U.S. DEPARTMENT of STATE

Portugal

Country Reports on Human Rights Practices - 2007
Released by the Bureau of Democracy, Human Rights, and Labor
March 11, 2008

Portugal, with a population of approximately 10.6 million, is a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections. National parliamentary elections in February 2005 were free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Police and prison guards occasionally beat and abused detainees, and prison conditions remained poor. Lengthy pretrial and preventive detention remained a problem. Violence against women and children were problems. There was discrimination against women and ethnic minorities, and trafficking for forced labor and for sexual exploitation.

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.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

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

During the year the Inspectorate General of Internal Administration (IGAI) investigated new reports of mistreatment and abuse by police and prison guards.

Prison and Detention Center Conditions

Prison conditions remained poor, and guards continued to mistreat prisoners occasionally. 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 applied in practice. However, some improvements were made during the year, including a decrease in prison overcrowding and continued personnel training.

According to the director general for prisons, approximately 35 percent of the 11,875 total prison population was infected with HIV/AIDS or hepatitis B or C or both. The largest number (at least 20 percent) were infected with hepatitis C, while at least 10 percent were infected with HIV/AIDS. According to the directorate general for prisons, 91 persons died in prisons during 2006, 74 from illness; 14 were reported to have been suicides. The government's AIDS prevention and treatment program continued in two major prisons on a three−year trial basis, and the prison service instituted a needle exchange program.

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, and prisons were visited during the year by the Human Rights Committee of the Portuguese Bar Association and by news media for spot reports and articles. The country also cooperated with the International Committee of the Red Cross; the director general of the ICRC, Angelo Gnaedinger, visited Lisbon in October for a conference on humanitarian principles.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

There were approximately 50,000 law enforcement officials, including police and prison guards. The ministries of 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 has jurisdiction over immigration and border issues.

There were media reports that some members of the security forces committed human rights abuses. In 2005 the IGAI received 207 complaints of human rights abuses. The majority of complaints were against the PSP and the GNR (118 and 76, respectively). The complaints included physical abuse, threatening use of firearms, excessive use of force, illegal detention, and abuse of power. Each complaint is investigated by the IGAI, and punishment for officers found to have committed abuses ranges from temporary suspension to prison sentences.

The major problems within the police forces were understaffing, insufficient training with firearms, and inconsistent or weak law enforcement. Police corruption was an isolated problem. During the year police officers received professional training, and the government regulated their actions through mechanisms established by law.

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

Arrest and Detention

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

Under the law an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A suspect may not be held for more than 48 hours without appearing before an investigating judge. Changes in the penal code went into effect on September 15. Under the new regulations, investigative detention for most crimes is limited to a maximum of four months for each suspected crime; if a formal charge is not filed within that period, a detainee must be released. In cases of serious crimes, such as murder, armed robbery, terrorism, and violent or organized crime, or crimes involving more than one suspect, investigative detention may last up to 18 months and may be extended by a judge to three years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 14 months of being charged formally. If a suspect is not in detention, there is no specified deadline for going to trial. Detainees have access to lawyers from time of arrest, and the government assumes any necessary legal costs for indigent detainees.

Lengthy pretrial detention remained a problem, although the authorities made some progress reducing the length of time persons were detained before trial. As of December 15, 2,454 individuals (21 percent of the prison population) were in preventive detention, a decrease of 3 percent from the previous year. The average detention time was eight months (down from 26 months), while approximately 20 percent of preventive detainees spent more than one year in incarceration.

e. Denial of Fair Public Trial

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

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

Trial Procedures

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Citizens have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are administrative as well as judicial remedies for alleged wrongs.

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

Correspondence

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including e-mail. According to a December survey by the National Statistics Institute, 40 percent of the population between the ages of 16 and 74 used the Internet; however, the rate increased to 81 and 90 percent for high school and university graduates, respectively. Internet access was available in all public elementary and high schools. All federal government offices and 97 percent of hospitals had Internet access.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right.

The law provides a legislative framework for religious groups either established in the country for at least 30 years or recognized internationally for at least 60 years. Qualifying religious groups receive benefits including full tax-exempt status, legal recognition to perform marriages and other rites, permission for chaplain visits to

prisons and hospitals, and recognition of their traditional holidays.

The Roman Catholic Church maintains an agreement with the government that recognizes the legal status of the Portuguese Episcopal Conference, and allows citizens to donate 0.5 percent of their annual income taxes to the Roman Catholic Church.

Legislation approved on June 28 gives marriages performed by well-established non-Catholic groups legal status equivalent to civil ceremonies. Religious groups such as Jews, Muslims, Baha'is, Evangelicals, and Adventists may now marry within their own religious communities without also having to register in the civil registry. Previously, only Catholic marriages were automatically recognized as legal.

Also on June 28, the government appointed former prime minister Mario Soares as chairman of the Religious Freedom Committee, the first time a non-Catholic was named to this position; Soares is agnostic.

In November the government officially recognized Scientology as a religion.

Societal Abuses and Discrimination

The Jewish population was estimated at 3,000. On September 25, approximately 20 tombstones in Lisbon's Jewish cemetery were vandalized. Two youths, aged 16 and 24, were arrested; they were released with restrictions on their movement and were awaiting trial at year's end. On October 6, government ministers, members of parliament, and Muslim, Christian, and Baha'i religious leaders gathered in Lisbon to demonstrate solidarity with the Jewish community. The speakers strongly denounced the incident and the minister of the interior declared "today, we are all Jews." The parliament approved resolutions condemning the vandalism and underscoring that the constitution guarantees full rights and freedoms to Jews.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

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

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

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 there is reason to believe they feared persecution. The government granted refugee status or asylum.

The country's system for granting refugee status was active and accessible. In addition to refugees and applicants for political asylum, the government also provides temporary protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol. In 2006 the country granted humanitarian protection to seven persons, and granted asylum to 23 persons.

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

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

Elections and Political Participation

Free and fair national parliamentary elections were held in 2005. Political parties could operate without restriction or outside interference.

There were 64 women in the 230-member parliament and two women in the cabinet. There was one member of a minority group in the parliament; there were none in the cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were no reports of corruption in the executive or legislative branches of the central government during the year; however, there were media reports of corruption involving local government officials. The highest-profile corruption cases involved mayors Fatima Felgueiras, Valentim Loureiro, and Isaltino Morais. Felgueiras (Socialist Party), who went abroad from 2003-05 to escape arrest, was accused of embezzlement and abuse of power, and was being tried in court at year's end. Loureiro, a Social Democratic Party (PSD) mayor and chairman of the board of the Portuguese professional soccer league, was accused of corruption and influencing of referees in Portuguese soccer; his trial was scheduled to begin in February 2008. Morais (PSD) was accused of tax evasion, corruption, and money laundering, and was awaiting trial.

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

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

Section 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 and remedial actions.

The country has an independent human rights ombudsman who is responsible for defending human rights, freedom, 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, health, and the rights of children and senior citizens.

The parliament's First Committee for Constitutional Issues, Rights, and Liberties and Privileges, exercises oversight over human rights issues. It drafts and submits bills and petitions for parliamentary approval. During the year these included petitions to revise legislation on missing persons (including children) and to provide Internet access to the handicapped and elderly. Credible human rights NGOs considered the committee's work valuable.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The law makes rape, including spousal rape, illegal, and the government generally enforced these laws. Statistics were not available, however, for the number of persons prosecuted, convicted, or punished.

Violence against women, including domestic violence, continued to be a problem. Penalties for violence against women range up to 10 years' imprisonment, depending on the seriousness of the offense. Similarly, penalties for sexual harassment in the workplace range up to eight years. In 2005 the government established the Portuguese Structure against Domestic Violence, 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. The government encouraged battered women to file complaints with the appropriate authorities, and simultaneously offered the victim protection against the abuser. In addition recent legislation allows third parties to file domestic violence reports. Authorities handled more complaints of violence during the year, but the increase may have been due to these measures to encourage reporting rather than an actual increase in violence against women.

During the first six months of the year, 8,387 cases of violence against women were reported to the Association for Victim Support (APAV); more than 86 percent of these involved domestic violence. The APAV is a nonprofit organization that provides confidential and free services nationwide to victims of any type of crime.

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 government-sponsored Mission Against Domestic Violence, approximately 10 percent of cases were brought to trial. The vast majority were resolved outside the court system by lawyers who mediated between the parties. In 2005, according to the Ministry of Justice, there were 870 court cases related to domestic violence and only 460 prosecutions.

The government's Commission for Equality and Women's Rights operated 14 safe houses for victims of domestic violence and maintained an around-the-clock telephone service. Safe-house services included food, shelter, and health and legal assistance.

Prostitution was legal and common, and there were reports of violence against prostitutes. Pimping and running brothels are illegal and legally punishable. The new penal code raises the penalty for sex with minors between the ages of 14 and 18 from two years' to three years' imprisonment.

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 2004 study conducted by the Higher Institute for Labor and Entrepreneurial Sciences and published by CITE, one out of three women claimed that she had been a victim of sexual harassment, which ranged from offensive gazes to sexual propositions, insults, and threats of coerced or unwelcome touching.

The civil code provides women full legal equality with men; however, in practice women experienced economic and other forms of discrimination. Of the 367,312 students enrolled in higher education in the 2005-06 school year, 55 percent were women. Women made up 62 percent of the working population and were increasingly represented in business, science, academia, and the professions, but their average salaries were about 23 percent lower 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 were provided for all children through the age of 15. Practically all children attended school; however, 31.1 percent dropped out before completing high school during the 2005-06 school year. The government also provided preschool education for children age four and older.

Child abuse was a problem. The nonprofit APAV reported 287 crimes against children under 18 years old during the first six months of the year. Approximately 85 percent of the cases involved domestic violence.

The high-profile trial that began in 2004 of persons accused of involvement in a pedophilia operation at the Casa Pia children's home in Lisbon continued at year's end. The eight accused reportedly abused 46 children and faced charges that included procurement, rape, sexual acts with adolescents, and sexual abuse of minors.

There were reports that Romani parents often used minor children for street begging.

Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

Portugal is primarily a destination and transit country for women, men, and children trafficked from Brazil, Eastern Europe, and, to a lesser extent, Africa. Some victims were trafficked to the country for forced labor. The majority of victims from Brazil were trafficked for the purpose of sexual exploitation. An estimated 5,000 women, mostly Brazilians, were trafficked to the country annually.

Trafficked persons generally lived in hiding in poor conditions. Some trafficked workers were "housed" within a factory or construction site, and some were not paid. 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 increased its antitrafficking efforts and reported that it actively dismantled trafficking networks during the year, and reduced their overall presence in the country. The government continued to cooperate with other European law enforcement agencies in trafficking investigations.

All forms of trafficking are illegal. The newly revised penal code, in effect since September, explicitly criminalizes labor and sex trafficking and increases penalties for both types of trafficking offenses. The penalty for trafficking is 12 years in prison.

The government provided subsidies for victims to obtain shelter, employment, education, access to medical services, and assistance in family reunification. The government also provided legal residency to many trafficking victims, although most victims were repatriated. Some NGOs assisted the government in tracking and providing legal, economic, and social assistance to trafficking victims. Victims who initially were detained were later transferred to NGOs for protection and assistance. The government operated 20 National Immigrant Support Centers throughout the country to provide immigrants, including trafficking victims, with multilingual information and assistance, and provided funds to enable NGOs to offer shelter and other assistance to trafficking and other victims.

The government sponsored antitrafficking information campaigns and public service announcements throughout the year. It broadcast various programs on state-run channels to educate and inform the general public, including potential trafficking victims and consumers. A statistics-gathering unit within the Ministry of Interior was established in January to assist the government's antitrafficking efforts by monitoring trafficking more effectively.

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 the protection, professional training, rehabilitation, and integration of persons with disabilities, and for enforcement of related legislation.

Other Societal Abuses and Discrimination

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

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 law provides for the right to strike, and workers exercised this right in practice. During the year there were strikes in the education, health, 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 has rarely invoked this power.

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

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 women, men, and children were trafficked to the country for labor, and women were trafficked for sexual exploitation.

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.

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

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 $588 (403 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 raised the standard of living. Most workers received higher wages; the Ministry of Labor estimated the average monthly salary of workers, excluding public servants, to be $1,190 (817.80 euros).

The legal workday could not exceed 10 hours, and the maximum workweek is 40 hours. There is a maximum of two hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Labor and Social Solidarity effectively monitored compliance through its regional inspectors.

Employers are legally responsible for accidents at work and are required by law to carry accident insurance. The 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. According to the Inspectorate General for Labor, there were 160 deaths from work-related accidents during the year. 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.

BACK TO TOP

Published by the U.S. Department of State Website at http://www.state.gov maintained by the Bureau of Public Affairs.