

SCHOOLING IN A PRISON ENVIRONMENT

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Abstract

Schooling and learning are fundamental in the development of a society, whatever it may be, they are the engine of progress and evolution. We conducted this study in order to understand the level of schooling of the Portuguese prison population. For this purpose, we used the data from the most recent official sources available and the most pertinent national legislation. We concluded that the Portuguese prison population is characterised by having a low level of schooling and we searched for the solutions legally foreseen to overcome this deficit in the population concerned. In fact, the law provides for education, vocational training, work and occupational activities as a way to contribute to the social reintegration of the inmate. It should not be forgotten that today's prisoners will be free tomorrow and that social reintegration is also done this way: by teaching and educating, providing tools to prisoners so that in the future they can adopt a socially responsible life. Schooling and learning are unquestionable capitals for social integration, for obtaining employment, for participation in civic life, for the rebirth of life of an ex-prisoner and education is a fundamental right of all citizens, foreseen in the Constitution of the Portuguese Republic.

Keywords: Schooling, Learning, Education, Prison environment, Prisoners, Social reintegration.

1 INTRODUCTION

It is a given fact that the knowledge that comes from learning at school is essential for the development of people as individuals and as members of society. The Constitution of the Portuguese Republic, in the cultural rights and duties, enshrines the right to education and culture in its article 73, being the task of the State to promote the democratisation of education and culture. It continues in article 74, foreseeing the right to education "with a guarantee of the right to equal opportunities of access and success at school".

It is not by chance that it is imposed by law - Law No. 85/2009 [1] — the minimum compulsory schooling of 12 years, for children and young people aged between 6 and 18 years, and that is foreseen the universality and gratuitousness of compulsory education. To this end, it is the State's responsibility to provide for the existence of public schools. The Law-Decree nº. 176/2012 [2], established measures to prevent school failure and dropout.

Education, teaching and culture are three significant factors in any organised society. They aim to increase equality of arms and opportunities for all, to contribute to the free development of each person's personality, to stimulate personal and collective responsibility, to train constructive, productive and participatory citizens in the community.

The Portuguese prison population does not have, in general, a high level of education. There are ways of overcoming this lack, especially at the level of the work that is developed around the purpose of social reintegration. The law has not failed to address this reality and we list the instruments enshrined therein aimed at education, training and increasing schooling in this population group.

2 METHODOLOGY

To achieve the objectives proposed in this study, a qualitative and quantitative methodology will be used. It is based on doctrine and legislation relevant to the research topic and is based on the important data available from the Directorate General for Reintegration and Prison Services. These data refer to the schooling of prisoners in Portuguese prisons, men and women, including foreigners and also vocational training. Using Pordata information's we have accessed significant data on the education of prisoners from 1960 to 31 December 2020. The purpose is to ascertain the literacy or illiteracy rate of Portuguese prisoners. With this sample, we also intend to determine the age of the prisoners and make the relationship between their age and level of education.

3 RESULTS AND DATA ANALYSIS

3.1 Schooling of prisoners in Portugal

Knowing that the minimum compulsory education is 12 years, data from the Directorate General for Reintegration and Prison Services reveal the schooling of prisoners in our prisons on 31 December 2020 [3].

Portugal had a total of 11,412 prisoners: 9,026 Portuguese men and 1,590 foreigners; 622 Portuguese women and 174 foreigners.

Of those serving sentences, 49 Portuguese women and 7 foreigners, 315 Portuguese men and 36 foreigners cannot read or write.

There are 2,211 Portuguese men and 192 foreigners who have only basic education, which corresponds to the first four years of schooling, and 143 Portuguese women and 19 foreigners.

With 2nd basic education (corresponding to the 5th and 6th years of schooling) there were 2,354 Portuguese men and 216 foreigners, and 96 Portuguese women and 19 foreigners.

With schooling regarding the 3rd basic level (7th, 8th and 9th grades) we had 2,584 Portuguese men and 460 foreigners, 143 Portuguese women and 36 foreigners.

And the numbers go down as the level of education goes up: at secondary school level (10th, 11th and 12th grades) only 949 Portuguese men have it, 468 foreign men, 96 Portuguese women and 57 foreigners.

With higher education there were only 196 Portuguese men and 116 foreigners, 26 Portuguese women and 19 foreigners.

3.2 Analysis of literacy rate data

These data reveal that illiteracy rate of Portuguese prisoners is significant: around 3,5% for men and 8% for women. Only with the basic education, corresponding only to the first four years of schooling (primary instruction) the rate is high: 24,5% of men and 23% of women [4].

The same source tells us that of the total of 11,412 prisoners, 2,148 were in school training and 864 in professional training, a total of 3,012 [3].

The age group with the highest number of prisoners is the one between 30 and 49 years old for both sexes [3], age in which the schooling should be, given the course of life under normal conditions, previously concluded.

Portuguese data reveals data on the education of prisoners from 1960 to 2020. Apart from the 60s when the illiteracy rate was very high, reaching up to 25% of the prison population, the next worst decade was the 90s, especially in 1996, 1997 and 1998 [5].

The Report of the Portuguese Association for Education in Prisons, presented in Parliament, at the Subcommittee for Social Reinsertion and Prison Affairs XIV, when addressing the levels of education of the prison population in Portugal (referring to statistical data for 2019), presented as a note "Worrisome data - need to apply more effective measures" [6].

The issue of education, teaching and training within prisons has been a constant concern in Europe. In 1989, on 13 October, the Council of Europe adopted several recommendations on education in prisons. We refer to Recommendation No. R(89)12 which considered education an important contribution "to the humanisation of prisons and to the improvement of detention conditions" and "an important means facilitating the return of the prisoner to community life"[7]. Later, schooling and vocational training was again given special attention in the European Parliament's resolution of 5 October 2017, where it urges Member States to "ensure that prisoners work, study for a diploma or participate in training in order to better manage their time and prepare for their reintegration into society" and to "provide access to school infrastructure for young prisoners" [8].

4 EDUCATION AND TRAINING IN PRISON

4.1 In the Code of the Enforcement of Sentences and Measures Depriving Freedom

Among the various principles guiding the execution of criminal penalties, the Code of Enforcement of Penalties and Measures Depriving Freedom (Law no. 115/2009, of 12 October) prescribes, in article 3, paragraph 6, the promotion of "the inmate's sense of responsibility, encouraging him to participate in the planning and execution of his prison treatment and in his social reintegration process, namely through education, training, work and programmes". One of the prisoners' rights is to participate in work, education and training activities (article 7, no. 1, paragraph h) with a view to reintegrating them into society and preparing them for a responsible way of life. It is a reality that low schooling has repercussions on the labour market. It is directly related to employability at the level of unskilled occupations and consequently low wages [9]. Prisoners "should be encouraged to use the time spent in prison to acquire new skills, improve their education, make amends and prepare for eventual release"[10].

The individual rehabilitation plan for each prisoner must contain the appropriate measures and activities, namely in the areas of education, training and work, establishing its duration and phasing (Article 21(3)). It should be noted that the individual rehabilitation plan is drawn up whenever the sentence to be served is longer than one year, which is subject to periodic evaluation and updating. Therefore, prisons must have adequate facilities and equipment to meet these needs (article 29). With regard to education, article 38 (nº2) ensures compulsory education as a priority for young or illiterate prisoners and nº3 guarantees the promotion of the attendance of other levels of education by the prisoner, if necessary, through distance learning. In order to avoid stigmatisation, the condition of being a prisoner may not appear on certificates of qualifications or diplomas (nº6). Furthermore, educational activities in prisons must be provided by the ministries of education and higher education (nº7). Incentives are given to inmates who attend education in article 38: the attendance in education courses is considered as working time and therefore the inmate will receive a subsidy; the attendance is also taken into consideration for the purpose of making the execution of the sentence more flexible and for the awarding of prizes, as well as the school performance and behaviour in the educational space.

4.2 In the General Regulation of Prison Establishments

Law-decree no. 51/2011, of 11 April, which approves the General Regulation of Prison Establishments, contemplates schooling and vocational training as one of the components of the individual rehabilitation plan that plans the prisoner's treatment (article 69, nº2, paragraph a)). It provides, in article 75, paragraph 6, the preference that should be given to inmates without professional qualifications or schooling or with reduced schooling in attending vocational training sessions [11].

In accordance with article 71, school and training activities within the prison environment shall follow the same technical and pedagogical principles established in the free environment. The educational project is drawn up annually by the services responsible for monitoring the execution of the sentence and takes into account the educational needs of the prison population. This project is articulated with the associated schools and other local partners and is subject to the approval of the prison director to be sent to the services of the Ministry of Education. It is up to the prison establishment to provide itself with the materials and equipment and to provide the necessary space for school and training activities. If possible, the prison should also have a multipurpose room to support teaching, equipped with didactic materials and computer means, naturally respecting the restrictive rules of communication between inmates and the outside.

It is the responsibility of the services responsible for monitoring the execution of the sentence to disseminate information on the educational offer available to inmates and motivate them to attend it. Motivation must be especially aimed at young people, illiterate people and those who have specific needs to attend education. Foreign prisoners shall be ensured Portuguese language instruction whenever their sentence is longer than one year. Should the prisoners be determined to do so, they must formulate a request to that effect. The services responsible for monitoring the execution of the sentence shall register the prisoners and organise the various groups or classes. Then, in conjunction with the associated schools and other training entities, they draw up the list of prisoners enrolled in each course or action. In the prison system, there is a computerised record of the inmates enrolled in each course or action, so that their course and evaluation may be followed and taken into account for the appropriate purposes. Prisoners have a student card with the timetable of school and formative activities

that they should take with them to the school premises. The timetable of school and formative activities shall be posted near the accommodation spaces as well as the lists of students attending them. Prisoners who attend school and formative activities are obliged to two duties: assiduity and punctuality (article 72).

The attendance, educational achievement and behaviour of the inmate in the educational area shall be regularly evaluated and the results shall be recorded in his or her individual file. Unjustified absences shall entail the loss of the allowance referred to in article 39, paragraph 1 of the Penal Enforcement Code. Unjustified absences that are the result of disciplinary measures or special security measures that cannot be reconciled with attendance at activities also lead to loss of this allowance for the corresponding period of time. In each course, the director of the prison establishment, on the proposal of the entity responsible for school and training activities, shall award prizes provided for under Article 39, paragraph 2 of the Penitentiary Enforcement Code to the prisoner who obtains the best marks. These prizes and allowances shall not be granted when the attendance at education is integrated into a course of study that confers a training grant or another economic benefit. In relation to levels of education not available in prison, such as higher education, the inmate shall receive support from the services responsible for monitoring the execution of the sentence in articulation with the educational establishment concerned. This support is intended for contact with the administrative services, with teachers and, in case of lack of economic means, in the contact with the social services of the educational establishment with a view to the attribution of scholarships or other benefits (articles 73 and 74). Still regarding the sphere of education and recreational activities, article 249 provides that minor children who are in prison may have access to the public pre-school network.

Access to vocational training is also a reality that depends on the preparation of an annual plan. The services responsible for monitoring the execution of the sentence should advise and guide the inmate towards the training actions that are most suited to his personal needs and aptitudes, also taking into account the demands of the labour market for future employability, and assist him in the application process. The application shall require the opinions of the services responsible for monitoring the execution of the sentence, of the surveillance and security services and of the medical services, when required in view of the nature of the training. The approval of the list of selected candidates shall be the responsibility of the director of the prison establishment. The list shall be publicised and posted in the prison in a place accessible to prisoners. Prisoners without professional qualifications or schooling or with reduced schooling shall have preference in attending vocational training courses (article 75).

As regards the possibility of working in prison, the services responsible for monitoring the execution of the sentence shall inform inmates of the existing work activities and the selection *criteria*. The inmate shall express his or her will in a personal application, and the decision to assign him or her to a post shall be taken by the prison governor after consulting the technical council. Should the characteristics of the work require it, the placement of the inmate in work shall be preceded by a medical evaluation to assess his physical and mental aptitude. In order to make education and work compatible, part-time work is permitted (article 79) and the attendance, behaviour and productivity of the prisoner shall be taken into account.

The Justice Protocol Centre, originally created by Ministerial Order no. 538/88, of 10 August, is intended to promote work and professional training for prisoners, providing for the signing of cooperation agreements or other types of contracts with public or private entities or the cooperative sector, both national and foreign.

It is also provided the possibility of integrating the inmate in individual sporting activities or in collective modality, being excluded any modality that implies physical confrontation. The timetable is drawn up in accordance with the other school or professional training activities the prisoners are attending, with the possibility of creating groups with a pre- or post-work or weekend timetable (article 95).

Prisoners are also provided with the possibility of attending occupational activities of a craft, intellectual or artistic nature, at their request and authorised by the prison director (article 89).

5 CONCLUSIONS

The data from official sources referring to 31 December 2020 reveal that Portugal had a total of 11,412 inmates of which 9,026 men were of Portuguese nationality and 1,590 of foreign nationality and 622 women were Portuguese and 174 foreign.

In a country where compulsory education is 12 years, the aforementioned data further reveal that the level of education of the prison population in Portugal is low and does not meet the objectives of compulsory education. The illiteracy rate among Portuguese prisoners is high, reaching approximately 3.5% of men and 8% of women. With basic education, corresponding only to the first four years of schooling (primary instruction) the rate is high: 24.5% of men and 23% of women. With higher education, the rate is residual.

Education and instruction are basic elements for achieving the desired social reintegration of the inmate, without which it is difficult to attain it. On the other hand, education is a fundamental constitutional right of all citizens and, therefore, also a right of prisoners.

At the legislative level, both the Code on the Execution of Penalties and Measures Depriving Freedom and the General Regulation of Prison Establishments contain rules providing for education, vocational training and work as instruments for personal and social development, in order to prepare the inmate for a responsible life outside, once the sentence has been served.

In this sense, some aspects should be underlined: compulsory education is ensured as a priority to young or illiterate inmates and the promotion of the attendance of other levels of education, if necessary through distance learning, is guaranteed. Attendance at educational courses is promoted, being considered as working time, entitling the inmate to receive an allowance; attendance is also taken into account for the purpose of making the execution of the sentence more flexible and for awarding bonuses, as well as school performance and behaviour in the educational space. It is possible to harmonise education and work by allowing part-time work. Prisons shall ensure that they obtain the materials and facilities to provide education and training, and protocols or other types of contracts may be established with public or private entities or the cooperative sector, both national and foreign. When it comes to levels of education not available in prison, such as higher education, the inmate shall receive support from the services responsible for monitoring the execution of the sentence in articulation with the educational establishment in question.

Sporting activities in individual or collective modality, the frequency of occupational activities of a craft, intellectual or artistic nature are other ways of contributing to the inmate's occupation with a view to his development as a person.

REFERENCES

- [1] Law n.º 85/2009, published in Diário da República n.º 166/2009, Série I, from 27/08, reviewed by Law n.º 65/2015, published in Diário da República n.º 128/2015, Série I, from 03/07, 2009.
- [2] Law-Decree n.º 176/2012, published in Diário da República n.º 149/2012, Série I, 02/08, 2012.
- [3] Portugal. Direcção-Geral de Reinserção e Serviços Prisionais, Estatísticas e Indicadores, 2020, retrieved from https://dgrsp.justica.gov.pt/Portals/16/Est%C3%A1tisticas/%C3%81rea%20Prisional/Anuais/2020/q03-2020.pdf?ver=c4CL485t87QZMQAJ_zegSQ%3d%3d e <https://dgrsp.justica.gov.pt/Estat%C3%ADsticas-e-indicadores/Prisionais/2020>.
- [4] Joana Rita Paulo Monteiro. As Políticas de Reinserção Social: Estudo Exploratório no Estabelecimento Prisional de Tires, 2017, retrieved from https://repositorio.iscte-iul.pt/bitstream/10071/15286/1/joana_paulo_monteiro_diss_mestrado.pdf
- [5] PORDATA, Base de Dados Portugal Contemporâneo, retrieved from <https://www.pordata.pt/Portugal/Reclusos+total+e+por+n%C3%ADvel+de+instru%C3%A7%C3%A3o+completo-273>
- [6] Associação Portuguesa de Educação nas Prisões. Audição por videoconferência na Assembleia da República (APEnP), na Subcomissão para a Reinserção Social e Assuntos Prisionais XIV, do Presidente José Alberto Pinto, *powerpoint* from 06/01/2021, retrieved from <https://app.parlamento.pt/webutils/docs/doc.pdf?path=6148523063446f764c324679626d56304c334e706447567a4c31684a566b786c5a793944543030764d554e425130524d52793954556c4e425543394562324e31625756756447397a51574e3061585a705a47466b5a554e7662576c7a633246764c324a6c4e44517a596d4a684c544e6b4f4463744e444e6c595331694e6d566c4c546b77595455305957526b5a544a6d5a4335775a47593d&fich=be443bba-3d87-43ea-b6ee-90a54adde2fd.pdf&Inline=true>

- [7] Recomendação N.º R(89)12 sobre Educação nas Prisões, adoptada pelo Comité de Ministros dos Estados Membros do Conselho da Europa, de 13 de outubro de 1989, retrieved from <https://apenp.pt/index.php/9-noticias/110-recomendacao-n-r-89-12-sobre-educacao-nas-prisoas-adoptada-pelo-comite-de-ministros-dos-estados-membros-do-conselho-da-europa>
- [8] Resolução do Parlamento Europeu, de 5 de Outubro de 2017, sobre os sistemas e condições prisionais (2015/2062(INI)), publicado no Jornal Oficial da União Europeia, n.º C 346/94, de 27/09/2018, retrieved from https://eur-lex.europa.eu/legal-content/PT/TXT/PDF/?uri=OJ:JOC_2018_346_R_0015&from=PT
- [9] Cristina Parente, Madalena Ramos, Vanessa Marcos, Sofia Alexandra Cruz e Hernâni Veloso Neto, “Efeitos da escolaridade nos padrões de inserção profissional juvenil em Portugal”, *Sociologia, Problemas e Práticas*, no.65, pp. 69-93, 2011.
- [10] Direitos Humanos e Prisões, Alto Comissariado das Nações Unidas para os Direitos Humanos, Nações Unidas, retrieved from https://gddc.ministeriopublico.pt/sites/default/files/documentos/pdf/cndh_formacao11.pdf
- [11] Reinserção social de reclusos e ex-reclusos: Enquadramento nacional e internacional, Síntese Informativa (2020), Divisão de Informação Legislativa e Parlamentar – DILP, Pesquisa, compilação, análise e tratamento de Cristina Ferreira, Luísa Colaço, Maria João Godinho, Nuno Amorim, Pedro Braga Carvalho e Sandra Rolo, em especial pp. 32-42, retrieved from <https://ficheiros.parlamento.pt/DILP/Publicacoes/Sinteses/42.ReinsercaoSocialReclusos/42.pdf>

Legislation Cited

- [12] Constitution of the Portuguese Republic.
- [13] Code on the Enforcement of Sentences and Measures Involving Deprivation of Liberty.
- [14] General Regulations of Prison Establishments.