



Dear Mr.
National Director of the
Public Security Police
Largo da Penha de França, no. 1
1170-298 Lisbon

- by protocol –

Your Ref.

Your Communication

Our Ref.

Visit no. 13-2017

RECOMMENDATION NO. 15/2017/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 the adoption of adequate measures in order to improve the detention conditions in the Public Security Police establishments, guaranteeing:

- a) The access of the National Preventive Mechanism to the interior of the facilities;
- b) The improvement of the conditions of the public attendance area and the working conditions of the police officers, as well as the places destined to the deposit of seized assets;
- c) The issuance of instructions so that, in the absence of a cell, the persons deprived of their liberty are immediately taken to the proper police facilities.



II

The report follows a visit made by the National Preventive Mechanism, on March 28, to the *Musgueira* Police Station of the Public Security Police. This visit followed another one that took place on December 22, 2016, to the detention area of the Justice Campus, in the course of which the detainees were interviewed.

In this sense, the visit of the National Preventive Mechanism to the *Musgueira* Police Station of the Public Security Police verified the procedures observed in detention situations, ascertained the fulfillment of the detainees rights to constitute a lawyer, to telephone their defender and to communicate with a trusted person or family member. In addition, the habitability conditions of the cells were also ascertained.

III

From the information gathered during the visit, it was possible to conclude that the detention conditions and the facilities of the police station can be improved, bearing in mind the proper treatment of those who are deprived of their liberty.

2

a) The National Preventive Mechanism access to the premises of the Public Security Police

When the National Preventive Mechanism visited the *Musgueira* Police Station of the Public Security Police, after explaining its mandate and identifying the visitors, — above all with the display of their credentials —, it was not possible to immediately access its interior. It was stated that access to the police facilities could only occur with and after obtained authorization from the respective Commander, who was contacted for this purpose. For this reason, the National Preventive Mechanism had to wait about 30 minutes to enter the mentioned police station.

As it is clear from the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, «[t]he national preventive mechanism shall be granted at a minimum the power (...) [t]o regularly examine the treatment of the persons deprived of their liberty in places of detention



(...) with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment» (article 19, paragraph a)). To this end, States Parties — as Portugal — have been enforcing the «access to all the places of detention and their installations and facilities» (article 20, paragraph c), of the aforementioned Optional Protocol). Access which, after the arrival of the National Preventive Mechanism, should be immediate, so that the conditions of treatment of persons deprived of liberty cannot be concealed or concealed. It is, moreover, based on this plea that visits made by that body are made without previous notice.

Therefore, I consider it urgent to adopt the measures deemed necessary (*v.g.*, issuance of circulars) to ensure the entry of the National Preventive Mechanism to the Public Security Police facilities, an entry which, after the display of the identification of the visitors, should not be impeded by the absence of the heads of the police stations or be dependent on their authorization.

b) Conditions of public attendance area, working conditions of police officers and places that serves as a deposit of seized assets

The conditions of the facilities of the *Musgueira* Police Station of the Police of Public Security Police can be improved, since they do not present the characteristics that best suit the purposes of this police facility neither assure the privacy of the persons who works there or, for whatever reason, goes to them.

Notwithstanding the absence of cells, the permanence of the persons deprived of their liberty in the aforementioned police station — while awaiting their due diligence or transportation to another location — usually occurs in a room which, in addition to being small, does not have windows and precincts with the filling room. This space also serves as a dining room (when the period of detention is simultaneous with lunch or dinner) and to the contact with the lawyer or defender, that, with other detainees present, does not allow such conversations to occur with privacy. This room is still inaccessible to persons with locomotion difficulties, since it is located on



the lower floor of the entrance public attendance area and its access is only made through stairs.

The room that serves to attend the public coincides with the waiting room and does not ensure the privacy of the persons who go there. This protection must exist in any circumstance that leads us to a public space, but taking into account the matters that are treated there (and which, translated in the presentation of criminal complaints or in the request of information by the defendants, often touch the most intimate dimensions of citizens)¹, have to be guaranteed. This is, first of all, a duty that integrates the mission of the Public Security Police² itself and which, for situations requiring greater privacy, justifies the use of the station guard's post as space to talk with the crime victims, such as of qualified behavior victims such as domestic violence.

The National Preventive Mechanism also found that the working conditions of the police officers and those of seized goods are worth repairing.

Concerning the first, it is important to note that there are no women's locker rooms and sanitary facilities. There is also a lack of computer equipment, since only five computers were available to the police officers.

As for the latter, it was observed a heap of unleashed bicycles which, seized by various processes, were accumulated in the corridor, making it difficult to pass through this division. However, the storage of seized assets is not limited to simple storage, which must not occur in a passageway for persons. In addition, the custody of a seized property comprises its packaging that, in turn, presupposes an adequate space for this effect.

¹ The right to the privacy, as provided for in article 26, paragraph 1, of the Constitution of the Portuguese Republic, is therefore in question, which, in the case of being accused or suspected of committing a crime, there is the right to good name and reputation, enshrined in the same normative precept.

² As it is clear from the article 3 of the Code of Ethics of the Public Service Police, approved in an annex to the Resolution of the Council of Ministers no. 37/2002 of February 7, «members of the security forces promote, respect and protect human dignity, the right to life, liberty, security and other fundamental rights of the person. See also subparagraph a), paragraph 2, of article 3 of the Organic Law of Public Security Police (approved by Law no. 53/2007, of August 31).



In view of the foregoing, I consider appropriate to adopt measures that guarantee the privacy and security of all the persons who work or be kept in the police station, as well as the seized assets that are temporarily stored there.

c) Transportation of the detainees

The detention of a person is based on a set of assumptions that are legally defined, not depending on the existence or not of cells in the security forces that carry out the detention. However, when the duration of the deprivation of liberty requires that the detainee be kept in a detention space, he or she should be taken to a cell — even if it is located in another police station — which has the minimum conditions for that detention³.

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 *Musgueira* Police Station of the Public Security Police and, consequently, to the reinforcement of the appropriate treatment to the persons who are there.

Yours sincerely,

The Portuguese Ombudsman
National Preventive Mechanism

José de Faria Costa

³ In this regard, see the Regulation on the Material Conditions of Detention in Police Facilities, approved in annex to the Order of the Minister of Internal Administration no. 5863/2015, published in «*Diário da República*», no. 106, Second Series, of June 2, 2015.