

# **COUNTRY FACTSHEET**

Sentence Adjustment Mechanisms in Europe  
Procedural Barriers & National Contexts

# **PORTUGAL**

**December 2024**

<b>1. Introduction</b>	<b>3</b>
a. General overview of the Portuguese penal and prison systems	3
b. Evolution over the past 20 years	4
c. Landmark rulings on the adjustment of sentences	5
d. ECtHR Judgments against Portugal	5
e. Fair Trial Guarantees	6
f. Use of sentence adjustment mechanisms to relieve overcrowding	6
<b>2. Overview of Portugal’s Sentence Adjustment Mechanisms</b>	<b>7</b>
a. Institutional Architecture	8
b. Players in the System	9
c. Criteria for Granting Sentence Adjustment	9
b. Procedure for Applying	12
c. Time Limits	14
<b>3. Substance of Sentence Adjustment Decisions</b>	<b>15</b>
a. Factors Considered in Conditional Release Decisions	15
b. Prison Leave Decisions	16
c. Open Regime Decisions	16
d. Modifications of Sentence Execution	17
e. Quality of the Law and Legal Uncertainty	17
<b>4. Recall</b>	<b>18</b>
<b>5. Statistics</b>	<b>18</b>
a. General statistics	18
b. Statistics on the Granting of Sentence Adjustments/Reductions	19
<b>6. Procedural Barriers</b>	<b>22</b>
a. Access to Legal Assistance and Representation	22
b. Access to Case Files	23
c. Evidence	23
d. Public Access to Proceedings	23
e. Access to Appeals	24
f. Delays and Premature Applications	24
<b>7. Differential Impact for Categories of Prisoners</b>	<b>24</b>
a. Foreign Nationals	25
b. Elderly, Disabled, and Health-Related Adjustments	25
c. Prisoners Convicted of Serious Offences	25
d. Minors	25
e. Social and Economic Barriers	26

# 1. Introduction

## a. General overview of the Portuguese penal and prison systems

Portugal was among the first countries in the world to abolish both the death penalty and life imprisonment in the 1800s. The most severe punishment is imprisonment, with a maximum limit of 25 years.

Penal law defines deprivation of liberty as a punishment of last resort and thus provides a wide variety of alternative sentences.

The legislation governing the implementation of prison sentences establishes rehabilitation as its primary goal.

Paradoxically, Portugal presents a high prison population rate (113 per 100,000, as of 31.12.2023)<sup>1</sup> and one of the highest average lengths of imprisonment among Council of Europe Member States (according to SPACE figures).

The most severe problem of the Portuguese prison system seems to be material detention conditions that often fail to meet ECHR standards. This is mainly because most prison facilities are old, and there has been no significant investment in modernising or replacing them. The main problems inmates bring to the ECtHR are lack of individual space, lack of privacy, and inadequate ventilation, lighting, climatisation, and hygiene.

There are several overcrowded prisons due to geographical reasons related to proximity to the inmate's residence, family, or trial court. Prisons are also understaffed.

The purposes of punishment are legally defined, and so are the purposes of the enforcement.

The purposes of punishment are explicitly stated in Article 40 of the Penal Code and are exclusively of a preventative nature (general prevention and individual prevention). Retribution is not a purpose of punishment (the role of culpability in sentencing is that of establishing a maximum limit for the length of the sentence).

In their turn, the aims of the enforcement of the sentence are stated in Article 42 of the Penal Code and also in Article 2 of the Code governing the Implementation of Prison Sentences. Implementation is primarily aimed at reintegrating offenders into society, preparing them to lead their lives in a socially responsible way, without committing further crimes. It also aims at the protection of legal values and the defense of society.

The main legal framework for the implementation of prison, including for sentence adjustment, is the Code governing the Implementation of Prison Sentences, approved in 2009.<sup>2</sup> The Code establishes the rights and duties of those serving a prison sentence and it rules on all aspects of the implementation, such as regimes (ordinary, open and security regimes), health, hygiene, clothing, food, social support, freedom of religion, education, training, work, rehabilitation programmes and activities, contacts with the outside world, relations with the media, disciplinary regime, means of order and security, and right to judicial protection.

---

<sup>1</sup> Sources: Prison Service Statistics (prison population of 12,012) and National Statistics Institute (resident population in Portugal of 10 639 726).

<sup>2</sup> *Código da Execução das Penas e Medidas Privativas da Liberdade*, enacted by Law No. 115/2009, of October 12, available at <https://data.dre.pt/eli/lei/115/2009/p/cons/20190328/pt/html>.

## b. Evolution over the past 20 years

The main reforms related to prison matters and the use of imprisonment over the last 20 years are described below.<sup>3</sup>

In **2007**, a reform of the **Penal Code** and the **Code of Criminal Procedure**<sup>4</sup> introduced relevant changes concerning alternative sentences, conditional release, and pretrial detention. It created the possibility of serving short prison sentences in home detention; broadened the threshold for replacement of prison sentences by non-custodial sentences (up to then, only prison sentences up to three years could be replaced; the threshold was raised to five years); restricted the threshold that allowed for the imposition of pre-trial detention, to limit its use; allowed for the possibility of granting early release after serving half of the sentence (until then, for more serious crimes, it could only be granted after serving 2/3) and expressly established the possibility of appealing decisions of non-granting early release (possibility already established by the Constitutional Court but still to state in law).

In **2009**, the **Code governing the Implementation of Prison Sentences** was approved. It replaced the penitentiary law of 1979. Although the latter has been considered progressive for its time, after more than twenty years in force there was consensus on the need to update it.

According to what was stated in the explanatory report of the draft law, the main reasons for reform were the law being out of date with the evolution of prison practices, the change in the profile of the prison population, the evolution in the social and criminal reality and the new challenges of prison intervention. The Code sought to translate European norms, especially the European Prison Rules, into national law. It also sought to implement many recommendations from the CPT, especially those formulated or reiterated in the CPT report of its visit in 2008. The new Code significantly broadened the competencies of the courts for the execution of sentences (*tribunais de execução das penas*), namely those of judicial review of decisions of the prison administration.

In **2017**, an **amendment to the Penal Code**<sup>5</sup> introduced a new system of **home detention** as a form of implementation of prison sentences up to two years, or the remaining two years of imprisonment in case of recall to prison following revocation of a non-custodial sentence. Those prison sentences shall be implemented in home detention whenever the court finds that, by this means, the purposes of punishment are adequately and sufficiently fulfilled. Home detention implies an obligation to remain at home, with electronic monitoring, for the length of the prison sentence. A “rehabilitation plan,” which shall guide the implementation of the sentence, must be prepared by the probation service whenever the sentence exceeds six months, or the offender is younger than 21 years old; the plan is subject to the approval of the court for the execution of sentences. The court may allow the offender to leave home at certain times of the day for specific purposes, namely, to attend rehabilitation programmes, keep a job, or attend school or vocational training. The court may additionally impose specific duties. Both the duties and the leaves of absence may be modified throughout the implementation of the sentence by the court responsible for the implementation of sentences.

---

<sup>3</sup> Also described (despite only from 2009 onwards) in our 2023 national report within the scope of the PRISON CIVIL ACT Project (‘Reception and implementation of the European bodies’ practice and jurisprudence on structural problems related to prisons and critical assessment of the impact and effectiveness of these interventions at national level’).

<sup>4</sup> Law No. 59/2007 (<https://diariodarepublica.pt/dr/detalhe/lei/59-2007-640142>) and Law No. 48/2007 (<https://files.dre.pt/1s/2007/08/16600/0584405954.pdf>), respectively.

<sup>5</sup> Law No. 94/2017, <https://diariodarepublica.pt/dr/detalhe/lei/94-2017-108038373>

The 2017 amendment also eliminated two penalties of a custodial nature, due to their inefficacy in practice: weekend detention and semi-detention.

### c. Landmark rulings on the adjustment of sentences

Ruling No. 638/2006, on the question of the right to appeal judicial decisions not granting conditional release (parole), judged unconstitutional a provision which did not allow for appeal. The Penal Code was subsequently amended, in 2007, to provide for the right to appeal.

Rulings No. 150/2013 and 332/2016, on the contrary, did not rule unconstitutional the provisions according to which decisions on “*adaptation to conditional release*” are not subject to appeal. This jurisprudence is based on the differences between conditional release (where the offender is put in freedom) and adaptation to conditional release (where the offender is released from prison but still deprived of liberty, in home confinement). However, a later judgment (Ruling No. 764/2022) ruled the provision unconstitutional. The law is still to be changed accordingly.

Rulings No. 477/2007 and 181/2010 dealt with revocation of parole due to the offender committing further crimes, namely with how to count the time still to be served in prison.

Rulings No. 560/2014 and 752/2014 did not rule unconstitutional a provision that does not grant the prisoner the right to appeal against the judicial decision refusing to grant prison leaves, despite the fact that the Public Prosecution Office may appeal both the decisions to grant and not to grant leaves.

### d. ECtHR Judgments against Portugal

The main ECtHR judgments dealing with prison issues were *Stegarescu and Bahrin v. Portugal* (2010), *Petrescu v. Portugal* (2019), *Miranda Magro v. Portugal* (2024) and *Fernandes v. Portugal* (2024).

**Stegarescu** concerned **access to courts** to challenge decisions of the prison administration establishing a more restrictive regime. The Court found a violation of **Article 6** (civil limb). The situation that the ruling originated from preceded the entry into force of the Code governing the Implementation of Prison Sentences. Currently, following a Constitutional Court ruling (Ruling No. 20/2012), the decision to impose the security regime is now subject to judicial review by the courts for the execution of sentences.

**Petrescu** was the first ruling concerning prison conditions, finding a violation of **Article 3** for **inhuman and degrading treatment**. It has a quasi-pilot nature, and its execution has since been under supervision by the Department for the Execution of Judgments of the Council of Europe. Following *Petrescu*, between 2020 and 2004, 10 other rulings concerning prison conditions found violations of Article 3, of which some also found a violation of **Article 13** due to the lack of domestic remedies to challenge prison conditions.

**Miranda Magro** concerned a security measure of commitment to a psychiatric unit, imposed on mentally ill person exempted from criminal responsibility. Because the measure was implemented at a prison hospital’s psychiatric unit, in conditions the Court found inadequate, and without the appropriate and sufficient assistance and care, the Court found a violation of **Articles 3 and 5**.

**Fernandes** concerned the security regime, a stricter regime of implementation of prison sentences, applicable to higher-risk inmates. The judgment found a violation of Article 3, due to aspects concerning procedural safeguards attached to the decisions of placement/continuance in security regime; reassessment procedure; the restrictions implied by the regime (including body searches and insufficient purposeful activities).

#### **e. Fair Trial Guarantees**

Domestic law in Portugal incorporates fair trial requirements into sentence adjustment procedures, as established under Article 20 of the Constitution. This article guarantees access to the law and courts, effective judicial protection, and the right to secure decisions within a reasonable time and through a fair process. Although specific case law on the issue is not abundant, the Constitutional Court has applied Article 20 to address deficiencies in procedural safeguards. For example, it has ruled provisions unconstitutional when they denied prisoners the right to appeal decisions rejecting prison leave requests or parole applications. Additionally, the Code governing the implementation of prison sentences mandates that all court decisions in this area must be reasoned, as required by Article 146.

#### **f. Use of sentence adjustment mechanisms to relieve overcrowding**

In the late 20<sup>th</sup> century, amnesty laws were used to reduce the prison population and during the COVID-19 pandemic, exceptional measures, including sentence adjustments, were adopted to alleviate prison overcrowding.<sup>6</sup>

In April 2020, following recommendations from international/European bodies – in particular, the UNHCHR, the WHO and the CPT – and from the Portuguese Ombudsperson (who also acts as the NHRI and the NPM), the Parliament approved a law providing for exceptional measures aimed at preventing the spread of the coronavirus in the prison system. Law No. 9/2020, of April 10, allowed for the immediate release – either permanent or temporary – of inmates, by means of:

1) **A collective pardon** of sentences up to 2 years and of the remaining 2 years of the longer sentences (in the latter case, only for prisoners presently serving the last 2 years of their sentence, and provided that they have served at least half of the sentence). It was not applicable to persons convicted of specific crimes (including murder, domestic violence, sexual offences, corruption, crimes against police or prison officers, crimes committed by politicians, public officeholders, or police or prison officers, among many other serious offences).

2) The possibility of an exceptional **individual pardon** by the President of the Republic, to be decided on a case-by-case basis, following a proposal by the Minister of Justice. This measure applied to inmates who were 65 years old or over and suffering from health conditions. The same exclusions regarding specific categories of offenders and offenses applied.

3) A special **prison leave**, granted by the Director General of the Prison Service, of 45 days, renewable for new periods of up to 45 days, depending on the person's conduct and the evolution of the pandemic. This leave could only be granted if all general conditions for

---

<sup>6</sup>For more detailed information on these exceptional measures and its impact, see Rodrigues/Pinto (2021), pp. 411–423.

granting prison leaves are met and with the additional condition that the inmate has previously benefited from judicial prison leaves. Unlike regular prison leaves, this special leave entailed the obligation of the inmate to remain at home, under the supervision of the probation service and/or the police.

4) For persons granted the special leave mentioned above, the court for the execution of sentences could grant **early release** up to six months before the inmate would normally be eligible for it. That bonus period was to be served in home confinement under the supervision of the probation service and/or the police.

Before the law came into force, the Portuguese prison population totalled 12,553 inmates (800 of whom were over 60 years old) for a total of 49 prisons. Under the new law, between April and May 2020, 2,035 inmates were released (either temporarily or permanently) from the prison system. The prison population decreased from 12,553 (as of 1 April) to 10,997 inmates (as of 15 May), which meant a drop in the occupancy rate from 97.7% to 85% (as of 15 May 2020). In the following months, the population rose again to 11,315 (1 December 2020).

## 2. Overview of Portugal's Sentence Adjustment Mechanisms

The primary framework governing sentence adjustments is legislative, as this is a matter reserved for Parliament. Accordingly, the types of sentence adjustments, their conditions, and the procedures for granting them are regulated by the Penal Code and the Code for the Implementation of Prison Sentences.

The General Regulation of Prison Establishments, also legislative in nature but enacted through a Decree-Law approved by the Government, contains additional provisions relevant to sentence adjustment mechanisms. These regulations are more practical in scope, addressing the formalities of requests, internal processing, preparation of reports, monitoring, and communication procedures.

In addition, the Prison and Probation Service operates under internal guidelines and procedural manuals, which provide specific instructions for assessing cases and drafting relevant reports. These documents ensure consistency in practice and supplement the broader legislative framework.

The main mechanisms of sentence adjustment are the following:

1. Prison leave (*licenças de saída*)
2. Conditional release (parole) (*liberdade condicional*)
3. Adaptation to conditional release (anticipation of parole) (*adaptação à liberdade condicional*)
4. Modification of the execution of the prison sentence (*modificação da execução da pena de prisão*)
5. Open regime (*regime aberto no exterior*)

**Prison leave** allows inmates to leave the prison for some days, without custody. They are aimed at keeping and strengthening family and social ties and at the preparation for release. There are shorter prison leaves, granted by the prison service, and longer leaves, granted by the judge. This mechanism is included in the report because it is time spent without custody

or surveillance, it is a prerequisite for granting open regime and it counts as time served in prison (meaning, in practice, a reduction of the number of days spent in prison).

**Conditional release** (parole) may be granted by the judge after having served half or two-thirds of the prison sentence, provided that at least six months have been served. Conditional release is mandatory after serving five-sixths of sentences longer than six years, provided that the convicted person consents.

Another form of early release is '**adaptation to conditional release**' or anticipation of parole. It consists of the possibility of anticipating conditional release, up to one year before the date when parole may be granted. This period is spent in home detention with electronic monitoring, for a period of up to one year before conditional release.

The '**modification of the execution of the prison sentence**' is a mechanism based on humanitarian grounds. It allows for inmates with a serious and irreversible disease, a serious and permanent disability or of advanced age, to request the judge to serve the rest of the sentence in their home or in a health or social facility, with or without electronic surveillance.

**Open regime** allows inmates to leave prison during the day, unaccompanied, to work or attend school, training or a program. It will be referred to in this report because it may in practice facilitate a positive decision on early release, and also because it allows for significant periods in the outside, without direct supervision of the prison administration.<sup>7</sup>

#### a. Institutional Architecture

The institutional structure for implementing sentence adjustments in Portugal consists of specialised courts, the probation service, and the prison administration:

- **Courts for the Execution of Sentences:** These specialised courts, created in 1944, oversee the implementation of custodial sentences, including decisions on conditional release, home detention, and reviewing decisions made by the prison administration. Each court is a single-judge body, with judges assigned to supervise sentence implementation in specific prisons. The **Public Prosecution Service** is represented at these courts, providing additional oversight and input.
- **Probation Service:** Managed by the **Directorate-General of Reintegration and Prison Services (DGRSP)** under the Ministry of Justice, the probation service is responsible for preparing prisoners for release, supervising sentence adjustments, and facilitating reintegration. The service includes **re-education officers**, who work within prisons to support prisoners' reintegration, and **social reintegration officers (probation officers)**, who liaise with families, supervise community measures, and report to the courts.
- **Prison Administration:** The **Director-General of the Prison Service** grants open regime, subject to confirmation by the court. Prison governors can grant short-term leaves (e.g., weekend leaves), while longer adjustments remain under judicial authority.

---

<sup>7</sup> According to the inclusion and exclusion criteria contained in the Guidelines for this research, 'Semi-freedom measures are included in the research when they provide the people concerned with large periods of freedom of movement in the community, outside the supervision of the prison administration, in a way that allows them to have a social life and maintain relations with the outside world'.



## b. Players in the System

The following actors are involved in Portugal's sentence adjustment system:

- **Judges:** Judges of the courts for the execution of sentences are primarily responsible for assessing applications and issuing decisions related to sentence adjustments.
- **Prison and Probation Service (DGRSP):**
  - **Re-education Officers:** Operate within prisons to facilitate prisoners' reintegration and prepare for sentence adjustments.
  - **Social Reintegration Officers (Probation Officers):** Supervise community measures, maintain contact with families, and provide regular reports to the court regarding compliance and progress.
- **Prison Governors:** Handle decisions related to shorter sentence adjustments, such as weekend leaves, and oversee prisoners' conduct during sentence execution.
- **Prosecutors:** Represent the state's interests, monitor judicial decisions, and can challenge grants of sentence adjustments where necessary.
- **Police:** Cooperate with the probation service to ensure compliance with conditions and report any relevant developments to the courts.
- **Defence Lawyers:** Represent prisoners in their applications for sentence adjustments, advocating for their rights and interests during judicial proceedings.

Portugal's sentence adjustment system faces significant resource constraints, particularly in staffing levels within the Prison and Probation Service (DGRSP). Reports from the National Preventive Mechanism (NPM) and the European Committee for the Prevention of Torture (CPT) highlight persistent shortages of re-education officers, who are critical for facilitating prisoners' reintegration and preparing sentence adjustment applications. In prisons with larger populations, the ratio of re-education officers to prisoners is especially low, resulting in limited opportunities for individualised attention and support. For example, in one notable case at the Setúbal Prison, a severe staff shortage left a single officer responsible for duties previously managed by three, significantly impacting prisoner access to personalised reintegration plans. The overburdening of officers with bureaucratic tasks, such as managing visit requests, further detracts from their ability to focus on rehabilitation programmes and partnerships with external organisations.

## c. Criteria for Granting Sentence Adjustment

In Portugal, the granting of sentence adjustments is governed by a combination of **formal requirements** (time served, prison regime) and **substantive criteria** (rehabilitation potential, public safety, and specific personal circumstances).

### *i. Conditional Release (Parole)*

In Portugal, **conditional release** (parole) is granted when the requirements for reintegration into society are met, and the release is considered compatible with public safety.

#### **Eligibility:**

- Conditional release can be considered after half of the sentence has been served,

provided at least six months have passed.

- For longer sentences, **mandatory release** occurs once five-sixths of the sentence has been served for sentences exceeding six years.
- In the case of recidivists or multiple recidivists, stricter eligibility thresholds apply. Conditional release may be considered after serving two-thirds of the sentence for those classified as **recidivists**, and after serving three-quarters for **multiple recidivists**.

**Assessment Criteria:** The judge considers several key factors:

- **Individual Prevention:** This includes an assessment of the inmate's personality, behaviour, and life prior to incarceration, as well as their progress during sentence execution. The judge evaluates whether the offender is likely to lead a socially responsible life upon release.
- **Public Safety:** The judge also ensures that the release will not compromise societal safety, evaluating the seriousness of the crime and its broader impact on society.
- **Rehabilitation Prognosis:** A positive evaluation of the offender's ability to reintegrate into society, demonstrated by participation in rehabilitation programmes and good conduct during imprisonment, is critical.
- **Consent of the Prisoner:** The inmate must consent to parole, as it comes with conditions and supervision.
- **Legal Duty:** If the conditions are met, the court is required to grant parole, as stated in **Article 61 of the Penal Code** (a "power-duty"). The decision must be reasoned and is subject to appeal.

*ii. Adaptation to Conditional Release (Anticipation of Parole)*

**Eligibility:** The requirements for adaptation are the same as those for conditional release.

**Assessment Criteria:** Similar to conditional release, the judge evaluates the offender's rehabilitation and likelihood of reintegration into society, ensuring that release is compatible with the safety of the public.

*iii. Modification of Sentence Execution*

**Eligibility:**

- A **modification of sentence execution** can occur in cases of illness, disability, or old age that make imprisonment incompatible with the prisoner's well-being.
- There are no specific time requirements for sentence modification based on humanitarian grounds.

**Assessment Criteria:**

The court must evaluate whether the modification will not undermine **strong demands of prevention** or **social order and peace**. This measure is often motivated by humanitarian concerns and aims to provide alternative sentencing for those whose condition makes prison detention untenable.

*iv. Prison Leave*

Prison leave is granted under certain conditions to allow prisoners temporary release.

**Eligibility:**

- The prisoner must have served at least **one-sixth** of the sentence (for sentences not exceeding five years) or **one-quarter** (for sentences exceeding five years).
- The prisoner must be serving their sentence in a **common or open regime**.
- There must be no pending legal cases requiring pre-trial detention.
- No history of evasion or unlawful absence in the 12 months prior to the request.

**Assessment Criteria:**

- **Rehabilitation Prognosis:** A well-founded expectation that the prisoner will behave in a socially responsible manner and will not evade the execution of the sentence.
- **Social Compatibility:** The prisoner's family and social environment are evaluated to ensure successful reintegration.
- **Victim's Protection:** The needs for victim protection are also considered in the decision-making process.

*v. Open Regime*

The **open regime** allows inmates to serve their sentence with more freedom, subject to certain conditions.

**Eligibility:**

- The inmate must have served at least **one-quarter** of the sentence.
- The inmate must have successfully completed a **prison leave** prior to being considered for open regime.
- There must be no pending legal proceedings that would imply pre-trial detention.

**Assessment Criteria:**

- **Prisoner's Conduct:** The inmate's behaviour during imprisonment, including their ability to adhere to prison rules and engage in rehabilitation activities.

- **Public Safety:** There must be no concerns that the prisoner will evade the sentence or use the privileges of open regime to commit crimes.
- **Rehabilitation and Reintegration:** The court considers the appropriateness of the open regime for the individual's rehabilitation and their ability to live safely within society while serving the remainder of their sentence.

## b. Procedure for Applying

### i. Conditional Release (*Parole*)

The process for conditional release in Portugal is primarily judicially supervised, involving reports and assessments from the prison and probation services. Notably, parole is initiated automatically once formal requirements are met, rather than by a direct request from the prisoner.

- **Initiating Applications:**
  - The procedure for parole is initiated **ex officio** by the court for the execution of sentences (*tribunal de execução das penas*) when the formal requirements are fulfilled (1/2, 2/3, or 5/6 of the sentence served).
  - The following reports are prepared and submitted to the court:
    - A **prison service report** detailing the prisoner's progress during incarceration, including behaviour, skills acquired, and attitude toward the crime.
    - A **probation service report** assessing the prisoner's remaining needs for social rehabilitation, reintegration prospects (family, social, and professional), and proposed conditions for parole, including victim protection considerations.
    - Any other elements deemed relevant by the prison administration, public prosecutor, or judge.
- **Court Review:**
  - Before deciding, the court convenes the **advisory council** (*conselho técnico*), which includes the judge, the public prosecutor, the prison governor, and officers responsible for rehabilitation, security, and social reintegration. The advisory council provides input to inform the decision.
  - A hearing is conducted with the prisoner before the judge. The public prosecutor may attend, and the prisoner has the right to legal representation during the hearing.
  - The judge may suspend the decision for up to three months to allow time for specific conditions to be met or for the preparation of a social integration plan.
- **Appeals:**
  - The judge's decision, whether to grant or deny parole, must be reasoned and is subject to appeal.
  - Appeals can be filed by the prisoner or the public prosecutor and are reviewed by the **Court of Appeals**.
  - If parole is denied, the court must re-examine the case yearly.

- **Post-Decision Supervision**

- Parole may include conditions, duties, or probationary measures as part of an individualised social rehabilitation plan.
- The probation service is responsible for supervising compliance with parole conditions, with additional support from entities such as the police, who periodically report to the court or notify it of relevant circumstances.

*ii. Adaptation to Conditional Release (Anticipation of Parole)*

The procedure for adaptation to conditional release mirrors that for conditional release but includes significant differences:

- **Initiation:** Unlike parole, adaptation to conditional release requires a **formal request** from the prisoner to the court for the execution of sentences.
- **Appeals:** There is no provision for appealing decisions denying adaptation to conditional release. This lack of an appeal mechanism has been challenged before the Constitutional Court. While some rulings have upheld its constitutionality, a recent judgment declared the absence of an appeal as unconstitutional.

*iii. Modification of Sentence Execution*

Modification of a prison sentence may be requested under specific circumstances, such as illness, disability, or old age that makes continued imprisonment incompatible with the prisoner's condition.

- **Initiating Applications:**
  - Requests may be submitted by the prisoner, a spouse, partner, or family member, or by the Public Prosecution Service, either **ex officio** or at the proposal of the prison governor.
- **Court Review:**
  - Relevant reports and opinions are collected from the prison service and other stakeholders.
  - The public prosecutor issues an opinion on the case before the judge makes a decision.
- **Appeals:**
  - Decisions on sentence modifications are subject to appeal by the prisoner or other parties involved.

*iv. Prison Leave*

Prison leave allows prisoners temporary release under specific conditions. The procedure for granting leave is judicially supervised.

- **Initiating Applications:**
  - Prisoners must request leave from the court for the execution of sentences.
- **Court Review:**

- The **prison service** provides relevant information to the court to support or contest the request.
- The **advisory council** is convened to evaluate the request. The judge may choose to hear the prisoner if deemed necessary.
- **Appeals:**
  - The public prosecutor may appeal decisions to grant leave.
  - Prisoners cannot appeal decisions denying leave, though this lack of an appeal mechanism has been challenged before the Constitutional Court. In recent rulings, the absence of an appeal process has been declared unconstitutional under certain circumstances.

#### v. *Open Regime*

Open regime provides prisoners with greater freedom while serving their sentence under specific conditions.

- **Initiating Applications:**
  - Open regime may be requested by the prisoner or proposed by the prison service.
- **Decision Authority:**
  - The **Director-General of the Prison Service** decides whether to grant open regime.
  - This decision must then be confirmed by the judge of the court for the execution of sentences.
- **Appeals:**
  - There is no provision for appealing decisions on open regime.

#### c. **Time Limits**

The law in Portugal establishes guidelines for the duration of procedures related to sentence adjustments. However, courts often treat these deadlines as indicative rather than mandatory, and delays carry no automatic consequences.

- **Conditional Release (Parole):**
  - The procedure is initiated *ex officio* when formal requirements are met. While the process has no explicit deadline, delays frequently occur in practice. Judges are required to review parole eligibility annually if parole is denied, but this review often faces delays.
- **Adaptation to Conditional Release:**
  - There is no legally mandated timeline for decisions. Although the procedure mirrors that for parole, the absence of strict time limits can result in significant delays, with no enforceable penalties for non-compliance.
- **Modification of Sentence Execution:**
  - Decisions require reports from multiple stakeholders and opinions from the Public Prosecution Service, which can prolong the process. While there is an

expectation for timely decisions, courts and prison administrations face no repercussions for delays.

- **Prison Leave:**
  - There is no legally established timeframe for deciding on applications for prison leave. Delays are common, especially when courts must convene advisory councils or review multiple cases simultaneously. Appeals by the Public Prosecution Service against granted leave can further extend the process.
- **Open Regime:**
  - The decision by the Director-General of the Prison Service, which requires judicial confirmation, is not subject to strict timelines. The lack of binding deadlines often results in delays without consequences.

### 3. Substance of Sentence Adjustment Decisions

In Portugal, decisions regarding sentence adjustments, particularly **conditional release (parole)**, **prison leaves**, **open regime**, and **modification of sentence execution**, are based on a combination of **legal requirements**, **individual assessments**, and **risk evaluations**. While the legislation sets out criteria, decisions often depend on the interpretation of these criteria by the court and the involvement of various institutions, such as the **prison service**, the **probation service**, and the **public prosecutor**.

#### a. Factors Considered in Conditional Release Decisions

For **conditional release (parole)**, the primary factors considered by the court include:

- **Criminal Prognosis:** A fundamental element in the decision to grant parole is the **criminological prognosis**, which evaluates the likelihood that the prisoner will commit future crimes if released. This prognosis is based on the **evolution of the prisoner's personality** during incarceration, their behaviour in prison, and their **attitude towards the crime**. The court looks at whether the prisoner has shown remorse, adapted to prison life, and demonstrated changes in attitude. This prognosis is considered both in terms of the **individual prevention** (the likelihood of recidivism) and **general prevention** (the need to deter others from committing similar crimes).
- **Social Reintegration Prospects:** The **probation service** plays a crucial role in assessing the prisoner's potential for reintegration into society. This assessment includes evaluating the prisoner's **family, social, and professional environment**, and whether there are sufficient support structures to facilitate the prisoner's reintegration. The **social rehabilitation plan** developed by the probation service is critical in determining whether the prisoner can adapt successfully to life outside prison.
- **Prisoner's Behaviour in Prison:** The court will consider reports from the **prison service** that outline the prisoner's **behaviour during incarceration**, including any involvement in rehabilitation programs, work in the prison, and interactions with staff and fellow prisoners. A **disciplined record** is generally seen as a positive factor, while

evidence of disruptive behaviour, substance abuse, or violent incidents can negatively influence the decision.

- **Victim Protection:** Decisions on parole also take into account the **victim's protection needs**. In cases where the release of the prisoner poses a potential risk to the victim or society, the court may choose to delay or deny parole.
- **Prisoner's Consent:** Parole requires the **prisoner's consent**, as they must agree to the conditions of parole, including community supervision. The consent is important because the conditions attached to parole (such as probationary measures) require the active participation of the prisoner.

If the requirements are met, the court is **obliged** to grant parole, as specified by the law. The decision is based on a "**power-duty**", meaning that once the conditions are met, the court must grant parole. However, the decision must be **reasoned** and is subject to **appeal** by both the prisoner and the public prosecutor.

## b. Prison Leave Decisions

Prison leaves, including **administrative prison leaves** (e.g., weekend leaves granted by the prison governor), are another form of sentence adjustment. For **judicial prison leaves**, which are granted by the court, the following factors are assessed:

- **Expectation of Socially Responsible Behaviour:** The court assesses whether there is a **well-founded expectation** that the prisoner will behave in a socially responsible manner, without committing crimes during the leave period.
- **Compatibility with Social Peace:** The court examines whether granting the leave would be compatible with maintaining **social peace** and whether the release poses a risk to public safety.
- **Risk of Evasion:** The likelihood that the prisoner will evade the execution of their sentence during the leave period is also considered.
- **Prisoner's Behaviour:** The prisoner's behaviour in prison is an essential factor. Disciplinary records and participation in rehabilitation programs influence the court's decision. The **progress during sentence implementation** is critical, as it reflects the prisoner's readiness for reintegration.

The decision to grant a prison leave is based on these factors, but **disciplinary sanctions** or **bad behaviour** can prevent the leave. Importantly, while the public prosecutor can appeal the decision, the **prisoner cannot** appeal a rejection, although a decision to revoke a leave based on non-compliance is subject to appeal.

## c. Open Regime Decisions

The **open regime** is another adjustment measure in Portugal, allowing prisoners to serve their sentence in a less restrictive environment. The criteria for granting open regime include:



- **Suitability Based on Behaviour:** Prisoners must have **demonstrated appropriate behaviour** in prison. The court considers whether the prisoner has complied with prison rules, participated in rehabilitation programs, and shown signs of rehabilitation.
- **Risk of Evasion:** There must be no substantial risk that the prisoner will evade the execution of the sentence or exploit the opportunities provided by the open regime to commit further crimes.
- **Social Reintegration Support:** Like in parole decisions, the court will assess the prisoner's **support systems**, including family or social networks, and their readiness for reintegration into society.

The decision to grant open regime can be **initiated by the prisoner or proposed by the prison service**, and it is subject to the approval of the **Director-General of the Prison Service**, who makes the final decision. The decision must be confirmed by the **court for the execution of sentences**. Notably, there is **no appeal** to this decision, which is a key feature of the open regime process.

#### d. Modifications of Sentence Execution

For modifications to the **execution of the prison sentence**, such as **adaptation to conditional release (anticipation of parole)** or changes due to **health issues or old age**, the **court** is the decision-maker. The requirements for these changes are more **flexible** compared to parole. Factors such as **disease, disability, or age** that make continued imprisonment incompatible with the prisoner's welfare can lead to modification. In these cases, the court must ensure that the modification does not conflict with **strong demands of prevention** or public order.

#### e. Quality of the Law and Legal Uncertainty

While the legislation governing sentence adjustments is generally clear, certain **legal ambiguities** can lead to inconsistent decision-making. Key points of criticism include:

- **Criminological Prognosis:** The **certainty** required for a positive criminological prognosis is often debated. The law calls for a "**favourable prognosis**" regarding the prisoner's future behaviour, but what constitutes a "sufficiently favourable" prognosis can be interpreted subjectively by different courts, leading to varying decisions. Some argue that the standard for granting parole is unnecessarily high, with courts demanding **near certainty** of future good behaviour, which may result in unwarranted denials of release.
- **Absence of Remorse:** The lack of **remorse** or **guilt admission** can negatively affect decisions, even though it is not a legal requirement. Courts may place significant weight on the prisoner's relationship with the crime committed, and some cases have shown that a failure to express remorse can lead to denial of parole or early release.
- **Standardisation:** While legal scholars argue that decisions should be tailored to the individual circumstances of each case, there are instances where decisions appear **standardised**, particularly for **prison leave** applications. The use of forms that

categorise reasons for decisions can sometimes undermine the **individuality** of the review process.

## 4. Recall

In case of non-compliance with the conditions attached to early release, prisoners may be recalled to prison.

However, recall to prison is not automatic, and a decision by the court is always necessary. The court may either issue a warning, require guarantees of compliance with the obligations, impose new conditions or change the requirements of the plan. If the parolee violates the conditions seriously or repeatedly, the judge may revoke parole. Parole is also revoked if the convicted person commits a crime and is convicted, thus revealing that the purposes for which he/she was released could not be achieved.

A hearing of the parolee takes place before the court's decision (Article 185 of the Code governing the Implementation of Prison Sentences). The procedure is the same as for the hearing for granting parole. Revocation implies recall to prison to serve the remaining part of the sentence. The decision to revoke probation is subject to appeal by the sentenced person or the public prosecutor (Article 186 of the Code governing the Implementation of Prison Sentences).

The Lisbon Court of Appeals, in a ruling of 27 April 2022 (case no. 4084/10.5TXPRT-Q.L1-3)<sup>8</sup> found that "*a mere conviction for an offence committed during the course of parole does not, in itself, lead to its immediate revocation*".

The Porto Court of Appeals, in a ruling of 13 September 2023 (case no. 433/14.5TXPRT-J.P1)<sup>9</sup> found that "*the point of differentiation that should dictate the maintenance or revocation of an early release in the event of the perpetrator committing a new offence during the period of parole is whether or not the objectives that were the basis of the previous decision to grant early release can still be achieved*".

## 5. Statistics

### a. General statistics

The prison population in Portugal has varied over the past two decades, with fluctuations in both total numbers and demographic characteristics. In 2004, the total population of Portugal was 10,529,255, and the total number of inmates, including pre-trial detainees, stood at 12,956. The prison population rate was 123.05 per 100,000 inhabitants, and the total capacity of penal institutions was 12,789. By 2014, the population of Portugal had decreased slightly to 10,427,301, while the number of inmates increased to 14,003, with a prison population rate of 134.3 per 100,000 inhabitants. At that time, the total capacity of penal institutions was 12,591, and the prison density was 111.2 per 100 places. As of September 2024, the population of Portugal had risen to 10,639,726, and the number of inmates had decreased to

---

<sup>8</sup> Available at: <http://www.gde.mj.pt/jtrl.nsf/33182fc732316039802565fa00497eec/fc458055550a9d0c80258872003148ca?OpenDocument>

<sup>9</sup> Available at: <https://www.dgsi.pt/jtrp.nsf/56a6e7121657f91e80257cda00381fdf/a53521ee8f7f967480258a39003be4e3?OpenDocument>

12,151, with a prison population rate of 114 per 100,000 inhabitants. The total capacity of penal institutions had increased slightly to 12,608, resulting in a prison density of 98.1 per 100 places.

Regarding the composition of the prison population, in 2004, there were 12,956 total prisoners, with 9,895 convicted prisoners in custody and 3,000 persons remanded in custody. By 2014, the total number of prisoners had increased to 14,003, with 11,534 convicted prisoners in custody and 2,330 persons remanded in custody. In 2023, the total prison population decreased to 12,383, with 9,913 convicted prisoners in custody and 2,470 persons remanded in custody. This indicates a slight reduction in the total number of inmates but an increase in the number of remanded prisoners.

The average duration of sentences served by prisoners in Portugal has also seen some variation. In 2004, a significant portion of inmates were serving sentences of 3 years to less than 9 years, totaling 5,850 prisoners. Additionally, there were 2,125 prisoners serving sentences longer than 9 years. In 2014, the distribution of sentences had shifted, with a greater number of prisoners serving sentences between 1 and 3 years, totaling 1,653, and 4,246 serving sentences ranging from 5 to 10 years. By 2023, a similar distribution was observed, with 1,531 prisoners serving sentences between 1 and 3 years and 3,587 serving sentences ranging from 5 to 10 years.

Other significant trends in the prison population include the turnover ratio, which is a measure of the rate at which prisoners enter and leave the system. In 2004, the turnover ratio was 32.5, while in 2015, it decreased to 28.9. By 2023, the turnover ratio had further decreased to 25.0, suggesting a more stable prison population over time.

The percentage of women in Portugal's prisons has remained relatively stable over the years. In 2004, women accounted for 7.1% of the total prison population. By 2014, this percentage had decreased slightly to 6%, but by 2023, it had returned to 7.1%. The percentage of foreign nationals in the prison population has also remained fairly consistent, starting at 17.5% in 2004, rising slightly to 17.6% in 2014, and then decreasing to 15.3% in 2023.

The elderly population in Portugal's prisons has seen a slight increase over the years. In 2004, there were 433 prisoners aged 60 and over, which represented a small percentage of the total prison population. By 2014, this number had increased to 652, and by 2023, the number of elderly prisoners stood at 494. This suggests a growing trend of older individuals being incarcerated, which may have implications for the types of sentence adjustments or health-related mechanisms available to them.

## **b. Statistics on the Granting of Sentence Adjustments/Reductions**

The available data on the granting of sentence adjustments and reductions in Portugal provides some insight into the use of alternatives to imprisonment and the different reasons for release. However, it should be noted that the statistics are limited.

### *Releases by Reason for Release (2004 - 2022)*

In 2004, the total number of releases was 6,354. The reasons for these releases were as follows:

- **Acquittal:** 110 releases (1.7% of the total).
- **Pre-trial detention not maintained:** 1,079 releases (1.7%).
- **Home detention with electronic surveillance:** 223 releases (3.5%).
- **Suspended sentences and other non-custodial measures:** 1,137 releases (17.9%).
- **End of sentence:** 2,172 releases (34.2%).
- **Early release:** 2,003 releases (31.5%).
- **Other reasons:** 602 releases (9.5%).

In 2014, according to the SPACE 2014 report, a total of 5,479 releases occurred in 2013. These releases were categorised as follows:

- **Releases under condition (including conditional release and external placement under electronic monitoring or probation):** 1,401 releases.
- **Unconditional releases at the end of a custodial sentence:** 2,446 releases.
- **Other reasons (including acquittals, changes in enforcement, decriminalisation, and other circumstances):** 1,632 releases.

In 2022, data from the DGRSP indicated that a total of 4,131 releases occurred. The breakdown of reasons for release was:

- **For the termination of pre-trial detention:**
  - Acquittal: 36 releases.
  - Detention/Pre-trial detention not maintained: 149 releases.
  - Suspended sentences and other non-custodial measures: 835 releases.
  - Other reasons: 170 releases.
- **End of sentence:** 1,136 releases.
- **Early release:** 1,520 releases.
- **Other reasons:** 285 releases.

### *Proposals for Sentence Adjustment Mechanisms*

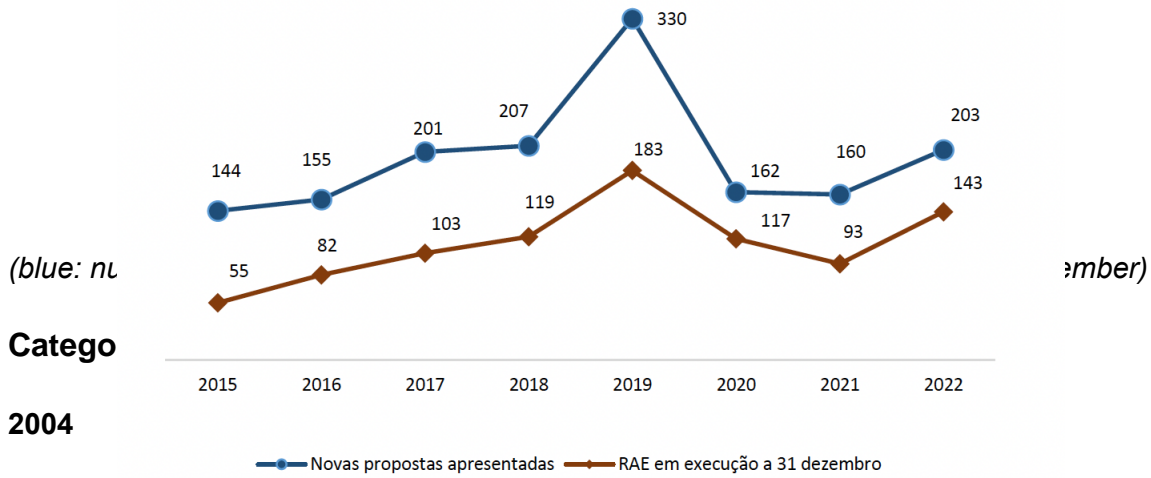
In 2014, there were 98 proposals for the placement of prisoners in open regime, a form of sentence adjustment mechanism.

### *Other Statistics Related to Releases and Prison Leaves*

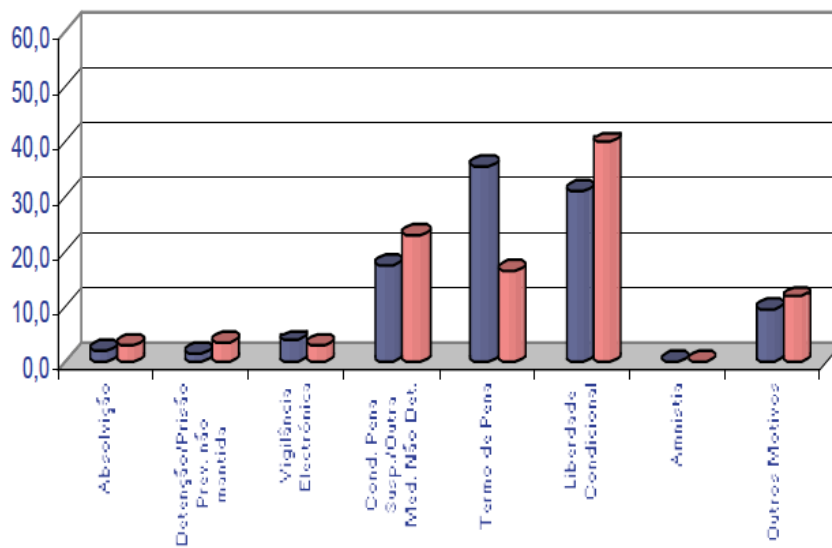
In 2002, 62 prisoners were granted "adaptation to conditional release," a form of early release. Additionally, 9,128 prison leaves were granted, with 58 cases of non-compliance (persons who did not return at the designated time), yielding a 99.4% success rate for granted leaves.

## Proposals for the placement of prisoners in open regime 2015-2022

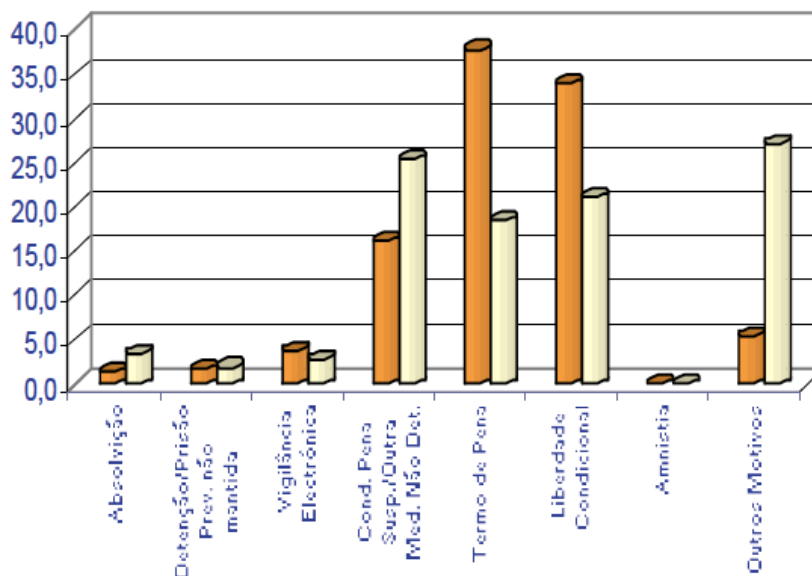
Novas propostas de colocação de pessoas reclusas em RAE 2015-2022



## Reasons for releasing men and women (blue: men; pink: women)



Reasons for releasing national and foreign inmates (orange: national; yellow: foreign)



Portuguese	English
Absolvição	Acquittal
Detenção/prisão preventiva não mantida	Pre-trial detention not maintained
Vigilância Electrónica	Home detention with electronic surveillance
Condenação em pensa suspensa ou outra medida não detentiva	Suspended sentences and other non custodial measures
Termo da Pena	End of the sentence
Liberdade Condicional	Early Release
Amnistia	Amnesty
Outros motivos	Other

## 6. Procedural Barriers

### a. Access to Legal Assistance and Representation

In Portugal, prisoners have the right to **legal assistance** during the execution of their sentence, including during proceedings for **sentence adjustments** such as **early release (parole)** and **prison leaves**. Prisoners can request a **private lawyer** or be assigned **legal aid** if they cannot afford legal representation. Legal aid lawyers are appointed ex officio by the **Bar Association** and are assigned based on their chosen area of expertise. However, prisoners often lack knowledge of the application process for legal aid during the execution phase, leading to potential delays or missed opportunities for legal support.

**Legal representation** is not mandatory during **all hearings** related to sentence adjustments. For example, while prisoners have the right to be represented during hearings for **early release** or **prison leave**, the **law does not mandate** the presence of a lawyer in every case. However, when issues of law arise (e.g., challenges to decisions by the prison administration), or when dealing with cases of **criminal insanity** (for individuals subject to forensic internment measures), the assistance of a lawyer becomes **mandatory**.

Logistical barriers further complicate access to legal assistance. **Prison visitation policies** can create significant obstacles to effective legal representation. Lawyers report **long wait times, cancellations, and inadequate meeting spaces** for confidential consultations. Additionally, the limited number of lawyers with **specialised knowledge in prison law** means that many prisoners receive representation from **general criminal lawyers** who may not have the expertise necessary to navigate the complexities of **sentence execution procedures**.

#### **b. Access to Case Files**

Prisoners have the **right to access their case file**, including the documents involved in the sentence adjustment proceedings, according to the **Code governing the Implementation of Prison Sentences**. This right, however, is subject to limitations. Prisoners may have access to court files and supporting materials, but they **cannot access** documents maintained by the **prison administration**, such as the **criminological assessments** that form part of the decision-making process for early release or parole. This restriction hinders prisoners' ability to challenge these assessments or ensure that the information being used against them is accurate.

In practice, while **court files** are generally accessible, the **prison administration's file**, which includes crucial information such as behavioural evaluations, **criminological prognoses**, and other personal assessments, remains inaccessible to the prisoner. This limits the prisoner's ability to **contest decisions** or provide counter-evidence during their parole hearings.

#### **c. Evidence**

Prisoners are allowed to present **evidence, request witnesses, and ask for expert evaluations** in support of their sentence adjustment applications. However, in practice, these rights are **rarely exercised**. The **focus** of the proceedings is largely on **institutional assessments and reports** from prison officials or probation officers, with **expert opinions** playing a limited role. Expert opinions, especially psychological or psychiatric assessments, are infrequently requested or relied upon by the court, which limits the scope of evidence presented in many cases.

Moreover, although prisoners have the right to request **additional expert evaluations** if they feel that existing assessments are incomplete or unclear, such requests are rarely granted. This reflects a **general reluctance** by penitentiary courts to order independent evaluations, with **institutional reports** dominating the decision-making process. A study in 2019 revealed that only a small percentage of cases involved expert opinions, and most of these were limited to basic criminological or psychological assessments.

#### **d. Public Access to Proceedings**

Sentence adjustment hearings, such as those related to **early release or prison leaves**, are conducted in **prison** and are **not public**. These hearings are typically **not open to the public**, and **civil society representatives** are generally **not allowed** to observe the proceedings. This lack of public transparency limits **accountability** and may prevent the broader public from understanding how **decisions** about prisoners' futures are made. During

the **COVID-19 pandemic**, some of these hearings were held **remotely** via **videoconference**, and while this practice was initially a response to health concerns, it has since become **institutionalised** in certain cases.

In these hearings, the **public prosecutor** is always present, and prisoners can be represented by their **defence counsel**. However, the **absence of public access** means that these proceedings are **largely unobserved**, which may raise concerns about the fairness and transparency of the decision-making process.

#### **e. Access to Appeals**

Prisoners and **public prosecutors** have the right to **appeal** decisions on **conditional early release** (parole) and other sentence adjustment measures. However, the appeal process is **not available** for all types of adjustments. **Prison leaves** and **modifications of sentence execution** (such as humanitarian releases) are often not subject to appeal, though the **public prosecutor** can challenge decisions regarding these matters.

In cases where **appeals are allowed**, such as for **parole**, the appeal process typically involves the **Court of Appeals** reviewing the case based on the original file and any legal arguments presented. However, the chances of success in appeals are generally **low**, with most decisions **upheld** by the higher courts. The **limited scope of review** in appeals, combined with **infrequent successful outcomes**, suggests that the appellate process in Portugal may not be an effective mechanism for prisoners to secure **sentence adjustments**.

#### **f. Delays and Premature Applications**

One issue that exacerbates the **procedural delays** in sentence adjustment cases is the **premature filing of applications**. Many prisoners or **defence lawyers** submit applications for **early release** as soon as the eligibility criteria are met, often in anticipation of delays. However, **courts may dismiss applications as premature** if the required criteria are not yet fulfilled, particularly for those serving shorter sentences or in cases where the time served is close to the minimum eligibility threshold.

The **absence of formal mechanisms to address delays** further compounds the problem. There are no provisions for prisoners to challenge delays in the processing of their applications, leaving them without recourse to expedite decisions. This leaves prisoners in a state of **uncertainty**, often serving a significant portion of their sentence while waiting for a decision.

### **7. Differential Impact for Categories of Prisoners**

In Portugal, sentence adjustment mechanisms, including early release, open regime, and parole, are generally available to all prisoners, but certain categories of prisoners face specific conditions or challenges that influence their access to these mechanisms. While there are no blanket exclusions for categories such as those convicted of terrorism or sexual offences, there are a few notable distinctions based on personal circumstances and the nature of the offence.



### a. Foreign Nationals

Foreign nationals, particularly those subject to a deportation order, face a **distinct scheme** for early release. Unlike other prisoners, foreign nationals are **excluded from the general conditional release (parole) system**. If a foreign national is subject to deportation, they may only be granted early release under a **separate deportation procedure** once they have served a significant portion of their sentence. Specifically, the judge may order the enforcement of deportation after **half of the sentence** has been served for sentences up to five years, or after **two-thirds** for longer sentences. The **early execution of deportation** serves as an alternative to the general parole system, resulting in the prisoner's release once deportation is enforced. However, this mechanism is not always successfully implemented due to practical challenges such as **difficulty in confirming nationality**, lack of cooperation from consular authorities, and **the cost of repatriation**, which may delay or prevent the execution of deportation orders.

### b. Elderly, Disabled, and Health-Related Adjustments

Prisoners with **serious health problems**, disabilities, or who are **70 years or older** have the possibility to apply for a **modification of the execution of their sentence** based on **humanitarian grounds**. This mechanism allows eligible prisoners to serve the remainder of their sentence at home or in a health or social facility, with or without electronic monitoring. The procedure may be initiated by the prisoner, their family, or the **Public Prosecutor's Office**, and requires a **medical opinion** to assess the severity and irreversibility of the prisoner's condition. However, despite its availability, this adjustment is **seldom granted**, and a lack of **adequate facilities** to accommodate these prisoners further limits its application. In a 2024 ruling, the Lisbon Court of Appeals found that even though a 79-year-old prisoner suffering from **irreversible diseases** was eligible for this adjustment, the request was denied because his condition could be managed within the prison system. Thus, while the mechanism exists, its application is constrained by institutional limitations and practical considerations.

### c. Prisoners Convicted of Serious Offences

Although there are no general exclusions based on the offence committed, certain **prisoners convicted of serious crimes**—such as **terrorism or sexual offences**—may face **stricter conditions** for early release, especially if their crimes are perceived as more dangerous to society. For example, although individuals convicted of **sexual offences** are not excluded from conditional release, they may face additional **requirements** and **longer waiting periods** before becoming eligible for parole. This can include mandatory participation in **rehabilitation programs** specifically designed for sexual offenders. These additional requirements are meant to assess the risk the prisoner poses to society and ensure that the conditions for their release meet the goals of both **individual and general prevention**.

### d. Minors

For **minors** or those convicted of crimes committed during their minority, Portugal does not have specific **differentiated rules** for accessing sentence adjustments. When a minor reaches adulthood, the sentence continues to be enforced under the general regime, but their prior time in a juvenile detention facility is credited towards their sentence. Once transferred

to an adult prison, the same criteria for early release, parole, and other adjustments apply as they do for adult prisoners. Therefore, **there are no special adjustments** available specifically for minors once they transition into the adult system.

#### **e. Social and Economic Barriers**

Prisoners without stable housing or a source of income face significant **barriers** in accessing sentence adjustments like conditional release or parole. The **lack of social support** is a key factor in these cases, as prisoners are often required to provide a **guarantee** from a third-sector organisation (such as an NGO) to secure housing or support in the community before being granted early release. This requirement creates a barrier for prisoners who lack such support networks or who are unfamiliar with the process of securing such guarantees. Additionally, changes in **economic circumstances** (such as the abolition of the "prison release benefit" in 2024) may further limit the access of economically disadvantaged prisoners to sentence adjustments, placing more pressure on community-based organisations to provide housing or other support.



**Funded by the  
European Union**

Funded by the European Union. Views and opinions expressed are however those of the authors only and do not necessarily reflect those of the European Union. The European Union cannot be held responsible for them.