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Held at the Palais Wilson, Geneva, on Friday, 6 March 2020, at 10 a.m.

Chair: Mr. Heyns (Rapporteur)

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Fifth periodic report of Portugal (continued)

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Mr. Heyns (Rapporteur) took the Chair.

The meeting was called to order at 10. a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Fifth periodic report of Portugal (continued) (CCPR/C/PRT/5; CCPR/C/PRT/Q/5; and CCPR/C/PRT/RQ/5)

1. *At the invitation of the Chair, the delegation of Portugal took places at the Committee table.*

2. **Mr. Tainhas** (Portugal) said that Portuguese law did not explicitly prohibit discrimination on the basis of language, but such conduct was punishable under Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, to which Portugal was a party. A legislative amendment was therefore needed to incorporate a specific provision on language-based discrimination into the national legal framework.

3. The fact that racist or homophobic motives were considered aggravating circumstances was established in articles 132, on aggravated homicide, and 145 (2), on aggravated assault, of the Criminal Code. There was no specific provision in the Criminal Code on the genital mutilation of intersex children. However, such an act was covered by article 144 of the Criminal Code, which defined violations of the right to physical integrity as a criminal offence, and, more specifically, article 144 (A), which established genital mutilation as a punishable offence. Act No. 38/2018, on the rights of lesbian, gay, bisexual, transgender and intersex persons, expressly prohibited such operations on intersex minors unless the person's health was at risk.

4. **Ms. Pimentel** (Portugal) said that the delegation was unable to share data on judicial proceedings involving fewer than three victims or defendants; such data were protected by statistical confidentiality provisions and could not be disclosed. The José Sócrates case was highly complex, involving an extremely lengthy indictment and a protracted investigation. It was currently at the review ("*instrução*") stage, which was an optional supplementary investigative procedure that was conducted, in the present case, at the request of the defendant. Those proceedings had commenced on 5 March 2020 with witness statements. The case of Manuel Vicente had been transferred to Angola at the request of the Angolan authorities and was thus no longer under the jurisdiction of the Portuguese courts.

5. The Government was taking firm action to combat domestic violence, with emphasis on victim support and awareness-raising campaigns. One of the focuses of those campaigns was on the importance of victims' participation in court proceedings. Given the nature of domestic violence, which typically took place behind closed doors, victims were often the only witnesses to such crimes. While physical abuse was relatively easy to prove, psychological abuse was not. Emails, text messages and voice messages were used in court as evidence of psychological violence, but as aggressors were becoming increasingly careful about leaving such traceable evidence, the testimony given by the victims themselves became all the more crucial. The discrepancy between complaints and convictions was largely owing to the difficulty of proving such crimes.

6. **Mr. Caetano** (Portugal) said that very few persons with disabilities had been subjected to surgical procedures without their consent and, in all of those cases, their lives had been at risk. Psychosurgery had been performed in 11 cases over the past decade; statistics on other types of interventions could be provided in writing. Portugal was a party to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (also known as the Oviedo Convention), which governed consent for treatment of persons with disabilities. If the nature of the disability made it impossible for a person to give his or her consent, a legal representative would need to do so in that person's stead.

7. **Mr. Pina** (Portugal), replying to concerns about the independence of the Commission for Equality and Against Racial Discrimination, said that the Commission comprised a multidisciplinary team of experts who were not answerable to the Prime Minister or anyone else. The technical unit tasked with supporting the Commission in its work did come under the purview of the General Secretariat of the President of the Council

of Ministers, however. In the past, there had been problems with law enforcement officers failing to receive or act on complaints of racial discrimination. In response, measures had been taken to raise officers' awareness of the relevant laws and procedures. As a result, the number of complaints of racial discrimination received and transmitted to the Commission for Equality and Against Racial Discrimination had increased considerably.

8. **Ms. Loubser** (Portugal) said that all alleged acts of discrimination on the part of law enforcement officers were duly investigated, and each branch of the security services collected its own statistics on such cases. The Public Security Police Force, for example, had conducted enquiries, investigations or disciplinary proceedings in 12 cases between 2016 and 2018. Two of the alleged victims had been Roma and 10 had been of African descent. There had been no reported cases in 2019. The Republican National Guard had recorded three cases of racial discrimination in the past three years: two in 2018 and one in 2019.

9. In order to guarantee all citizens their right to vote, the Government had placed particular emphasis on meeting the special needs of persons with disabilities and had introduced a Braille-enabled voting system in the most recent elections.

10. **Mr. Abrantes** (Portugal) said that Portuguese law prohibited the predominance of any one ethnic or cultural group in school classes. In 2018, the guidelines on the subject had been modified to incorporate the principle of diversity. In schools located in neighbourhoods or communities with a concentration of a particular ethnic community, such diversity could sometimes be difficult to achieve. In those circumstances, the authorities endeavoured, in consultation with the communities concerned, to transfer children to other schools. In 2019, for example, a school exclusively attended by Roma children had been closed down, and transport had been made available to enable those children to attend another school in the same municipality. It was true that there had been some dissimilarities in the educational outcomes of migrant children from Cabo Verde and Guinea and those of their non-migrant counterparts, mostly as a result of their differing socioeconomic backgrounds. Still, overall educational outcomes for children in Portuguese schools, including migrant children and children of African descent, had improved over the past three years.

11. The Ministry of Education had taken a series of measures, including both informal education campaigns and school-based activities, to enhance children's ability to engage in digital media environments. In 2019, two new modules had been incorporated into school curricula: the New Technologies Module focused on children's ability to act responsibly in online environments, and the new Citizenship Module comprised an extensive media literacy component.

12. **Mr. Shany** said that, despite the commendable measures taken by the State party, information received by the Committee indicated that excessive use of force by law enforcement officers was still a problem, the most prominent case being the incident that had occurred in Amadora in 2015. While it was encouraging that the police officers responsible for that incident had been prosecuted, the case had brought to light a culture of abuse, at least at the police station in question, that needed to be addressed. It would be useful to know whether the State party considered the training, monitoring and accountability measures taken to date to be sufficient. It was somewhat astonishing that only one of the 27 cases involving excessive use of force by police officers that had been brought to trial had led to a conviction. The delegation's comments on that fact would be of interest. It would also be useful to find out whether the body cameras tested in 2019 were currently being employed to monitor police conduct and whether any complaints had been received in connection with the excessive use of tasers or other electro-muscular disruption devices. It would, in addition, be helpful to find out whether such devices were currently being used in the country's prisons.

13. While the Committee appreciated the State party's frankness, the outright refusal to consider suppressing the provisions on criminal defamation set out in articles 180, 181 and 183 of the Criminal Code was somewhat disappointing. In its general comment No. 34, the Committee had recommended that States parties should consider the decriminalization of defamation and had stated that imprisonment was never an appropriate penalty. The European Court of Human Rights, in its ruling in the case of José Manuel Tavares de Almeida Fernandes, and the State party's own Supreme Court, in its decision in the case of

Gonçalo Amaral, had also drawn attention to the need to review that legislation. In the era of strategic lawsuits against public participation, informally known as “SLAPP” suits, whereby corporations reportedly threatened civic actors and journalists with such lawsuits in order to silence them, decriminalizing defamation was a particularly important issue. The Committee would therefore be grateful to hear the delegation’s views regarding any possibility that the State party might reconsider its position.

14. **Mr. Fathalla** said that it would be useful to receive information on any compensation awarded to persons subjected to ill-treatment at the time of their arrest or while in police custody. The Committee was concerned about the lack of publicly available information on the number of asylum seekers being held at the detention centre at the Lisbon airport, and it would appreciate clarification on the legal grounds on which the detention of migrants could be extended for an additional 30 days following the initial allowable 60-day period. The Committee would greatly appreciate it if the delegation could comment on that situation. It would also be useful to hear the delegation’s response to allegations that the provision in Act No. 34/94, whereby migrant detention orders must be reviewed every eight days, was not always observed. Was it true that migrants identified as “irregular” by the police could be detained for a period of up to 48 hours without being brought before a judge? The Committee was concerned by reports that migrants who had served a prison sentence were sometimes detained upon their release under Act No. 23/2007 in preparation for their expulsion. It was unclear why a forced removal or expulsion order was not processed while the person was in prison the first time, which would render a second detention unnecessary. Again, the Committee would appreciate the delegation’s views on the matter.

15. It had been brought to the Committee’s attention that the right to have prompt access to a lawyer upon being taken into custody was not always upheld. It appeared that detained asylum seekers were often not properly informed of their rights because that information was available only in Portuguese and that, on some occasions, asylum seekers had been asked to sign documents written in Portuguese that they could not understand. In addition, the internal rules of detention centres apparently contained no information on disciplinary proceedings or complaints mechanisms. Lawyers were rarely on hand to assist migrants when they were taken into custody because the private operator of the detention centre at Lisbon airport allegedly charged them an entry fee of approximately €12, and State-appointed lawyers in Porto were sometimes unable to gain access to their client’s case files because those files were kept at the location where the person had initially been detained. The Committee would greatly appreciate clarification on those issues.

16. **Ms. Tigroudja** said that, despite the measures taken by the State party to reduce prison overcrowding, it appeared that overcrowding was a structural problem. It would therefore be useful to learn what other additional measures were being taken to address the problem and to provide remedies for persons held in substandard conditions. Additional information was also needed on the health-care services, including mental health services, available to prisoners. The Committee was concerned by the fact that prisoners – including, apparently, minors in detention – could be placed in solitary confinement for up to 30 days. Although the State party had indicated that prison directors were instructed to restrict solitary confinement to 15 days, it was unclear whether that instruction had any binding effect. It was also unclear what measures had been taken to ensure that children were not placed in solitary confinement. The Committee would appreciate clarification in that regard. The delegation was also invited to provide statistics on the total number of persons held in solitary confinement in recent years and on the number of children subject to that measure.

17. **Mr. Quezada Cabrera** said that the Committee would welcome additional information concerning the implementation of the National Plan against Trafficking in Human Beings, in particular statistics on arrests, trials and convictions, and on civil society’s involvement in its formulation. He had noted that the State party had found it difficult to account for the low numbers of complaints and convictions, and he wondered if the general public might not be fully aware of the procedures for filing a complaint regarding human trafficking and that a countrywide awareness-raising campaign might therefore be helpful.

18. The Committee would be grateful for a detailed description of the composition of the Observatory on Trafficking in Human Beings and of its status and role within the

government structure. He also wished to hear what further progress had been made in developing the protocol for the detection of human trafficking activity and for rendering assistance to child victims. Which government bodies would be responsible for its implementation? As the Public Prosecution Service was responsible for upholding the best interests of unaccompanied minors who were seeking asylum, he wondered whether it had been assigned a specific role in the asylum procedure. He also wished to know what measures were taken to protect minor asylum seekers in cases where the authorities discovered that their alleged guardian was actually involved in human trafficking. Could asylum procedures be continued under those circumstances? A description of the conditions in temporary settlement centres and the care provided for minors would be welcome.

19. He would appreciate information concerning any steps being taken to streamline investigations and legal proceedings. He would be interested to learn whether, in addition to the recent amendments of the Code of Civil Procedure, the State party planned to introduce any other amendments to enhance the efficiency of its legal system.

20. **Ms. Pazartzis** said that the Committee was aware of the State party's commitment to the protection of asylum seekers and refugees, and it was to be commended for its participation in European Union and bilateral relocation programmes and agreements. Detailed information on the reportedly exponential increase in the number of asylum seekers entering the State party would be appreciated. The Committee had received reports that overcrowding in reception centres for asylum seekers had led to prolonged periods of detention for many such people, including vulnerable persons, in facilities at the country's borders and to lengthy waiting periods for the processing of asylum applications. She wished to know what measures were being taken by the State party to expedite asylum procedures, which could reportedly take as long as two years in some cases. As the Committee had also been informed that a second reception centre for refugees with a maximum capacity of 90 places had recently been established, she wondered whether the existing facilities were large enough to accommodate the increasing number of refugees and asylum seekers. It was her understanding that in 2018 the Ministry of Home Affairs had decided to undertake an inquiry into conditions in the country's detention facilities. The Committee would appreciate information concerning the outcome of that inquiry.

21. Additional information on the measures taken to prevent statelessness would be welcome. The Office of the United Nations High Commissioner for Refugees (UNHCR) had recently issued a report in which it had identified potential risks of statelessness for certain categories of persons in Portugal, such as persons from former Portuguese colonies in Africa, children born in Portugal to foreign parents whose status was still irregular and children born to Portuguese citizens abroad who failed to register them. Were estimates of the number of stateless persons in the country available? She wondered whether such persons knew which authority to contact in order to apply for citizenship and whether the authorities themselves were able to identify potential applicants.

The meeting was suspended at 11.05 a.m. and resumed at 11.25 a.m.

22. **Ms. Martins** (Portugal) said that the use of force by police officers was governed by a wide range of laws and regulations which emphasized the principles of proportionality, responsibility and appropriateness. The use of firearms was regulated by Decree-Law No. 457/99 and by the internal regulations of the National Republican Guard and the Public Security Police Force. The regulations stipulated that firearms could be used only as a last resort and specified which parts of the body should be targeted in those cases. Whenever firearms were used, the preparation of a detailed report was required for purposes of investigation and assessment.

23. The regulations governing the use of force were fully aligned with international standards and specifically the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. If officers were found to have used force improperly in the ensuing disciplinary proceedings, they could be reprimanded, fined, forced to retire or dismissed. Criminal proceedings that could result in a term of imprisonment could also be brought. In 2019, the Public Security Police Force had instituted 46 disciplinary proceedings dealing with alleged violations of the right to physical integrity, and judicial proceedings had been initiated in 18 cases. In 2018, the National Republican Guard had instituted eight disciplinary proceedings concerning abuse of authority.

24. Pursuant to the pertinent regulations, tasers could be used only by law enforcement officers and members of the armed forces who had special training and accreditation. The use of a taser by a duly accredited member of the security forces must be reported to a senior officer, and the grounds for its use must be specified. There were also strict regulations governing the transport of tasers by officers of the Public Security Police Force. For instance, they had to be placed in special containers, the principle of proportionality had to be respected, and officers had to be aware of the expected impact of electro-muscular disruption devices and be capable of providing assistance to prevent unwanted injuries. There was no record of any disciplinary proceedings concerning their use. Provision was made for continuous training and ongoing monitoring of the use of force in order to address existing challenges in that respect.

25. The regulations governing conditions in detention facilities were fully consistent with the rights enshrined in articles 9 and 14 of the Covenant, and provided for the preparation of a brochure on the rights and duties of prisoners and detainees in a range of languages. All information must be provided in a language understood by the person in question, and interpreters could be made available if necessary. Law enforcement officers had an official list of about 300 translators who mastered 50 different languages and dialects. The regulations also required that a record should be kept of all circumstances pertaining to persons taken into custody, such as the grounds for their arrest, their notification of their rights, any injuries incurred, contacts with friends, families or lawyers, and the date and time of their arrest and release. The record had to be signed by the officers involved and the person in question. The Inspectorate-General of Home Affairs regularly conducted unannounced inspections of National Republican Guard and Public Security Police Force stations throughout the country at all times of the day and night. A total of 220 inspections had been conducted between 2016 and 2019.

26. The Observatory on Trafficking in Human Beings collected quantitative and qualitative data on trafficking from a wide range of government agencies and intergovernmental and non-governmental organizations (NGOs). The sources of such data included the Immigration and Borders Service and the International Organization for Migration (IOM). The Observatory issued three quarterly reports, an annual statistical report and a special report in which updated information on confirmed victims of trafficking was provided. The Observatory was also working with strategic partners to complete the text of a protocol concerning the exchange of information on human trafficking. Many elements of that text had already been drafted, including the section on the specific purposes of the protocol and a set of guiding principles governing interventions involving children in the context of human trafficking. A meeting was to be held later in the month with a view to finalizing the text.

27. **Ms. Marques** (Portugal) said that the Government was currently implementing its fourth National Action Plan to Prevent and Combat Trafficking in Human Beings. Civil society organizations had played a key role in drafting those national plans and assessing their outcomes. The following three strategic areas were the focus of the current plan: raising awareness about the issue of trafficking in human beings; guaranteeing the rights of trafficking victims; and combating organized crime by dismantling trafficking business models and the trafficking chain. Each year, the Government launched a campaign to coincide with European Anti-trafficking Day. Since 2017, €3 million had also been invested by the Commission for Citizenship and Gender Equality to carry out additional awareness-raising activities on human trafficking.

28. **Ms. Lopes** (Portugal) said that, under the provisions of the Regulation on the Use of Means of Control and Restraint, the use of tasers in prisons was authorized as a last resort. Such weapons had been used on only two occasions in Portuguese prisons, both in 2010. The images of the second incident had been posted on social networks and had sparked a great deal of controversy. In response, in 2011 the Minister of Justice had ordered that, for the protection of both prisoners and guards, any subsequent use of tasers in prisons should be filmed.

29. The references to alleged ill-treatment in Portuguese prisons that had been published in a report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had dated from the years 2016 and 2017. Similarly, the complaints about prison conditions in Portugal that had recently been brought before the European Court of Human Rights had also concerned complaints dating back many

years. Although the Government agreed that prison conditions had been unacceptable in the past, appropriate measures had been taken to address the situation. For example, as detailed in the State party's report, a number of legislative measures had been adopted to reduce the size of the prison population. As a result, the number of inmates housed in one of the prisons in Lisbon mentioned in the European Committee's report had been reduced from over 1,000 to approximately 800. All inmates in the country were given a brochure containing general information on the prison in which they were being held. The brochure was available in a number of different languages and included information both on prisoners' rights and on how to lodge a complaint. The numbers of free hotlines were also posted next to telephones in prisons, and inmates could use those hotlines to request help for the submission of complaints from the relevant authorities, including the Inspectorate-General of Justice Services, the Directorate-General for Reintegration and Prison Services and the Office of the Ombudsman.

30. Under national law, prisoners could be held for up to 21 days in solitary confinement as a disciplinary measure. However, to bring such practices into line with international standards, the Directorate-General for Reintegration and Prison Services had recommended that any one period of solitary confinement should not exceed 15 days, and it was therefore only in very serious cases that an individual might be held for longer than that. The Code of Execution of Sentences and Custodial Security Measures did not set out a specific solitary confinement regime for younger inmates. However, in practice, they were treated more leniently. In 2019, there had been only seven cases in which inmates under the age of 21 had been held in solitary confinement and, on each occasion, the punishment had lasted less than 15 days. Updated statistics on the use of solitary confinement would be submitted to the Committee in writing following the meeting.

31. **Ms. Galhardo** (Portugal) said that the Ministry of Justice provided various health-care services in prisons. Between 2017 and 2019, the Ministry had recruited 10 doctors, 90 nurses and 14 psychologists to deliver those services, and plans were in place to recruit nearly 100 more nurses before the end of 2020. In order to avoid a high turnover of staff, the Ministry had recently taken the decision to stop outsourcing the delivery of those services to private companies. In addition to general medical care, which was offered at all prisons, the Ministry of Justice offered specialist health-care services – including services in the fields of psychiatry, psychology, treatment of infections, dentistry and gynaecology – at certain facilities. The Ministry was also responsible for the occupational health and safety of prison staff and for providing them with psychological support. Various health-care services, including specialist therapy, operations, vaccinations and the treatment of addictions, were also available to prisoners at hospitals and health centres run by the Ministry of Health. It should be noted that all inmates, including foreign nationals and migrants in an irregular situation, were exempt from paying health-care fees.

32. A working group had been set up by the Ministry of Justice and the Ministry of Health to identify ways of improving the health care received by inmates. One of the group's initiatives was a new model for the prevention, diagnosis and treatment of infectious diseases that called for the transfer of health professionals from hospitals to prisons. Following the implementation of that model, in June 2019, 430 inmates had been receiving treatment for HIV, 295 inmates had been receiving treatment for hepatitis B and 1,022 inmates had been receiving treatment for hepatitis C. The Government had also been commended by the World Health Organization on its model for the detection and treatment of tuberculosis, while flu vaccines had been administered free of charge to inmates and prison guards by the Ministry of Health since 2018. More recently, a new medical centre had been opened with 40 beds reserved for detainees who were not fit to stand trial, and steps were currently being taken to computerize prisoners' medical histories and prescriptions.

33. **Mr. Ataíde** (Portugal) said that, as far as asylum proceedings were concerned, the Public Prosecution Service intervened only in cases involving minors who were seeking international protection. A series of guidelines had been adopted for identifying and reporting the cases of presumed victims of trafficking, and a human trafficking unit had been established under the Immigration and Borders Service. Special emphasis had been placed on identifying trafficking victims among the children who arrived at the border accompanied by adults who might not be their parents or legal guardians. Strict procedural rules governed how those cases were handled; the minors in question were placed into care while investigations were conducted to clarify the circumstances surrounding their journey

and the nature of their relationship with the adult or adults accompanying them. It was the responsibility of the Office of the Public Prosecutor for the local Family and Minors Court to determine exactly what kind of protection the children required and to identify, with the assistance of the Portuguese Refugee Council, an appropriate institution in which to accommodate them. When it could not be proved that the accompanying adults were the legal guardians of a child, his or her guardianship was generally assigned to the Council.

34. A similar procedure had been adopted to identify other vulnerable persons who arrived at the border. The Immigration and Borders Service carried out initial assessments and referred relevant cases to the Portuguese Refugee Council, which provided appropriate supervised accommodation to anyone presumed to be a victim of human trafficking. The officials responsible for helping people to fill out their requests for international protection received specific training in techniques for interviewing children and vulnerable persons. They were also careful to take into consideration how a person's vulnerability or traumatic experiences might affect his or her ability to provide reliable information. The tools made available to those officials included a manual with guidelines issued by the European Union on the identification of victims of human trafficking.

35. Cases in which foreign nationals did not meet the legal requirements for entering the country, generally because they were not able to supply the required documentation, were referred to a judge within 48 hours who then reached a decision regarding the provision of temporary accommodations. Under national law, applicants for international protection could be housed in specific temporary reception facilities or could be equipped with electronic tags and instructed to report regularly to the Immigration and Borders Service. Applications for international protection were processed within seven days, after which the applicant was informed of the authorities' decision. If international protection was denied, applicants could remain on Portuguese territory for up to 60 days to appeal the decision before the courts, during which time they would be housed at the temporary holding facility.

36. When handling the cases of child asylum seekers, particularly those not accompanied by adults, the Immigration and Borders Service was mindful of its duty to ensure the security of the child while respecting his or her freedoms. By order of the Ministry of Home Affairs of 24 July 2018, minors aged under 16 years who were accompanied by adults could be held in temporary holding centres for no longer than seven days. By law, unaccompanied applicants for international protection aged under 16 years could not be held in temporary holding centres at all. Unaccompanied minors aged 16 years or over could be held in such facilities only where it was in their best interests. Such situations were routinely reported to the Office of the Prosecutor-General and the Family and Minors Court. Certain cases were also referred to the Inspectorate-General of Home Affairs.

37. A new reception centre for asylum seekers had recently been opened to alleviate overcrowding. In the light of the increased number of asylum applications, in 2019 the Immigration and Borders Service had taken steps to recruit additional staff with a view to easing any administrative delays. Persons subject to a removal order could be accommodated in temporary holding centres for a maximum of three months while arrangements for their removal were made. Such cases were exceptional, however, and were often linked to the existence of strong evidence that criminal offences had been committed.

38. **Ms. Pimentel** (Portugal) said that a number of measures had been taken to address prison overcrowding. For example, the practice of ordering weekend detention had been scrapped, while alternatives to the deprivation of liberty, such as house arrest and electronic tagging, had been introduced for sentences of up to 2 years. Additional staff had also been recruited by the police force and the justice system in order to accelerate investigation procedures and reduce the use and duration of pretrial detention. As had been suggested by Mr. Quezada Cabrera, the low reporting and conviction rates for cases of human trafficking might be attributable to a general lack of awareness of trafficking activity. The Government was committed, however, to tackling the issue. As part of its fourth National Action Plan to Prevent and Combat Trafficking in Persons, which covered the period 2018–2021, information-sharing and awareness-raising measures had been launched with the aim of sensitizing the public to the signs and risks of trafficking in persons and increasing

awareness of victims' rights. Hotlines had also been set up to facilitate the reporting of suspected cases of trafficking.

39. **Mr. Tainhas** (Portugal), replying to questions raised by Mr. Fathalla and Mr. Shany, said that, pursuant to article 32 (8) of the Constitution and article 126 of the Code of Criminal Procedure, evidence obtained by means of torture or ill-treatment was inadmissible in court. Although the possible decriminalization of defamation and slander was not a current government priority, there was always scope for revisiting that issue. It should be noted, however, that freedom of expression was considered to be a fundamental right, and only the most serious breaches of the rights to honour, privacy and a good name were treated as criminal offences. In fact, the well-known defamation cases against José Manuel Tavares de Almeida Fernandes, a journalist, and Gonçalo Amaral, a private investigator, had been brought as civil actions. In the former case, *Tavares de Almeida Fernandes and Almeida Fernandes v. Portugal*, the European Court of Human Rights had ultimately found in the journalist's favour, ruling that article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which dealt with freedom of expression, had been breached. In the latter case, the Portuguese Supreme Court had dismissed the libel charges against Gonçalo Amaral. In a similar vein, the Portuguese courts had recently acquitted two journalists charged with defamation (*desobediência*) for having disseminated recordings of police interviews with the former Prime Minister, José Sócrates. That judgment had demonstrated that the rights to freedom of expression and public access to information prevailed over the right to honour.

40. **Ms. Alvarenga** (Portugal) said that unaccompanied minors seeking international protection were housed in reception centres or shelters that were part of the national network for child protection. Two separate procedures were then launched: the first was an administrative procedure for processing their asylum applications, during which a guardian would be appointed to protect their rights; the second was a judicial procedure aimed at promoting and protecting the rights of the minor and ensuring that appropriate support and accommodation were provided. In that context, assessments of the child's physical, psychological and social situation were conducted during which any potential risk factors, such as links to trafficking or criminal networks, were identified. Individual support plans were then drawn up, with the participation of the child concerned. Those plans covered issues such as access to justice and education and took into account the minor's cultural, language and religious identity. Cultural and leisure activities were also arranged in order to facilitate the integration of the minor into Portuguese society.

41. **Ms. Tigroudja**, referring to the 2016 report issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to the State party, said that she wished to know what steps had been taken to ensure that medical examinations of persons deprived of their liberty were conducted in full confidentiality and out of the hearing and sight of prison guards, what action had been taken to prevent inmates from committing suicide and what measures were in place to protect persons with disabilities who were deprived of their liberty. She would also welcome information on the criteria used for the placement of prisoners in high-security prisons and the measures taken to ensure that detained persons had access to complaints mechanisms.

42. **Mr. Shany** said that he wished to know how many reports of the use of tasers in prisons were filed annually. As for the issue surrounding the offences of defamation and slander, he would like to point out that it sometimes fell to the Government to drive legislative change, especially when it came to issues about which international bodies, such as the European Court of Human Rights, had repeatedly raised concerns. He found it troubling that the legal costs associated with private prosecutions were lower than for civil cases, since that could have the effect of encouraging individuals to pursue criminal action, which would have a chilling effect on freedom of expression. He wished to draw the delegation's attention to the Committee's general comment No. 34, on article 19 of the Covenant, in which the Committee urged States parties to consider decriminalizing defamation. He would therefore encourage the State party to reconsider the idea of amending the law so that defamation would be treated primarily as a civil matter.

43. **Mr. Quezada Cabrera** said that he would welcome clarification on the procedures for protecting accompanied and unaccompanied minors seeking international protection and, in particular, minors who had been identified as victims of organized criminal

networks. If he had understood correctly, minors could be placed in shelters or reception centres for a maximum period of seven days. He therefore wished to know what measures were taken to ensure their continued protection once they had left those centres.

44. **Ms. Pazartzis** said that she would appreciate information on the subject of asylum seekers and refugees in general, rather than about the situation of minors in particular, which the delegation could provide in writing. She would also like to know how many stateless persons there were in Portugal and whether any formal procedures for identifying and protecting those persons had been put in place.

45. **Mr. Tainhas** (Portugal) said that, while the Government often drove legislative change, a review of defamation laws was not currently a priority issue. In fact, the concerns raised by the European Court of Human Rights regarding cases of defamation had related specifically to civil rather than criminal cases. Although it was true that the fees for criminal prosecutions were lower than for civil proceedings, a higher threshold of evidence was required for a conviction, which effectively deterred individuals from launching private prosecutions. Moreover, most criminal defamation cases were rejected or dismissed by the courts. In the case of Gonçalo Amaral, the Supreme Court had ruled that the right to information in the public interest prevailed over the right to honour. Progress had therefore been made in that regard, and there had been an overall reduction in criminal defamation prosecutions and an increase in acquittals.

46. **Mr. Ataíde** (Portugal) said that, once an asylum application had been submitted by a minor, the Portuguese Refugee Council and the family courts were informed so that the necessary protection measures could be instituted.

47. **Mr. Lopes da Mota** (Portugal) said it should be pointed out that, in the Portuguese system, the Public Prosecution Service not only dealt with criminal prosecutions but also provided protection for children and young persons and initiated legal action in the defence of legality and the public interest, including in cases involving human rights violations.

48. He wished to thank the Committee for a useful and enriching dialogue. The Committee's insightful comments and questions had helped to highlight the progress made by Portugal in implementing the Covenant and the areas requiring further attention, such as the system of data collection, which the Government was working hard to improve.

49. **Mr. Macieira** (Portugal) said that he wished to reaffirm his country's commitment to the respect and promotion of all human rights and to acknowledge the participation of civil society and the national human rights institution in what had proved to be a constructive dialogue.

The meeting rose at 1 p.m.