



Your Excellency
The Secretary of State of Justice
Praça do Comércio
1149-019 Lisbon

Your Ref.

Your Communication

Our Ref.

Visit no. 36-2016

RECOMMENDATION NO. 7/2016/NPM

I

Relying on 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 working conditions of the officials who work in the Criminal Investigation Department of *Braga* of the Judiciary Police, the following measures should be taken:

- a) Promoting the reinforcement of the human resources contingent for the Department;
- b) Detachment of a security official to carry out the functions of identification of persons and belongings, as well as for the inspection of persons;
- c) Enabling transfers from the Criminal Investigation Department of *Braga* to other facilities.



II

This statement of mine follows the visit of the National Preventive Mechanism (NPM)¹ last November 18 to the *Braga's* Criminal Investigation Department of Judiciary Police.

Alongside the preventive nature of the NPM, the object of the visit was to investigate the conditions of habitability of the detention zone, as well as to assess the working conditions of agents and employees there.

III

From the information gathered during the NPM's visit to the Criminal Investigation Department of *Braga* of the Judiciary Police — and of the documents consulted — it was possible to conclude that the working conditions of the employees of the place visited, as well as those of security, can be improved on behalf of better protection of the rights of all those who work and move to the institution.

Therefore, allow me, to briefly deliberate upon the recommendation hereby made.

§ 1. *Reinforcement of human resources*

The territorial jurisdiction of the Criminal Investigation Department of *Braga* of the Judiciary Police extends over a wide area, which comprises the criminal circles of *Barcelos*, *Braga*, *Guimarães*, *Viana do Castelo* and *Vila Real*, under the terms in which they are defined in Ministerial Order no. 472/2001, of May 10, without prejudice to the recent amendment made by the Judicial Map, in the year 2014.

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.



In 2015, the procedural volume of the Criminal Investigation Department of *Braga* of the Judiciary Police goes far beyond two thousand prosecutions², a number that is only surpassed by those in Lisbon and *Porto*. The number of inspectors in office — 49 people — has not been accompanied by a progressive increase in workload and it is clear that the criminal investigation framework is currently deficit. This context is further aggravated by the situation of temporary incapacity to work due to illness of at least two elements.

In this sense, and not ignoring the fact that the tasks entrusted to the visiting institution lead to a prompt, effective and often particularly sensitive action — which implies careful and detailed analysis and treatment — the human resources attached to the of Criminal Investigation Department of *Braga* of the Judiciary Police are insufficient for the timely execution of all the tasks that, in many cases, are of an urgent nature. For this reason, I consider it appropriate that the quota of workers at the place visited should be reinforced, thus enabling them to cope with procedural growth and also contributing to a fast criminal investigation and a fair application of justice.

§ 2. *People and property safety*

The Criminal Investigation Department of *Braga* of the Judiciary Police does not have, at its entrance, an official employee who can identify both the people's access and their belongings in its premises and also their inspection³, nor is it currently provided with a door frame metal detector. Also, there is no strict control of whom and what enters the institution visited. A place that due to its functions may be the target of numerous offensive acts.

² There are, in exact terms, 2414 cases that entered the Department of Criminal Investigation in the year 2015, according to the information contained in its annual activity report for that year, to which the NPM had access. According to the information provided to the visitors of the NPM, in October 2016, the processes entered were already numbered 2232.

³ What has been happening since 2014, since the official, responsible for the aforesaid actions, retired.



This department is the only one with no security personnel at the entrance of the building. The NPM's visitors team noted, however, that people arriving at the place are assisted by an operational assistant and two auxiliary specialists, people who, although employed by the for Criminal Investigation Department of *Braga* of the Judiciary Police, do not have the knowledge neither the qualifications required for the performance of this type of procedures.

Considering that the place visited may be subject to the practice of behaviors that violate the physical-psychological integrity and in the limit of the life of persons, as well as the destruction of material goods, it is necessary to have a security officer present, who, with due training and experience, would identify and review the people that enter the facility so that the minimum security conditions would be assured for those who work and who move to an establishment of a Judiciary Police body.

§ 3. *Change of facilities*

The premises of the Criminal Investigation Department of *Braga* date back to 1983, at a time when the requests that required the intervention of the people who worked there were of lesser expression, which were also counted lower than the present. It is, therefore, a small space to accommodate in a dignified and respectful manner all the employees of the institution.

Furthermore, regarding the proximity to a former factory (already dismantled) which employs fiber-cement-based materials in its building, the existence of a large number of employees of the *Braga's* Department of Criminal Investigation with diagnosis of cancer problems is concerning, admitting the hypothesis of a causal link between said harmful materials and the diseases that can derive from a constant exposure to them. This circumstance had already been



analyzed by the National Directorate of the Judiciary Police⁴ but nonetheless I highlight the risks of exposure to asbestos during the work day and the correlative need to adopt sanitary protection measures for the employees.⁵

In addition, it is also important to emphasize the fact that there is no autonomous place prepared for carrying out investigations of the victims and moreover, children and young people. Thence the respect for the rights of persons who were victims of crime may not be totally assured.

In this sense, I believe that the transference of the department facilities to another place should be carried out soon, in order to accommodate their employees in good and healthy conditions, as well as the creation of an independent division to hear the victims of crimes, especially children and youngsters.

Hence, with this recommendation, you are kindly requested to adopt the above-mentioned measures, thereby ensuring the best safeguard of the rights of the employees of the *Braga's* Criminal Investigation Department.

I conclude with the conviction that the personal commitment of your Excellency will greatly contribute to strengthening the defense of these rights and, at the same time, improving the functioning of our Criminal Investigation Police structures.

The Portuguese Ombudsman
National Preventive Mechanism

José de Faria Costa

⁴ The NPM was informed that, at the end of the year was made a visit to the facilities in question.

⁵ This subject is heavily densified by the Community legislation, with a particular focus on the Directive 2003/18/EC of the European Parliament and of the Council of March 27, 2003, transposed into Portuguese law by the Decree-Law no. 266/2007, of July 24.