



Report of Various Size – Fieldwork research (FRANET)

Criminal Detention in the EU – Conditions and Monitoring

Country Report Portugal

FRANET Contractor:	CESIS
Author:	Ana Cardoso
Review:	Heloísa Perista
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1. Cell space

- a) What is the national standard for cell space available to prisoners in m²? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

The General Regulation of Detention Facilities (Decree-Law 51/2011)¹ is the legal document that defines different types of standards for detention facilities. Article 34, on accommodation, does not mention standards for cell space in m². Article 176, on disciplinary cells, also fails to mention standards for cell space. However, there are general guidelines: article 176 mentions that disciplinary cells should meet the fundamental habitability conditions, namely in what regards dimensions. There are no further details.

The General Regulation of Detention Facilities is in accordance with the Code of Enforcement of Prison Sentences and Imprisonment Measures.² Article 26 of the Code mentions that accommodation spaces should fully respect the prisoners' human dignity and should comply with safety and habitability requirements.

- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The aforementioned legal instruments do not mention that different standards are applicable to different detention regimes.

- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

The most recent available report from the National Preventive Mechanism³ makes no recommendation regarding the cell space available to prisoners. The report covers year 2016 although recommendations take into account the period 2015-2016.

Please cite any relevant sources

Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

¹ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=

² Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

³ Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF

Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF

2. Sanitary Facilities

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?

According to the Code of Enforcement of Prison Sentences and Imprisonment Measures⁴ prisoners should be ensured with access to sanitary facilities in conditions of privacy and hygiene (article 27). The General Regulation of Detention Facilities specifies that cells are provided with wash basin and toilet. This also applies to disciplinary cells. Article 34 of the General Regulation⁵ defines that prisoners in common regime are accommodated in individual cells which can be an indicator of privacy.

- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?

The General Regulation of Detention Facilities (Article 202)⁶ establishes that access to a daily warm shower/bath should be provided. The number of bath amenities and the time-allocation to each prisoner is defined by the General Director of each prison establishment. No other information is provided.

- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?

Yes, in the General Regulation of Detention Facilities.⁷

- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards.

⁴ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

⁵ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

⁶ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

⁷ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

The National Preventive Mechanism's report⁸ provides no recommendation regarding the access to personal hygiene. The report covers year 2016 but recommendations take into account the period 2015-2016.

Please cite any relevant sources

Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: [www.provedor-](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF)

[jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF)

3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
- Outdoors (within the boundary of the prison)?

According to the Code of Enforcement of Prison Sentences and Imprisonment Measures⁹ prisoners are entitled to be outdoors for a minimum period of two hours / day (Article 51).

- Indoors in the common area?

⁸ Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: [www.provedor-](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF)

[jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF)

⁹ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

According to the Code of Enforcement of Prison Sentences and Imprisonment Measures, prisoners in open regime may be outside their cells, in the prison common areas, until closing time.

Article 261 of the General Regulation of Detention Facilities¹⁰ states that it is up to the director of the prison establishment to establish the time per day/week that prisoners may spend outside their cells. The limits for time spent in cells are not mentioned. Also Order 286/2013,¹¹ which defines the structure and functioning of the detention facilities, does not mention any rules regarding time spent in cells (or outside cells). However, there are specific standards regarding different detention regimes as mentioned in paragraph d), below.

b) Are sports or other recreational and educational facilities available to prisoners? If so what types?

Sports and other recreational and educational facilities are available to prisoners. Article 49 of the Code of Enforcement of Prison Sentences and Imprisonment Measures¹² mentions that all detention facilities should be provided with sociocultural, recreation and sports activities. The same legal document indicates the existence of libraries, video libraries, reading services and diverse programmes of cultural entertainment. Regarding sports activities there are no specifications.

Article 93 of the General Regulation of Detention Facilities¹³ states that recreation and educational activities are programmed by the services that are responsible for the monitoring and follow up of the enforcement of the sentence and that they are part of the prison system.

c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

There are three main legal instruments regarding time outside the cells:

- Code of Enforcement of Prison Sentences and Imprisonment Measures.¹⁴
- General Regulation of Detention Facilities.¹⁵
- Order 286/2013 which defines the structure and functioning of the detention facilities.¹⁶

These legal instruments do not mention time sent in cells.

¹⁰ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=

¹¹ Portugal, Order 286/2013 which defines the structure and functioning of the detention facilities (*Portaria n.º 286/2013, que define a estrutura e o funcionamento dos estabelecimentos prisionais*) 9 September 2013. Available at: http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2061&tabela=leis.

¹² Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

¹³ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=

¹⁴ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

¹⁵ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=

¹⁶ Portugal, Order 286/2013 which defines the structure and functioning of the detention facilities (*Portaria n.º 286/2013, que define a estrutura e o funcionamento dos estabelecimentos prisionais*) 9 September 2013. Available at: <https://dre.pt/application/dir/pdf1sdip/2013/09/17300/0565505661.pdf>

- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

According to the General Regulation of Detention Facilities¹⁷ different standards apply:

- Prisoners in common regime (Article 35): The prisoners should remain in their cells except when they are authorised to move or to stay in another area. Time limits for being outside or inside the cells are not mentioned.

- Prisoners in open regime (Article 184): They may be outside their cells, in the prison common areas, until closing time.

- Prisoners in security regime (Article 213): They are allowed one hour per day for physical activity. Article 214 mentions that these prisoners are allowed to two hours in an outdoor space.

- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

The National Preventive Mechanism report¹⁸ includes recommendation n°3/2016/MNP which regards the conditions of an educational centre for young people with measures involving deprivation of liberty. The recommendation refers that a library should exist in the educational centre as well as programmes aiming at the promotion of school success. The follow up of this recommendation is in progress by the National Preventive Mechanism.

Quotation: “ In cooperation with the General-Directorate of Education should be implemented programmes aimed the school success, specially in what concerns secondary education, of the young people (...) A library in Educational Centre of Padre António Vieira should be created” (“Que, em articulação com a Direção-Geral de Educação, se concebam programas de promoção do sucesso escolar dos jovens educandos, em especial no tocante ao ensino secundário. (...). Que se crie uma biblioteca no Centro Educativo Padre António Vieira”.

Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at:

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¹⁷ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

¹⁸ Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*, p.107. Available at: www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE JUSTICA MECANISMO NACIONAL PREVENCAO 2016 VF.PDF

Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE JUSTICA MECANISMO NACIONAL PREVENCAO 2016 VF.PDF

Portugal, Order 286/2013 which defines the structure and functioning of the detention facilities (*Portaria n.º 286/2013, que define a estrutura e o funcionamento dos estabelecimentos prisionais*) 9 September 2013. Available at: <https://dre.pt/application/dir/pdf1sdipl/2013/09/17300/0565505661.pdf>

4. Solitary confinement

- a) What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

According to article 107 of the Code of Enforcement of Prison Sentences and Imprisonment Measures¹⁹ a disciplinary measure called ‘disciplinary cell’ can be applied to prisoners. This means that prisoner is separated from the rest of the inmates. This disciplinary measure may be applied for a maximum of 21 consecutive days. Prisoners can also be subject to the compulsory presence at their cells for a period of 30 consecutive days.

- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no differences.

- c) Please, provide a link to the National Preventive Mechanism’s reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

The National Preventive Mechanism report²⁰ provides no recommendation regarding solitary confinement. The report covers the year of 2016 but recommendations take into account the period 2015-2016.

Please cite any relevant sources

Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

¹⁹ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

²⁰ Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE JUSTICA MECANISMO NACIONAL PREVENCAO 2016 VF.PDF

Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

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5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)

Article 7 of the Code of Enforcement of Prison Sentences and Imprisonment Measures²¹ establishes prisoner's rights including the right to healthcare in identical conditions to other citizens. In this sense, prisoners are considered regular users of the National Health Service (*Serviço Nacional de Saúde*).

Article 58 of the Code of Enforcement of Prison Sentences and Imprisonment Measures²² mentions that healthcare provision is granted to prisoners inside the detention facilities and, when needed, in healthcare units outside prison. There is no specific reference to dentists and opticians. Also Order 286/2013²³ which defines the structure and functioning of the detention facilities does not mention dentists or opticians.

- b) Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)

Article 32 of the Code of Enforcement of Prison Sentences and Imprisonment Measures²⁴ defines that prisoners who are victims of abuse (physical, psychological or sexual) and those who are suffering from chronic diseases have access to specific care and long-term care.

On the other hand, the General Regulation of Detention Facilities²⁵ (Article 55) establishes that each detention facility must have specific programmes for clinical intervention namely in areas such as: drug addiction; infectious diseases; mental health; prevention of suicide and harmful behaviour.

²¹ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

²² Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

²³ Portugal, Order 286/2013 which defines the structure and functioning of the detention facilities (*Portaria n.º 286/2013, que define a estrutura e o funcionamento dos estabelecimentos prisionais*) 9 September 2013. Available at: <https://dre.pt/application/dir/pdf1sdip/2013/09/17300/0565505661.pdf>.

²⁴ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

²⁵ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

- c) Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

Please see above:

- Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures.²⁶
- Decree-Law 51/2011 which approves the General Regulation of Detention Facilities.²⁷
- Order 286/2013 which defines the structure and functioning of the detention facilities.²⁸

- d) *Please indicate whether there are different standards applicable to different detention regimes.*

There are no differences.

- e) *Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

Four of the twelve recommendations included in the National Preventive Mechanism's report for 2016 regard the provision of healthcare, including the access to mental health. These recommendations are especially addressed to juvenile educational centres and recommend that:

'(...) 2. The Directorate-General for Health and the Directorate-General for Reintegration and Prison Services jointly undertake a comprehensive listing of the main constraints in terms of access and scheduling of speciality appointments experienced by the youngsters:

3. Protocols are established between the Directorate-General for Health and the Directorate-General for Reintegration and Prison Services so that the requests of the young people in educational centres may be promptly addressed;

4. The Directorate-General for Health and the Directorate-General for Reintegration and Prison Services work together for collecting data on the most frequent and more complex situations affecting the young people in educational centres in terms of mental health ." (p.101)

'(...) 2. *Que, em uma atuação concertada entre a Direção-Geral de Saúde e a Direção-Geral de Reinserção e Serviços Prisionais, se realize o levantamento exaustivo dos principais constrangimentos registados em matéria de acesso e de agendamento de consultas de especialidade por parte dos jovens educandos;*

3. *Que se promova a celebração de protocolos entre a Direção-Geral de Saúde e a Direção-Geral de Reinserção e Serviços Prisionais para que se dê uma resposta imediata às solicitações dos jovens internados nos centros educativos;*

4. *Que, no tocante ao específico problema da saúde mental, mediante a articulação entre a Direção-Geral de Saúde e a Direção-Geral de Reinserção e Serviços Prisionais, se proceda ao levantamento das situações mais frequentes ou com maior complexidade, se observam nos jovens educandos."* (p.101)

²⁶ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

²⁷ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=

²⁸ Portugal, Order 286/2013 which defines the structure and functioning of the detention facilities (*Portaria n.º 286/2013, que define a estrutura e o funcionamento dos estabelecimentos prisionais*) 9 September 2013. Available at: <https://dre.pt/application/dir/pdf1sdip/2013/09/17300/0565505661.pdf>.

Please cite any relevant sources

Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: [www.provedor-](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF)

[us.pt/site/public/archive/doc/PROVEDOR DE JUSTICA MECANISMO NACIONAL PREVENCAO 2016 VF.PDF](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF)

Portugal, Order 286/2013 which defines the structure and functioning of the detention facilities (*Portaria n.º 286/2013, que define a estrutura e o funcionamento dos estabelecimentos prisionais*) 9 September 2013.

Available at: <https://dre.pt/application/dir/pdf1sdip/2013/09/17300/0565505661.pdf>

6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)
- Educational Guardianship Law (*Lei Tutelar Educativa*)²⁹ - the law rules upon practical measures to be applied to children aged between 12 and 16 who have been charged with committing crimes. The law provides for different measures including confinement in educational centres (Article 17) for young boys or for young girls.
 - Decree-Law 401/82³⁰ establishes the regime in criminal matters applicable to youngsters aged between 16 and 21 years old.

²⁹ Portugal, Law 166/99 which approves the Educational Guardianship Act amended by Law 4/2015 (*Lei n.º 166/99 que aprova a Lei Tutelar Educativa atualizada pela Lei 4/2015*), 15 January 2015. Available at: <https://dre.pt/pdf1sdip/1999/09/215A00/63206351.pdf>.

³⁰ Portugal, Decree Law 401/82 establishes the regime applicable to youngsters aged between 16 and 21 years old in criminal matters (*Decreto Lei n.º 401/82 institui o regime aplicável em matéria penal aos jovens com idade compreendida entre os 16 e 21 anos*), 23 September 1982. Available at: <https://dre.pt/pesquisa/-/search/319742/details/normal?jp=true/en>.

b) What age category falls under this specific juvenile prison regime?

As aforementioned, the Educational Guardianship Law (*Lei Tutelar Educativa*) applies to children aged 12 to 16. However, Article 27 mentions that if a child over 16 years old commits a crime that is punished with prison sentence while he/she is already in an educational centre this measure is not interrupted. In this case the youngster will be subject to the closed system.

Decree-Law 401/82³¹ which establishes the regime applicable to youngsters aged between 16 and 21 years old in criminal matters mentions that the prison sentences should be executed in detention centres. Article 13 regards the need of specific regulation for the location and functioning of these detention centres and clarifies that until the approval of such regulation the detention centre should operate in already existing establishments in autonomous units. Thus far, a specific legal document addressing the location and functioning of detention centres has not been approved.

c) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*

There are no different standards for different detention regimes

d) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

The National Preventive Mechanism's report for 2016 included the following recommendations regarding juvenile educational centres:

'That the (re)opening of an educational centre exclusively for young women is considered;
(...) 2. That the Directorate-General for Health and the Directorate-General for Reintegration and Prison Services jointly undertake a comprehensive listing of the main constraints in terms of access and scheduling of speciality appointments experienced by the youngsters;
3. That protocols are established between the Directorate-General for Health and the Directorate-General for Reintegration and Prison Services so that the requests of the young people in educational centres may be promptly addressed;
4. That the Directorate-General for Health and the Directorate-General for Reintegration and Prison Services work together for collecting data on the most frequent and more complex situations affecting the young people in educational centres in terms of mental health;
5. That two of the main innovations introduced by the changing of the Educational Guardianship Law (Law 4/2015, of 15 January) are concretised, i.e. the 'intensive supervision period' and the post-detention follow-up';
6. That the reinstatement of the special career of social reintegration worker into our legal framework is considered." (p.101)

*'1. Que se equacione a (re)abertura de um centro educativo destinado exclusivamente ao acolhimento de jovens do género feminino;
2. Que, em uma atuação concertada entre a Direção-Geral de Saúde e a Direção-Geral de Reinserção e Serviços Prisionais, se realize o levantamento exaustivo dos principais constrangimentos registados em matéria de acesso e de agendamento de consultas de especialidade por parte dos jovens educandos;*

³¹ Portugal, Decree Law 401/82 establishes the regime applicable to youngsters aged between 16 and 21 years old in criminal matters (*Decreto Lei n° 401/82 institui o regime aplicável em matéria penal aos jovens com idade compreendida entre os 16 e 21 anos*), 23 September 1982. Available at: <https://dre.pt/pesquisa/-/search/319742/details/normal?jp=true/en>.

3. Que se promova a celebração de protocolos entre a Direção-Geral de Saúde e a Direção-Geral de Reinserção e Serviços Prisionais para que se dê uma resposta imediata às solicitações dos jovens internados nos centros educativos;
4. Que, no tocante ao específico problema da saúde mental, mediante a articulação entre a Direção-Geral de Saúde e a Direção-Geral de Reinserção e Serviços Prisionais, se proceda ao levantamento das situações mais frequentes ou com maior complexidade, se observam nos jovens educandos;
5. Que se concretizem duas das principais inovações introduzidas pela alteração da Lei Tutelar Educativa, ocorrida pela Lei n.º 4/2015, de 15 de janeiro: o “período de supervisão intensiva” e o “acompanhamento pós-internamento”;
6. Que se equacione a ponderação da reintrodução, no nosso ordenamento jurídico, da carreira especial de técnico de reinserção social.” (p.101)

Please cite any relevant sources

Portugal, Law 166/99 which approves the Educational Guardianship Act amended by Law 4/2015 (*Lei n.º 166/99 que aprova a Lei Tutelar Educativa atualizada pela Lei 4/2015*), 15 January 2015. Available at: <https://dre.pt/pdf1sdip/1999/09/215A00/63206351.pdf>.

Portugal, Decree Law 401/82 establishes the regime applicable to youngsters aged between 16 and 21 years old in criminal matters (*Decreto Lei n.º 401/82 institui o regime aplicável em matéria penal aos jovens com idade compreendida entre os 16 e 21 anos*), 23 September 1982. Available at: <https://dre.pt/pesquisa/-/search/319742/details/normal?jp=true/en>.

Portugal, Provedor de Justiça – Mecanismo Nacional de Prevenção (2017), *Relatório à Assembleia da República 2016*. Available at: www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_MECANISMO_NACIONAL_PREVENCAO_2016_VF.PDF

7. Special measures in place to protect prisoners from violence

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)

The General Regulation of Detention Facilities³² does not mention the existence of special measures in place to protect prisoners against violence, including sexual violence. It also does not mention other mechanisms apart from the clinical evaluation that should pay attention, from the start, to signs of physical or sexual violence (Article 53).

- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?

³² Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo.

There is no reference to special measures to protect LGBTI prisoner in legal documents or in any other instrument of regulation.

c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

- Code of Enforcement of Prison Sentences and Imprisonment Measures³³
- General Regulation of Detention Facilities³⁴

d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.)...*

There are no differences.

e) *Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmby-regions-and-countries/>*

In the most recent available report from the National Preventive Mechanism no recommendation is made regarding special measures in place to protect prisoners from violence.

Please cite any relevant sources

Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at:

www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

8. Responsible authorities

³³ Portugal, Law 115/2009 which approves the Code of Enforcement of Prison Sentences and Imprisonment Measures (*Lei 115/2009 que aprova o Código da Execução das Penas e Medidas Privativas da Liberdade*) 12 October. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=1147A0026&nid=1147&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo.

³⁴ Portugal, Decree-Law 51/2011 which approves the General Regulation of Detention Facilities (*Decreto-Lei n.º 51/2011, que aprova o Regulamento Geral dos Estabelecimentos Prisionais*) 11 April 2011. Available at: www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1317&tabela=leis&so_miolo=.

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? *(Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website, physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)*

The authority responsible for international judicial co-operation in criminal matters and for the execution of European arrest warrants is the Prosecutor General of the Republic (*Procuradora-Geral da República*).

Information details:

- Website: <http://en.ministeriopublico.pt/>.
- Address: Rua da Escola Politécnica, n.º 140, 1269-269 Lisboa-Portugal
- Email address: correiopgr@pgr.pt.
- Telephone number: (00 351) 213 921 900

- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

The national authority responsible for monitoring conditions of detention and for putting forward recommendations is the Ombudsman (*Provedor de Justiça*).

Please cite any relevant sources

- Prosecutor General of the Republic (*Procuradora-Geral da República*): <http://en.ministeriopublico.pt/>.

- Ombudsman (*Provedor de Justiça*): www.provedor-jus.pt/.