



Your Excellency
The Minister of Internal Administration
Praça do Comércio
1149-019 Lisbon

Your Ref.

Your Communication

Our Ref.

Visit no. 4-2017

RECOMMENDATION NO. 11/2017/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, in order to improve the conditions of detention in the *Setúbal's* Police Station of the Public Security Police, the adoption of measures considered adequate to ensure the adaptation of their cells to the regulatory characteristics determined, namely:

- a) The existence and functioning of an alarm mechanism to, where necessary, call the police element vigilant;
- b) The existence of tilting windows and temperature-regulating equipment;
- c) The type and composition of the toilet facilities.

II

The present report is based on the visit made on February 17, 2017 to the *Setúbal* Police Station of the Public Security Police by a team of visitors from the National Preventive Mechanism (NPM).



In accordance with the preventive scope of intervention of the NPM, the visit was carried out with the purpose of ascertaining the living conditions of places of detention — in particular with regard to lighting, temperature and aeration —, evaluating the right of the inmates to a worthy treatment (*v.g.*, the right to have a lawyer, the right to contact the lawyer by telephone and the right to communicate with a family member or a trusted person), and to verify compliance with legal and regulatory procedures of compulsive hospitalization.

III

From the conditions observed in the detention facilities in the *Setúbal's* Police Station of the Public Security Police, four circumstances are worth repairing, due to their lack of conformity with the characteristics defined in the Regulation of the Material Conditions of Detention in Police Facilities¹, which are related to the absence of alarm equipment, windows and heaters or similar, as well as the form and materials of the toilet facilities.

2

IV

The cells belonging to the *Setúbal* Police Station of the Public Security Police are located in the premises of the respective Division, which are located in another building but on the same street. These are two cells, one individual and one with capacity for two people.

According to the NPM, the surveillance of the detention zone is carried out by a police officer who is physically in the police station, moving periodically to the detention space². It has been found that there is no call system in the detention area, which is to say that, contrary to the provisions of the Regulation of the Detention

¹ Approved as an annex to the order of the Minister of Internal Administration no. 5863/2015, published in the «*Diário da República*», no. 106, 2nd series, dated June 2, 2015 (hereinafter referred to as the Regulation on the Detention Conditions).

² In accordance with the article 3 paragraph 2 of the Regulation on the Detention Conditions, in so far as this rule states that «the detention zone must be located (...) close to the areas of permanence of the officers responsible for the surveillance of the detainees».



Conditions, the cells are not equipped with alarm equipment nor of a device for the sounding of a signal to enable the detainee to call the watchman if assistance is required³.

Accordingly, and in view of the non-presence of a monitoring agent and the absence of alarm mechanisms, if a person deprived of liberty needs help, he is unable to apply immediately. In order to prevent this situation from occurring — which, in practice, is reflected in the disrespect for the dignity of those who may be in the cells in question and in the absence of security and assistance⁴ — I consider it appropriate to install, in the shortest possible time, of the alarm mechanism that enables the call of vigilant personnel.

V

The cells used by the *Setúbal* Police Station of the Public Security Police are cold, not having isolation or any equipment that can regulate the temperature that is felt inside. In addition, these areas, although having floodlights, do not contain windows. This circumstance determines, as can easily be seen, the absence of natural light in the cells, as well as sufficient ventilation, the little that exists provided by a perforated iron plate.

The deprivation of liberty of a person, even if limited to a short period of time, must comply with a set of requirements that ensure a proper treatment. For this reason, article 3 paragraph 1 of the Regulation on the Detention Conditions stipulates that «detention area must meet good habitability, have natural and artificial lighting, insulation against excessive cold and heat [and] aeration.» To that end, the said regulation states that cells must have tilting windows providing sufficient ventilation and natural lighting.⁵ As will be easily understood, the normative impositions of adequate habitability conditions — in particular with regard to their air conditioning, lighting and aeration — aim, first and foremost, to protect the

³ See article 4, no. 9 of the Regulation on the Detention Conditions.

⁴ See article 3, no. 1 of the Regulation on the Detention Conditions.

⁵ See article no. 4, paragraphs 6 and 7 of the Regulation of the Detention Conditions.



health of persons in detention. I therefore consider that these spaces must be subject to the necessary changes to their conformity with the established regulation, which implies, firstly, the placing of overhead windows and insulation or temperature regulating equipment.

VI

As far as sanitary facilities are concerned, its washbasin is ceramic and the massif where it is embedded is tiled. The requirements set out in article 4, paragraph 11 of the Regulation on the Detention Conditions⁶ are not met, which, in the limit — by destruction of such materials — can jeopardize the safety of those who are there. For this reason, I consider it appropriate to remodel the sanitary facilities, adapting them to their regulatory characteristics and thus guaranteeing safe living conditions.

I conclude, being convinced of the personal commitment and cooperation with which you will receive this recommendation, thereby contributing to the improvement of the conditions of detention used by the *Setúbal* Police Station of the Public Security Police and, therefore, to reinforce the treatment accorded to the people deprived of their liberty.

The Portuguese Ombudsman
National Preventive Mechanism

José de Faria Costa

⁶ This provision stipulates that «the minimum equipment of sanitary installations shall consist of a lavatory embedded in a concrete mass made of stainless steel with a timed valve (flow meter), only having the trigger button and the water spout in view, and a turkish-style basin made of stainless steel, fitted with a built-in flowmeter on the wall.».