The country also had a resident Romani population of approximately 50 thousand.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides workers with the right to form or join unions of their choice without previous authorization or excessive requirements, and they exercised this right in practice. Approximately 35 percent of the total workforce was unionized.

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

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely in practice. The law provides for the right to strike, and workers exercised this right in practice. During the year there were strikes in the education, health, justice, transportation, and agriculture sectors. If a long strike occurs in an essential sector such as justice, health, energy, or transportation, the government may order the strikers back to

work for a specific period. The government rarely has invoked this power. However, in October the government intervened in a two-day judges' strike by calling on indispensable workers to avoid delays in ongoing legal actions and court cases (see section 1.e.).

Police officers and members of the armed forces may not strike legally, but they have unions and recourse within the legal system.

There are no export processing zones.

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

The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The government effectively implemented laws and policies to protect children from exploitation in the workplace.

The minimum working age is 16 years. There were instances of child labor, but the overall incidence was small and was concentrated geographically and by sector. The greatest problems were reported in Braga, Porto, and Faro and tended to occur in the clothing, footwear, construction, and hotel industries.

According to the government's last major study on child labor, in 2001, approximately 48,900 children between ages 6 and 15 engaged in some form of economic activity. Of that number, 85.3 percent were unpaid family workers, 14.7 percent worked for third parties, and 98.6 percent attended school. Of these children, 48.4 percent were employed in the agricultural sector, 12.4 percent in manufacturing, and 8.9 percent in construction. Of the children that worked, the vast majority worked 15 hours or less per week; however, about 11 percent worked more than 35 hours per week.

The government's principal body to address, monitor, and respond to reports of child labor is the Plan for the Elimination of Exploitation of Child Labor (PETI). The Ministry of Labor and Social Solidarity is responsible for enforcing child labor laws, and it did so effectively.

There were reports that Romanian minors were often used for street begging (see section 5, Trafficking).

#### e. Acceptable Conditions of Work

The monthly minimum wage, which covers full-time workers, rural workers, and domestic employees ages 18 and older, was approximately \$449(374.70 euros) and did not provide a decent standard of living for a worker and family. However, widespread rent controls and basic food and utility subsidies increased the standard of living. Most workers received higher wages, with the General Confederation of Portuguese Workers estimating an average monthly salary of approximately \$916 (763.20 euros), excluding public servants.

The maximum legal workday is 10 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 Labor and Social Solidarity effectively monitored compliance through its regional inspectors.

Employers legally are responsible for accidents at work and are required by law to carry accident insurance. The General Directorate of Hygiene and Labor Security develops safety standards in line with European Union standards, and the general labor inspectorate is responsible for their enforcement; however, the inspectorate lacked sufficient funds and inspectors to combat the problem of work accidents effectively. Workers injured on the job rarely initiated lawsuits. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

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