



Your Excellency
Prosecutor General's Office
Rua da Escola Politécnica, 140
1269-269 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

RECOMMENDATION NO. 6/2016/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 you issue guidelines to the magistrates of the Public Prosecutor's Office with competence in the area of Children's Rights, in order to make regular visits and contacts with the educational centres.



II

This statement of my position follows a series of visits that the National Preventive Mechanism (NPM)¹ made to all educational centres in the course of the year, with the purpose of producing a special report that would give a picture of the reality in those establishments. In order for the collection of information to occur constantly, the purpose of those visits was defined in a unitary manner. Among the various aspects that were 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 young persons 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

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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 magistrates with jurisdiction in educational processes are regularly contacted with the Public Prosecutor's Office.

The paragraph f), no. 1 of the article 40 of the Educational Guardianship Law² determines the visits to the educational centres by the magistrates of the Public Prosecutor's Office as well as the contacts with the young people, who have

¹ 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 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.

² Approved by Law no. 166/99 of December 14, altered by Law no 4/2015 of January 15.



the right to establish contact with the Public Prosecutor's Office «(...)by telephone, by correspondence or in person.»³

The fulfillment of the obligation of periodically prosecutors to visit the educational centres ensures their knowledge of the actual conditions in which young learners meet and may, in some cases, determine the procedural momentum necessary for the adoption of the actions that must be taken in the name of the superior and legitimate interest of the young person.

For these reasons, I intend to formulate this recommendation, requesting your Excellency to issue guidelines that may make visits and contacts of Public Prosecution Service magistrates with jurisdiction in educational tutelary processes more regular, thus ensuring the best safeguard of the interests of those who, because of their age and the restriction of their freedom, 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 to improve the educational guardianship system.

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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

³ See article 47, no. 1 of the General Disciplinary Statute of the Educational Centres (approved by Law no. 323-D/2000 of December 20).