



# PORTUGUESE OMBUDSMAN NATIONAL HUMAN RIGHTS INSTITUTION

REPORT TO THE PARLIAMENT 2014

NATIONAL PREVENTIVE MECHANISM

Lisbon, 2015



This report regards the activity autonomously developed by the Ombudsman as the National Preventive Mechanism, under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It describes the initiatives carried out in 2014, with a special mention to the visits to places of detention.

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**National Preventive Mechanism**

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# *Table of Contents*

|   |           |
|---|-----------|
| <b>1. The Ombudsman as the National Preventive Mechanism</b>    | <b>8</b>  |
| 1.1. Introduction   | 8         |
| 1.2. The National Preventive Mechanism                          | 9         |
| 1.3. The structure supporting the National Preventive Mechanism | 10        |
| 1.3.1. The Advisory Council                                     | 10        |
| 1.3.2. The Steering Committee                                   | 11        |
| 1.3.3. The Visitors Team  | 11        |
| 1.3.4. The Administrative Support                               | 12        |
| 1.4. Financial resources  | 12        |
| <b>2. National Preventive Mechanism Activities</b>              | <b>12</b> |
| 2.1. Visits   | 12        |
| 2.2. External initiatives and institutional promotion           | 31        |
| 2.2.1. Participation in external initiatives                    | 31        |
| 2.2.2. Institutional promotion                                  | 36        |
| <b>3. Visits analytic index</b>                                 | <b>37</b> |





# *National Preventive Mechanism*

> Detail – Entrance National Preventive Mechanism's facilities

# *1. The Ombudsman as the National Preventive Mechanism*

## *1.1. Introduction*

The constitutional and legal framework of the Ombudsman's mission is the precursor of a model that binds the essential features of the classical Ombudsman - whose function is to take charge of complaints presented by citizens against illegal or unfair actions or omissions from the public administration - with the model of Ombudsman for Human Rights. This dimension, with universalizing vocation, derives from the constitutional provision that empowers the Portuguese Ombudsman with the capacity to monitor the application of international treaties and conventions on human rights<sup>(1)</sup>.

The Portuguese State has approved and ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)<sup>(2)</sup>, which came into force in February 14<sup>th</sup>, 2013<sup>(3)</sup>.

Among the various reasons that founded the genesis of this Protocol we highlight the fact that the contracting parties have recognized the need for consecration of additional measures to achieve the objectives established in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>(4)(5)</sup>. These measures are pointed at a more effective prevention of torture and other cruel treatments or punishments in places where people are deprived of their liberty.

The OPCAT aim is to establish a preventive system of regular visits to places of detention, in order to achieve an enhanced protection through non-judicial means, of persons deprived of liberty.

To accomplish this goal - the establishment of regular visits - the OPCAT demands that this visitation system is carried out either by international organizations (having therefore provided the creation of the Subcommittee on Prevention of Torture

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(1) Cf. paragraph 2 of Article 1 of Law No. 9/91, April 9<sup>th</sup>, as amended by Law No. 30/96, of August 14<sup>th</sup>, Law No. 52-A/2005 October 10<sup>th</sup> and Law No. 17/2013 of February 18<sup>th</sup>, which approved the Statute of the Ombudsman.

(2) The OPCAT was approved by the Parliament Resolution No. 143/2012 of December 13<sup>th</sup> and ratified by Decree of the President of the Republic No. 167/2012 of December 13<sup>th</sup>. The instrument of ratification was deposited with the Secretary General of the United Nations on January 15<sup>th</sup>, 2013, according to the Notice No. 40 of the Ministry of Foreign Affairs published in the Official Journal, Series I, No. 57, March 21<sup>st</sup>.

(3) On the thirtieth day after the date on which Portugal deposited its instrument of ratification with the UN Secretary General, pursuant to paragraph 2 of Article 28 of OPCAT.

(4) This Convention was adopted by the Parliament Resolution No. 11/1988 of December 23<sup>rd</sup> and its ratified by the Decree of the President of the Republic No. 57/88 of July 20<sup>th</sup>. The instrument of ratification was deposited, on February 9<sup>th</sup>, 1989, with the UN Secretary General, according to the Ministry of Foreign Affairs notice published in the Official Journal, Series I, No. 128 of June 5<sup>th</sup>.

(5) OPCAT's Preamble.



- SPT<sup>(6)</sup>), or by independent national bodies. For this reason the States have an obligation to create, designate or maintain, at national level, one or more visitation bodies for the prevention of torture named National Preventive Mechanism (hereinafter NPM).

## *1.2. The National Preventive Mechanism*

In Portugal the quality of National Preventive Mechanism (NPM) has been assigned to the Ombudsman, through the Resolution of the Council of Ministers No. 32/2013 of May 20<sup>th</sup>(7), with the power to: *i*) visit and regularly check treatment of persons deprived of liberty; *ii*) make recommendations to the competent authorities; and *iii*) submit proposals and observations about current legislation or draft legislation on the matter<sup>(8)</sup>.

In 2013 steps were taken, not only, towards the development of a model<sup>(9)</sup> that respected the autonomous and independent nature of the National Preventive Mechanism from the typical role of the Ombudsman, but also to allow an effective implementation of a monitoring system to places where people are deprived of freedom. Consequently, in the first months of 2014, the actions implemented were directed to create a framework to help the Ombudsman in the exercise of those functions, namely, identifying locations of detention, planning and implementing visits in order to obtain information, data processing, and, if necessary, to formulate suggestions, proposals or recommendations.

Therefore, the NPM, in pursuit of its duties, is assisted by support structure named *EMNP*.

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(6) Cf. article 2 in conjunction with article 11, both from the OPCAT.

(7) Published in the Official Journal, Series I, No. 96, May 20<sup>th</sup>.

(8) Cf. article 19 from OPCAT in conjunction with paragraph 1 of the mentioned Council of Ministers Resolution No. 32/2013.

(9) The model guidelines were mentioned in the 2013 Report. Cf. Ombudsman's Report to the Parliament - 2013, p. II.

### *1.3. The structure supporting the National Preventive Mechanism*

It was in the first half of 2014 that structure to support the National Preventive Mechanism (EMNP), was implemented with the approval of its regulations<sup>(10)</sup>. The EMNP comprises the following bodies: advisory council, steering committee, visitors' team and the administrative support. Its composition clearly emphasizes a vocation of plural participation of society, benefiting from the experience and knowledge of all those who are part of this structure.

The efforts developed in order to implement the support structure of the NPM meant that the visits to detention facilities started in the second semester of 2014.

#### *1.3.1. The Advisory Council*

The Advisory Council is the main consultative body of the National Preventive Mechanism and exercises the powers prescribed in Article 7 of the Regulation EMNP, including giving stand out opinion on the annual plan of activities, to present proposals of visits to places of detention and to give opinion on the annual report. The Advisory Council is comprised by 12 members: the Ombudsman, who presides, and 11 other members.

The EMNP's composition reflects the broader scope regarding the social representation of the community, either individually or at a collective title. Accordingly, six of the members were appointed by entities that enjoy themselves an independent status<sup>(11)</sup> and, in particular, three professional bodies<sup>(12)</sup>. Also part of the advisory council are three personalities of ethical and civic statutes designated by the Ombudsman.

Finally, the advisory board is composed by two other members<sup>(13)</sup> - representing NGO's that develop relevant activities in the scope of the OPCAT purposes. These two organizations are designated by the other members of the advisory council under the paragraph 3 of Article 5 of the Regulation NPM.

The advisory council was set up in 2014 and met for the first time on June 16<sup>th</sup> of that year. At this meeting<sup>(14)</sup> were discussed and approved the criteria to be observed in the procedure to designate remaining two members. This procedure was the subject

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(10) The Regulation was approved, by the Internal Order No. 1/2014 (NPM), Abril 29<sup>th</sup>.

(11) The members referred in subparagraphs b) to d), Article 4, paragraph 2, of the EMNP Regulation were appointed, respectively, by the Parliamentary Committee for Constitutional Affairs, Rights, Freedoms and Guarantees; by the Supreme Judicial Council and the High Council of the Public Prosecution Service.

(12) These are the members mentioned in subparagraphs e) to g), Article 4, paragraph 2 of the EMNP Regulation designated, respectively, by the Bar Association, by the Medical Association and the Psychologists Association.

(13) Cf. Subparagraph i) paragraph 2, article 4, EMNP Regulation.

(14) In addition to the approval of the Regulation of this body and the favourable opinion on the NPM's action plan for 2014. The execution of the action plan occurred in the second semester.

of due publicity<sup>(15)</sup>, having been presented two applications by the following organizations: Amnesty International - Portugal - and APAV - Portuguese Association for Victim Support.

Also during 2014, the Advisory Council met on December 4<sup>th</sup> to evaluate the applications submitted (in this meeting it was also presented the annual plan of activities for 2015).

The procedure to choose the two NGO's was concluded in a meeting held on January 29<sup>th</sup> 2015.

### *1.3.2. The Steering Committee*

The Steering Committee is composed of 3 persons: an Ombudsman's Cabinet member, and the coordinators of the thematic units 5 and 6. This committee is responsible for assisting the NPM in the development of its activity, namely executing the annual plan of approved by the NPM, ensuring the realization of visits to places of detention, through the visitors team<sup>(16)</sup> and formulating the proposals for recommendations. As will be described below, all the visits were attended at least by one of the members of this committee.

### *1.3.3. The Visitors Team*

The Visitors Team is comprised, primarily, by 9 staff members of the Ombudsman's office<sup>(17)</sup> specially appointed for that purpose, with the primary task of conducting visits and the preparation of the respective reports<sup>(18)</sup>. To achieve that, the NPM may also request the participation of other staff members of the Ombudsman's office, as well as experts with technical and scientific knowledge appropriate to the purpose of each visit or taking into consideration the characteristics of the places to visit.

Bearing this purpose in mind the visitors team has the cooperation of professional bodies – Lawyers, Physicians, and Psychologists – providing a list of experts distributed through the country's following regions: the North, the Central region, the South and the autonomous regions of Azores and Madeira. In one of the visits made in 2014 it was possible to have the participation of a medical expert<sup>(19)</sup>.

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(15) Cf. Notice No. 10078/2014 published in the Official Journal, Series II, No. 173, September 9<sup>th</sup>.

(16) Cf. article 9, EMNP Regulation.

(17) Benefiting the NPM with their vast experience regarding the realization of visits and effective knowledge of Portuguese reality with regard to places of detention.

(18) Cf. article 10, EMNP Regulation.

(19) Cf. *infra* visit No. 11-2014.

### *1.3.4. The Administrative Support*

The specificity of NPM and the requirements of autonomy and independence determined that the Ombudsman as NPM affected a member of the staff to provide all necessary administrative support.

### *1.4. Financial resources*

In 2014 - which marked the beginning of EMNP functions - the NPM did not have an autonomous budget relative to the one that was approved for the operation of the Ombudsman *qua tale*. Nevertheless, the Ombudsman affected the necessary funds, , to withstand the foreseeable expenditure for implementing the planned activities, in particular with regard to carrying out visits to places of detention, ensuring the functioning of the NPM<sup>(20)</sup>.

## *2. National Preventive Mechanism activities*

### *2.1. Visits*

In this year 2014, in the period between July and December 31, 19 visits were carried out to different places of detention, seven of which with the participation of the Ombudsman himself.

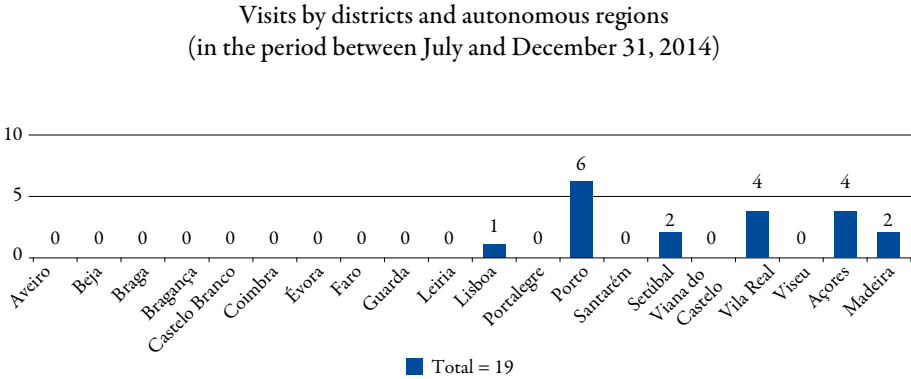
Visits were planned to cover the largest possible geographical area and to be representative of the diversity of places of detention (e.g., prisons, psychiatric hospitals, educational youth centers, temporary installation centers for foreigners, places of detention of police forces and places of detention in the courts).

The teams were composed from two up to four elements.

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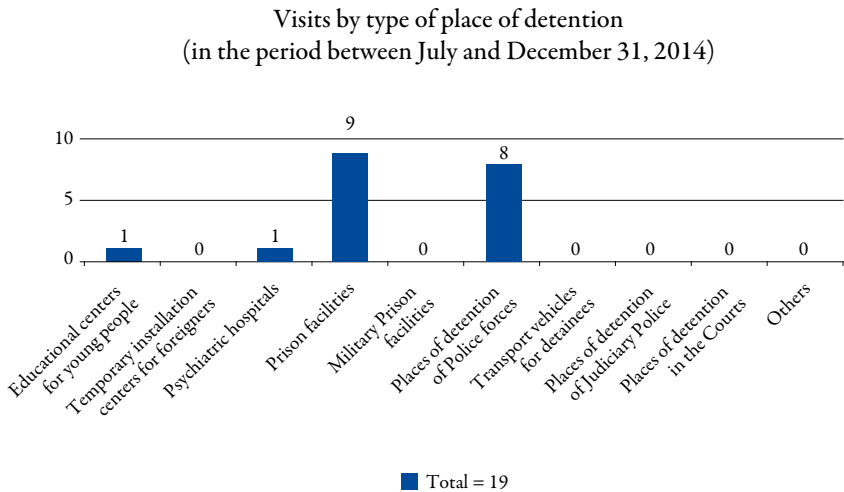
(20) Despite this fact, in 2015, the NPM is registered as a separate activity in the budget of the Ombudsman.

Graph I



The analysis of the graph above shows that, of the 19 visits, 10 were held in the north of Portugal (6 visits in Porto and 4 visits in Vila Real), one in Lisbon, another in the southern region (Setúbal) and six took place in the autonomous regions of the Azores (4 visits) and Madeira (2 visits).

Graph II



The graph shows the inspection visits regarding the characterization of places of detention. Nine visits were held in prisons, one in psychiatric hospital, eight in places of

detention of police forces (National Republican Guard and the Public Security Police) and one in an Educational Centre for Young People.

A brief description of each visit is made on the following pages, identifying the purpose, the date on which it took place and the location.

**Visit no. 1-2014**

**Date:** 2014.08.27

**Location:** “Centro da Bela Vista” Educational Center For Young People, Lisbon

**Subject:** Investigation of appropriate conditions to the implementation of the concept of “gender peculiarity”

On August 27<sup>th</sup> a visit was conducted to the “Centro da Bela Vista”, an Educational Center for Young People located in Lisbon.

Both the physical space and the organizational model were measured, as well as the inter-relational everyday life of young people, developed in a context as familiar as possible.

With three residential units (each with individual rooms, sanitary facilities, cafeteria, school conferences and a technical room for the tutor), the Center was thought only for the internment of children and young people of the male gender. However, a total of 13 girls were placed in the Center in July 30, 2014, as a result of the closure of the Educational Center for Young People of Santa Clara in Vila do Conde.

For this reason, the Center suffered an internal reorganization: the male population was relocated in two residential areas while the newly arrived young girls were placed in the surplus unit. At the date of the visit, the effective occupation was of 47 elements (35 boys and 12 girls, two of which were pregnant).

The opening of the female residential unit did not entail differentiating elements on the grounds of “gender distinctiveness”.

A personal educational project was designed for all young people in intern regime, except two cases (a boy and a girl), which hold assigned injunctive guard.

The team members talked with one of the pregnant girls, which was undergoing an internment measure of one year; no problems were identified, particularly in terms of medical follow-up.

In short, the expectation that the relocation of the female population is merely transitory (not exceeding nine months) was consolidated, involving the transfer of those elements to the Educational Center for Young People of Navarro de Paiva, also located in Lisbon, and already prepared for a joint intervention model.



**Visit no. 2-2014**

**Date:** 2014.09.17

**Location:** National Republican Guard Territorial Post of Pinhal Novo, Setúbal

**Subject:** Rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person

On September 17<sup>th</sup> a visit was conducted to Republican National Guard Territorial Post of Pinhal Novo.

It was verified the respect of the rights of detainees to consult with an attorney, to contact the defender by telephone and to communicate with family or trusted person.

Whenever the detention of a citizen occurs, he/she is provided with information regarding the rights he/she is entitled to, through a notification term that repeats the regulatory phrasing. The provided information is read and explained to the detainee.

These rights are also displayed in posters in several locations of the territorial post, including the entrance hall (next to the Attendance Service) and the detention room. This information is available in four languages (Portuguese, English, French and Spanish). There are no other documents explaining rights and duties of the detainee, such as leaflets or brochures.

If the detainee is a foreign citizen, there is the possibility to request a translator.

The arrested person is given the opportunity to contact a lawyer, a relative or person of trust, providing him/her the use of the unit telephone.

There aren't any obstacles to the lawyer's visit, a room being available for this purpose, where the privacy of the conversation held between the lawyer and the detainee is ensured, notwithstanding surveillance at sight. The relatives' visits are normally restricted for safety reasons.

Whenever the detainee reports having someone's custody (especially if it is a child, senior or person with disabilities), the police officers activate the necessary means to ensure the appropriate response. Moreover, if possible, the detainee is provided with assistance in solving his/her urgent personal problems.

In this context (having custody of someone or urgent problems to solve) it is understood that the intervention of the police officers only occurs when the detainee reports such circumstances. It was verified that there is no initiative of the police entity to unveil such situations.

In short, the reality found in the Republican National Guard Territorial Post of Pinhal Novo left a positive impression, though being worth mentioning some kind of lethargy of the police officers on the need to determine on their own initiative if detainees have custody of children, seniors or people with disabilities who may need urgent help.



**Visit no. 3-2014****Date:** 2014.10.03**Location:** Setúbal Prison Facility**Subject:** Food quality and conditions of hygiene and safety of accommodations, in particular of dormitories and disciplinary cells

On October 3<sup>rd</sup>, during the morning period, a visit was made to Prison of Setúbal in order to assess the physical space in what concerns to the suitability of its use, as regards both accommodation and food of prison population. At the same time, it was intended to analyse the organisational model with special emphasis on the existing internal communication channels between the prisoners and the prison directorate.

At the time of the visitation, there were 289 prisoners allocated to the prison.

The directorate had said that they were seeking to carry out some urgent interventions in the prison establishment, having regard to the structural degradation of the building.

A visitation was made to the prison area, as well as to the different spaces of accommodation for the purpose of checking their habitability conditions, the real need for intervention being confirmed.

The kitchen and the existing meal halls were also visited and a meal was tasted. Considering the bad conditions of hygiene and wholesomeness that were found, it was concluded that an urgent intervention was necessary.

Simultaneously, it was ascertained, before the directorate, the typology of procedures used on communications between the prisoners and the directorate. It was verified, in this context, that mailboxes to that end have not yet been set up.

The reality found in Prison of Setúbal was subject to remark on all aspects raised throughout the visitation.

**Visit no. 4-2014****Date:** 2014.11.06**Location:** Vila Real Prison Facility**Subject:** Food quality and accommodation conditions in terms of hygiene and habitability. Procedures concerning the communication of prison population with the prison directorate

On November 6<sup>th</sup>, a visit was made to Prison of Vila Real in order to assess the physical space and the suitability of its use, as regards both the accommodation and the alimentation of prison population, and it was also analysed the organisational model, with special



emphasis on the existing internal communication channels between the prisoners and the prison directorate.

At the time of the visitation, there were 105 prisoners allocated to the prison.

It was made a visitation to the prison area, namely to the spaces of accommodation pertaining to the common regime and to the programmed construction works in the space of accommodation pertaining to the open regime.

Good conditions of habitability were attested both in the common regime and in the open regime, although, in the latter, mainly in the cells where repair works have already been made

The directorate pointed out the water heating boilers poor conditions, thus needing urgent reparation.

It was equally visited the kitchen and its adjacent spaces, as well as the two existing refectories, which were in good hygiene and wholesome conditions [as it was concluded]. The meal was also tasted.

It was ascertained, before the directorate, the typology of procedures used on communication established between the prisoners and the directorate. It was verified, in this context, that mailboxes to that end have not yet been set.

A reserved conversation was held with the citizens in reclusion, but no issues were identified, namely with respect to accommodation and alimentation.

To sum up, the reality found in the Prison of Vila Real was positive, however it the issues related to the boilers reparation and to the installation of mailboxes able to guarantee a secret communication between prisoners and the directorate must be monitored.



**Visit no. 5-2014**

**Date:** 2014.11.06

**Location:** Vila Real Police Station

**Subject:** Working conditions of the police officers; Detention conditions in terms of lighting, insulation against cold or heat, and air circulation; Rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person

On November 6<sup>th</sup> a visit was conducted to Vila Real Police Station.

The staff working conditions were verified, as well as the living conditions in the places of detention, in terms of lighting, temperature and ventilation, and the respect for the rights of detainees to consult with an attorney, contact their families and friends.

It must be highlighted negatively the temperature of the police station, for certain very low in the coldest days of winter and extremely hot in summer.

Although it has been already purchased an air conditioner unit, which will be installed in the building lobby, it is not sufficient to create minimally decent working conditions for the police officers.

On the contrary, all facilities were very cared for in terms of cleanliness.

In short, the Vila Real Police Station left a positive impression as far as the space organization and cleanliness of the rooms are concerned, even though the detention cell warrants greater attention.

The works that are required to ensure the minimum conditions of comfort do not seem to be too expensive.

A negative aspect is the lack of temperature-regulating devices.



**Visit no. 6-2014**

**Date:** 2014.11.06

**Location:** Chaves (Vila Real) Prison Facility

**Subject:** Food quality and disciplinary procedures

On November 6<sup>th</sup>, during the afternoon period, a visit was made to Prison of Chaves, district of Vila Real, in order to analyse the disciplinary procedures initiated in the course of this year. It was also examined the general conditions of the prisoners' accommodations, as well as the facilities and the food-making practices.

The prison had, at the time of the visitation, 59 prisoners, one of them being in transit. There were twenty-one disciplinary procedures, six of which had already been closed.

After examining the procedures, no grounds for censure were found on the basis of the respect for the disciplinary procedure laid down in Article 110 et seq. of the Code of Execution of Criminal Sanctions and of Measures Involving Deprivation of Liberty.

During the visitation to the prison area it was observed that cells and commons spaces have reasonable habitability conditions, despite the defective brightness arising from the characteristics of the building itself.

The assessment of the alimentation sector has included a visitation to the kitchen and to the refectory, whose conditions of the hygiene and wholesomeness were deemed acceptable. The analysis of the menu did not trigger any aspect worth of noting.

Therefore, no sound censuring-reasons were found or other signs of disregard for rights and dignity of prisoners.



**Visit no. 7-2014****Date:** 2014.11.06**Location:** National Republican Guard Territorial Post of Chaves (Vila Real)**Subject:** Lighting, isolation against cold or heat, and ventilation of detention areas. Ascertain the compliance with the prisoners' rights to consult with an attorney, to contact by telephone the defender and to communicate with a relative or with a person of their trust

On November 6<sup>th</sup> during the morning period, a visit was made to Territorial post of Chaves of National Republican Guard, in district of Vila Real, in order to verify the habitability conditions of the detention areas, in terms of lighting, temperature and ventilation, and the compliance with the prisoners' rights to consult with an attorney, relatives or persons of their trust.

The detention area had only two cells, which were subject to repair works recently that is a year and a half ago. Both cells had natural and artificial lighting, the latter being properly protected by a metal grille. The cells were duly equipped, namely with mattress, disposable sheets and blankets, these ones being cleaned after each use. It was equally verified the existence of a device for emitting an acoustic signal to call the watchman military in case of need for assistance.

It was found out that whenever the number of prisoners exceeded the cells' capacity, support is asked with a view to transfer some of them to nearby detention places, namely to the Territorial Posts of Valpaços and Boticas or to the facilities of the Public Security Police.

It was said that the prisoners were always authorised to contact the lawyer, what is assured through the Post switchboard, as well as to inform the family or other trusted persons on their situation.

The reality found in Position of Chaves of National Republican Guard left a positive impression, due to its organisation, physical conditions and cleanliness of the facilities, although a negative score had to be given to temperature, since it was very low in the coldest winter days.

**Visit no. 8-2014****Date:** 2014.11.06**Location:** Public Security Police Prison Facility in Porto**Subject:** Detention conditions: lighting, isolation against cold or heat, and ventilation of detention areas. Conditions of sanitary facilities and their user-friendliness. Detention times. Prisoners' rights to consult with an attorney, to contact by telephone the defender and to communicate with a relative or with trusted person

During the night period of November 6<sup>th</sup>, a visit was made to the Detention Area of Bela Vista of Public Security Police, in Porto (Bela Vista), in order to verify the habitability conditions, in terms of lighting, isolation against cold or heat, and ventilation of detention areas and, by the same token, the conditions of sanitary facilities and their user-friendliness. Within the visitation it was also checked the detention times and the prisoners' rights to consult with an attorney, to contact by telephone the defender and to communicate with a relative or with a person of their trust.

No prisoner was present.

The accommodation spaces were examined, taking especially into account the sanitary facilities, as well as the conditions of safekeeping the personal effects of prisoners.

Without remark the register of entries and dispatches was analysed, as well as the register of contacts made with lawyer.

As the refurbishment works, foreseen for a long time, had not yet been performed, the bearable conditions of lighting and ventilation remained, without the existence of any device able to protect the prisoners in periods of more extreme temperature.

Albeit the state of cleanliness was visibility good, inconsistency in the compliance with the de-cockroach plan was reported.

The bedclothes delivered were limited to a blanket, without assuring the respective cleaning when transferred to other users.

The food could not be verified, given the time of the visitation and the fact that there were no prisoners, however it was informed that the food is the same that is served to the police personnel.



**Visit no. 9-2014**

**Date:** 2014.11.07

**Location:** Prison facility next to Northern Department of the Judiciary Police

**Subject:** Detention conditions in terms of lighting, insulation against cold or heat, and air circulation; Detention period; Articulation between the Judicial Police and the Directorate General of Prison Services on procedures concerning persons deprived of their liberty

On November 7<sup>th</sup> a visit was conducted to the prison facility next to Northern Department of Judiciary Police, in Porto.

The living conditions of places of detention, in terms of lighting, temperature and ventilation, the detention periods, the coordination between Judiciary Police and the Directorate General of Prisons and the and compliance with the limits of maximum detention periods were verified.

On relations with the Directorate General, nothing negative was reported, but the proximity and relative familiarity between elements of the two institutions constitutes a risk, since the arrests in prison result from Judicial requests, often involving people who were questioned or examined in the context of ongoing investigations. It is therefore important to ensure that any signs of aggression or other cruel treatments are immediately flagged.

Another risk arises from the organization of autonomous processes by the Judiciary Police and the prison services, once the maximum detention time may be exceeded, not taking into account the period prior to the entry into the prison facility.

Yet another risk results from the fact that detainees from both genders are confined to the same wing.



**Visit no. 10-2014**

**Date:** 2014.11.07

**Location:** Santa Cruz do Bispo Prison Facility – Psychiatric Clinic (Porto)

**Subject:** Therapeutic planning. Terms of occupation of persons deprived of liberty. Conditions of accommodation, in terms of habitability and capacity

On November 7<sup>th</sup>, during the morning period, a visit was made to the Psychiatric Clinic established in the Prison of Santa Cruz do Bispo, Porto district, in order to verify the therapeutic planning, the terms of occupation of persons deprived of liberty and also the conditions of accommodation, in terms of habitability and capacity.

The visitation started with a meeting with the directorate that addressed specifically the issues on therapeutic and occupation planning, having verified several therapeutic and rehabilitation plans and confirmed that there is a plan for each patient which is effectively executed.

It was made a visitation to the ward and to the accommodation spaces of the in-patients, meant to assess the respective conditions of hygiene, habitability and wholesomeness, and to the lounge room, to the recreation, to the refectory and to the kitchen, where the meal was proved.

A conversation was also held with clinical staff and with the prison guards Corp, intending to ascertain their concerns and necessities.

As it regards to the therapeutic plans, occupation and accommodation of inpatients, the team of visitors noticed positively the fact that a therapeutic plan regarding each inpatient is being implemented and the fact that the percentage of occupation is close to 67% and the fact that the conditions of accommodation, in respect of hygiene and habitability,

were acceptable. On the contrary, it was censurable the defective temperature control system (a project in this field being under evaluation), the ward low capacity and the absence of medical auxiliaries during the night and on the weekends.

It was thus considered to liaise with the Directorate-General of Reinsertion and Prison Services with a view to obtain information on the follow-up given to the temperature system project.



**Visit no. 11-2014**

**Date:** 2014.11.07

**Location:** Magalhães Lemos Psychiatric Hospital, Porto

**Subject:** Conditions of compulsory inpatient and compulsory outpatient. Use of coercive measures. Safeguard of privacy within accommodation. Existence and observation of medication protocols in doctor's absence

On November 7<sup>th</sup> a visit was carried out to Hospital Magalhães Lemos, in district of Porto, with the technical assistance of a psychiatrist expert appointed by the Portuguese Medical Association.

The organisational aspects and practices in use were examined, with particular reference to those concerning patients subject to involuntary placement under the Mental Health Law<sup>(21)</sup>, such as the restraining measures and the medication protocols in doctor's absence. It was also verified the physical space destined to recently-admitted patients, in what concerns to the privacy conditions assured therein.

The visitation started with a meeting with the Clinical Director, who provided information on the hospital characterisation and on the practices related to compulsory inpatients. In the first half of 2014, 15,6% of all hospitalisations were compulsory inpatients, a percentage that, as informed, has been an upward trend in the last few years. In this field, heed should be given to the commitment of the professionals in adopting solutions aimed at mitigating compulsory internment, whose nature seriously ablates of the citizens' liberty they recognise.

In particular, in what concerns the use of restraint measures upon patients posing safety hazards, it was found that the existing formal parameterization was insufficiently assimilated. This is an aspect that raises high potential danger of a patients' rights violation, thus demanding further consolidation and standardisation in accordance with good clinical practices and directives issued, namely, by Directorate-General of Health (as, indeed, set forth in the internal protocol of the Institution).

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(21) Law 36/98, of 24th July 1998, amended by Law 101/99, of 26th July 1999.

It was difficult to access the data (quantitative and qualitative) on the measures put in place since there is no automatized register capable of identifying and framing them. Clear and fully well-known rules have not been approved on the use of coercive measures upon patients, but the above referred practices show a concern about the respect for dignity and for rights of hospitalised patients as their application is exclusively grounded on clinical reasons and safety reasons, regarding themselves or others. The prescription and administration of medication in the doctor's absence (so-called *SOS medication*) depends on an authorisation in advance which must be stated in the clinical record of each patient. The administration of medication with calming effect, in this context, is not necessarily considered and classified as a restraint measure by the professionals.

After the visitation to facilities for recently-admitted patients (service of intensive intervention), it has concluded, on the basis of a broad assessment, that facilities have good conditions of hygiene, of lighting and of maintenance. The privacy is sufficiently safeguarded both in the wards and in the sanitary facilities. Without prejudice to the positive general assessment, a remark has to be made to the lack of visual stimuli or objects able to assure an autonomous recreational occupation of patients, in spite of the fact that that is a space for short-term stays.

During the visitation, two inpatients placed in the "isolation room", were observed one of which in a situation quite disturbing as the measure applied appeared to be disproportionate compared with the absence of aggressiveness ascribed. It is a measure of last resort to be applied when there is no alternative and to be overtaken as soon as possible, as foreseen.

To sum up, the policy of mitigating the inpatients impacts deserves positive response, no relevant reasons for censorship existing with respect to facilities, privacy and treatment provided to patients in the visited area. As a preventive measure of possible abuses, it is nevertheless worthwhile and appropriate to strengthen the feasibility and to disclose the procedures applicable to the use of patients' restraint measures, including the unequivocal identification of the situations at stake, prerequisites, conditions, involved professionals, limitations and elements subject to mandatory registration. In this context, an autonomous register of incidents is advisable.



**Visit no. 12-2014**

**Date:** 2014.11.07

**Location:** Santa Cruz do Bispo (Porto) Prison Facility for Women

**Subject: Food quality.** Contacts of persons deprived from their liberty with the outside. Accommodation conditions and treatment given to children in Prison

On November 7<sup>th</sup>, during the afternoon period, a visit to Prison of Santa Cruz do Bispo, in district of Porto, intended to place persons of feminine gender was undertaken.

The Prison of Santa Cruz do Bispo is based in a modern building, in very good state of conservation and with goods conditions of hygiene and cleanliness.

The visitation aimed at ascertaining the conditions of the alimentation sector, the conditions under which the contacts of persons deprived from their liberty with the outside are undertaken and the conditions of accommodation and treatment given to children that inhabit in the Prison.

In the food sector, the kitchen spaces and the refectories of ward 1 (detention area for mothers-prisoners) and the childcare were visited. They are wide spaces with good natural lighting, well equipped and in good conditions of hygiene and cleanliness. It was confirmed the daily menu (lunch and dinner) and the conditions of diet for mothers and for children as regards their adequate alimentation.

During the visitation to the detention area for mothers-prisoners (ward 1), two individual cells for mothers accompanied with children were seen. Each cell is an individual room, with natural and artificial lighting, having an iron bed with a mattress for the mother and a toddler bed with a mattress for the child. There is a private bathroom and a small bathtub for the child in each cell.

In what concerns the contacts with the outside there were two telephone booths for each ward. A ward has a capacity for approximately eighty persons, each of which can make two phone calls per day lasting five minutes each. The foreign prisoners can place three phone calls. It was also mentioned that in the school sector and in the workshops there are also telephones available for use and that there are no record of any disciplinary participation arising from conflicts related to the access to the telephones.

A reserved conversation was held with the prisoners accompanied with their children, no complaint has been presented either in respect to accommodation or to alimentation.

The childcare facilities were visited, which include a nursery, a baby-changing room and a refectory, established in wide rooms with great natural lighting and equipped with central heating devices were. The prison management is performed in partnership with Santa Casa da Misericórdia of Porto, being part of the childcare equipment (pushchairs, playgrounds, baby chairs and others) provided by that entity.

Three rooms of the childcare (the classroom of 6 months to 18 months, the classroom of 18 months to three years old, and the classroom of three to five years old), as well as the artistic expression room and the baby-changing room were visited. At the time of visitation, the childcare was occupied by 15 children. Children up to six months (2) were upon their mothers' responsibility.

During the visitation, it was found that, beside the nursery's educational and pedagogical activities, other activities enhanced to children of ages between 2 and 5 years old are undertaken, as swimming, gymnastic, music and beach in summer months.



The reality found in the visitation to Prison Santa Cruz do Bispo left a positive impression not only due to its organisation, physical conditions and cleanliness of the space, but also due to educational and pedagogical intervention of the Prison's Childcare.



**Visit no. 13-2014**

**Date:** 2014.11.07

**Location:** National Republican Guard Territorial Post of Matosinhos, Porto

**Subject:** Detention conditions in terms of lighting, insulation against cold or heat, and air circulation; Rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person

On November 7<sup>th</sup> a visit was conducted to the National Republican Guard Territorial Post of Matosinhos, Porto.

Both conditions of detention areas in terms of lighting, insulation against cold or heat and air circulation and the rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person were verified.

The detention area consisted of two cells without ventilation to the outside or natural lighting.

In one of the cells there was a foam mattress placed on the stand, without any coverage but, on the other, the mattress had cover.

When each detainee enters the premises he/her is given a set with a sheet and a blanket.

The physical conditions of the cells lead to conclude that the temperature in detention must be very low, especially in the days of winter. There is no temperature adjustment device and the blankets will not be sufficient.

Moreover, the infrastructure is frugal and ancient.

There is however a calling device.

The cleaning service is done by external company, on weekdays, but the room was clean.

It was also reported that the detainees were always allowed to contact a lawyer, namely through the service phone.

It is also allowed to inmates to inform the family or other persons of confidence about your situation. But police officers didn't ask detainees whether they had dependents, including children, old people or handicapped people whose situation should be taken care of.

National Republican Guard Territorial Post of Matosinhos does not offer suitable conditions for detention of citizens and a negative reference regarding the temperature of the cells must be made.

**Visit no. 14-2014****Date:** 2014.11.13**Location:** Angra do Heroísmo Prison Facility (Autonomous Region of Azores)**Subject:** Quality and quantity of food. Entry into operation of the prison, in administrative terms, movement of prisoners and recruitment of personnel

On November 13<sup>th</sup> a visit was conducted to the Angra do Heroísmo prison facility.

The visit was intended to find out the food quality and the opening procedures in administrative terms and concerning the transfer of prisoners and guards.

It should be noted that, although installed a few months ago, the prison features several structural problems. However, the transfer of inmates, guards and staff has been gradual, with cells occupied in about one-third of the prison capacity.

The fact that the vast majority of inmates should come from the S. Miguel Island, which has a very crowded facility, means that the transfer to this prison from another facility of the archipelago will be done keeping the inmates from their families. That is susceptible of generating negative reactions. On the contrary, the transfer of inmates from prisons on the continent is well seen and intended.

Also the fact that close to 60 percent of prison guards come from the mainland can cause some instability, even though the situation is neither new nor surprising.

No problems were reported with regard to civilian personnel.

The food was tasted by the Ombudsman, having revealed good quality and good presentation, both in relation to the main ingredients as for accompaniments. However, the Ombudsman considered that the soup, even featuring good quality in terms of taste and presentation, was too thin, and suggested that, in the future, it should be prepared thicker.

Moreover, there has been compliance with specifications and preset menu.

**Visit no. 15-2014****Date:** 2014.11.13**Location:** Public Security Police Headquarters Angra do Heroísmo, in the Autonomous Region of Azores**Subject:** Detention conditions in terms of lighting, insulation against cold or heat and aeration. Compliance with legal and regulatory standards of compulsory in-patient care. Working conditions of the police officers, in particular those displaced

On November 13<sup>th</sup> a visit was conducted to the Angra do Heroísmo Police Station.

The visit was intended to verify the working conditions of staff, in particular the displaced police officers; the living conditions in the detention area, in terms of lighting, insulation against cold and heat and the compulsory in-patient care.

Regarding the compulsory in-patient care, the Ombudsman verified that there is no misperception about the procedure of driving mentally disturbed citizens for medical treatment, even if there is the need to keep people at the Police Station.

The detention cells presented the regulatory conditions, albeit with deficient natural lighting and little ventilation. In one of the spaces the air quality was poor, with annoying smell.

At the police station there were panels with the rights and duties of detainees, in three languages besides Portuguese, posted in the area in front of the cells and also in the lobby at the entrance of the station. However, the Ombudsman noted the need for the model of these panels to be rethought, given the small size of the fonts, which surely will not allow, in many situations, that the detainees have effective knowledge of the respective contents.

The Ombudsman noted the need to be made a Recommendation to the Minister of Internal Affairs about the making of a new panel.

No difficulties relating to the conditions of installation of the civil staff were reported or detected.



**Visit no. 16-2014**

**Date:** 2014.11.14

**Location:** Ponta Delgada Prison Facility, in the Autonomous Region of Azores

**Subject:** Quality and quantity of food; Procedures for the separation of inmates (preventive v. convicts; open scheme v. closed scheme; gender; first v. repeat offenders; young primary v. adults)

On November 14<sup>th</sup> a visit was conducted to Ponta Delgada's prison facility in São Miguel Island, Autonomous Region of the Azores.

The aim of the visit was to assess nourishment/food quality and to find out the criteria used to separate the inmates according to their criminal status.

It should be noted that the building dates from the XIX century, and the prison facility has therefore several structural problems stemming either from the inadequacy of the building structure to the current prison system or from its overcrowding (180%). The degradation of the building was underlined as was the need of construction improvements. These might imply a phased rehabilitation of the building and a temporary transfer of inmates to Angra do Heroísmo's prison facility.

The new prison facility in Angra do Heroísmo poses important challenges to the ward of the prison: from November 2013, there is no transfer of inmates to prison facilities in the mainland. Since the pre-established criteria to inmates transfer had to do with the length of the condemnation, some of the inmates currently serving time in Ponta Delgada have longer sentences than others imprisoned in the mainland, that resulting in an increased stress to the prison management and in fostering a feeling of injustice amongst the inmates and families.

The following criteria concerning the inmates separation were mentioned: those serving time under a free days imprisonment sentence are lodged in cells located in what used to be part of the women's quarters. Those inmates under an open prison regime within a secure perimeter ("regime aberto no interior") are lodged in a former carpentry; there also live those who have been indicted or already sentenced because of child abuse charges; young adults are also placed there. This prison facility does not allow for the separation of first offenders and habitual delinquents nor of preventive from sentenced prisoners

The food was tasted by the Portuguese Ombudsman. Its quality and presentation was good both in its main ingredients as in its accompaniments; it is possible to repeat the accompaniments. The meals are prepared at the prison facility; the ingredients are bought locally, though the possibility that the contractor might ensure that is being discussed. All in all the contracted requirements were fulfilled; in spite of that, the meal that was presented was not the one mentioned in the predefined menu.



**Visit no. 17-2014**

**Date:** 2014.11.14

**Location:** Public Security Police Headquarters in Ponta Delgada, in the Autonomous Region of Azores

**Subject:** Working conditions of the police officers, in particular those displaced; Detention conditions in terms of lighting, insulation against cold or heat and air circulation; Compliance with legal and regulatory standards of compulsory in-patient care

On November 14<sup>th</sup> a visit was conducted to Ponta Delgada Police Station, in São Miguel Island, Autonomous Region of the Azores.

The visit was intended to verify the working conditions of staff, in particular the displaced police officers; the conditions of detention areas, in terms of lighting, insulation against cold and heat and, also, the compulsory in-patient care.

As it concerns the compulsory in-patient care, the Ombudsman verified that there is no misperception about the procedure of driving mentally disturbed citizens to medical treatment, even when it becomes necessary to keep these citizens at the Police Station.

The police station building is located at the city center. It is an old building and it was mentioned the existence of a termite infestation.

The two detention cells had deficient natural lighting and little ventilation (the window opens to an inside corridor). The cells are equipped with WC; the bed comes with a mattress and one blanket. Because of its poor conditions, these two cells are to be deactivated as soon as possible; in fact a new block of four detention cells has been built in a different location.

At the police station there was a panel with the rights and duties of detainees, in three languages besides Portuguese, posted in the area near the cells. However, the Ombudsman noted the need to think over these panels layout, given the small size of the printed fonts, which surely does not allow for the detainees to have an easy and effective knowledge of the its content.

The Ombudsman conveyed the necessity of a Recommendation to be made to the Minister of Internal Affairs regarding the design of a new improved panel.

The buildings living and working conditions are those one could expect in an old building originally not meant to be occupied by a police station. The scope of the termite infestation will hopefully be met with the measures necessary to ensure adequate working conditions.

The police staff has a relevant percentage of elements coming from the mainland, though it was mentioned that many of them intend to keep on living in the island. Notwithstanding, some problems with intermediate level staff were indicated.



**Visit no. 18-2014**

**Date:** 2014.11.26

**Location:** Public Security Police Regional Headquarters (Autonomous Region of Madeira)

**Subject:** Working conditions of the police officers, in particular those displaced; Conditions of detention areas in terms of lighting, insulation against cold or heat and aeration; Compliance with legal and regulatory standards of compulsory in-patient care

On November 26<sup>th</sup> a visit was conducted to the Regional Police Command in Madeira.

The visit consisted in measuring the working conditions of the officers; the living conditions of detention spaces: lighting; insulation against cold/heat; ventilation; and the compulsory inpatient procedures.

First, it was found that, of the total of 735 effectives, there are almost non-existent applications for transfer from Madeira Island, accounting for approximately 60 cases of

return to the place of origin. The Agents' premises are satisfactory; however, the toilets are not prepared for the seven disabled Agents at the station.

The Ombudsman had a chance to talk with agent Isabel Rodrigues, female element with greater seniority in terms of length of service.

Then, he visited the Command detention spaces. There are three holding cells, in accordance with the regulatory standards.

Despite this, it was concluded that the luminous points existent in each cell were not protected by a metal grid, and could be easily used by the detainee. The airing proved satisfactory. The materials of the cells were resistant to fire.

The panels with the rights and duties of the detainees are prominently displayed in the room service grad, in five languages besides Portuguese, for their intended purpose, therefore it is necessary to consider the respective publicity in other parts of the Station (e.g. cell zone and in the station entrance). In addition to recognizing the reduced size of the fonts, it was concluded that the wording of the precept was not updated, in the light of the new wording introduced by the Law No. 20/2013, of 21 February, in particular regarding paragraph b) of number 3 of article 61 of the Criminal Procedure Code.

With regard to compulsive relocation, the Ombudsman was informed that there is no confusion with the detention procedure. The status of detained is not conferred to the citizens who are conducted to the hospital units: to these it is conferred the status of patient; also, the compliance with a warrant to escort the citizens to the nearest institution with a psychiatric emergency is not registered in the book of detainees.

Still, it was said that the PSP does not have appropriate vehicles for the transport of patients. The characteristics of the vehicles do not comply with the nature of the efforts undertaken in this regard, eventually placing at risk the guarantees of the transported citizens.



**Visit no. 19-2014**

**Date:** 2014.11.27

**Location:** Funchal Prison Facility (Autonomous Region of Madeira)

**Subject:** Quality and quantity of food. Detention conditions of female zone

On November 27<sup>th</sup>, a visit was conducted to the Funchal Prison Facility.

Both the quality and quantity of food served were verified, as well as the conditions of accommodation of the female inmates.

The food that was eaten was satisfactory, both regarding the main ingredients and the accompaniments.

Also, the tender document was consulted and the food was weighted.

In a second phase, the female wing of the prison was visited. Currently it has 11 prisoners and the conclusion was that the exception context found in 2009 remains almost unchanged. The spaces were tight, but there was a balanced relationship between the amount of accommodation available and the existing population.

In the negative side, it was noted that the cell doors only opened from the outside to the inside, which raised security concerns, not merely in terms of evacuation, as at the level of the physical integrity of the inmates, in particular, in situations of possible suicide attempt. All the female inmates have the meals in their respective cells.

Contrary to what has once happened, the prison is no longer providing a support zone for children, since the space now occupied by the prisoners does not allow so.

At the end of the visit, it was kept a reserved conversation with four of the young inmates, and there were problems reported on the feeding and housing conditions, in particular regarding the low temperature found in the cells.



## *2.2. External initiatives and institutional promotion*

### *2.2.1. Participation in external initiatives*

The specific nature of torture and places of detention requires a continuous training of all people who develop their work in this particular field.

As a result, in the year 2014 it was possible for some elements of the Coordination Commission and the Board of Visitors to participate in external training sessions.

It was important, therefore, the invitation of the Federal Council of Switzerland, for an element of the Coordination Commission participate in a Pre-meeting of the National Preventive Mechanisms on the Prevention of Torture, held in Vienna (Austria), on 9 and 10 April, joining 16 other NPM of the Organization for Security and Cooperation in Europe (OSCE) region.

The meeting was organized by the Association for the Prevention of Torture (APT), by mandate of the Swiss Government in the context of its Presidency of the OSCE in 2014, and preceded the OSCE Supplementary Human Rights Dimension Meeting (SHDM) on the prevention of torture, which occurred in the same city and month, but on days 10 and 11.

The main objective of the meeting was the adoption of a set of recommendations to submit to Assembly of OSCE countries on ways of preventing torture and ill-treatment in police activity.

The agenda comprised, in addition to the presentation of the APT and the methodology of work, three major themes: (1) the application of the Optional Protocol to the Convention against Torture (OPCAT) and the role of the NPM; (2) the police role in preventing torture and (3) the protection afforded to vulnerable persons detained.

The discussion on the implementation of the OPCAT and the role of the NPM aimed, in short, to find answers to three different questions: what measures should be taken to implement the recommendations of the NPM? What measures should be taken by countries to ensure the performance of the NPM? What measures should be taken to ensure the external support required by the NPM?>>

With regard to police action and the prevention of torture, the impact of training actions on police activities was debated, in particular the conditions deemed necessary to ensure the correction of the police action and the necessary measures to ensure that excessive force is not used in demonstrations.

In the field of protection that must be granted to detainees belonging to groups in a situation of special vulnerability, such as women, children, LGBT (lesbian, gay, bisexual and transsexual), migrants and people with disabilities the issue of sensitization of authorities on the following themes was addressed: (1) the specific needs of those groups; (2) measures of protection of those groups by public institutions and (3) the inclusion of the concept of vulnerability in the training actions of police officers, prison guards, staff of psychiatric institutions and staff of homes for children and young people.

Working groups have been established, following a joint meeting which endorsed proposals for the final statement recommendations.

At the conclusion of the meeting recommendations were made to OSCE participating countries, highlighting that the Member States should:

1. Ratify the OPCAT and establish a NPM, in accordance with the OPCAT requirements. All NPMs should have their mandate, powers and independence enshrined in national law.

2. Ensure full on-going government cooperation and dialogue with NPMs and the UN Subcommittee on Prevention of Torture (SPT) to achieve progressive improvements in detention policy and practice and the NPMs' ability to carry out their preventive mandate.

3. Ensure unimpeded and immediate access to all places of detention, including those outside of their territorial jurisdiction but under their effective control, where people are or may be deprived of their liberty, whether managed by public or private institutions. Information on NPMs' members and their mandate should be made available to all detaining authorities.



4. Ensure financial independence of NPMs to operate effectively, including providing them with adequate financial resources and ring-fencing their budgets if they are part of another larger budget.

5. Improve knowledge of detaining authorities and persons deprived of their liberty of the NPMs' preventive mandate and torture prevention in general, including through seminars or training.

6. Systematically publish NPMs annual reports, and SPT and European Committee for the Prevention of Torture (CPT) visits reports and make all efforts to translate and make them available in the main national language(s) as soon as possible.

7. Ensure that national legislation requires authorities to respond to NPMs recommendations and establish an effective mechanism, composed of relevant State agencies, international organisations, civil society experts and the NPM, to follow up on NPMs' and other monitoring bodies' recommendations.

8. Ensure that persons deprived of their liberty are aware of their rights, including access to legal and medical assistance, freedom from torture, not to be forced to make confessions and their right to redress for any violations they may suffer.

9. Ensure that the health care of persons deprived of their liberty is overseen by relevant public health authorities.

10. Use detention as a measure of last resort, and when persons with special needs are detained, ensure that they have access to appropriate facilities and services. Detaining authorities should be trained on how to recognize the need of persons in situations of vulnerability, including victims of human trafficking.

11. Ensure that the rights of persons accused or convicted of national security and terrorism-related offences are fully respected.

12. Collect and publish data on the composition of the detained population, including those with special needs and characteristics, in order to inform action to reduce risk of torture and other ill-treatment.

13. Prioritise changing the culture of policing, through on-going training of police regarding evidence-based investigations and control of use of force. States should ensure the accountability of all ranks of law enforcement officials, including by taking actions in response to allegations and convictions of torture and ill-treatment.

The following recommendations were made directly to the OSCE, through the Office for Democratic Institutions and Human Rights:

14. Support networks and regular peer-to-peer exchange of experiences, information and practices between NPMs in the OSCE region, with involvement of the SPT, and relevant regional bodies when appropriate.

15. Support training programmes for NPMs, with the involvement of SPT and regional bodies, to ensure minimum standards and common methodology in detention

monitoring, including on thematic issues and specific places of deprivation of liberty, such as psychiatric institutions.

16. Highlight torture prevention, including NPMs' recommendations, in OSCE/ODHIR reports on country situations and other activities.

17. Conduct a survey on the impact of NPMs' recommendations in the OSCE region on national and regional jurisprudence.

18. Facilitate continuous training and review of curricula for law enforcement officials regarding evidence-based investigations and control of use of force. Training should include modules on how to recognize and respond to the needs of persons in situations of vulnerability.

19. Support States in ensuring accountability for all ranks of law enforcement officials, including by monitoring the functioning of complaint mechanisms.

In addition to the formulation of recommendations, the Vienna meeting also provided the mutual knowledge of the various participants, all representatives of NPM that shared common concerns and needs.



An element of the Coordination Commission also participated in a *Workshop on Strengthening the effective implementation and follow-up of recommendations by torture monitoring bodies in the European Union*, which took place on 10 November 11, in Bristol.

This NPM meeting was organized by the Ludwig Boltzmann Institute in Vienna, and the *Human Rights Implementation Centre* of the University of Bristol, within a project with funding from the European Union.

Purposely gathering a small number of NPM (United Kingdom, Malta, Estonia, Lithuania, the Netherlands, Poland and Portugal), once similar initiative took place last October in Vienna, with the presence of other national representations.

The project will end in April 2015, with a new workshop, bringing together all the participating institutions.

In addition, representatives of the SPT, CPT, APT, Amnesty International and *Open Society Justice Initiative* also attended the workshop.

The work took place in plenary, but split into two groups on the first day. The limited number of participants allowed active participation, and it can be said that every question earned widespread appreciation.

There was a presentation about the developments in the Portuguese NPM, particularly in terms of implementation and first visits.

The first day was dedicated to answering the question: «what to do with the visits conclusions?». The seminar discussed the methods used by the NPM but also in other institutions, and the follow-up strategies.

Most participants underlined the great ease in formulating recommendations, by contrast to its follow-up. Preliminary discussion took place about whether the NPM should propose solutions or just recommend the resolution of problems encountered. The consensus reached pointed to the first option.

It was welcomed the classification of places of detention on the basis of risk, with corresponding concentration of visits in those with higher risk.

It was also suggested the existence of instruments of easy research about the recommendations that had been made, the ones that had been implemented and the reasons of non-compliance.

It was found that it would be useful to create a set of assessment criteria, as a result of the practice of the CPT and SPT, as well as each NPM own activity.

The different national experiences described have shown that it would be helpful to provide evaluation criteria to the places of detention boards, as well as ask them, in case of compliance, an indication of the timing of the implementation.

Conclusion was also reached about the need for a communication strategy and coordination with entities not related to the visit, including the media and the non-governmental Organizations.

To facilitate the knowledge and awareness of Parliament the inclusion of MPs in the visiting teams was considered. It was also discussed the possibility of involvement of judges in the operation of the NPM, for example on thematic meetings.

Finally, the question was posed, for timely consideration and response (in particular at the Spring Meeting), on the role that the European Union could play in this field.

The second part of the work focused on the relationships of the national prevention mechanisms with the SPT and the CPT.

With regard to the SPT, the President pointed out that the orientation of that Committee is focused on strengthening and cooperation with NPM and revealed great interest of SPT in general issues, regarding the operation of the NPM, as to guarantee appropriate budget and an adequate structure.

Mention was made to visits to be performed by the SPT, which can be of a general nature or aim support for NPM.

In the first case, it is usual to make a large set, issuing recommendations that must be answered within six months.

As an example of the second case, it was described the support given to a NPM that was in trouble. In this context and during 3 days, meetings were held with the Government and NGOs, training sessions with the NPM and joint visits to places of detention. The final report of this visit the SPT was recognized as having been very important to the NPM.

Specifically in the case of Europe, the SPT members who were at the meeting noted the need to be quickly established a good relationship between SPT and each NPM, in particular through regular exchange of electronic messages, discussion forums or even the offer of medical support.

In general terms, the possibility of taking advantage of existing structure within the Council of Europe or the European Union, for exchange of information was pointed out.

As a practical example that often involves non-European countries, it was pointed out the convenience to pay more attention to the procedures relating to the activities of FRONTEX, in particular on expulsion to third countries, monitoring of conditions at the outset and articulation with the NPM of the country of destination, when available, to ensure the follow-up on arrival.

The representative of the CPT distributed copies of the 22<sup>nd</sup> Report, containing a specific chapter with some thoughts on possible collaboration between this organ of the Council of Europe and the NPM.

It was indicated that the CPT counts on the collaboration of NPM, not only with the usual prior collection of information but also during the visits. The CPT always suggests to the Government to invite the MNP to be present in the meetings with the visiting delegation.

Finally, he/she indicated that the operation of NPM and the conditions offered by the State will be assessed informally by the CPT.



From 19 to 21 November an element of the Visitors Board attended the training action themed *Police training of trainers on non-discrimination, with a focus on Rome and on sexual orientation and gender identity*, organized by the Council of Europe in Strasbourg.



The Portuguese Ombudsman, as NPM, received, on October 30, Mary Ambios, representative of SPT for a working meeting, giving notice of the activity developed by the NPM.

### *2.2.2. Institutional promotion*

In November, first steps were given for updating the Ombudsman website with a page exclusively dedicated to NPM, having prepared the respective contents about competences, activities and visits that took place. During the month of December the web page was in a testing phase, with the forecast of being accessible to the public as of the beginning of 2015.

### 3. Visits analytic index

| Location of detention   | Visit no. Date<br>Page no.                | Subject   |
|---|---|---|
| Angra do Heroísmo Prison Facility – Autonomous Region of Azores     | 14-2014<br>2014.11.13<br>Page 26          | Quality and quantity of food. Entry into operation of the prison, in administrative terms, movement of prisoners and recruitment of personnel   |
| «Centro da Bela Vista» Educational Center For Young People, Lisbon  | 01-2014<br>2014.08.27<br>Page 14          | Investigation of appropriate conditions to the implementation of the concept of «gender peculiarity»  |
| Chaves Prison Facility – Vila Real                                  | 06-2014<br>Date:<br>2014.11.06<br>Page 18 | Food quality and disciplinary procedures  |
| Funchal Prison Facility – Autonomous Region of Madeira              | 19-2014<br>2014.11.27<br>Page 30          | Quality and quantity of food.<br>Detention conditions of female zone  |
| Magalhães Lemos Psychiatric Hospital – Porto                        | 11-2014<br>2014.11.07<br>Page 22          | Conditions of compulsory inpatient and compulsory outpatient. Use of coercive measures. Safeguard of privacy within accommodation. Existence and observation of medication protocols in doctor's absence  |
| National Republican Guard Territorial Post of Chaves – Vila Real    | 07-2014<br>2014.11.06<br>Page 19          | Lighting, isolation against cold or heat, and ventilation of detention areas.<br>Ascertain the compliance with the prisoners' rights to consult with an attorney, to contact by telephone the defender and to communicate with a relative or with a person of their trust |
| National Republican Guard Territorial Post of Matosinhos – Porto    | 13-2014<br>2014.11.07<br>Page 25          | Detention conditions in terms of lighting, insulation against cold or heat, and air circulation; Rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person                                 |
| National Republican Guard Territorial Post of Pinhal Novo – Setúbal | 02-2014<br>2014.09.17<br>Page 15          | Rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person  |
| Ponta Delgada Prison Facility - Autonomous Region of Azores         | 16-2014<br>2014.11.14<br>Page 27          | Quality and quantity of food; Procedures for the separation of inmates (preventive v. convicts; open scheme v. closed scheme; gender; first v. repeat offenders; young primary v. adults)   |

| Location of detention   | Visit no. Date<br>Page no.       | Subject   |
|---|----------------------------------|---|
| Prison facility next to Northern Department of the Judiciary Police – Porto         | 09-2014<br>2014.11.07<br>Page 20 | Detention conditions in terms of lighting, insulation against cold or heat, and air circulation; Detention period; Articulation between the Judicial Police and the Directorate General of Prison Services on procedures concerning persons deprived of their liberty   |
| Public Security Police Headquarters Angra do Heroísmo - Autonomous Region of Azores | 15-2014<br>2014.11.13<br>Page 26 | Detention conditions in terms of lighting, insulation against cold or heat and Aeration; Compliance with legal and regulatory standards of compulsory in-patient care; Working conditions of the police officers, in particular those displaced   |
| Public Security Police Headquarters in Ponta Delgada - Autonomous Region of Azores  | 17-2014<br>2014.11.14<br>Page 28 | Working conditions of the police officers, in particular those displaced; Detention conditions in terms of lighting, insulation against cold or heat and air circulation; Compliance with legal and regulatory standards of compulsory in-patient care.   |
| Public Security Police Prison Facility - Porto                                      | 08-2014<br>2014.11.06<br>Page 19 | Detention conditions: lighting, isolation against cold or heat, and ventilation of detention areas. Conditions of sanitary facilities and their user-friendliness. Detention times. Prisoners' rights to consult with an attorney, to contact by telephone the defender and to communicate with a relative or with trusted person |
| Public Security Police Regional Headquarters -Autonomous Region of Madeira          | 18-2014<br>2014.11.26<br>Page 29 | Working conditions of the police officers, in particular those displaced; Conditions of detention areas in terms of lighting, insulation against cold or heat and aeration; Compliance with legal and regulatory standards of compulsory in-patient care  |
| Santa Cruz do Bispo Prison Facility for Women - Porto                               | 12-2014<br>2014.11.07<br>Page 23 | Contacts of persons deprived from their liberty with the Outside; Accommodation conditions and treatment given to children in Prison  |
| Santa Cruz do Bispo Prison Facility - Psychiatric Clinic - Porto                    | 10-2014<br>2014.11.07<br>Page 21 | Therapeutic planning; Terms of occupation of persons deprived of liberty; Conditions of accommodation, in terms of habitability and capacity  |
| Setúbal Prison Facility – Setúbal   | 03-2014<br>2014.10.03<br>Page 16 | Food quality and conditions of hygiene and safety of accommodations, in particular of dormitories and disciplinary cells  |

| Location of detention                    | Visit no. Date<br>Page no.       | Subject  |
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| Vila Real Police Station<br>– Vila Real  | 05-2014<br>2014.11.06<br>Page 17 | Working conditions of the police officers; Detention conditions in terms of lighting, insulation against cold or heat, and air circulation; Rights of detainees to consult with an attorney, contact by telephone with the defender and to communicate with family or trusted person |
| Vila Real Prison Facility<br>– Vila Real | 04-2014<br>2014.11.06<br>Page 16 | Food quality and accommodation conditions in terms of hygiene and habitability; Procedures concerning the communication of prison population with the prison directorate   |