



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

- by protocol -

Your Ref.

Your Communication

Our Ref.

Visit no. 21-2017

RECOMMENDATION NO. 14/2017/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 the *Pombal* Local Instance of the Judicial Court of *Leiria*, the promotion of the necessary measures to adapt the detention area to the legally determined characteristics in the Regulation on the Conditions of Detention in Police Facilities and in the Courts and Public Prosecutor Services¹, applicable *ex vi* paragraph 2 of article 31 of the same normative document.

¹

II

This decision is taken in result of the visit made on May 18, 2017, by the National Preventive Mechanism at the *Pombal* Local Instance of the Judicial Court of *Leiria*.

¹ The Regulation of Conditions of Detention in Judicial Police Facilities and in the Courts and Public Prosecution Service — hereinafter abbreviated by Regulation of Conditions of Detention — was approved by Order of the Minister of Justice No. 12 786/ 2009, of May 19, published in «*Diário da República*», no. 104, Second Series, of May 29, 2009.



In accordance with the preventive scope of intervention of the National Preventive Mechanism, the visit was carried out with the purpose of ascertaining the habitability conditions of places of detention, namely their lighting, ventilation, thermal comfort, hygiene, cleaning and security.

III

The detention area of the *Pombal* Local Instance of the Judicial Court of the *Leiria* consists of two cells which, in terms of their characteristics, do not, however, observe all the regulatory requirements.

In fact, the windows of both cells do not have metallic safety nets, as provided for in the article 15, paragraph 1, of the Regulation of Conditions of Detention. In addition, the artificial light bulbs are not, instead of the one specified in the article 18, paragraph 2, of the mentioned Regulation, protected by a metal net.

At the time of the visit, the National Preventive Mechanism observed that, despite having already been requested to repair it (according to information transmitted to this State body), the door of one of the cells was without a lock or even a padlock that would allow accommodation — temporary but secure — of the persons who, being deprived of liberty, awaited their judicial proceedings.

In addition to what is described above, the sanitary installations within the holding space are equipped with sanitary in ceramics, thus not complying with the article no. 17, paragraph 2, of the Regulation of Conditions of Detention, applicable *ex vi* article 31, paragraph 2, that states: «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 operating button and a lavatory basin, Turkish-type, made of stainless steel, fitted with a built-in flowmeter on the side of the wall, with only the push-button visible.»

The cells in question are preceded by a corridor which, in the presence of the National Preventive Mechanism, was partially obstructed by piles of lawsuits. This is a circumstance that should be changed in the shortest possible time, so as to enable the



free and safe passage through it and to give the correct destination to the documents that are, by their content, restricted reading².

In view of the above, I consider that it is urgent to adopt the measures deemed pertinent to adjust the detention area of the *Pombal* Local Instance of the Judicial Court of *Leiria* and the corridor through which is acceded to the necessary conditions in order to «respect the dignity of the detainee and to meet the requirements of safety and habitability, in particular regarding (...) natural and artificial lighting (...) and furniture.»³

I conclude, convinced of the personal commitment and co-operation with which Your Excellency will receive this recommendation, thus contributing to the improvement of the conditions of the *Pombal* Local Instance of the Judicial Court of *Leiria* and, therefore, for the strengthening of security and dignified treatment of the persons deprived of liberty.

The Portuguese Ombudsman
National Preventive Mechanism

José de Faria Costa

² The regime for the preservation and elimination of filed documents in the courts provided for in the article 143 of Law no. 62/2013, of August 26 (Law of the Organization of the Judiciary System), is regulated in the Administrative Rule no. 368/2013 of 24 December, article 9, paragraph 4, which states: «(...) the decision on how to delete documents shall take into account confidentiality criteria (...)». A type of protection that must exist in the preservation of legal proceedings.

³ Article 12, paragraph. 1, of the Regulation of Conditions of Detention, applicable *ex vi* of article 31, paragraph 2, of the same legal discipline.