



Dear Mr.  
General-Director of Reintegration and  
Prison Services  
Travessa da Cruz do Torel, 1  
1150-122 Lisbon

*Your Ref.*

*Your Communication*

*Our Ref.*

*Visit no. 5-2015*

*Visit no. 6-2015*

*Visit no. 13-2015*

*Visit no. 20-2015*

*Visit no. 24-2015*

*Visit no. 25-2015*

1

## RECOMMENDATION NO. 3/2016/NPM

### 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, in order to improve the permanence conditions of the young people in educational centres, the following measures should be taken:

1. In collaboration with the National Civil Protection Authority, an exhaustive survey of the housing stock in educational centres should be carried out, with particular attention to the mechanisms of alert, alarm



and fire extinguishing or other risks, with a view to the drawing up of individual emergency plans and the short-term installation of such resources when they are nonexistent or inoperative;

2. That an in-depth study be carried out on accessibility for persons with reduced mobility in educational centres;
3. That, in conjunction with the General-Directorate for Education, programs designed to promote the success of young persons, especially in secondary education, are designed;
4. That the adaptation of the facilities — especially sanitary ones — be carried out to the young educated women that are interned in the Educational Centre *Navarro de Paiva* and in the *Bela Vista* Educational Centre;
5. That a library be created at the *Padre António Oliveira* Educational Centre;
6. Analyze the quantity of meals provided to young persons, as well as the weekly composition of the menus;
7. To clarify the use of rooms designed to comply with the precautionary isolation restraint measure, above all by the *Padre António Oliveira* Educational Centre and the *Navarro de Paiva* Educational Centre;
8. That the improvement of the salubrity and ventilation conditions of the isolation room of the *Padre António Oliveira* Educational Centre should be promoted;
9. That the installation of toilets be done in the isolation room of the *Bela Vista* Educational Centre.

## II

This statement of my position follows a series of visits that the National Preventive Mechanism (NPM)<sup>1</sup> made to all educational centres in the course of the

<sup>1</sup> In Portugal, the quality of NPM was assigned to the Ombudsman, through the Resolution of the Council of Ministers no. 32/2013 of May 20. After the ratification of the Optional Protocol to the



year, with the purpose of producing a special report that would provide a picture of the reality in those establishments. In order for the collection of information to occur on a constant basis, the purpose of those visits was defined in a unitary manner. Among the various aspects examined were the verification of the spatial and temporal confinement of educational centres — above all with regard to the educational component and the involvement of third parties (public and private) in the process of social reintegration of young people —, follow-up systems for students after their departure, infrastructure conditions, their functioning and administrative organization, as well as the therapeutic programs and models of psychological assistance provided to young people interned.

### III

From the elements collected during the NPM visits to the educational centres — and of the complementary information requested in the meantime — it was possible to conclude that the conditions for the implementation of the placement in an educational centre can be improved in the name of a better defense of the rights of young persons.

3

#### *§ 1. Mechanisms of alert, alarm systems, fire extinguishers and other risks*

The daily life of an educational centre should be guided by the compliance with basic safety rules that allow the brief signaling in case of emergency and its rapid resolution. This is determined by article 76 no. 1 of the General and Disciplinary Statute of Educational Centres<sup>2</sup>: «living in an educational centre is

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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, this international juridical instrument aims to establish a system of regular visits by independent international and national bodies to places where the rights of the persons deprived of their liberty are assured.

<sup>2</sup> Approved by the Decree-Law no. 323-D/2000 of December 20, hereinafter abbreviated as GDSEC.



organized according to rules that ensure a peaceful and orderly environment and provide conditions of security.»

In order to ensure a minimally safe environment, each establishment that welcomes young people in compliance with educational tutelary measures must, in accordance with paragraph 2 of the aforementioned law, possess the necessary equipment to detect and combat fires or other risks, which must be «tested and reviewed periodically in accordance with the relevant technical standards».<sup>3</sup>

However, in most educational centres, there is no contingency plan in place in the case of an emergency — except for the *Olivaís* Educational Centre<sup>4</sup> —, as well as in many cases, the absence or inoperability of alarm or lights. As far as fire extinguishers are concerned, they have been found to be present in the establishments visited, but in some cases their expiry date has expired.

In view of the importance of such measures to the safety of persons and buildings<sup>5</sup>, I believe that the comprehensive survey of the warning, alarm and fire-extinguishing mechanisms or other mechanisms should be promoted in cooperation with the National Civil Protection Authority Risks in the educational centres, with a view to drawing up individualized emergency plans and to the very short installation of such resources when they are nonexistent or are not functioning properly.

<sup>3</sup> No. 3 of article 76 of the GDSEC.

<sup>4</sup> It should also be pointed out that, although they did not have an emergency plan, two other educational centres (*Mondego* and *Santo António*) presented guidelines to be followed in case of emergency or increased fire risk.

<sup>5</sup> As can be seen in paragraph 2 of the article on the legal framework for fire safety in buildings, approved by Decree-Law no. 22/2008, of 12 November, as amended by Decree-Law no. 224/2015 of 9 October, in compliance with safety standards makes it possible to: (a) Reduce the likelihood of occurrences of fires; b) limit the development of possible fires by circumscribing and minimizing their effects, including the spread of smoke and flue gases; c) facilitating the evacuation and rescue of occupants at risk; [And] d) to enable effective and safe intervention of the means of assistance.»



### § 2. *Accessibilities for people with reduced mobility*

As is clear from the preamble of the Decree-Law no. 163/2006, of August 8, «the promotion of accessibility is a fundamental element in people's quality of life and an indispensable means of exercising the rights that are conferred on any person. A member of a democratic society, making a decisive contribution to the further strengthening of social ties, greater civic participation of all those who are part of it and, consequently, a deepening of solidarity in the rule of law.»

I conclude, however, that most educational centres are not prepared to receive people with reduced mobility or with disabilities, whether they are young people interned, employees or visitors. Only two of the educational centres have access for those citizens: the *Santo António* Educational Centre, with a lift in the residential area, and the *Olivais* Educational Centre, which also has an elevator, as well as an access ramp. And only one of them is really suitable to accommodate persons with reduced mobility or with disabilities, since only the *Santo António* Educational Centre has, along with the accesses, sanitary facilities adapted to them.

I consider it appropriate that, in the name of equal access and participation of all in the design and implementation of educational projects for young persons, an in-depth study should be carried out on accessibility for people with reduced mobility in educational centres and, where they are nonexistent, the possible alterations to resolve the question are considered.

### § 3. *Programs to promote school success*

Young people who are detained in educational facilities remain subject to the obligations arising from compulsory schooling and should be encouraged to continue or complete their studies.<sup>6</sup> It makes, therefore, part of the composition of

<sup>6</sup> See article 160, no. 1, of the Educational Guardianship Law (EGL).



their educational projects the frequency of training activities, among which are the school children<sup>7</sup>.

Of the 150 young persons who made up the reference universe in the preparation of the attached special report, about 75% attended or had the 2nd and 3rd cycles of study (or equivalent EFA courses), which, in conjunction with their ages, represents a low level of schooling. In order to change this data, I think it is opportune that, in an articulated action with the General-Directorate for Education, programs promoting school success among young persons should be created, especially with regard to secondary education with a small amount of interned youth to attend it or have it finished.

#### *§ 4. Adaptability of the facilities to the young women*

In two of the educational centres, 21 young people are educated. The internment of girls of the feminine gender is processed separately from the young men, but the facilities of the *Navarro de Paiva* Educational Centre and the *Bela Vista* Educational Centre are not fully prepared to host them. However, this circumstance should be changed in the shortest possible time in order to provide a space which is minimally adequate to comply with an educational measure depriving the liberty of a person who is not only at a complex stage of development but also by virtue of their gender, specific needs.

I recommend, for the aforementioned reasons, that the works essential to the adaptation of the facilities — especially sanitary ones — be carried out to the young women educated who are hospitalized at the *Navarro de Paiva* Educational Centre and at the *Bela Vista* Educational Centre.

<sup>7</sup> See article no. 27 of the GDSEC.



### § 5. *Creation of a library in the Padre António Oliveira Educational Centre*

The *Padre António Oliveira* Educational Centre receives young people in compliance with a tutelary measure of internment in a closed regime, which means that they are «educated and attend free time and training activities exclusively within the institution»<sup>8</sup>. It is therefore important that the educational centre provides a space with books and other resources that can be consulted by young persons.

The creation of a library in the *Padre António Oliveira* Educational Centre is thus not only an option for occupying the free time of young internees who are totally entrusting themselves to their interior, but rather assuming themselves as a necessity when autonomous zone school attendance and success.

### § 6. *Nutrition*

According to the provisions of the article 59 no. 1 of the GDSEC, it is the responsibility of the educational centre to «ensure that the pupils receive adequate food in terms of quality and quantity.» To this end, the legislator determined that four meals were daily provided to the young persons<sup>9</sup> and that the composition of the menus should be periodically reviewed by the director and by a nutritionist or by a doctor<sup>10</sup>.

The young people are in full development, requiring, for this reason, specific nutritional needs that are achieved with a diverse diet (in its composition) and diversified (in its confection). From the analysis of the documentation that was sent to the NPM, I verified, however, that weekly menus are not always as varied as would be desirable. I refer, for example, to the menu of the week that took place between October 19 and 25, 2015, related to the *Santo António* Educational Centre,

<sup>8</sup> See article 169, no. 1 of the EGL. See also article 15 of the GDSEC.

<sup>9</sup> See article 60, no. 1 of the GDSEC. It should be noted in this regard that the *Bela Vista* Educational Centre offers six meals a day to young people who are hospitalized there, in compliance with educational measures, but they have expressed complaints about the amount of food provided.

<sup>10</sup> See article 59, no. 2 of the GDSEC.



where all too often the protein derived from meat is repeated, practically nonexistent.

In view of the above, I consider it pertinent to carry out a study on the composition of meal menus provided to young persons, as well as their quantity and daily distribution.

### § 7. *Use of the isolation rooms*

The measure of restraint of precautionary isolation — as well as physical and personal restraint — can only be applied in exceptional and duly substantiated situations<sup>11</sup>, preceded by authorization from the direction of the educational centre, with communication to the court and observation of the young man educating by a doctor. This measure, with a maximum duration of 24 consecutive hours, «may take place in a particularly appropriate manner to avoid acts and situations justifying recourse to such measures»<sup>12</sup>. That is, it can occur in a room of isolation, which will be devoid of objects that could put the physical integrity of the hospitalized young person in danger.

However, from the visits made by the NPM and the analysis of the documentation that was requested, I concluded that the isolation rooms are not always used for the exclusive purpose for which they are intended. At the *Padre António Oliveira* Educational Centre, the isolation room serves to welcome the young people in their first hours in the establishment, a practice that, in light of the law and the superior interest of the young persons, is incorrect. There are no well-founded and concrete reasons to put the young man educating in the room of

<sup>11</sup> These containment measures are regulated in articles 178 *et seq.* of the EGL and in articles 89 *et seq.* of the GDSEC. As is apparent from article 179 of the EGL, the adoption of such a measure will only be legitimized if it is intended not to endanger the physical integrity of the young person educating himself or of third parties, not to destroy property, the non-fulfillment of escape of the educational centre or the elimination of the violence with which it resists the orientations that are given to it by the establishment.

<sup>12</sup> See article 183, no. 1 of the EGL.





precautionary isolation and the measure that should be exceptional is actually the rule. At the *Navarro de Paiva* Educational Centre, the disciplinary measure of suspension of living with the companions<sup>13</sup> was identified in a room deprived of dangerous objects, which makes it possible to infer the existence of confusion between the fulfillment of said disciplinary measure and the application of the precautionary isolation restraint measure.

In view of the extraordinary purposes that must be met, I consider it urgent to clarify the use of rooms intended to comply with the precautionary isolation restraint measure, above all by the *Padre António Oliveira* Educational Centre and the *Navarro de Paiva* Educational Centre.

#### § 8. Isolation room of the *Padre António Oliveira* Educational Centre

The division that the *Padre António Oliveira* Educational Centre intended to face the occasional situations of indiscipline or severe decompensation on the part of the young persons and, less correctly, to welcome, during the first hours, each young person who enters the establishment presents a poor aeration and an insufficient cleaning.

The GDSEC provides that the educational centre «must ensure that rooms, sanitary facilities, living rooms and other spaces of the unit are organized and maintained with the appropriate habitability and safety conditions, in particular with regard to hygiene and cleanliness, lighting, ventilation and maintenance of furniture and equipment»<sup>14</sup>. For this reason, together with the purpose for which the area concerned is intended, I believe that the necessary works should be carried out as soon as possible to improve working conditions. Salubrity and ventilation of the isolation room of the *Padre António Oliveira* Educational Centre.

<sup>13</sup> Measure provided in article 196, g) of the EGL. In this regard, it should be noted, that disciplinary measures are typified in article 194 of the EGL, a rule in which there is no mention of the attachment of a young person to an isolation room.

<sup>14</sup> Article 58, no. 3 of the aforementioned legislation.



### § 9. *Isolation room of the Bela Vista Educational Centre*

The space that the educational centres reserve for the execution of the measure of containment of precautionary isolation must be provided with the necessary equipment for the stay of a young man educating for a period of time that can go until the 24 hours. It is important, therefore, that, together with good habitability conditions — these are modestly understood, therefore, do not forget, it is a room of isolation and, therefore, deprived of dangerous objects —, these divisions have sanitary facilities, which does not happen in the *Bela Vista* Education Centre.

In view of the fact that the confinement of a young person admitted to a room of isolation can be done for a relatively long period and that the spaces of the establishments must, as explained above, have the appropriate conditions for a person to remain there, I understand that urges endow the isolation room of the *Bela Vista* Educational Centre with toilets.

10

For these reasons, I intend to formulate this recommendation, requesting your Excellency to adopt the measures set out above, thereby ensuring that the interests of those who, by reason of their age and the restriction of their freedom, are safeguarded and are in a situation of particular vulnerability.

I conclude, being convinced that your personal commitment will greatly contribute to strengthening the defense of the rights of young people and, at the same time, to improve the educational guardianship system.



NATIONAL PREVENTIVE MECHANISM

The Portuguese Ombudsman  
National Preventive Mechanism

*José de Faria Costa*

*Annex: The National Preventive Mechanism and the educational centres — Report of the visits carried out during the year 2015*