



Dear Mr.
Head Commander of the *Madeira*
Autonomous Region of the Public
Security Police
Rua da Infância, 28-32
9060-131 *Funchal*

Your Ref.

Your Communication

Our Ref.

Visit no. 18-2014

RECOMMENDATION NO. 2/2015/NPM

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I

Under the provision contained in the article 19, paragraph b), of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, I recommend that measures should be taken to improve the living conditions of this Regional Police Command, whether related to the actual places or the adopted procedures, namely:

- i)* The positioning of the declaration model of rights and duties of the detainees, in order to be relocated at the detention spaces. The version of the text should include recent amendments to the Code of Criminal Procedure;
- ii)* Installation's conditions improvement, particularly of the light spots existing in the cells, by strengthening the metal grid protection;



- iii) Regarding the patient's transportation (compulsory inpatient), the vehicles' characteristics should be evaluated, in order to consider their adaptation.

II

The position described above follows the visit made on the November 26, 2014 by the National Preventive Mechanism (NPM)¹.

In accordance with the preventive character of the NPM², the object of this diligence was gauging the compulsory inpatient procedures carried out by the Regional Police Command, as well as the agents' working conditions (particularly the displaced elements), and the existing conditions of detention spaces, in terms of lighting, insulation against cold or heat and ventilation.

At the organizational level, a total of three holding cells were identified, located on the ground floor of the building, not interacting with the areas open to the public.

Each cell is prepared to receive one detainee, with satisfactory natural lighting and airing conditions. Any of the detention spaces involves artificial light coming from a bright spot, based in the wall connected to the anteroom, above the door. Despite this, it was concluded that the luminous point existent in each cell was not protected by a metal grid and could be easily used by the detainee.

The panels with the rights and duties of the detainees are prominently displayed in the graduated room, in five languages besides Portuguese, in a space with no exposition for their intended purpose. As previously said, it is necessary to

¹ In Portugal, the quality of NPM was attributed to the Ombudsman, through the Resolution of the Council of Ministers no. 32/2013 of May 20.

² The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the purpose of which is to establish a system of regular visits by independent international and national bodies to places where persons are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, was ratified by Portugal in 2012, through Decree no. 167/2012 of the President of the Republic of December 13.



consider the respective publicity in other parts of the station (*v.g.*, cell zone and in the lobby of the station entrance).

In addition to recognizing the reduced size of the characters, it was concluded that the wording of the paragraph b) of number 3 of article 61 of the Criminal Procedure Code precept was not updated, in the light of the new wording introduced by Law no. 20/2013, of February 21st.

With regard to compulsory inpatient, I was informed that there is no confusion with the detention procedure. The detainee status is not conferred to the citizens who are conducted to the hospital units: to the latter only the status of patient is conferred.

Also, the judicial warrants compliance for conducting the patient it is not registered in the book of detainees. Still, it was said that the police force does not have appropriate transportation vehicles for this kind of task. By not being suitable to comply with the nature of the efforts undertaken in this matter, the lack of transport conditions could jeopardize the citizens' guarantees eventually conducted to hospital facilities.

Finally, I would like to stress that the reality found in the Regional Police Command of *Madeira* deserved a positive impression and I am convinced that the personal commitment carried out by the command board will allow the strengthening of the citizens' rights safeguards.

The Portuguese Ombudsman
National Preventive Mechanism

José de Faria Costa