



## *Regulation of the Support Structure of the National Preventive Mechanism*

### Preamble

In order to carry out the international obligations assumed by the Portuguese State as result of the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Ombudsman was appointed as the National Preventive Mechanism (NPM), by the Council of Ministers' Resolution no. 32/2013, published in the «*Diário da República*», 1<sup>st</sup> Series, no. 96, of May 20.

The establishment of a regime of regular visits to places where persons are deprived of their liberty — with the aim of preventing torture or cruel, inhuman or degrading treatment or punishment, provided for in the OPCAT and which must be ensured by the NPM — implies, first of all, the creation of a structure to assist the Ombudsman in the performance of these tasks, namely in identifying such places, in planning and carrying out visits, in obtaining data and in handling them afterwards.

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With regard to the development of this activity, the Support Structure for the NPM is created, whose organs, competences and purposes are defined in the following norms:

### Article 1

In order to carry out the functions entrusted to the Ombudsman as the NPM under the OPCAT's framework, the Support Structure for the National Preventive Mechanism, hereinafter referred to as the EMNP, is created.

### Article 2

1. The EMNP's activity is autonomous although working within the scope of the Ombudsman's Office.



2. The Ombudsman's annual activity report specifies the expenditure attributable to the operation of the EMNP, and for that matter a specific cost centre is created.

### Article 3

The EMNP consists of:

- a) Advisory Council;
- b) Steering Committee;
- c) Visitors Team
- d) Administrative support.

### Article 4

1. The Advisory Council is the main advisory body of the Ombudsman as NPM.

2. The Advisory Council is composed of:

- a) The Portuguese Ombudsman or the designated Deputy Ombudsman, who presides;
- b) A member appointed by the Parliamentary Committee on Constitutional Affairs, Rights, Freedoms and Guarantees;
- c) A member appointed by the High Council of the Judiciary;
- d) A member appointed by the High Council of the Public Prosecutor's Office;
- e) A member appointed by the Bar Association;
- f) A member appointed by the Medical Association;
- g) A member appointed by the Portuguese Psychologists Association;
- h) Three members designated by the Ombudsman between individuals of high and recognized ethical and civic standards;
- i) Two members representing associations with purposes within the OPCAT and relevant activity.



3. The Steering Committee may attend meetings of the Advisory Council.

#### Article 5

1. The designation of the vowels referred in paragraphs *b)* to *g)* of paragraph 2 of the preceding article must be renewed at least every two years by the competent entity.

2. The term of office of the members appointed by the Ombudsman shall expire with the end of his/her duties.

3. The members referred to in sub-paragraph *i)* shall be co-opted for a period of two years by the other members of the Council from among the applications submitted to the Portuguese Ombudsman in a procedure subject to proper publicity.

4. The applications foreseen in the previous number must prove the connection of the association's activity with the OPCAT's main goals, indicating the name and *curricula* of the proposed representative and of an alternate.

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#### Article 6

In the designation of the members of the Advisory Council an adequate coverage of all the different situations of deprivation of liberty covered by the OPCAT should be contemplated.

#### Article 7

It is incumbent upon the Advisory Council:

- a)* To elaborate the internal rules of procedure;
- b)* To give an opinion on the annual plan of activities and to propose visits to places of detention;
- c)* To monitor the activity of the EMNP, namely in the evaluation and monitoring of the visit protocols;
- d)* To give an opinion on the activities report;



- e) To prepare proposals regarding the operation of the EMNP;
- f) To deliberate on any other matters submitted for its consideration by the Ombudsman.

#### Article 8

The Advisory Council meets at least twice a year, preferably in April and November, and whenever convened by its chairperson.

#### Article 9

1. The Steering Committee develops the annual activity plan, prepared and approved by the NPM, and ensures visits to the places of detention through the Visitors Team.

2. The Steering Committee is composed by a member of the Ombudsman's Cabinet designated for this purpose and the coordinators of Units 5 and 6 of the Ombudsman's Office.

3. The Steering Committee can also be composed by persons whom the Ombudsman decides to designate for this purpose.

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#### Article 10

1. The Visitors Team consists, primarily, of nine persons of the Ombudsman's staff, who are specially appointed for this purpose.

2. In order to carry out the visits, the Ombudsman may request other collaborators or experts with appropriate technical and scientific knowledge, who are accredited for this purpose.

#### Article 11

The administrative support for the EMNP is provided by the person designated by the Portuguese Ombudsman for this purpose.



## Article 12

The action of the NPM and the EMNP should operate in accordance with the framework resulting from the OPCAT and the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).