



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

Your Ref.

Your Communication

Our Ref.

Visit no. 52-2016

RECOMMENDATION NO. 9/2017/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, with a view to improving the conditions of detention of the Central Instance of the Judicial Court of *Castelo Branco*, the measures considered appropriate shall be adopted in order to guarantee:

- a) The installation of a bench or similar equipment in the cells;
- b) The placement of protection — specifically of the metallic grid — in the light bulbs inside the cells;
- c) The repairing, as soon as possible, of the damaged cell.

II

The present position is based on a visit by the National Preventive Mechanism (NPM)¹, on December 29, 2016, to the Central Instance of the Judicial Court of *Castelo Branco*.

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.



According to the scope of intervention of the NPM² and for the purpose of the previously defined view, the conditions of habitability of the detention space — namely the terms of sanitation, air conditioning and lighting — and the conditions of the food sector were verified.

III

From the observation made during the visit of the NPM to the Central Instance of the Judicial Court of *Castelo Branco*, it was concluded that, despite a satisfactory general appreciation of the place of detention, its access and its security, that one deserves three repairs:

- i)* the cells are devoid of any furniture or equipment allowing the defendants to rest;
- ii)* the artificial lighting points are unprotected;
- iii)* one of the cells is visibly degraded and therefore is not used.

IV

The detention area of the judicial body visited has two cells, but none of them have any kind of resting seat for detainees, and these remain standing or sitting on the floor pending legal action. This circumstance is based on the inadmissibility of placing movable furniture inside the cells and, as indicated to the NPM, it has already been signaled above.

The absence of any furniture that makes it possible for the prisoner to feel at least does not comply with the provisions of article 12, paragraph 1 of the Detention Conditions' Regulation in Judicial Police Facilities and Existing

² The objective of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 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, having been ratified by Portugal in 2012, through Decree no. 167/2012 of the President of the Republic of December 13.



Detention Places in Courts and Public Prosecution Services³, applicable *ex vi* article 31, paragraph 2, so far as that legal provision states that places of detention must respect the dignity of the detainee and satisfy the requirements of habitability, regarding the furniture as well.

It should be noted, however, that if, on the one hand, Detention Conditions' Regulation only expressly refers to individual beds as components of cells⁴, the aforementioned provision in article 31 prescribes, on the other hand, that provisions are applicable to places of detention in Courts and in the services of the Public Prosecutor's Office with the necessary and necessary adaptations, considering that there is no overnight stay in these places and that they are destined to stays of very short duration. Thus, and proving necessary the existence of furniture that allows the rest of the persons deprived of their liberty to be found in the cells of the Central Instance of the Judicial Court of *Castelo Branco's* District, I consider it appropriate to introduce, in the spaces in question, some type of equipment that allows those, at the very least, they feel as they wait for the legal proceedings that concern them⁵.

V

The two cells of the Central Instance are located in the basement, in an area not confined with spaces open to the public, being closed with doors of bars that converge in a common area where police officers remain. Both benefit from natural and artificial lighting, sufficient and convenient ventilation.

The NPM, however, found that the light spots inside the cells did not meet the safety conditions required by the current regulatory standards⁶. In this regard, I

³ This normative document — hereinafter referred to as Regulation on the Detention Conditions — was approved by the order of the Minister of Justice no. 12 786/2009, of May 19, published in «*Diário da República*» no. 104, of May 29, 2009.

⁴ See articles 14, no. 1 and 25, no. 5 of the Regulation on the Detention Conditions.

⁵ According with the provisions of the articles 14, no. 1 and 19 no. 1 of the Regulation on the Detention Condition, a solid bench made up of concrete blocks with round edges and angles such as the furniture suitable for a court cell.

⁶ The article 12, no. 1 of the Regulation on Conditions of Detention, applicable to the place visited pursuant to the article 31, no. 2 of the same statute, determines that «places of detention shall be security and safety requirements, in particular regarding natural and artificial lighting.»



consider that the conditions of such equipment must be improved, in particular by fitting a metal grid, thereby ensuring their protection and, therefore, the safety of the persons deprived of their liberty.⁷

VI

The NPM also observed the state of degradation that was visible in the roof of one of the cells. In addition to this fact, in the same space was a pipe of open channel, with about twenty centimeters in diameter, which according to the information given to us, was resultant from a problem of infiltration that occurred in the building. It was also transmitted to the NPM that the need for the situation had already been highly referenced. In this way, and despite the fact that the situation has been signaled above, I consider it pertinent to carry out, in the shortest possible time, the repair operations necessary to restore the conditions of habitability and hygiene of the space in question.⁸

I conclude, being convinced of the personal commitment and cooperation with which you will receive this recommendation, thus contributing to the improvement of the conditions of the Central Court of *Castelo Branco's* District Judicial Court.

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The Portuguese Ombudsman
National Preventive Mechanism

⁷ As set forth in the article 18, no. 2 of the Regulation on Conditions of Detention, applicable *ex vi* no. 2 of the article 31 of the same Regulation

⁸ See, in particular, the article 19, no. 3 of the Regulation on Conditions of Detention, applicable *ex vi* no. 2 of the article 31 of the same Law.