

Decree-Law n.° 265/79 of August 1: Enforcement of measures involving deprivation of liberty

Part I Scope

Article 1 Scope

This law applies to prisons that are under the Ministry of Justice.

Part II General principles

Article 2 Aims of the enforcement

1. The enforcement of measures involving deprivation of liberty should aim at reintegrating the inmate into society and preparing him to conduct his life in a social responsible way, without practising crime.
2. The enforcement of measures involving deprivation of liberty should also serve the purpose of defending society by preventing the practice of other criminal acts.

Article 3 Models for enforcement

1. Measures involving deprivation of liberty should be enforced in such a way as to ensure respect for the personality of the inmate and such of his rights and legal interests that are not affected by the sentence.
2. The enforcement of measures involving deprivation of liberty should, as far as possible, follow the conditions that are those of a free life, and negatives consequences of deprivation of liberty should be avoided.
3. In enforcing measures involving deprivation of liberty, situation should not be created that involve serious dangers to the defence of society or to prison community.
4. The enforcement of measures involving deprivation of liberty should, as far as possible, stimulate the participation of the inmate in his own social reintegration, especially in setting up his individual plan, as well as the co-operation of society in achieving such aims.
5. Measures involving deprivation of liberty should be enforced with absolute impartiality, without discrimination based in particular on birth, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation or social condition.

N.B: It is not correct for prison staff to address inmates by "tu" (see Circular N° 61/77, of 13 December)

Article 4 Situation of inmates

1. Inmates enjoy fundamental human rights, save any limitations that result from the sentence or are imposed for the sake of order and security on prison.

2. Inmates should enjoy the right to paid work, to the benefits of social security as well as, if possible, to access, to culture and to the full development of their personality.

N.B: Seeking to reconcile fundamental Human Rights with the requirements of order and security in prison, it was decided that cells and dormitories may be opened during the night only on an exceptional basis and subject to certain formalities, e.g. written record (see Circular N° 6/GDG/97, of 4 August).

N.B: An authorisation is not required for inmates to get married (see Circular N° 74/81, of 18 December).

N.B: Seeking to reconcile the fundamental rights to private life and to confidentiality of relations with doctors with the requirements of order and security in prison, special procedures are in force for prison staff who escort inmates to medical examinations outside the prison (see Circular-letter N° 21/89, of 22 May).

N.B: Procedures allowing inmates to exercise their right to vote are laid down in Circular-letter N° 1/DEP/95, of 12 May)

Article 5 Co-responsibility of inmates

The sense of co-responsibility between inmates should be promoted with respect to matters of general interests to them [...]

Article 6 Arrival at prison

1. The procedure of internment should not, as far as possible, be carried out in the presence of other inmates, especially when such is necessary for the protection of their private lives.

2. Inmates should be informed of any legal and other provisions that may apply to their behaviour, in particular the internal rules of the prison in question.

3. Immediately after arrival, the inmate should be granted the right to inform his family or any person who legally represents him, about his situation; where the inmate cannot so inform, the directors of the prison should do it for him.

4. Inmates should, as soon as possible, be brought to the director; within 72 hours they should be submitted to a medical examination for the purpose of diagnosing any physical or mental abnormality that require special or immediate measures.

5. Upon being interned, inmates should, as far as possible, be assisted in solving their personal urgent problems.

6. In each prison, there shall be a book [...]; with respects to each inmate and in the order of their arrival, the following shall be registered in that book:

a) full name, name of parents, date and place of birth, civil status, address, instruction, profession and any other information relating to his identification;b) day and hour of entry;c) who ordered the internment;d) reasons for the internment;e) person who accompanied the inmate to prison;f) list of belongings that where apprehended

N.B: In order to implement a policy designed to reduce risks in prison, all inmates when entering prison will be given, amongst other cleaning products, two condoms and a small bottle with bleach, which will remain available throughout all the period of imprisonment (see Circular N° 9/DSS/97, of 6 November).

N.B: Inmates with certain professions (e.g. police officers, prison staff, etc...) should serve their sentences separated from other inmates (see Circular N° 3/GA/97, of 11 November).

N.B: Special procedures are laid down for the transfer of foreign inmates to their countries of origin. The request for transfer should be forwarded to the public prosecutor attached to the court that sentenced the person. The re-education services are under a duty to divulge the text of the Convention on the Transfer of Sentenced Persons (see Circular N° 1/94-DCSDEPMS of 21 June and Circular N° 39/93 of 27 August).

N.B: Upon being admitted to prison, foreign inmates must be informed of their right, either to request from the prison director to transmit without delay the news of the imprisonment to the competent consular office, or to proceed themselves to such communication. Rules also exist on the right of consular agents to visit inmates of their nationality (see Circular N° 6/83/DCSDEPMS-4, of 22 February).

N.B: Procedures are laid out for the execution of sentences by way of imprisonment during non-working days (see Circular N° 5/83/DCSDEPMS-3, of 25 February).

N.B: Inmates who have bruises or injuries at the time of admittance should be examined by a doctor and should be heard on the reasons therefor a record shall be kept in writing (see Circular-letter N° 10/92, of 14 May).

Article 7Internment

1. Internment shall not take place unless:

a) upon a written order issued either by a judge, a public prosecutor or the "Polícia Judiciária ", according to the procedural law;b) the person voluntarily shows up for that purpose;c) the person is transferred upon an order issued by the "Direcção-Geral dos Serviços Prisionais ";d) the person is in transit between one prison and another;e) the person is recaptured.

2. Orders mentioned in sub-paragraph a) above must bear the date, must be signed, must include the identification of the person concerned, must state the reasons for the internment and must be delivered in three copies, one of which must be filed in the prison.

3. Where internment takes place upon an order issued either by a public prosecutor or the "Polícia Judiciária" and the person concerned is not brought before a judge within the time period fixed in the law, the governor of the prison shall release the inmate; the order for the release must be in writing; copies must be forwarded to the public prosecutor attached to the "Relação " and to the "Direcção-Geral dos Serviços Prisionais".

4. Where a person voluntarily shows up and declares either that he committed an offence or that a warrant of arrest has been issued against him, that person shall be kept under arrest; a record shall be taken before two witnesses.

Where the case is one of pre-trial detention, the person shall be brought before a judge within a period of 24 hours; where the case is one involving a previous conviction, the "Direcção-Geral dos Serviços Prisionais" must be immediately informed.

5. Internment following transfer require an order to that effect, done in two copies and duly authenticated.

Article 8 Observing with a view to providing treatment

1. Upon admittance, where the part of the sentence that remains to be served is over six months or where the person was sentenced for an undetermined period, the person's personality as well as his social, economic and family milieu must be subject to scrutiny.

2. The purpose of that scrutiny shall be to find out all the circumstances and all the factors that are relevant in order to plan the person's treatment in prison and his social rehabilitation once he is released.

3. The sentencing court must forward a copy of the judgement to the governor of the prison where the person is. The governor may request that the court file be transmitted to him.

Article 9 Plan for the rehabilitation of inmates

1. On the basis of the results of the observing exercise mentioned in Article 8, a plan for the rehabilitation of the inmate shall be prepared.

2. The following, at least, must be included in such a plan:

a) internment under an open or a closed regime;b) placement in an establishment or a section within an establishment;c) work, training and improvement in professional skills;d) schooling;e) participation in formative activities;f) leisure activities;g) special measures for assistance or treatment;h) measures aiming at flexibility in the execution;i) measures for preparing release.

3. In the course of the execution of the sentence, the plan for the rehabilitation must be modified so as to adapt to the progress observed in the inmate and other relevant circumstances.

4. For the purposes of § 3, the plan, if possible, shall provide for adequate time schedules.

5. The inmates shall always be kept informed of the plan and changes thereto.

N.B: An individual re-adaptation plan must be made with respect to all inmates sentenced to a relatively undetermined sanction (see Circular N° 13/84/DCSDEPMS-10, of 9 April).

N.B: A mandatory model for the record of visiting inmates was decided upon (see Circular-letter N° 1.5/508-733, of 28 November).

N.B: Procedures are laid down aimed at insuring that the information made available to the President of the Republic, for purposes of pardon and commutation, is updated (see Circular N° 5/GDG/98).

Article 10 Provisional distribution of the inmates

1. While the plan is not defined, the inmates shall provisionally be distributed among different establishments, account being taken of their sex, age, physical and mental health, life experience and situation.

2. Where the inmate is not declared incapable but he manifestly shows that, because of the mental handicap affecting him, the regime in a common prison might entail damage to him, or else he might disrupt such a regime, the court may order the internment of that person in an establishment designed for incapacitated persons and that for as long as the execution of the sentence lasts.

3. Internment as mentioned in § 2 may only take place upon the consent of the person concerned. 4. Inmates shall be placed back into a common prison, as soon as the circumstances described in the preceding paragraphs cease to exist.

5. In the cases mentioned in §§ 2 and 3 above, the regime should as far as possible follow the pattern of the regime for other inmates with the limitations imposed by placement in such establishments.

Article 11 Criteria for placement

1. The placement of inmates in the different prisons should take into account the sex, the age, the legal situation (remand, sentenced, first-timer, recidivists), the length of sentence yet to be served, physical and mental health, special treatment requirements, location of family residence, security, as well as reasons pertaining to education or work that might be relevant for his social re-integration.

2. The placement of inmates in the different prisons should also take into account the possibility of carrying out a program for common treatment, as well as the need to avoid negative influences.

Article 12

1. Total separation of inmates should be promoted, according to sex, age and legal situation, in different prisons or, where that is not possible, in different sections of the same prison.

2. Separation between first-timers and recidivists should be promoted.

3. For the purposes of § 2, recidivist means any inmate who has previously served a sentence involving deprivation of liberty.

4. Exceptions to the provisions of the preceding paragraphs will be admissible for the purpose of making it possible to the inmate to participate in a treatment considered indispensable for his social re-integration.

Article 13 Transfers

1. Inmates may be transferred to a prison other than the prison scheduled in the individual plan of re-integration if that may assist in treatment or may favour social re-integration or for reasons relating to the organisation of enforcement or else when major reasons so justify.

2. Where there is no individual plan of re-integration, inmates may be transferred to an appropriate prison [...]

3. The "Direcção-Geral dos Serviços Prisionais" shall be empowered to decide on transfers, as mentioned in §§ 1 and 2; reasons for the decisions shall be given; the decisions shall be carried out with discretion.

N.B: Inmates should remain at least one year in the prison where they were placed (see Circular-letter N° 17 9111-25/84, of 7 December).

Article 14 Opened and closed prisons

1. Inmates who do not meet the requirements mentioned in § 2 ahead shall be placed in a closed prison.

2. Subject to their consent, inmates may be placed in an opened prison or in an open section of a prison where there are no reasons to fear that he will either abscond or commit crimes.

3. Inmates may also be placed in a closed prison or be transferred back to a closed prison when such is necessary to their treatment or when their behaviour shows that they cannot meet the requirements of an open prison.

4. Internment in a closed prison is enforced in safety conditions that prevent inmates from absconding.

5. Internment in an open prison is enforced in such a way that measures aimed at preventing inmates from absconding are either totally or partially non-existent.

Article 15 Preparation for release

1. In order to prepare the release of inmates:

a) Inmates may be transferred to an open prison or an open section of a prison; b) The measures provided for in Article 58 may be applied; c) Inmates may be authorised to leave, unattended, the prison for a maximum period of 8 days during the 3 last months of the sentence; d) Inmates who work or attend classes outside the prison, may be authorised to leave, unattended, the prison for a maximum period of 6 days (continuously or not) per month during the 9 last months of the sentence.

2. Inmates sentenced to more than 6 years who have not yet being conditionally released shall be granted the privilege mentioned in § 1 d) as soon as they will have served 5/6 of their sentence

Article 16 Time of release

1. Inmates should always be released in the morning of the last day of their sentence.

2. Where the last day of their sentence is either a Saturday, a Sunday or a public holiday, the inmate should be released in the working day immediately before, when the length of the sentence so justifies and where reasons of assistance do not call for a different solution.

3. When the reasons mentioned in § 2 so allow and when the national holiday in question is the 25th of December, the inmate should be released in the morning of the 23rd of December.

4. The time of released may be advanced up to a maximum of 2 days when serious reasons relating to the social re-integration of the inmate so required.

5. The provisions of the previous §§ that go against substantive law shall enter into force only when such law so permits.

Part III Accommodation, clothing and food

Chapter I Accommodation

Article 17 Place of work and leisure

1. Leisure activities, work activities, training activities, as well as ergotherapy activities are carried out in common.

2. Restrictions to carrying out in common the activities mentioned in § 1 may however be imposed:

a) if there is a risk of them having a negative influence;b) during the period in which the personality of the inmate is being observed, as mentioned in Article 8;c) if order and security in prison so obliged;d) if the inmate consents

3. The director of the prison may issue specific instructions concerning the participation in collective activities having regard to the dimension, the organisation and the staff of the prison.

4. The limits mentioned in § 2b) may not exceed a period of 2 months.

Article 18 Lodging

1. Inmates are lodged in individual rooms.

2. Each prison should have premises for restricted groups of inmates to be used when the needs relating to observing inmates so required or when the physical or mental state of any inmate so requires because of any danger to his life or else when any occasional over crowding so requires.

3. In open prisons common lodging is allowed subject to the consents of the inmate and if there is no risk of negative influence; common lodging may never be restricted to only inmates.

4. In close prisons, beyond the cases mentioned in § 2 above, common lodging may only be authorised on a temporary basis and for serious reasons.

N.B: Cf. notes to Articles 4 and 6.

Article 19 Decoration of the rooms and personal belongings

1. Inmates may decorate their rooms with personal objects, within reasonable limits.

2. For the purposes of § 1 above, photographs of the spouse and members of the family as well as personal souvenirs will be authorised, without prejudicing the provisions of Article 119 § 3.

3. Any machines or objects that hinder or avoid the visibility into the room or that otherwise endanger the safety or the security of the prison, may be withdrawn.

Chapter II Clothing and personal care

Article 20 Clothing

1. The inmate must wear the uniform of the prison; special clothes may be provided to the inmates for their free time.

2. The uniform of the prison must not, in any way, have a degrading or humiliating nature.

3. Clothes should be kept in good care and clean; they should be changed and washed regularly in order to meet the requirements of hygiene and life in general.

4. Clothes provided to inmates should be adapted to the seasons and to their activities.

5. When for reasons of hygiene it is necessary to destroy the inmates clothes at the time of his internment, the fact must be registered.

Article 21 Clothes belonging to the inmate

1. The director of the prison may authorise the inmates to wear their own clothes provided that they bear the expenses of up-keeping and cleaning.

2. The director of the prison should authorise the inmates to wear their own clothes during their outings, unless there is a risk of absconding.

Article 22 Bedding

Each inmate has the right to an individual bed as well as bedding equipment, kept and changed as necessary in order to meet the requirements of hygiene and life in general.

Article 23 Personal hygiene

1. Inmates must have access to proper and sufficient use of toilets and bathing facilities, as well as any accessories necessary for their personal hygiene, without prejudice to the provisions of Article 119 § 3.

2. Each prison must provide periodical facilities for cutting hairs and shaving.

3. Only for reasons of hygiene may the inmates be compelled to have their hair cut and to shave. 4. In special cases, inmates may be authorised to use a personal electric shaver.

5. For the purposes of § 1 above, prisons must be equipped with toilets as well as bathing facilities with hot and cold water.

N.B: Cf. notes to Article 6.

N.B: Prizes may be given to inmates as a reward for the state of their rooms (see Circular N° 12/84/DEE-1, of 27 January).

Chapter III Food

Article 24 Food

1. The "Direcção-Geral dos Serviços Prisionais" must provide the inmates, at proper hours, with meals properly prepared and presented in accordance with the rules of modern dietetics and

hygiene, both with respect to quantity and quality, having into consideration the age and the nature of the work produced by the inmates, the season of the year and the climate.² The ingredients and the nutritional value of the meals will be controlled.³ Special food must be provided when medical reasons so require.⁴ As far as possible, rules relating to food that are imposed by the philosophical or religious beliefs of the inmates will be respected.⁵ Each inmate must at any time have access to drinking water.

Article 25 Preparation of food

Food may either be prepared in prison or be acquired to any other public or private entity, in accordance with the law.

Article 26 Food prepared out of prison

1. As a general rule, inmates may not receive food prepared out of prison.² The provisions of § 1 do not apply to fruit, cakes, and other small gifts, provided that the internal prison rules are respected.³ The director of the prison may authorise the inmates to receive food prepared out of prison when it is not possible to conform both the provisions of Article 24 § 4.4. The packets arriving at the prison that contain food authorised to enter the prison must be opened either in the presence of the inmate or in that of the carrier; in case any food should be rejected, the latter should decide on what to do with it.

Article 27 Authorised acquisition of food and products for hygiene

1. Inmates may acquire in reasonable quantities both food and products necessary for their hygiene, paying with their pocket money or, where authorised, with money from the fund.² For the purposes of the § 1, if possible, each prison should be equipped with a canteen offering what adequately responds to the needs and wishes of the inmates.³ The object mentioned in § 1 may be withdrawn if they endanger the security or the order of the prison.⁴ Upon medical advice, the acquisition of certain kinds of food may be prohibited, totally or partially, to certain inmates if they constitute a serious menace to their health.⁵ The acquisition of certain kinds of food may be prohibited or limited with general effects in prison hospitals or in section of prisons used for sick inmates.

Article 28 Prohibition of alcoholic beverages

Inmates may not use alcoholic beverages except wine and beer, the consumption of which may be authorised in quantities and according to the prison's internal rules

Part IV Visits and mail

Chapter I Visits

Article 29 Main principle

1. Inmates have the right to contact persons outside the prison, in accordance with the law.2. The contact of inmates with persons outside the prison, in particular the spouse and members of the family, should be promoted.

Article 30 Right to receive visitors

1. Inmates may regularly receive visitors; duration of authorised visits must be in excess of one hour per week.2. Visits that assist in the inmate's treatment or in his social re-integration, or that are necessary to solve personal matters, legal or economic that may not be solved by letter or by third parties, or may not be adjourned until release, should be authorised.3. Visitors may be searched for safety reasons.4. The prison's internal rules will include detailed norms on these matters.5. Persons not yet having attained the age of 16 may not visit inmates save if they are their children or grand-children or brothers or sisters, or upon special leave.

N.B: Searches in respect of visits will mainly be made on the inmates, not so much on the visitors (see Circular-letter N° 36/90, of 21 December).

Article 31 Prohibition to receive visitors

Prison directors may prohibit visits by persons who might endanger the security and order of the prison, or have a negative influence on the inmate, or hinder his social re-integration.

Article 32 Visits by advocates and notaries

1. Visits by defence counsels, notaries and other lawyers aimed at taking care of legal business of the inmates', will be authorised.2. In exceptional circumstances, when there are grounded reasons to think such persons intend to hand over to the inmate objects that he must not receive, having into consideration his particular dangerousness, the visits of such persons might be subject to a search.3. The contents of written texts and other documents that the defence counsel carries with him will not be controlled.

Article 33 Visits in non-statutory days and hours

When the visits by advocates and other persons are considered of an urgent and legitimate interests, the prison director may authorise them during non-statutory days and hours.

Article 34 Supervision of visits

1. Visits may be supervised for reasons pertaining to the inmate's treatment or to the security and order of the prison.2. Control of the conversation may only be made when justified by the reasons mentioned in § 1.

Article 35 Supervision of visits by advocates and notaries

Visits of lawyers and notaries, as mentioned in Article 32, as well as visits by other persons wishing to deal with confidential matters in particular the matters mentioned in Article 30 § 2,

should take place in premises earmarked for that purpose and in such a way that they cannot be overheard by the supervisor.

Article 36 Discontinuation of visits

1. Visits may be discontinued where either the visitor or the inmate, notwithstanding previous warning, infringes the provisions of this law, or the internal rules, or instructions given. 2. There will be no warning where it is indispensable immediately to discontinue the visit. 3. The supervisor who discontinues a visit according to the provisions of § 1, must immediately inform the director who is empowered to confirm or not his decision.

Article 37 Handing over of objects during visits

1. Handing over of objects during visits shall not be possible unless in exceptional cases duly authorised. 2. The provisions of § 1 shall not apply to visits by the defence counsel in respect of written material and other documents that he carries with him; they shall neither apply to visits by lawyers and notaries in respect of written material and documents that it is necessary to hand over to the inmate for reasons relating to matters of a legal nature.

Article 38 Visits to foreign inmates

Upon previous authorisation from the Ministry of Justice, foreign and stateless inmates may receive visits by diplomatic or consular authorities or any other national or foreign authorities whose mission it is to protect their interests.

N.B: The rules that apply to visits by lawyers, in particular concerning time schedule, searches and place of visit, will equally apply to visits by diplomatic officials (see Circular N° 27/88/DCSDEPMS-19, of 12 September).

N.B: Great understanding is recommended in respect of visits by foreign communities to their compatriots (see Circular N° 23/86/DCSDEPMS-16, of 30 October, which also deals with mail written in unknown languages).

N.B: Visits by consular officials to foreign inmates do not require previous authorisation by a higher authority; the prison director should inform the consular authorities about the conditions under which they may visit inmates; foreign inmates are informed about the practical possibilities of communicating their situation to their consulates (see Circular N° 6/83/DCSDEPMS-4, of 22 February).

Article 39 Especially authorised visits

1. The following may visit any prison:

a) the President of the Republic, ministers and persons who accompany them; b) lecturers of criminal law; c) high officials of the institutes of criminology; d) persons especially authorised by the Minister of Justice or by the Director General of the prison services.

2. Prison directors may exceptionally authorise visits for humanitarian or scientific reasons when the urgency of the matter did not allow a previous request to the Minister of Justice or the Director General of the prison services.3. The persons mentioned in § 1b) may be accompanied by their pupils; however in such cases the date and time of the visit must be fixed in agreement with the prison director.

Chapter II Mail

Article 40 Right to receive and send out mail

1. Inmates shall be entitled to receive and send out mail, in conformity with the provisions of the following Articles.2. Prison directors may prevent an inmate from corresponding with a given person where such correspondence might endanger the order or the security of the prison or where it might have a negative influence on the inmate or hinder his social rehabilitation.3. The prison services should do their best to make stationary available to inmates.

N.B: All the provisions of chapter II that concern mail should be read in the light of Circular N° 3/94/DEP/1, of 11 November, which aims both at the uniformisation of procedures and the harmonisation of the provisions of this law with the constitutional provisions on fundamental rights. It provides, concerning control and retention of mail, the following:

a) control for the purpose of detecting illegal objects is done by way of the mail being opened by the Supervision Service in the presence of the inmate;b) mail may only be read where there is suspicion of an offence or justified reasons of order and security; the director may then decide that the mail should be read; the decision is notified to the inmate; the mail is read by the Education Service; a written record will be kept; the text of the mail may not be crossed out, erased or deleted; in respect of mail written in unknown languages see Circular N° 23/86/DCSDEPMS-16, of 30 October;c) mail between the inmate and his lawyer as well as identified public authorities such as the Ombudsman, the European Court of Human Rights, the President of the Assembly of the Republic, the Prime Minister, consular and diplomatic authorities, the judge of the court of execution of sentences, the Director General of the "Direcção-Geral dos Serviços Prisionais", is not subject to any control.

N.B: For instructions on how to proceed in situations where the inmate refuses to receive the mail and where the mail must be forwarded, see Circular N° 5/GDG/96, of 6 December.

Article 41 Illiterate inmates' mail

Mail concerning illiterate inmates or inmates who cannot read or write may, at their request be written and/or read by members of the prison staff or volunteers appointed by the prison director.

Article 42 Supervision of mail

Mail written by or addressed to inmates must be duly supervised and censored by a member of the staff appointed by the prison director.

Article 43 Retention of mail

1. Prison directors may retain mail written by or addressed to inmates where such mail:

a) endangers the purposes of the execution of the sentence, or the order or the security of the prison; b) contains deliberately incorrect reports or reports substantially different of the reality, concerning the conditions in the prison; c) endangers the social rehabilitation of any other inmate; d) is written in coded form, is unreadable, is incomprehensible, is written in an unknown foreign language, without reason.

2. Where an inmate insists in sending out mail covered by the description in § 1b), an attachment may be joined. 3. Inmates must always be informed of any retention of mail concerning them. 4. Retained incoming mail may be returned to sender or, should that not be possible or practicable, it shall be filed with the inmate's personal file. 5. Retained outgoing mail shall be filed with the inmate's personal file. 6. Written material the supervision of which is not authorised by the law, must not be retained. 7. The provisions of Articles 138 to 151 shall apply to the cases covered by this Article.

Article 44 Dispatch and reception of mail

1. The inmates' mail shall be dispatched and received through the prison, unless otherwise established. 2. Mail received at or dispatched from prisons must be routed without delay. 3. Costs of dispatching mail should be borne by the inmates.

Article 45 Use of information

1. Any person who, in conformity with the law, has access to any inmate's mail shall be under a duty to keep that information secret. 2. Information obtained during the supervision of visits and mail shall not be used unless:

a) it is strictly necessary in order to safeguard the order and security of the prison, or to prevent the commission of offences; b) It is necessary for reasons pertaining to the inmate's treatment, after him having been heard.

3. The information mentioned in § 2 shall neither be transmitted to staff involved in the execution of the sentence, nor to the courts, nor to the competent authorities, unless in order to prevent or to hinder the commission of offences.

Article 46 Mail submitted to authorities

Any Court in which proceedings are pending against an inmate, the judge or the authority in charge of the investigation as well as the public prosecutor may require that the inmate's incoming and outgoing mail be submitted to them.

Article 47 Violation of the rules concerning mail

Where an inmate does not comply with the rules concerning mail, he is liable to disciplinary responsibility without prejudice to criminal responsibility, in which case the original shall be forwarded to the public prosecutor.

Article 48 Telephone and telegram

1. Inmates may be authorised to make telephone calls and dispatch telegrams, at their own expense, especially when the purpose is to contact the family. 2. The provisions concerning visits and mail apply, *mutatis mutandis*, to telephone calls and telegrams.

Part V Prison leave

Chapter I Common principles

Article 49 Powers to authorise leave

1. The judge of the court of execution of sentences shall be empowered to grant and withdraw authorisation for leave of long duration. 2. Granting of authorisation for leave of long duration may be made subject to consultation with authorities other than prison authorities. 3. The "Direcção-Geral dos Serviços Prisionais" and prison directors shall be empowered to grant any other authorisation for leave.

Article 50 Requests for prison leave

1. Prison leave does not constitute a right of inmates. When deciding on requests for prison leave, the following shall be taken into consideration:

a) the nature and seriousness of the offence; b) length of the sentence; c) eventual danger for society in case of lack of success; d) family situation of the inmate and social atmosphere; e) evolution of the personality of the inmate throughout the execution of the sentence.

2. Authorisation for leave shall only be granted with the inmate's consent, save the cases mentioned in Articles 62 and 62-A. 3. Inmates on prison leave must carry information concerning their situation. 4. Authorisation for leave may be conditional on a case by case basis.

Article 51 Alternatives for prison leave

Where the atmosphere in the inmate's family is not suitable for the latter's leave, the prison administration may authorise the inmate's sojourn in a private or official home; it may also develop other alternatives for such situations.

Article 52 Refusal of authorisation for long prison leave

Authorisation for long prison leave shall be refused to:

a) remand inmates;b) inmates serving sentences of less than six months;c) inmates on semi-detention;d) inmates placed in centres for accelerated vocational training;e) inmates placed in high security prisons.

Article 53Withdrawal of authorisation for long prison leave

1. Where the inmate does not return to the prison within the time given to him and is unable to justify the situation, the authorisation for leave shall be withdrawn.2. Where the conditions attached to the authorisation are not complied with, authorisation may be withdrawn or otherwise the inmate may receive a warning.3. Withdrawal of the authorisation does not preclude the inmate's criminal responsibility.4. Once the authorisation for long prison leave is withdrawn, the time spent by the inmate out of prison is not taken into consideration for purposes of the calculation of the time spent in prison; no other prison leave may be authorised within the next year.

Article 54Calculation of time

1. The time spent by the inmate out of prison during long prison leave shall be taken into consideration for purposes of calculation of time spent in prison, save the provisions of § 4 of Art. 53.2. The time spent by the inmate out of prison during short prison leave shall be taken into consideration for purposes of calculation of time spent in prison, save if the inmate does not return in time.

Article 55Refusal

1. Refusal to authorise leave must in no case be assimilated to a disciplinary measure.2. As far as possible, inmates should be given reasons for the refusal of authorisation for leave.

Article 56Costs

1. Costs deriving from prison leave shall be borne by the inmates. To that effect the available fund, the reserve fund as well as any other adequate fund may be used.2. When the inmate can not bear with the costs, the prison administration may participate totally or parochially in the travelling expenses.

Article 57Collaboration of society and evaluation of results

1. In matters pertaining to prison leave, co-operation of social organisation should be sought.2. Authorisations for prison leave as well as their results should, as far as possible, be made public through the media in order to prepare public opinion for accepting such methods.3. The results mentioned in § 2 should be the subject of criminological and penological studies.4. As far as possible, authorisations for prison leave should be part of a global plan.

Chapter IIPrison leave from open prisons and open sections

Article 58Flexibility

1. In order to render more flexible the execution of sentences involving deprivation of liberty, in particular with respect to re-establishing relations with society in a general and progressive way, inmates in open prisons and open sections may be authorised, by the "Direcção-Geral dos Serviços Prisionais" and upon the prison director's proposal, to:

a) leave the prison, with or without escort, in order to work or to go to a school or to a training centre;b) leave the prison during certain hours of the day with or without escort.

2. Flexibility measures may only be authorised where there is no risk that the inmate may abscond or offend, and there is no serious risk for public order and security, and there is no danger for the goals of general and special prevention that a proper to the execution of prison sentences.

N.B: Circular N° 8/98 of 31 December clarifies matters relating to leave.

Article 59 Long prison leave

1. Long prison leave may be authorised for a maximum of 16 days per year, to inmates placed in open prisons and open sections as soon as they will have served six months or one quarter of the sentence, whichever is shorter.2. First-timers may be granted long prison leave as soon as they will have served two months.

Article 60 Short prison leave

Inmates placed in open prisons and open sections may be authorised by the prison director to leave the prison once every three month, for a maximum period of 48 hours.

Chapter III Prison leave from closed prisons and closed sections

Article 61 Long prison leave

1. Long prison leave may be authorised for a maximum of 8 days, to inmates placed in closed prisons or closed sections serving a prison sentence of at least 6 months, as soon as they will have served one quarter of the sentence.2. The provisions of § 1 shall apply to inmates placed in closed prisons or closed sections serving a sentence that imposes a measure of at least 6 months, as soon as they will have served 6 months.3. For the purposes of § 1, where the duration of the sentence is relatively undetermined, one quarter of the sentence will be measured against the sentence applied to the most severely punished offence.4. The authorisations mentioned in this Article may be cancelled every 6 months.

Chapter IV Prison leave for special reasons and prison leave in anticipation of release

Article 62 Prison leave for special reasons

1. Regardless of whether the inmate consents or not, the "Direcção-Geral dos Serviços Prisionais" may decide that the inmate must temporarily leave the prison, under escort, when

such is necessary for special reasons, in particular when the inmate should receive medical care that is not available in prison and when the inmate must absolutely execute an act which cannot be executed in prison.² Where the decision mentioned in § 1 represents an inadmissible violation of the inmate's legal sphere, it cannot be taken without the inmate's consent.³ Such a decision can neither be taken when it would manifestly imply an abuse of power.

Article 62-A Appearance in court

The "Direcção-Geral dos Serviços Prisionais" may authorise inmates to leave the prison, under escort, for not more than 12 hours, when they must appear in court or for any other justified reason, in particular serious family or professional reasons that are not incompatible with public security and order.

N.B: Prison directors are empowered to decide on requests to leave prison, except with respect to particularly dangerous inmates (see Circular N° 5/94/DCSDEPMS/4, of 21 November).

N.B: It is possible for staff escorting inmates to funerals not to use uniforms (see Circular N° 28/88/DCSDEPMS-21, of 11 October and Circular N° 5/94/DCSDEPMS/4, of 21 November).

Article 62-B

Upon the prison director's proposal, the "Direcção-Geral dos Serviços Prisionais" may authorise inmates to leave the prison in anticipation of release, in conformity with the provisions of Article 15, sub-paragraphs b), c) and d).

Part VI Work, education and training

Chapter I Work

Article 63 General principles

1. Work, education and training, as well as ergotherapeutic activities in prison, mainly aim at creating, keeping and developing in inmates the ability to carry out an activity that allows them to earn their normal living after release, facilitating their social rehabilitation.² Work shall not be of a degrading nature and inmates shall not be allocated tasks that are either dangerous or unhealthy.³ As far as possible, inmates shall be provided with work that is economically productive.⁴ Inmates who have aptitude to work and who so consent, should be given the possibility to attend training and instruction courses, to change profession and to participate in other forms of instructional and training.⁵ Inmates who have aptitude to work, where it is not possible to provide them with an economically productive activity and when his participation in the activities mentioned in § 4 is also not possible, should always be given an occupation adapted to his situation.⁶ Inmates to whom it is not possible to provide an economically productive activity or any other useful activity, should be given an ergotherapeutic activity.⁷ Within limits compatible with a rational occupational selection and without prejudice to the security and order of the prison, the choice of the work should take in consideration:

the physical and intellectual ability of the inmate;- the occupational ability of the inmate;- the wishes of the inmate;- the duration of the sentence;- the activities previously exercised by the inmate;- the activities that the inmate is liable to exercise after release;- the influence that the work might have on the inmate's social rehabilitation.

Article 64 Duty to work

1. Inmates are under the duty to perform the work and other activities adapted to their situation, as assigned to them, having into consideration their physical and mental state checked by a doctor, as well as their learning needs at the different levels. 2. Inmates may be obliged to perform ancillary services in prison up to 3 months per year or, upon their consent, for a larger period. 3. Inmates over 65 years of age as well as pregnant women and women having recently given birth, may be exempted from work in accordance with the law concerning work in general. 4. Work for private entities is subject to the consent of the inmate.

Article 65 Similarity with work outside the prison

1. In order to prepare inmates for normal working conditions in free society, the organisation and the methods of work in prison should be as close as possible with those of similar work performed outside the prison. 2. In order to encourage inmates to work, their participation in the organisation and methods of work in prison should be stimulated. 3. Work, education and training should not be tributary to the aim of obtaining an economic gain.

Article 66 Free work and self employment

1. Without prejudice to the provisions of Article 50 § 1, inmates placed in open prisons or open sections should be authorised to work or to follow education or training courses outside the prison, as free workers, where, having into consideration the individual rehabilitation plan, that is likely to contribute to creating, keeping or developing in the inmate the ability to perform an activity to earn a normal living after release. 2. The authorisation mentioned in § 1 may be withdrawn where the inmate does not comply with the instructions given to him or where he abuses or where new circumstances so require. 3. Inmates may be authorised to engage in self employment. 4. Authorisations as mentioned in §§ 1 and 3 above may only be granted when not prevented by priority reasons relating to the execution of the sentence. 5. The prison administration should receive directly the inmate's salary and deposit it in his account.

Article 67 Organisation of work

1. Inmates are ensured work at the prison's workshops and farms, where necessary work can be ensured with the assistance of public or private enterprises or organisations. 2. Inmates who work for public or private enterprises or organisations remain under the control of the "Direcção-Geral dos Serviços Prisionais". 3. Inmates who work for public or private enterprises or organisations should be paid a normal salary according to the nature and efficiency of the work performed. 4. Inmates who voluntarily work for a private entity shall be entitled to the same salary as that of a free worker; they shall follow the general regime of social security. 5. Supervision is ensured by the staff in charge of the execution of sentences involving deprivation of liberty.

Article 68 Conditions of work

1. Security and hygiene in work must be organised according to the same conditions as those granted to a free worker. 2. With respect to accidents and sickness relating to work, inmates must be entitled to such rights as those of a free worker. 3. Duration of work must be such as that defined for free workers or, if justified, as defined according to local uses and customs. 4. Weekly rest and holidays, as well as the time needed for education and for activities aimed at the inmate's social rehabilitation must all be respected.

N.B: The application to inmates who suffer accidents at work of the general rules concerning accidents at work is dealt with in Circular N° 20/85/DSET/1, of 11 March).

Article 69 Exemption of the duty to work

1. Inmates who have performed over a period of at least 1 year any of the activities mentioned in Article 63 may request to be exempted from the duty to work for a period of 20 working days while keeping their right to the salary at the level of their last pay. 2. If, during a year, the inmate, for reasons of health duly substantiated, could not work during any period or periods of 30 days, he shall not for that reason lose the right to the salary. 3. The duration of prison leave shall be deducted from the period of exemption of the duty to work unless the prison leave was authorised for the reasons mentioned in Article 62.

Article 70 Co-operation of society

1. The authority in charge of execution, in co-operation with associations and centres of free economic and work life, should seek to obtain that each inmate able to work may carry out an economically productive activity; they should see to it that the inmate is advised through such associations and centres. 2. For the purposes of § 1, and in order to find a job for the inmates after their release, assistants may also be sought from the ministries of education, scientific research and work.

Chapter II Remuneration

Article 71 Remuneration

1. Inmates must be paid a fair remuneration for their work. 2. The Ministry of Justice, upon advice of the "Direcção-Geral dos Serviços Prisionais", is entitled to fix the amount of the remuneration of inmates; that amount will be calculated on the bases of the salaries of free workers, on the nature of the work and on the professional qualification and will have into account the costs of internment. 3. By costs of internment it is meant the expenses concerning the premises, the food, the clothes and the services. 4. Remuneration may be reduced as much as 75% when the output of the inmate's work is below normal levels. 5. The Ministry of Justice, upon advice of the "Direcção-Geral dos Serviços Prisionais", is entitled to fix the amount of the remuneration of inmates for the exercises of ergotherapeutic activities; that amount will be calculated according to the nature of such activities. 6. Inmates must be informed in writing of the

remuneration attributed to them; when the inmates cannot read the communication or do not wish to read it, it should be read out to them.

Article 72 Partition of remuneration

1. Where the inmate does not have a family entitled to maintenance and is not under any financial duty deriving from the sentence, his remuneration is apportioned in equal parts to a reserve fund and to an available fund. 2. Where the inmate has a family entitled to maintenance and is not under any financial duty deriving from the sentence, half of his remuneration is apportioned to his family and the other half is apportioned in equal parts to a reserve fund and to an available fund. 3. Where the inmate does not have a family entitled to maintenance but is under a financial duty deriving from the sentence, half of his remuneration is apportioned to the payment of such financial duties and the other half is apportioned in equal parts to a reserve fund and to an available fund; amongst financial duties deriving from the sentence, compensation of the victim takes precedence over the payment of fines and the payment of fines takes precedence over the payment of court costs. 4. Where the inmate has a family entitled to maintenance and is under a financial duty deriving from the sentence, half of his remuneration is apportioned to his family; one quarter of his remuneration is apportioned to the available fund; one eighth of his remuneration is apportioned to the reserve fund; one eighth of his remuneration is apportioned to the other duties. 5. Compensation of the victim shall only be deducted from the remuneration at the victim's request. 6. Inmates may be authorised to spend the money in the available fund on the acquisition of personal belongings, with their family or with other permitted purposes.

Article 73 Alternative apportionment

The Ministry of Justice may fix a minimum level for the reserve fund and the available fund; it may also authorise in exceptional and well founded cases an apportionment other than that mentioned in Article 72.

Article 74 Available fund

1. Yield of the capital obtained by way of compensation for accidents at work in prison will be credited in the available fund. 1. The prison director may decide on the use of the available fund as he deems fit.

Article 75 Remuneration not to be taken as security

1. The inmate's remuneration as well as any allowances paid to him for purposes of education or training may not be taken as security; they may however be taken for the payment of compensation for acts committed wilfully or for the payment of compensation to the State, the prison staff or any other inmate. 2. Any amounts that are necessary in order to meet payments as mentioned in § 1 may only be taken from the available fund.

Article 76 Pocket money

1. Inmates who do not work because of their age or handicap will receive a fixed amount of money for miscellaneous expenses.2. The provisions of § 1 shall apply when it is not possible to remunerate ergotherapeutic activities.

Article 77Money for the period of transition

1. The reserve fund should serve the purpose of facilitating the social rehabilitation of the inmate; it is handed over to the inmate at the time of his release.2. The prison administration may authorise that the reserve fund be used with expenses useful for the social rehabilitation of the inmate; at the inmate's request, the prison administration may authorise that the reserve fund be used for the purpose of meeting urgent needs of the inmate's or his family's.

Article 78

(Repealed: cf. Article 4 of Decree-law No 49/80 of 22 March)

Chapter IIIVocational training

Article 79Vocational training

1. Courses should be organised aimed at offering vocational training to the inmates, either to improve their skills or to create new skills; such courses should aim in particular at inmates aged 25 or below.2. Co-operation of the ministries of education, scientific research and work may be sought for the organisation of the courses mentioned in § 1.3. Participation in the courses mentioned in § 1 may be assimilated to working hours.4. Inmates who do not work and who participate in the courses mentioned in § 1 will be entitled to an allowance, save where they already receive other allowances or grants for the same purpose; the amount will be fixed by the Ministry of Justice.

Part VIIIEducation

Article 80Mandatory schooling

1. Courses should be organised aimed at ensuring mandatory schooling to inmates who have not obtained their certificate and who have the necessary aptitude.2. Inmates aged 25 or below who cannot correctly read, write or count will be provided with education as necessary in order to cope with such difficulties.3. Special courses will also be organised for illiterate inmates.4. As far as possible, access of inmates to education courses provided by mail, radio or television, will be facilitated.

Article 81Allowances for purposes of education

1. Attendance of courses mentioned in Article 80 may be assimilated to working hours.2. Inmates who do not work and who participate in the courses mentioned in Article 80 will be entitled to an allowance, save where they already receive other allowances or grants for the same purpose; the amount will be fixed by the Ministry of Justice.

N.B: The joint decision N° 451/99 of the Minister of Justice and the Minister of Education concerning elementary and secondary education in prisons is divulged in Circular-letter N° 1.5/102-978 of DEEASC, of 6 August).

Article 82Certificates

Any certificates obtained upon attendance of the courses mentioned in Articles 79 and 80 must not mention the circumstance that the beneficiary is an inmate.

Part VIIFree time

Article 83Occupation of free time

1. Cultural, recreational and sport events should be organised in prisons with a view to ensuring the physical and mental well-being of inmates and developing their capacities, thus contributing to their social rehabilitation.2. Inmates may participate in the activities mentioned in § 1; they may also organise themselves their own free time.3. Active participation of inmates in the organisation of cultural, recreational and sport events should be promoted, without prejudice to order, security and discipline.4. A committee should be set up to guide the activities mentioned in § 1; membership of the committee will be approved by the prison director.

Article 84Library

1. All prisons shall be equipped with a library for the use of the inmates.2. The library must include enough books, magazines and newspapers to meet the requirements of the inmates' right of choice.3. Access of inmates to the library must be promoted.4. The committee mentioned in § 4 of Article 83 will select the publications to be included in the library upon the following criteria: bringing up the level of knowledge of the inmates, developing their ability to have a critical approach to things, as well as the recreation of inmates.5. Inmates may be authorised to participate in the management and daily life of the library, if that does not go against the purposes of the execution of the sentence.

Article 85Newspapers and magazines

1. Within reasonable limits, inmates may keep newspapers and magazines on sale to the public.2. Publications may be withdrawn from the inmates, on whole or in part, when they create a serious risk to the purposes of the execution of the sentence or to the security and order in prison.3. Measures must be taken in order to ensure that the inmates are informed of major events of public life.

Article 86Radio and television

1. Inmates must be allowed access to radio and television unless that creates a serious risk to the purposes of the execution of the sentence or to the security and order in prison.2. Selection of programmes should take care of the inmates' preferences and needs as well as their education and

recreation.3. Access to radio and television may be temporarily barred to a given inmate or a group of inmates where that is indispensable for order and security in prison.

N.B: Circular N° 4/GDG/99, of 6 June deals with taxes due for the use of television and other electrical appliances.

Article 87 Objects used during free time

Inmates may keep books, radios and other objects, within reasonable quantities, for their edification and for occupying their free time, unless that creates a serious risk to the purposes of the execution of the sentence or to the security and order in prison.

Article 88 Voluntary manual work

Inmates should be encouraged voluntarily to execute manual work in their free time; any benefit therefrom shall revert to the available fund.

Part IX Moral and spiritual assistance

Article 89 Freedom of religion and worship

1. Inmates shall be free to follow the religious belief of their choice, to learn from the books of such religion and to worship accordingly.2. Inmates must not be obliged to participate in any religious ceremony, nor to receive the visit of any minister of any confession.3. Authorities in charge of execution of sentences must ensure that the needs resulting from the inmates' religious, spiritual and moral life are satisfied; as far as possible, the means necessary to that effect shall be provided to the inmates.

Article 90 Religious ceremonies

1. Inmates shall be allowed to participate freely in acts of worship and other acts proper to their religion.2. Inmates may be authorised to participate in acts of worship and other acts belonging to a religion other than theirs if the minister of that other religion so authorises.3. Participation of inmates as mentioned in §§ 1 and 2 may be excluded when that is indispensable in order to ensure security and order in prison; the minister of the religion involved must be previously heard.

Article 91 Spiritual assistance

1. Spiritual assistance from a minister of the inmate's religion, where that is possible, may not be denied.2. Inmates should be assisted for the purpose of contacting a minister of their religion.3. Where an inmate falls seriously ill, the minister of his religion must be informed without delay.4. In the cases mentioned in § 3, the minister may visit the inmate upon the latter's consent, beyond the statutory time schedule, for as long as he deems necessary.

Article 92 Objects of worship

1. Inmates may keep the fundamental books of their religion as well as objects of worship.2. Any inmate may display in his room or in the space allotted to him in the dormitory, any images or symbols of his religion.3. The texts and objects mentioned in §§ 1 and 2 may not be withdrawn unless in case of manifest abuse.

Article 93 Religious services

The internal rules of prisons should cover the subject of the visitors of ministers and, upon the latter being heard, the organisation and the schedule of worship, as well as the requirements for practice of worship, all with a view to safeguarding order and discipline in prison.

Article 94 Co-operation in moral and spiritual assistance

1. Ministers of religions not attached to the prison, volunteer visitors and volunteer social workers, if authorised by the Minister of Justice upon a proposal from the "Direcção-Geral dos Serviços Prisionais", may co-operate in the moral and spiritual assistance to inmates.2. The visits and the behaviour of the persons mentioned in § 1 must conform to the provisions of the internal rules of the prison, in co-operation with the religious assistants and staff mentioned in Article 192.3. The authorisation mentioned in § 1 is valid only with respect to the prison for which it was granted.

Part X Medical assistance

Article 95 Medical services in prison

1. As far as possible, each prison must be equipped with a medical service, nursing service and pharmacy service, as it is necessary in order to cope with the needs relating to the health of the inmates.2. In prisons, the medical doctors' and the nurses' activities may be provided by way of a medical act or a nursing act respectively.

N.B: Circular N° 6/DSS/98, of 7 June clarifies the way in which prisons should co-operate with the pharmaceutical services of the prison hospital.

N.B: Transportation of inmates in bad health should be carefully done in special vehicles (see Circular N° 7/95, of 14 August).

N.B: With respect to the transportation of pharmaceutical products deemed indispensable to inmates transferred from prison hospitals to ordinary prisons, see Circular N° 3/95-DVDIP-1, of 12 May.

N.B: Inmates transported to a prison hospital for consultations or exams will be accompanied by extracts taken from their medical file, as well as other pertinent elements, in a closed envelope; urgencies will be routed to central or district hospitals because the prison hospital is not equipped with an urgency service (see Circular N° 24/86/DCSDEPMS-17, of 31 October).

N.B: Seeking to reconcile the fundamental rights to private life and to confidentiality of relations with doctors with the requirements of security, special procedures are in force for prison staff who escort inmates to medical examinations outside the prison (see Circular N° 72/80, of 26 November).

N.B: The geographical areas of influence of prisons equipped with a clinic are dealt with in Circular-letters N°s 1/98, 2/98 and 3/98, of 15 June, as well as Circular-letters N°s 4/99, 5/99, 6/99 and 7/99, of 14 January of DSS).

Article 96 Health assistance

1. As far as possible, inmates shall frequently and periodically be submitted to exams for the early detection of physical and mental illness upon which adequate measures should be taken; inmates may request further exams at their own expense. 2. Inmates with respect to whom there is a suspicion or a certitude that they carry a contagious disease must be immediately placed in isolation. 3. For the advantage of their health, inmates may benefit at their expense from the following measures:

a) women aged 35 or more: an annual exam for the detection of cancer; b) men aged 45 or more: an annual exam for the detection of cancer.

4. Upon advise from the prison doctor, inmates may benefit at their expense of medical assistance since the beginning of their disease of:

a) supplementary means of diagnosis, such as tests, X-ray, electrocardiograms, electroencephalograms, etc. b) medical and dental care; c) medicine, curative substances, lenses, etc. d) dental apparatus; e) tests for work resistance and work therapy when not excluded by the ends of execution; f) blood transfusions; g) surgery.

5. Inmates shall not be submitted to any medical or scientific experiments without their consent according to the law. 6. Where the inmate cannot bear the expenses of any of the activities mentioned in this Article and the doctor deems such activity necessary, the prison director may authorise the payment of such activity, on the whole or in part.

Article 97 Medical assistance in prisons for women

1. Prisons for women must be equipped with medical assistance specialised in assisting pregnant women, women who have recently delivered and women who recently suffered abortion or miscarriage. 2. Women inmates are assisted during pregnancy and after delivery by doctors specialised in obstetrics and gynaecology and paramedical specialised in obstetrics. 3. Medical assistance to children that women inmates keep in prison must be entrusted to persons specialised in paediatrics. 4. When children over three years of age must be taken from their mothers and no one can take care of the child, the prison management must so inform the authorities in charge of assisting young people; the prison management must see to it that mother and child keep close contacts between themselves. 5. Children are entitled to exams, performed as

frequently as possible, for quick diagnoses of illness that may endanger their normal physical and intellectual development.

Article 98 Medical assistance during prison leave

Inmates on prison leave may use the prison's medical facilities, according to the provisions of this law.

Article 99 Medical assistance for social rehabilitation

1. Authorities in charge of execution should, with the consent of the inmate, take initiatives designed to ensure that medical treatment likely to contribute to the social rehabilitation of the inmate is carried out, in particular the placement of prosthesis. 2. For the purposes of § 1, the inmates should contribute to the costs, having in view both their economical situation and the aims of the treatment.

Article 100 Organisation of medical assistance

For purposes of the organisation of medical assistance, the "Direcção-Geral dos Serviços Prisionais" may seek the co-operation of local and national health services, including hospital and non-hospital services, according to the instructions given by the Ministry of Social Affairs.

Article 101 Duties of doctors

1. It is the prison doctor's duty, in general, to supervise the physical and mental health of inmates and, in particular, to:

a) visit daily inmates who are sick and all those who need his assistance b) signal immediately any sickness requiring special care; c) supervise periodically the inmates' physical and mental ability to perform their work; d) prescribe how often should bedding and clothes be changed having in mind the particular needs of each inmate.

2. Prison doctors should also inspect the prison regularly and advise the director as to:

a) the quantity, quality, preparation and handing out of food; b) hygiene and cleanness of the prison and the inmates; c) sanitation, heating, lighting and ventilation of prison; d) compliance with the provisions concerning sport where sport is not organised by specialised staff.

3. Doctors must submit a report to the prison director each time that they consider that the physical and mental health of an inmate was or might be affected by prolonged internment or certain ways of internment. 4. Prison directors should take into consideration the report mentioned in § 3 and the advice mentioned in § 2; they should either act accordingly or forward them to the "Direcção-Geral dos Serviços Prisionais" with their written opinion.

Article 102 Prostheses

1. Upon advice from the prison doctor, inmates may request prostheses, orthopaedic apparatus and other ancillary means necessary to prevent any imminent failure, to ensure the success of a treatment or to correct any physical handicap.2. The provisions of § 1 also apply to any changes of prostheses, installing and acquiring spare parts.3. The costs resulting from the application of the provisions of §§ 1 and 2, where they cannot be borne by the inmate, may be borne by the prison services, in accordance with the general provisions concerning social security and within the budgetary appropriations of the "Direcção-Geral dos Serviços Prisionais".

Article 103 Transfer of inmates for medical treatment

1. Sick inmates are treated in the internment room when possible and, where appropriate, in the prison's clinic or psychiatric annex.2. Where the prison is not equipped with a clinic or a psychiatric annex or when such premises are not equipped with the necessary means, the "Direcção-Geral dos Serviços Prisionais", upon grounded proposal by the prison director, must order the inmate's internment, as the case may be, either in the clinic or the psychiatric annex of another prison, or in a prison hospital, a prison psychiatric hospital or an establishment for inmates subjected to ergotherapy activities.

Article 104 Internment in a non-prison hospital

1. In exceptional cases, when absolutely necessary, the Minister of Justice may authorise inmates to be placed in any hospital, upon grounded proposal from the prison director accompanied by the opinion of the prison doctor.2. The prison doctor's opinion must state the nature of the illness, the reason why the inmate cannot be treated in a prison, as well as the expected length of the internment.3. In case of urgency and when there is imminent danger for the inmate's health, the prison director may take such measures as he deems necessary, in particular the measure mentioned in § 1; he will immediately inform the "Direcção-Geral dos Serviços Prisionais" that will decide to confirm or not such measures.4. The prison director must inform the court.5. Inmates must return to prison as soon as the reasons for leaving are no longer valid.6. When there is evidence that the internment was based on simulation, its duration shall not be taken into consideration for purposes of computing the time served in prison.7. The Minister of Justice may delegate, totally or partially, the powers conferred upon him by this Article on the director general of the "Direcção-Geral dos Serviços Prisionais", for renewable periods of no more than 3 years.

Article 105 Inmate's private doctor

1. Inmates may ask to be examined by their private doctor, at their own expense.2. Medical treatment as well as surgery carried out by the inmate's private doctor within the premises of the prison, at the inmate's own expense, may be authorised.3. The prison doctor may in special cases suggest to the prison director that an inmates be examined and assisted by a specialist or by another doctor.4. The prison director is empowered to authorise the action mentioned in §§ 1; 2 and 3, upon the advice of the prison doctor.

Article 106 Staying outdoors

1. Inmates who do not work outdoors are authorised to stay outdoors at least 2 hours per day.2. Only in exceptional case may the period mentioned in § 1 be reduced; it shall never be reduced to less than 1 hour per day.3. The time spent outdoors shall as far as possible be used for physical exercise and for sports culture and recreation; it can be used as part of the free time.4. The areas designed for inmates staying outdoors should offer protection against bad climatic conditions; they should be equipped for the activities mentioned in § 3.

Article 107 Notification in case of illness or death

1. In case of the inmate's death or serious physical or mental illness, the following must be notified in due time and in that order: the spouse, the parents, the legal representative and, if applicable, the person indicated by the inmate.2. The notifications mentioned in § 1 should be sent out by telegram or by telephone, by the prison management at the expense of the "Direcção-Geral dos Serviços Prisionais".3. In case of illness, upon the inmate's grounded request, the prison management shall abstain from sending out the notifications mentioned in § 1.4. When the prison management is informed of a serious physical or mental illness or the death of any of the persons mentioned in § 1, it must immediately inform the inmate.5. Death must also be notified by the prison management to:

a) the official responsible for the registry of persons;b) the sentencing court or the authority that ordered the internment;c) the "Direcção-Geral dos Serviços Prisionais".

6. Where the inmate does not have a spouse and his parents are unknown, his death is notified to the administrative authority of his last residence; notification must be accompanied by a list of his belongings for purposes of heritage.7. Where the inmate is a foreigner or a stateless person, his death is notified to the appropriate diplomatic or consular representative as well as the director of the foreigners' bureau of the Ministry of Internal Administration.

Part XI Security and order

Article 108 Principles

1. The inmates' sense of responsibility must be promoted, as a fundamental factor of the good order and discipline in prison.2. Order and discipline must be maintained firmly, in the interest of security and the interest of an organised life in community, to the extent that they are an indispensable requirement of a proper treatment.3. Limitations imposed to inmates in the name of order and discipline must be commensurate with the aims proposed and should not last longer than necessary.

Article 109 (Repealed: cf. Article 6 of Decree-law No 49/80 of 22 March)

Article 110 Rules of conduct

1. Inmates must follow the provisions that rule life in prison; they must obey to the prison staff who have powers of authority and must follow their instructions, without prejudice to their right of complaint.2. Inmates must in no case bear any powers of authority or any disciplinary powers

over other inmates.3. Inmates must behave correctly towards the staff in charge of execution, the other inmates and any persons who visit the prison, so as not to disturb social order.4. Inmates must submit to the prison's timetable; they must keep their room in order; they must take care of any property at their disposal.5. Inmates must notify as soon as possible of any circumstance which might endanger his life or other people's health.6. Inmates must in no case have with them any kind of medicine or substance that may represent a danger for life or health.

Article 111 Special security measures

1. Special security measures may be imposed on inmates when, because of their behaviour or their mental state, there is a serious danger of escape or of acts of violence against himself, against others or against property.2. The following special security measures are authorised:

a) prohibition to use certain objects and retaining such objects;b) observation of the inmates during the night;c) isolation of the inmate from the rest of the prison population;d) deprivation or limitation of the right to stay outdoors;e) use of handcuffs;f) internment of the inmate in a special security cell.

3. Measures mentioned in § 2 are authorised only when it is otherwise not possible to avoid or to eliminate the dangers in question or when there is considerable perturbation in the order or security of prison.4. Special security measures will last for as long as lasts the danger for which they were imposed.5. The measures mentioned in § 2 must not be used by way of disciplinary measures.

N.B: Cf. notes to Article 106.

Article 112 Handcuffs

1. Handcuffs may only be used when other measures prove to be inoperative or inadequate.2. Handcuffs may only be used on hands; the inmates' interests must be taken into consideration with respect to the way in which handcuffs are used.3. Handcuffs must only be used under medical supervision.4. Handcuffs must be withdrawn when the inmate appears before the court, unless necessary.

N.B: Seeking to reconcile the fundamental rights with the requirements of order and security, special procedures are in force for the use of hand-cuffs outside the prison (see Circular-letter N° 26/90, of 18 October).

Article 113 Isolation in a special security cell

1. Isolation of an inmate in a special security cell may only take place for reasons pertaining to the inmate and when other special security measures prove inoperative or inadequate on the face of the seriousness of the situation.2. Isolation of an inmate in a special security cell without interruption aims exclusively at re-establishing a normal situation; in no case may it last more than one month.3. Where, after the period mentioned in § 2, the reasons for isolation of the inmate remain valid, the inmate should be moved to a security prison or a security section.4.

Isolation of an inmate in a special security cell may only last for more than 15 days on a row upon an authorisation from the "Direcção-Geral dos Serviços Prisionais".5. The periods of time mentioned in the preceding §§ are not interrupted when the inmate participates in religious ceremonies or in recreation.6. Inmates placed in a special security cell must be visited as urgently as possible by the prison doctor; they must be visited frequently by the prison doctor while their situation lasts; the prison doctor must inform the prison director about the physical and mental health of the inmates and, where appropriate, advise on the need to apply different measures.7. In special security cells there must not be any dangerous objects; otherwise such cells should have the same particularities as the other prison cells, except as far as security is concerned.

Article 114 Medical supervision

1. Prison directors are empowered to apply the special security measures mentioned in Article 111.2. In case of imminent danger, such measures may be provisionally applied by the person who replaces the prison director; the latter's confirmation of the measure must be sought without delay.3. Measures provided for in Article 111, §§ d), e) and f), may only be applied to inmates under medical observation or medical treatment or to inmates whose mental state originates the measure, or pregnant women, or women having recently delivered or women having recently interrupted pregnancy, upon advice from the prison doctor, save where there is imminent danger in which case the doctor's advice must be sought without delay.4. The prison doctor's advice must be sought regularly while the inmate is deprived from staying outdoors.

Article 115 Transfer for special security reasons

Where there is grounded danger of escape or where the inmate's behaviour or his state constitute a danger for the order or the security of the prison, the inmate may be transferred to another prison where he can more appropriately be kept in security.

Article 116 Search

1. The inmate, his property and his room might be searched in the cases and under the safeguards and with the periodicity that the internal rules of the prison provide, and when necessary for reasons of security and order.2. Personal search of the inmate shall not be done without absolutely respecting his personality and sense of decency.3. Persons of a different sex may not be present when a personal search on an inmate takes place.4. Personal search of the inmates may not take place when other means of detection are available.5. Personal search implying the nakedness of the inmate may not take place unless in the cases and under the conditions provided in the internal rules of the prison and when authorised by the prison director in relation to a concrete situation of imminent danger.6. For the purposes of § 5, search may only take place in between closed doors and in the absence of other inmates.7. Search of the inmate's room must not take place with disrespect towards the inmate's property.

Article 117 Identification

1. For the purposes of execution of sentences involving deprivation of liberty, the following are the authorised means of identification, without prejudice of any other means necessary to identify with precision any inmate:

a) fingerprints and hand-prints;b) photographs;c) the description of the particularities, features and external physical marks;d) antropometric indications.

2. The identification indications mentioned in § 1 should be included in the inmates individual file; at the inmate's request they shall be destroyed upon his final release.2. Inmates must be informed of the right mentioned in § 2

Article 118Capture

Inmates who have escaped or who are found out of prison without authorisation may be captured by the authority in charge of execution and brought back to prison.

Article 119Property

1. Inmates may not keep with them objects other than those authorised by the law, the internal rules of the prison or the authority in charge of the execution.2. Inmates may accept from other inmates objects of small value, except where the internal rules of the prison so prohibits or the authority in charge of the execution subjects that to it's consent.3. Inmates may keep with them objects of moral or sentimental value to them provided that they are not economically valuable; inmates may keep with them objects which are necessary to the care and hygiene of themselves, in quantities commensurate to there needs.4. Non-authorised objects that entered into prison, objects handed in by the inmates upon their admission to prison, as well as any objects found in the inmates' possession, shall be deposited in their respective name, subject to their size and nature so permitting, to be handed back upon release.5. Inmates may forward to any person of their choice any objects belonging to them that they don't need neither in prison nor upon release.6. Objects mentioned in § 4 that cannot be deposited because of their nature or size, will be sold to the inmate's benefit or forwarded, at the inmate's expenses, to a person designated by him.7. Any notes, written material and other objects that include information on the prison's security may be seized or destroyed, as the case may be, by the authority in charge of execution.8. An inventory of the items mentioned in § 4 must be made and read out to the inmate who should sign it; the prison management shall take all necessary measures in order to keep such objects in good conditions

Article 120Own money

1. Inmates may not carry money with them unless authorised by the internal prison rules.2. Any money that the inmate carries with him when being admitted to prison must be deposited in his name, unless he decides otherwise.

Article 121Compensation for expenses and damages

1. Inmates must pay back to the authority in charge of the execution any expenses resulting from intentional or guilty self mutilation, or injury on other inmates.2. The prison administration may abstain from enforcing their rights under § 1 if enforcing such rights would put at risk the inmate's treatment or his social rehabilitation.

Part XII Coercive means

Article 122 General principles

1. The prison staff as well as the staff of any other agencies operating within prisons may use physical force against inmates only where proportional, where other measures are not available and where it is a case of legitimate self defence, an attempt to escape or an active or passive resistance to a legitimate command.2. Physical force may be used against persons other than inmates only where such persons attempt to free any inmate, enter illegally into prison or remain in prison without authorisation.3. Staff who use physical force should limit it in time to what is strictly necessary; they should immediately inform the prison director; the latter must without delay order any medical exams and other investigations as necessary.4. Prison guards should have the physical aptitude to master violent inmates if necessary.5. A written enquiry must always be ordered in cases of use of physical force.

Article 123 Physical force

1. For the purposes of this Part physical force means any actions exercised on persons through the use of corporal force, ancillary means or weapons.2. Handcuffs may exceptionally be used as ancillary means of physical force.3. Authorised firearms as well as tear gas are deemed to be weapons for the purposes of the § 1.4. Ancillary means of physical force, as well as weapons, should be previously approved by the "Direcção-Geral dos Serviços Prisionais".

N.B: Cf. notes to Article 112.

Article 124 Principle of proportionality

1. When different measures of physical force are adequate and possible, those that presumably cause less harm should be used instead of the others.2. Physical force must not be used where the eventual harm resulting from it is not proportional to the aim sought.

Article 125 Intimidation

Before using physical force, an intimidating warning must always be used safe in case of imminent or current aggression.

Article 126 General rules on the use of weapons

1. The prison staff as well as the staff of any other agencies operating within prisons may use their weapons only in case of absolute need, direct action and legitimate defence, especially in the following cases:

a) against inmates on mutiny, in a menacing attitude, who refuse to submit;b) against imminent or current aggression when, under the circumstances, such means prove to be necessary to avoid or to stop the aggression;c) against inmates who escaped and who refuse to obey orders not to proceed with their intend;d) against any persons who enter or attempt to enter with violence into prison, with subversive purposes, to liberate inmates or to exercise violence upon them;e) against any inmate who creates the danger of insubordination because of his attitude inciting violence.

2. The measures mentioned in § 1 may only be used when indispensable against the lack of efficiency of less violent means.3. Firearms must not be used before a warning shot is fired towards the sky, save in case of imminent or current aggression.

Article 127Physical force relating to health care

1. Medical examination, treatment and food may be forcefully imposed on inmates only in case of danger to their lives or in case of serious danger to their health.2. Physical force must not carry serious danger to the life or health of the inmate.3. The means mentioned in this Article may only be decided upon and used under medical supervision, without prejudice to first help being given where a doctor cannot be found and there is danger to the life of the inmate.4. Physical force may only be used once reasonable efforts to obtain the inmate's consent have been used.

Part XIIDisciplinary measures

Article 128Requirements

1. Where inmates willingly fail to accomplish what is asked of them or violate duties imposed on them by the law, disciplinary measures may be imposed on them.2. Where a warning is deemed fit, no disciplinary measure will be applied.3. Where the fault constitutes a criminal offence, the prison director shall register all the circumstances of the case and, if criminal proceedings do not require a private complaint, forward it to the public prosecutor.

Article 129Execution of disciplinary measures

Disciplinary measures must in principle be executed immediately.

N.B: Disciplinary measures applied to inmates who are transferred before having executed the measures, must be executed in the new prison, without prejudice to the right of appeal to the court of execution of sentences (see Circular N° 15/84/DCSDEPMS-11).

Article 130Principle of proportionality

1. Disciplinary measures should be applied taking into account the seriousness of the fault, the conduct and the personality of the inmate.2. Disciplinary measures should never be applied in such a way as to put at risk the inmate's health.

Article 131Procedure

1. Disciplinary measures may not be applied without the inmate concerned being previously informed of the fault for which he is accused.2. Before applying any disciplinary measure, the prison director must hear the inmate in writing.3. In case of more serious faults, the director should hear the persons who are involved in the inmate's treatment.4. When he deems fit, the prison director may hear the technical council and order an enquiry.5. Any decision applying a disciplinary measure must be communicated orally to the inmate by the prison director and must be put into writing as well as reasons thereto.

Article 132Disciplinary offences

Without prejudice to the provisions of Article 128, disciplinary measures are applied to any inmate whose behaviour goes against the order and the discipline in the prison or the ends of the execution, as well as to any inmate responsible notably for:

a) negligence in cleaning and keeping in good order himself or his room;b) abandoning the place reserved for him;c) voluntarily not abiding by labour duties;d) harmful attitude towards fellow inmates;e) offending language;f) games or similar activities not allowed by the internal rules or not allowed to the inmate;g) simulating illness;h) carrying or trafficking in money or forbidden objects;i) non-authorized communication with the outside world or, in case of isolation, with the world inside the prison;j) obscene acts or equivalent;k) intimidation or serious abuse of fellow inmates;l) misappropriation of or damage to property belonging to the Administration;m) offensive attitude towards the prison director, the prison staff or other persons who enter the prison;n) non-compliance with orders received or unjustified delay in executing such orders;o) incitement or participation in disorder or mutiny;p) contracts with others inmates, with staff or with outsiders where such contracts are not authorised by the prison director;q) escape from prison;r) criminal acts.

Article 133Typology of disciplinary measures

1. The following disciplinary measures are available:

a) reprimand;b) total or partial loss of benefits;c) ban on recreation and spectacles for up to two months;d) ban on wine or beer for up to three months;e) ban on access to the available fund for up to three months;f) transfer of the available fund to the reserve fund for up to three months;g) loss of property or money held against the rules;h) internment in an individual room for up to one month;i) internment in an individual cell for up to one month.

2. The money and property mentioned in § 1g) are not lost for the inmate when he shows that it has a legitimate origin and is not to be used for any illegal purpose and thus holding it is no more than a formal offence.3. Any inmates to whom the disciplinary measures mentioned in §§ 1h) and i) are applied, may complain in writing.4. Collective sanctions shall not be imposed; however the prison director may change the regime in prison when the persons responsible for disciplinary offences that create a risk for the order and discipline of a group of inmates, are not identified.

N.B: Cf. notes to Article 106.

N.B: There is no legal basis for staying the execution of disciplinary measures (see Circular N° 35/91/GA-2, of 11 June).

Article 134 Disciplinary cell

1. Disciplinary cells must meet requirements supervised by the prison's medical services as to the furniture, the volume of the space, the ventilation and the light, in particular so as to allow inmates to read. 2. Inmates placed in disciplinary cells should receive normal clothes and bedding equipment and should have access to normal hygiene facilities. 3. For reasons relating to the safety or the health of the inmates, special measures may be taken in particular as to clothes, furniture and hygiene.

Article 135 Power to advise

The provisions of Article 133 § 1 do not prevent any member of the prison staff to advise inmates with a view to their social rehabilitation.

Article 136 Disciplinary powers

The prison director is empowered to apply disciplinary measures

Article 137 Medical assistance and other visits

1. Before executing a disciplinary measure and where the nature of the measure so justifies, the inmate must be examined by a doctor. 2. Inmates who are serving any of the disciplinary measures mentioned in Article 133, §§ h) and i), remain under rigorous medical control and should be examined daily by the doctor when the latter deems that fit. 3. When the doctor finds that there is a danger for the health or for the physical or mental integrity of the inmate, he may propose to the prison director in a reasoned report that the disciplinary measures be discontinued or replaced by other measures. 4. The doctor must always be heard when the inmates is under treatment at the time when the disciplinary measure is applied; the same applies to pregnant women, women who recently gave birth and women who recently suffered abortion or miscarriage. 5. Inmates who are serving any of the disciplinary measure mentioned in § 2 may receive the visit of prison staff, in particular educators and social assistants, as often as the prison director finds it necessary. 6. Upon authorisation of the prison director, Inmates who are serving any of the disciplinary measure mentioned in § 2 may receive the visit of their family, their lawyer and the minister of their religion.

Part XIV Right to make submissions, right to complain and right to appeal

Article 138 Right to make submissions and right to complain

1. Inmates may address the following in order to make submissions or to complain against any illegal order:

a) the prison director; b) the prison staff; c) the inspectors of the prison services.

2. The internal rules of each prison should fix the conditions under which inmates may address the prison staff, as mentioned in § 1b).3. Inmates may freely address the inspectors of the prison services when visiting the prison; the prison inspectors may impose the conditions under which they may be addressed.

N.B: Complaints by inmates that are intentionally ill-founded may give rise to disciplinary or criminal consequences (see Circular N° 2/GDG/96, of 8 November).

N.B: The "Direcção-Geral dos Serviços Prisionais" is available to examine attentively any query or request made by any inmate; however hunger-strikes are not an acceptable means of transmitting requests, especially when such requests have not been previously expressed. Books for complaints and suggestions are available in all prisons. (see Circular N° 2/94/GA-1, of 24 June).

Article 139 Right to make submissions to the judges of the court of execution of sentences

1. During the visits that the judges of the court of execution of sentences, according to Article 23 of the Decree-Law 783/76, of 29 April, must at least monthly pay to the prison, inmates may present their submissions, provided they registered in a book that must be available for that purpose.2. The judges, in agreement with the prison director, must seek to solve the problems mentioned in the submissions.3. When there is no agreement between the judge and the prison director, the matter is brought to the attention of the prison's technical council that will take a decision on a majority vote.4. The technical council mentioned in § 3 is chaired by the judge of the court of execution of sentences, whose is entitled to exercise a casting vote only.5. Any member of the technical council may appeal to the Minister of Justice of any decision of that council; the appeal stays the execution of the decision.6. Any intention to lodge an appeal must be voiced immediately and is registered in the minutes.7. The appeal is processed with all the necessary elements; the judge is empowered to deal with it.

Article 140 Hearing of third persons

1. The technical council mentioned in Article 139 § 3 may hear any staff member or any other person as decided by the judge.2. The judge is empowered to dictate for the record the decisions and opinions of the technical council.

Article 141 Notification of the inmate

The inmate is notified of the decision within two days; a copy of the decision is delivered to him.

Article 142 Minutes of the sessions

The minutes of the sessions of the technical council are written into a book existing for that purpose and signed by the judge and the acting secretary.

Article 143 Appeal against disciplinary sanctions

1. Any inmate placed in a disciplinary cell for over 8 days may declare that he wishes to lodge an appeal with the judge of the court of execution of sentences, orally or in writing within the two days following notification of the sanction.2. Any appeal is registered; the inmate may join a statement of reasons.

Article 144Effect of the appeal

Appeals stay the execution of the measure as from the 8th day.

Article 145Communication of appeals

1. The judge of the court of execution of the sentences is notified in writing of any appeals lodged.2. The clerk of the court registers the notification and submits the file to the judge; the judge convenes the technical council and fixes the date to hear the appellant within the next 48 hours.3. The technical council mentioned in § 2 has consultative only powers; it is chaired by the judge.

Article 146Hearing of the inmate

The judge may decide that the inmate be heard by him alone.

Article 147Change or confirmation of the measure appealed against

The judge may confirm, reduce or cancel the measure appealed against.

Article 148Form of the decision

1. The decision may be announced orally; it will be registered in writing within 24 hours.2. The procedure following the decision is under the responsibility of the clerk of the court who will notify the inmate and forward a copy of the decision to the prison director.

Article 149Non admissible appeals

Decisions that confirm or change disciplinary sanctions may not be appealed against.

Article 150Access to the organs of sovereignty

1. Inmates, individually or in group, may submit to the organs of sovereignty and to any authorities, any petitions, complaints or protests for the defence of their rights, the Constitution or laws of a general interest.2. Inmates may exercise their rights of participation in public life, save any restrictions resulting from the sentence.

Article 151Complaint to the Court of Human Rights

1. The right recognised in Articles 25 et seq. of the European Convention on Human Rights are in any event safeguarded, once internal remedies are exhausted.

2. The Minister of Justice will decide on the internal procedure and requirements to that effect.

PART XV Release from prison

Article 152 Release from prison

1. Inmates are released upon a warrant or a written order from a competent authority. 2. The release of foreign inmates is always communicated to the director of the Aliens Department of the Ministry of Internal affairs, as soon before it takes place as possible. 3. The order mentioned in § 1 may be transmitted by official telegram; in that case the prison director only enforces it when he has reasons to believe on its conformity with the law. 4. Any order transmitted by telegram must in due time be confirmed in writing.

Article 153 Director's duty

It is the director's duty to seek, at least one month before the scheduled date of release, an order to release.

Article 154 Sick inmate

1. Where an inmate to be released is sick and the doctor informs in writing that his immediate release seriously harms his health, the prison director may authorise the inmate to rest in prison for such time as is indispensable. 2. The provisions of § 1 shall apply to pregnant women, women who recently gave birth and women who recently suffered abortion or miscarriage. 3. Inmates placed in a disciplinary cell are not released before having served the respective measure. 4. Any delay in releasing an inmate, as mentioned in the preceding §§ must immediately be communicated to the "Direcção-Geral dos Serviços Prisionais" and to the authority that issued the order to release.

Article 155 Time of release

1. At the time of release the inmate should receive a document certifying that he served his sentence. 2. At the time of release the inmate should receive the money in the available fund and the reserve fund, as well as any other property belonging to the inmate, as well as the certificate mentioned in Article 82. 3. Inmates may ask for a statement concerning their behaviour and professional capacity

N.B: Cf. notes to Article 107.

PART XVI Prison services

CHAPTER II Inspection

Article 156 Inspection services

1. The inspection is integrated in the central services of the "Direcção-Geral dos Serviços Prisionais". 2. Every year an ordinary inspection will be made to every prison; extraordinary inspections may be made as necessary. 3. The Minister of Justice may ask court judges or public prosecutors and may appoint any official of the Ministry to proceed to enquiries or engage disciplinary procedures. 4. Inspection in matters pertaining to prison work, training, education, medical assistance and specialised treatment for inmates must be made by specialised personnel.

N.B: The Circular N° 1/98/SAI, of 21 January, the Circular N° 1/95/GA/1, of 10 January and the Circular-letter N° 5/95/SIAJ, of 27 April include guidelines on the organisation and functioning of the Supervision Service, in particular:

a) the names and areas of jurisdiction of each of the three departments set up by the Minister of Justice; b) their multidisciplinary membership; c) that each department is headed by an inspector-co-ordinator and the Service is headed by an Under Director General; d) the existence in each prison of a correspondent of the Supervision Service; e) that disciplinary procedures and investigations started in prison, after having been submitted to the prison director for an opinion, should be submitted to the inspector-coordinator for another opinion.

N.B: For matters relating to the registry and procedure of disciplinary action, see Circular-letter N° 2/98/SAI, of 13 August.

Chapter II Prisons

Article 157 Execution of measures involving deprivation of liberty

Any sanctions or measures involving deprivation of liberty are carried out in prisons under the Ministry of Justice.

Article 158 Prisons

1. Prisons under the Ministry of Justice include:

a) regional prisons; b) central prisons; c) special prisons

2. Regional prisons host remand prisoners and prisoners serving sentences up to six months. 3. Central prisons host prisoners serving sentences of more than six months. 4. Special prisons host prisoners who need special treatment. 5. The following are special prisons:

a) prisons for young adults and detention centres; b) prisons for women; c) prison hospitals; d) prison psychiatric hospitals.

Article 159 Security classification

1. In terms of security, prisons may be:

a) maximum security; b) closed; c) open; d) mixed.

2. Sections with specific security requirements may be set up for inmates who are not adapted to the general regime.3. The Ministry of Justice, upon proposal of the Director General of Prison Services, decides on the classification of prisons.

N.B: The decision of the Minister of Justice of 25 September 1986 that classifies prisons is divulged in Circular-letter N° 49/86, of 3 October.

Article 160 Prisons for young adults

1. Prisons for young adults host inmates aged between 16 and 21.2. Where treatment so advises, upon the proposal of the prison director, young adults may continue in a prison for young adults until their 25th anniversary.

Article 161 Special prisons for women

Prisons for women must be equipped with:

a) special sections for pregnant women;b) special sections for women who have with them children younger than 1 year old;c) nursery for the inmates' children younger than 3 years old.

Article 162 Prisons to prepare release

Open sections may exist in closed prisons in order to prepare the release of inmates.

Article 163 Prisons affected to the "Polícia Judiciária"

1. Prisons for remand prisoners may be affected to the "Polícia Judiciária".2. The provisions of this law apply to the prisons mentioned in § 1.

Article 164 Detention stations

Detention stations should exist in the vicinity of court houses, where prisoners can await before appearing in court and, if necessary, stay overnight if there are no prison facilities in the region.

Article 165 Allocation of expenses

1. Expenses with the acquisition of land, construction, works and putting into operation of prisons are borne by the State.2. Expenses mentioned in § 1, where related to regional prisons, are borne by the "câmaras municipais "

Chapter III Special prisons, observation centres and psychiatric annexes

Article 166 Prison hospitals

1. Prison hospitals are used for receiving inmates who are in need of medical treatment that cannot be dispensed in their prison.2. Inmates are placed in prisons hospitals upon a proposal

made by the prison director, with the opinion of the doctor.³ The doctor's opinion must mention the nature of the inmate's sickness, the reason why he cannot be treated in prison and the expected time of internment in hospital.

Article 167 Psychiatric hospitals

1. Psychiatric prison hospitals are used for receiving inmates who are deemed not to be responsible for their deeds, and dangerous, as well as inmates who became mentally disturbed while serving their sentence.² The inmates mentioned in Article 10 § 2 may also be placed in psychiatric hospitals.³ Psychiatric hospitals may also receive inmates to be examined and observed, in conformity with the provisions of Article 169.⁴ The provisions of §§ 1 to 3 above do not prevent psychiatric annexes from treating inmates in the cases mentioned in Article 172.⁵ Placement in any psychiatric centre always requires a grounded medical proposal; the proposal is open to complaint under the terms of the law.

Article 168 Observation centres and psychiatric annexes

Observation centres and psychiatric annexes may operate next to prisons, as a specialised service.

Article 169 Observation centres

1. Observation centres aim at a) detecting possible physical or mental abnormalities, b) recommending measures for individualising the sentence, c) advising on the dangerousness of inmates and d) advising on treatment.² Observation centres should have the necessary staff to ensure medical, psychological and social examination of the inmates.³ Directors of observation centres, where they deem fit, may suggest that any inmate under observation be examined in a psychiatric hospital or annex, or be examined in an institute of criminology, or a specialised non-prison service.⁴ Inmates should not be placed in observation centres for more than 60 days, except if otherwise provided.

Article 170 Powers of observation centres

1. The following are studied in observation centres:

a) accused persons; b) sentenced inmate, following a decision by the "Direcção-Geral dos Serviços Prisionais".

2. Any proposals by prison directors or by the judge of the court of execution of sentences aimed at having any person studied in an observation centre must give reasons.

Article 171 Mobile staff

Observation centres may have mobile staff in order to facilitate the study of persons placed in prison.

Article 172 Psychiatric annexes

1. Psychiatric annexes aim at:

a) observing inmates whose behaviour during deprivation of liberty suggest that there might be a mental abnormality; b) performing, in the terms of the law, expertise relating to the legal liability of the persons observed.

2. Psychiatric annexes may also provide medical assistance to inmates who suffer from mental disturbance provided that the treatment does not exceed six months.

Article 173 Administration of psychiatric annexes

Psychiatric annexes are technically administered by the institutes of criminology, through their 2nd section.

Article 174 Authorisation for internment

1. The placement in a psychiatric annex of an inmate coming from another prison requires a decision by the "Direcção-Geral dos Serviços Prisionais". 2. The institutes of criminology may request the internment of any inmate whom they think it is necessary to study in a psychiatric annex.

Article 175 Duration of internment

The internment of inmates in psychiatric annexes must be limited in time to what is strictly necessary for observation, examination and treatment.

Chapter IV Structure and capacity of prisons

Article 176 Structure of prisons

1. Prisons must be structured in such a way as to meet the requirements of the treatment of the inmates, considering the needs of each individual case. 2. Prisons must also, as far as possible, be structured in such a way as to facilitate the distribution of inmates in small groups for purposes of treatment.

Article 177 Facilities for work and training

1. Prisons should be equipped with workshops and farms as necessary for the work of inmates, as well as facilities for their training and occupation in ergotherapeutic activities. 2. Workshops, farms and other facilities mentioned in § 1 should have conditions similar to those outside the prison; legal provisions concerning the protection of workers and the prevention of accidents apply in such facilities. 3. Training and occupation in ergotherapeutic activities may be carried out in adequate premises of private enterprises. 4. The technical supervision of workshops and other premises of private enterprises may be given to members of such enterprises.

Article 178 Room and other premises

1. Whenever possible and except where otherwise advisable, inmates should have individual rooms.2. In cases where dormitories are used, only inmates who meet the necessary requirements may be placed therein.3. Rooms, dormitories, social rooms, places for receiving visitors and other premises should meet the necessary requirements, in particular with respect to light, ventilation, volume and furniture.4. Light, natural or artificial, must allow in proper conditions for working and reading.

Article 179 Countenance

1. Countenance of prisons should not be in excess of 400 to 500 inmates.2. The minimum countenance of regional prisons is 25 inmates.3. The countenance of each prison is fixed by the supervision services of the "Direcção-Geral dos Serviços Prisionais".4. In fixing the countenance of each prison account must be taken of the necessary conditions for a proper internment, in particular with respect to facilities for work, training, worship, occupation of free time, sport, visits, ergotherapeutic activities, education and specialised assistance.

N.B: Any change in the physical structures of the prison or in the distribution or earmarking of spaces in prison by the prison director depends on previous authorisation from the Director General (see Circular N° 1/GDG/99, of 29 January).

Article 180 Prohibition of overcrowding

The countenance of prisons and its different premises may only be exceeded on a temporary bases upon the consent of the supervising services of the "Direcção-Geral dos Serviços Prisionais".

Chapter V Prison departments, administration and bodies

Article 181 Departments

1. Prisons with administrative autonomy include technical and administrative services.2. Prisons without administrative autonomy include such services as deemed necessary.3. Clerical services of regional prisons may be taken care of by the clerk of the court.

Article 182 Administration

1. Each prison has a director who has the duty to comply with the laws and rules as well as the instructions received from the "Direcção-Geral dos Serviços Prisionais", bridging gaps as necessary.2. Directors of regional prisons, where they are not public prosecutors, are appointed following a competition open to the staff of the "Direcção-Geral dos Serviços Prisionais", by the Director General.

Article 183 Powers of directors of central and special prisons

1. Directors of central prisons and special prisons are in charge of the orientation and the co-ordination of the prison services, in particular the security services, the assistance services and those concerning the work and training of the inmates.2. Directors of central prisons and special prisons are empowered in particular to:

a) represent the prison;b) preside over the technical councils other than those convened under the provisions of Article 23 § 5 of Decree-Law 783/76, of 29 October;c) preside over the administrative council;d) assign the staff to the different services;e) give such instructions as he deems necessary;f) exercise the disciplinary power over staff, according to the law;g) apply disciplinary measures to inmates, according to the law.

Article 184 Powers of directors of regional prisons

1. Directors of regional prisons are in charge of the orientation and the co-ordination of the prison services and activities, within the scope of the powers conferred upon them by the organic law of the prison services.2. Directors of regional prisons are empowered in particular to:

a) represent the prison;b) preside over the technical councils other than those convened under the provisions of Article 23 § 5 of Decree-Law 783/76, of 29 October;c) give such instructions as he deems necessary;d) exercise the disciplinary power over staff, as delegated upon him;e) apply disciplinary measures to inmates, according to the law.

Article 185 Internal rules

1. Prison directors must prepare internal rules for approval by the "Direcção-Geral dos Serviços Prisionais" and adoption by the Ministry of Justice.2. Internal rules must include rules on:

a) opening and closing times of the prison;b) timetable for visitors;c) timetable for work;d) timetable for meals;e) free time and rest time;f) periods and special requirements for mail and telephone;g) periods and special requirements for access to bathing facilities and barber facilities;h) cases in which inmates may be authorised to use their own clothes and indication of which clothes they may wear;i) foodstuffs and objects that inmates may have and receive, as well as quantities thereof;j) requirement concerning foodstuffs received from outside the prison, their reception, inspection and handing out;l) number and periodicity of parcels received from outside the prison;m) cases in which ordinary searches must be performed and their periodicity;n) requirements concerning the use of radio and television sets;o) requirements concerning bill-posting;p) authorised games.

3. Internal rules may provide different rules on the same subject for different sections of the prison.4. The internal rules must be kept in the prison library or in any other place accessible to all inmates.5. At the time of arrival, inmates must be given a summary of the internal rules indicating the place where the full rules can be found; the summary must be returned at the time of release.6. The provisions of § 5 must be adequately compensated where the inmate cannot read or does not know how to read.

Article 186 Membership of the technical council

1. The technical council is made up of the prison director, who presides, and five members of the staff appointed by the Minister of Justice upon a proposal by the Director General of the "Direcção-Geral dos Serviços Prisionais", after the prison director having been heard.2. In principle the technical council should include representatives of the main services of the prison.3. When the Minister of Justice deems fit, the technical council may be made up by the prison director and three members of the staff.4. The provisions of §§ 1 to 3 do not prevent any member of the staff especially knowledgeable of the matters under discussion from being called to participate in the meeting.5. Members of the technical council other than the prison director are appointed for a term of two years; they may be re-appointed.

Article 187 Powers of the technical council

The technical council has special powers to:

a) give an opinion on treatment programmes, including individual re-adaptation plans;b) assess the results of treatment, including individual re-adaptation plans, suggesting changes if and when necessary;c) give an opinion on whether or not to suggest to courts any change in prison situations;d) give an opinion on the application to inmates of disciplinary measures, when the law so requires and when the prison director deems it fit;e) give an opinion on matters submitted to it, where such matters may only be decided by the judge of the court of execution of sentences; also in the cases in which it is convened according to the provisions of Article 23, § 5, of Decree-Law 783/76, of 29 October;f) decide upon the requests made by inmates, as mentioned in Article 23, § 2, of Decree-Law 783/76, of 29 October.

Article 188 Membership of the administrative council

1. The administrative council is made up of the prison director, who presides, and the head of the clerk's office and the head of the steward's office.2. The treasurer may participate in the meetings of the administrative council when convened by the prison director, without however the right to vote.3. Members of the administrative council are replaced in their absence by the persons who legally exercise their respective functions.

Article 189 Powers of the administrative council

The administrative council has special powers to:

a) examine the accounts, ask for the necessary funds and decide on payments;b) supervise entries of money and check the amounts in cash;c) examine the documents supporting expenses with a view to their approval;d) decide on the prices of the goods produced in prison and on the advisability of selling them;e) administrate the canteen and suggest the approval of its rules;f) prepare the draft budget and submit accounts in accordance with the law.

Article 190 Powers of the director against the vote of the administrative council

1. Exceptionally, the prison director may, under his responsibility decide against the vote of the administrative council on any small expense or any expense that he deems urgent.2. When the

decisions mentioned in § 1 are not ratified at the next meeting of the administrative council, the "Direcção-Geral dos Serviços Prisionais" is informed; if the latter cannot decide, the matter is submitted to the Minister of Justice or, if appropriate, to the Minister of Finances.

Article 191 Staff meetings

Staff meetings under the chairmanship of the prison director, aimed at examining matters of a general interest, should be promoted as often as the prison director deems fit.

Article 192 Moral and spiritual assistance

1. Moral and spiritual assistance to inmates belongs mainly to specialised members of the staff in co-operation with the other prison staff. 2. Religious assistance to inmates as well as religious ceremonies are carried out by ministers of the different religions, in contact with the prison, as necessary having into consideration the number of inmates of each confession. 3. When the number of inmates of a given confession is so small that the provisions of § 2 cannot apply, ministers of that confession may be invited in to prison. 4. For the celebration of catholic ceremonies, a number of catholic ministers should be effected to each prison, without prejudicing the provisions of § 2 above. 5. For the purposes of § 4, each prison should, as far as possible, be equipped with a chapel. 6. For celebrating ceremonies of religions other than the catholic religion or where no chapel is available, the "Direcção-Geral dos Serviços Prisionais" should, as far as possible, affect premises as necessary to that end. 7. The minister of each of the religions linked to the prison may organise in the prison library a section with books and texts of that religion, provided there is no prejudice for the functioning of the library or for the order and security of the prison. 8. The ministers of the different religions as mentioned in this Article are submitted to the instructions of the prison director in all matters that do not pertain to their spiritual activity.

Article 193 Health assistance

1. Medical assistance in prison is ensured by one or more doctors. 2. The "Direcção-Geral dos Serviços Prisionais" must be staffed with nurses, paramedical, pharmacists, clinical annalists, as necessary for the smooth running of the services in charge of assisting the health of inmates.

Chapter VI Staff

Article 194 Prison staff

1. Prison staff are the warrant of the achievement of the goals of prison. 2. Prison staff must abide to the principle according to which the social rehabilitation of the inmates constitutes their main task and that task is one of the highest social relevance. 3. Each prison must have, depending on its aims, of technical, administrative and ancillary staff as necessary for it to work properly, in particular with respect to education, training, health and security. 4. Social assistance in criminal matters will be regulated in special law. 5. The scales, appointment requirements and tasks of prison staff are such as described in this law, in the organic law of the Ministry of Justice and rules relating thereto.

Article 195 Temporary staff

The Ministry of Justice may authorise, after having heard the Ministry of Finances, the recruitment on a temporary basis of technical, administrative and ancillary staff in order to cope with occasional or extraordinary needs.

Article 196 Selection and preparation of staff

1. The "Direcção-Geral dos Serviços Prisionais" should promote the selection and training of staff for the exercise of their own specific functions; such training should be brought up to date in harmony with the development of knowledge and new techniques. 2. Education is achieved through courses, study visits, conferences and other means, as necessary. 3. The courses mentioned in § 2 are given having into account the category and training of the staff concerned.

Article 197 Assignment of staff

Prison staff are assigned by the Director General of the "Direcção-Geral dos Serviços Prisionais", having into account the needs of the services and the categories and training of the staff concerned.

Article 198 Duty to co-operate

1. Staff in charge of the execution of measures involving deprivation of liberty are under a duty to co-operate and contribute to achieving the purposes of such measures. 2. The rules on social assistance in criminal matters shall otherwise apply. 3. The authority responsible for the execution of measures involving deprivation of liberty must co-operate with the persons and the associations that might have a positive influence in the social rehabilitation of the inmate.

Part XVII ADVISERS

Article 199 Council of advisers

1. Councils of advisers may be set up in prisons; they are made up of persons outside the prison who share a common feeling of solidarity. 2. Members of the councils of advisers co-operate in developing the execution of sentences and in assisting the inmates. 3. Advisers co-operate with prison directors by making proposals; they might also assist inmates in their social rehabilitation after release. 4. Members of the councils of advisers must keep in confidence all the confidential information that they get, in particular the name and personality of inmates. 5. The setting up of the councils of advisers is subject to approval by the Director General of the "Direcção-Geral dos Serviços Prisionais", under the proposal of the prison director.

Part XVIII Criminal investigation and execution of the sentence

Article 200 Criminal investigation and execution of the sentence

Institutes of criminology, in co-operation with the investigation services linked to the execution of measures involving deprivation of liberty, are empowered to develop in a scientific way the data obtained and apply the results in the administration of prison justice.

PART XIX Special rules

Chapter I Special rules concerning the internment in detention centres of young adults

Article 201 General principles

1. The execution of sentences in detention centres for liable adults aged 25 or less must develop their sense of social rehabilitation and make them aware of their responsibility for the offences committed. 2. The execution of sentences in detention centres, once order and security are ensured, should aim at education, physical exercises and rational use of free time, under the supervision of specialised assistance. 3. Where the offence originates on insufficient professional training, the execution should have as its main aim to achieve such training; accelerated procedures to that end should be used as far as possible. 4. Flexibility as necessary for the re-education with a view to future social rehabilitation, applies to liable adults aged 25 or less. 5. Placement in detention centres must in no case hinder the professional training or the work of the inmate. 6. The reactions mentioned in this Article must not produce any ancillary effect linked to prison.

Article 202 Assistance after release

When the sentence that orders placement in a detention centre follows an offence which is linked to a jobless situation, assistance after release must predominantly aim at finding a public or private job.

Chapter II Special rules concerning women

Article 203 Assistance in maternity

1. Pregnant inmates and inmates having recently given birth are entitled to medical assistance adapted to their situation. 2. The general rules on the protection of working mothers, in particular the rules concerning the nature and the duration of work, shall apply to the inmates mentioned in § 1.3. As far as possible measures should be taken to ensure that inmates give birth in a non-prison hospital. 4. During delivery, the inmate should be assisted by a midwife or if necessary by a doctor.

Article 204 Pharmaceutical assistance

Pregnant inmates, inmates having recently given birth and inmates who suffered abortion or miscarriage should be provided with all necessary pharmaceutical and other care.

Article 205 Register of birth

The communication of a birth for purposes of public register must not mention that the birth occurred in prison, must not mention the link between the person who communicates and the prison and must not mention the fact that the mother is a prisoner.

Article 206 Women inmates with children

1. Women inmates' children aged 3 or less may remain in prison with their mother if such is in the advantage of the child and if such is authorised by the person entitled to fix the place of residence of the child. 2. Women inmates should be encouraged and, where necessary, taught to take care of their children, especially during the first year of life; in all cases they shall be allowed to be with their children every day, for the time and under the conditions set out in the internal rules.

Chapter III Special rules concerning foreign inmates

Article 207 Main principals

1. The authority in charge of execution should take measures as necessary in order to avoid that foreign inmates suffer any discriminatory treatment either from the staff or from the other inmates. 2. In order to avoid the social isolation of foreign inmates, family ties as well as contacts with consulates should be promoted; the participation of voluntary organisations and persons who have the same nationality as the foreign inmates in the organisation of activities that contribute to keep the latter close to their culture of origin should also be promoted. 3. The religious and cultural needs of foreign inmates should be safeguarded, in particular by making it possible for a minister of their religion to visit them, by providing them with adequate food and by provided them with one publication likely to established a link with their structures of origin.

N.B: Special procedures are laid down for the transfer of foreign inmates to their countries of origin. The request for transfer should be forwarded to the public prosecutor attached to the court that sentenced the person. The re-education services are under a duty to divulge the text of the Convention on the Transfer of Sentenced Persons (see Circular N° 1/94-DCSDEPMS of 21 June and Circular N° 39/93-DCSDEPMS-2, of 27 August). The text of that convention was made public in Circular-letter N°10/94/DEP, of 6 July.

N.B: See Circular N° 27/88/DCSDEPMS-19, of 12 September, as well as Circular N° 23/86/DCSDEPMS-16, of 30 October, as well as notes to Article 38.

N.B: At the time of admission, foreign inmates must be informed that they are entitled, either to ask the prison director to communicate without delay the fact to the consular officials, or to communicate themselves. Visits by consular officials do not require previous authorisation by a higher authority; the prison director should inform the consular authorities about the conditions under which they may visit inmates. (see Circular N° 6/83/DCSDEPMS-4, of 22 February).

Article 208 Access to means that facilitate the communication

1. Difficulties arising from the fact that foreign inmates may ignore the Portuguese language should, as far as possible, be softened by way of facilitating the translation of documents or the use of an interpreter, so that the inmates may get acquainted with the rights and duties that result from their penal and penitentiary situation. 2. When possible and justified Portuguese language courses for foreign inmates will be organised.

Chapter IV Special rules concerning remand in custody

Article 209 General principle

1. Remand prisoners must benefit from the presumption of innocence and be treated accordingly. 2. Remand in custody must be executed in such a way as to exclude any restriction of liberty that is not strictly indispensable to the aims for remand, to ensure discipline, security and order in prison.

Article 210 Regime

1. The normal regime for remand prisoners is to live in common with small groups of other detainees during the day and being isolated during the night. 2. The provisions of § 1 do not apply to detainees:

a) incommunicado, according to the law; b) who expressly so request to the prison director, in writing; c) who show that they are not adapted to the normal regime or who are presumed to be especially dangerous because of the facts that caused their detention or because of their criminal record; d) whose physical or mental condition do not allow.

3. Where the regime mentioned in sub-paragraphs c) and d) of § 2 applies, the grounds for that should be re-examined by the prison director every month. 4. The request mentioned in sub-paragraph b) of § 2 may at any time be withdrawn. 5. In the cases mentioned in § 2, the detainee may be placed in a prison of a different category, subject to the authorisation of the Director General of the "Direcção-Geral dos Serviços Prisionais"; remand regime should however remain as well as if possible, separation from other categories of inmates.

Article 211 Incommunicability

1. Remand prisoners, upon a decision of the competent authority in conformity with the provisions of the Code of Criminal Procedure, may be subjected to:

a) the regime of total incommunication; b) the regime of restricted incommunication where communication with certain persons only is forbidden.

2. When any prisoner is placed in a regime of incommunication, the competent authority must issue the warrant in writing and, in case of restricted incommunication, mentioning explicitly the limitations attached. 3. The provisions of §§ 1 and 2 do not prevent the application of the provisions of Article 6, § 3, and Article 107; neither do they prevent the detainee to communicate to the prison director, the doctor, the religious assistant, members of the staff authorised by the

prison director and any other persons who under the law are entitled personally to communicate with him.⁴ When isolation seriously harms the detainee, in particular his physical or mental health, the prison director, having heard the doctor, will report the case to the authority that issued the warrant; the latter will take responsibility of the consequences should it not authorised the measures proposed by the director.⁵ The provisions of § 3 impose upon the staff concerned an obligation of secrecy.

Article 212 Visits

If possible, remand prisoners may receive visitors every day, in accordance with the internal rules.

Article 213 Clothes

Remand prisoners may use their own clothes provided that they bear the expenses.

Article 214 Food

Remand prisoners may receive food, at their own expenses, from the outside the prison.

Article 215 Work

1. Remand prisoners may not be obliged to work². Remand prisoners may, at their request, be authorised to work, to follow education and training courses, or other courses and to participate in other activities organised in prison, cultural, recreational, sportive.³ The provisions of § 1 do not free the detainees from the obligation to clean and tidy up their room and general obligation of up-keeping the prison, without prejudice to the provisions of Article 64 § 2.

Article 216 Young adults

1. Young liable adults aged 25 or less remanded in prison should be placed in prisons or sections of prisons for young people.² Remand prison of young liable adults age 25 or less bears a predominantly educational aim.

Article 216 - A

The rules on the execution of sentences involving deprivation of liberty shall also apply to remand in prison, unless otherwise provided in the law.

Part XX Execution of security measures involving deprivation of liberty

Article 217 Aim of the internment

Internment resulting from the application of a security measure aims at defending the society and should be directed towards re-integrating the inmate into free life.

Article 218 Application of other rules

The rules on the execution of sentences involving deprivation of liberty shall also apply to internment resulting from the application of a security measure, to the extent that nothing prevents it.

Article 219 Conditions in prison

The conditions in prisons with respect to the execution of security measures, in particular concerning individual rules and special assistance measures, should as far as possible aim at sheltering the inmate from damages inherent to long deprivation of liberty.

Article 220 Clothes

Inmates may use their own clothes, including underwear, as well as their own bed linen, provided they bear the expenses.

Article 221 Preparation for release

With a view to preparing release, the execution of security measures may be made more flexible, in particular by granting leave in accordance with the provisions of Articles 49 et seq.

Article 222 Security measures in prisons for women

The application of security measures to women may take place in prisons for the execution by women of sentences involving deprivation of liberty, provided that such prisons meet the necessary requirements, in particular with respect to security.

Part XXIFinal and transitional provisions

Article 223 Social assistance

A separate act concerning specialised social assistance in criminal matters must be published before the entry into force of this law.

Article 224 Decrees, regulations and instructions

The Minister of Justice, after having heard the "Direcção-Geral dos Serviços Prisionais", will issue such decrees, regulations and instructions as are necessary for the clarification and implementation of this law.

Article 225 Legal norms in force

The rules presently in force that are not contrary to the provisions, the spirit and the aims of this law, shall remain applicable.

Article 226Public participation

For a period of three months as from the date of their publication, the rules of this law will be subject to public scrutiny with a view to their modification, if appropriate.

Article 227Entry into force

This law shall enter into force on 1 January 1980.

- Related Searches:
- [Human Rights Lawyer](#)
- [Constitutional Court](#)
- [Human Rights Work](#)
- [Liberal Party](#)
- [International Human Rights Law](#)
- [International Human Rights](#)
- [Political Rights](#)
- [International Bill Of Human Rights](#)
- [International Bill Of Rights](#)