



Poder Judiciário

Conselho Nacional de Justiça

RESOLUTION No. 593, OF NOVEMBER, 8TH, 2024

Provides for judicial inspections in deprivation of liberty facilities.

The **PRESIDENT OF THE NATIONAL COUNCIL OF JUSTICE**, in the exercise of his legal and regimental attributions,

CONSIDERING the fundamental objectives and principles of the Republic of Brazil provided for in the Federal Constitution of 1988, especially article 5, III, which establishes that no one will be subjected to torture or to inhuman or degrading treatment; article 5, XLIII, which states that the law will consider the practice of torture as a non-bailable crime and not subject to pardon or amnesty, with those who order, execute, or, being able to avoid it, omit themselves being held accountable; and article 5, XLIX, which ensures respect for the physical and moral integrity of people deprived of liberty;

CONSIDERING the various international human rights instruments promulgated within the framework of the United Nations (UN), such as the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); the United Nations Standard Minimum Rules for Non-custodial Measures; the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); as well as the parameters established in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), and the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths;

CONSIDERING the treaties promulgated within the framework of the Organization of American States (OAS), especially the American Convention on Human Rights; the Inter-American Convention to Prevent and Punish Torture; the Inter-American Convention on the Forced Disappearance of Persons, and the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas;



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CONSIDERING the determinations arising from the provisional measures adopted by the Inter-American Court of Human Rights (IACHR) against the Brazilian State, to promote a substantial reduction in the prison population as a way to control the situation of serious risk to the life, health, and integrity of people deprived of liberty;

CONSIDERING the report produced by the UN Subcommittee on Prevention of Torture (CAT/OP/BRA/R.1, 2011), the UN Working Group on Arbitrary Detention (A/HRC/27/48/Add.3, 2014), the UN Special Rapporteur on Torture on mission to Brazil (A/HRC/57/Add.4), the UN Subcommittee on Prevention of Torture on visit to Brazil (CAT/OP/BRA/3, 2017), as well as the Report on the Use of Preventive Detention in the Americas by the OAS;

CONSIDERING Law No. 9,455/1997, which defines the crimes of torture and provides other measures, Law No. 12,847/2013, which establishes the National System for the Prevention and Combat of Torture, to be integrated by the bodies of the Judiciary, as well as article 66, VII, of the Criminal Execution Law, which assigns to the enforcement judge the duty to “inspect, monthly, the penal establishments, taking measures for their proper functioning and promoting, when necessary, the investigation of responsibility”;

CONSIDERING Law No. 12,106/2009, which creates, within the scope of the National Council of Justice (CNJ, acronym in Portuguese), the Department for Monitoring and Inspection of Prison and Socio-educational¹ Systems (DMF/CNJ, acronym in Portuguese) and defines its objectives, among others, to supervise the compliance with the regulations of the National Council of Justice regarding preventive and definitive detention, security measures, and the internment of adolescents, as well as to monitor, propose solutions in the face of irregularities, and suggest to the National Council of Justice the standardization of procedures regarding the prison system and the enforcement of juvenile justice measures;

CONSIDERING the judgment of the Claim of Non-Compliance with a Fundamental Precept Law Suit (ADPF, acronym in Portuguese) No. 347, in which the Plenary of the Supreme Court (STF, acronym in Portuguese) unanimously recognized the “unconstitutional state of affairs” of the pris-

¹ Translator’s Note: The socio-educational system refers to the juvenile justice system and the social and educational measures applied to children in conflict with the law.



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on system, characterized by the massive and persistent violation of fundamental rights, determining that the Union, the states, the Federal District, and the DMF/CNJ to prepare plans that include the improvement of prison conditions;

CONSIDERING the regulation of related topics by the National Council of Justice, highlighting CNJ Resolutions No. 213/2015 (Detention Control Hearings), No. 214/2015 (Court Monitoring and Supervision Groups), No. 414/2021 (forensic medical evaluations related to the practice of torture in accordance with the Istanbul Protocol), and No. 488/2023 (Community Councils);

CONSIDERING the attention to groups with increased vulnerabilities and their intersectionalities in the contexts of the criminal justice system and deprivation of liberty, as contemplated in CNJ Resolutions No. 287/2019 (indigenous people), No. 348/2020 (LGBTQ population), No. 405/2021 (migrants); No. 369/2021 (pregnant women, mothers, fathers, and guardians of children and people with disabilities), No. 425/2021 (persons living in the streets), and No. 487/2023 (Anti-Asylum Policy of the Judiciary);

CONSIDERING the importance and strategic dimension of judicial inspections as a diagnostic tool and direct intervention by the Judiciary to improve prison conditions in the country;

CONSIDERING Cooperation Agreement No. 17/2011 – Improvement of the Penitentiary System and Reduction of the Prison Deficit, which worked towards enhancing the standard of information collected in prison inspections and maintaining permanent dialogue with national bodies such as the National Council of the Public Prosecutor's Office, the Federal Public Defender's Office, the National Council of Criminal and Penitentiary Policy, and the National Prison Department aiming to find strategies for transparency and monitoring of prison establishments;

CONSIDERING the deliberation of the CNJ Plenary, in the Act Procedure No. 0004380-56.2024.2.00.0000, 14th Ordinary Session, held on November, 5th, 2024;

DELIBERATES:

Article 1 To establish guidelines for conducting inspections in places of deprivation of liberty by prison internal affairs officers, enforcement judges, and judges with criminal jurisdiction.



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Paragraph 1 Places of deprivation of liberty include police stations, public jails, prisons, penitentiaries, agricultural and industrial penal colonies, shelters, custody hospitals, and other institutions that hold people in situations of deprivation of liberty due to criminal proceedings.

Paragraph 2 Federal judges are responsible for inspecting federal prison facilities and detention centers of Federal Police Department units, without prejudice to the possibility of visiting state establishments that house people deprived of liberty under their jurisdiction.

Paragraph 3 Military judges are responsible for inspecting military prisons and establishments that serve such purposes, applying, where suitable, the rules provided for in this Resolution.

Paragraph 4 The rules provided for in this Resolution apply, as appropriate, to inspections carried out by judges designated for monitoring and inspection, understood as members of the Court Monitoring and Supervision Groups (GMFs, acronym in Portuguese), as well as those designated to act in task forces and actions promoted by the courts, the Justice Internal Affairs Department², and the National Council of Justice.

Article 2 Criminal jurisdiction judges will conduct, as far as possible and within the material conditions of their respective unit, inspections in penal establishments where people preventively deprived of liberty are held at the headquarters of their district or judicial subsection. The court may organize these inspections, without mandatory character, in a rotation system that includes one visit per year by each judge, with the objectives of evaluating the conditions of compliance with his/her decisions and contributing to the management of the court's processes.

Paragraph 1 The inspection schedule will be prepared by the Internal Affairs Department of each court, after consulting the respective GMF.

Paragraph 2 The visits mentioned in the *caput* will be in-person and will include access to all facilities of the unit for observation and visual recording, as well as interviews with people deprived of liberty and prison staff, in accordance with the methodology provided for in article 4 of this Resolution, where applicable.

Article 3 Inspections carried out by prison internal affairs officers, as well as by enforcement judges will aim to verify compliance with standards regarding custody conditions, rights, and services that must be guaranteed to people deprived of liberty by national and international regulations, and to take appropriate measures to address identified irregularities.

Paragraph 1 The following factors, among others, will be inspected:

² Translator's Note: In Brazil, the Justice Internal Affairs Department is responsible for guiding, coordinating, and implementing public policies aimed at correctional activities and the proper performance of judicial activities of courts and judges, as well as extrajudicial services in the country.



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I – the capacity and occupancy rate of the place of deprivation of liberty;

II – the conditions of habitability, healthiness, the activities and services offered, access to and permanence in assistance programs, as well as the conditions for exercising the rights provided for in chapters II and IV of the Criminal Execution Law;

III – the procedure for the use of force, the administrative flow for investigating complaints, and the guarantee of access to the unit by other bodies responsible for inspecting places of deprivation of liberty;

IV – the existence and compliance with the flow for investigating cases of torture and other cruel, inhuman, and degrading treatment, as well as deaths;

V – the existence and compliance with administrative processes regarding the control of sentence duration, regime progression, disciplinary procedures and other incidents of penal enforcement, considering legal frameworks and the submission of complaints presented by people deprived of liberty;

VI – the time for issuing the collection order;

VII – the presence of beneficiaries, in theory, of collective *habeas corpus* orders granted by the 2nd Panel of the Supreme Court in HCs No. 143,641/SP and No. 165,704/DF, under the terms of CNJ Resolution No. 369/2021; and

VIII – the monitoring of decisions of the Inter-American Human Rights System concerning the inspected establishment.

Paragraph 1 Inspections must observe specific provisions for the treatment of people deprived of liberty with increased vulnerabilities, especially those provided for in CNJ Resolutions No. 287/2019, No. 348/2020, No. 405/2021, No. 369/2021, and CNJ Recommendation No. 119/2021, in addition to those contemplated in CNJ Resolution No. 487/2023.

Paragraph 2 The enforcement judges of the district or judicial subsection are responsible for the monthly inspections referred to in article 66, VII, of the Criminal Execution Law, except in cases where there is a specific designation by the court of a prison internal affairs officer, who will be accountable for the aforementioned duty.

Paragraph 3 In the event of the designation of a prison internal affairs officer, the other judges involved in penal enforcement will conduct inspections together with the internal affairs officer at least once a year, according to a schedule to be prepared by the Court's Internal Affairs Department.

Article 4 Inspections of places of deprivation of liberty will be carried out according to a specific methodology, to be published by the CNJ within the period referred to in article 11, whose parameters and procedures will include:

I – the description of the stages of preparation, conduct, and follow-up of judicial inspections;



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II – guidelines for the preparation of a monthly inspection calendar, to enable the evaluation of various aspects of the context of deprivation of liberty over a one-year period;

III – tools for general and specific inspections on relevant topics in the context of deprivation of liberty, considering:

a) general aspects, such as structure, occupancy, prison population, and prison staff;

b) habitability and basic needs, including the availability of water, food, healthiness, and clothing;

c) services, assistance, and contact with the outside world;

d) security and violence prevention;

e) access to comprehensive health care;

IV – a non-exhaustive list of measures available to judges to facilitate decision-making to address documented irregularities, in accordance with national and international regulations;

V – tools for monitoring the measures determined in inspections and the conditions of deprivation of liberty, especially when situations of torture and other cruel, inhuman, and degrading treatment, as well as deaths, are identified;

VI – a list of verification sources necessary to obtain information during the inspection, including interviews and reports from people deprived of liberty, family members, staff, managers, observation and visual recording of the unit's facilities and dependencies, monitoring of procedures, checks, measurements, and document analysis;

VII – tools and routine flows for receiving, recording, and processing reports and information on practices of torture, ill-treatment, cruel, inhuman, and degrading treatment, or the occurrence of deaths; and

VIII – a protocol for action in crisis or exceptional situations.

Paragraph 1 The methodology applies fully to inspections carried out by internal affairs officers, as well as to enforcement judges and, where applicable, inspections carried out by other judicial authorities mentioned in this Resolution, including guidelines for the preparation stage, sources, measures and applicable aspects.

Paragraph 2 The judge responsible for oversight may conduct inspections together with representatives of institutions with related attributions, such as the National and State Mechanisms for Combating Torture, the Public Defender's Office, the Public Prosecutor's Office, the Community Council, the Penitentiary Council, the Health Surveillance, the Fire Department, as well as invite specialists and experts with technical knowledge in areas related to the evaluated matters to support the collection of preliminary information, accompany the inspection, and provide a more in-depth study of the criteria under analysis.



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Article 5 The internal affairs officers, as well as the enforcement judges responsible for monthly inspections, will include in the National Registry of Inspections in Penal Establishments (CNIEP, acronym in Portuguese), by the fifth day of the following month, a report prepared in accordance with the methodology provided for in the previous article, based on a model that will be available in the said Registry.

Paragraph 1 Without prejudice to the deadline for preparing the report, it is responsibility of the judge to take immediate measures to protect the rights that are deemed necessary.

Paragraph 2 Enforcement judges who are not responsible for the monthly inspections referred to in article 3, paragraph 3, will prepare an inspection report based on the methodology provided for in the previous article, including race and gender breakdowns and other groups with increased vulnerability, to be equally included in the National Registry of Inspections in Penal Establishments by the fifth day of the following month.

Paragraph 3 Judges designated to act in task forces and actions promoted by the courts, the Justice Internal Affairs Department, and the CNJ will prepare a report in accordance with the regulations that establish the said action, and the members of the GMFs will use the report model defined in the *caput*, with the possibility of adaptation to the objectives and circumstances of the inspection.

Paragraph 4 The reports will be published on the CNJ public panel and additionally by the GMFs, ensuring the due transparency of the information obtained and the protection of personal data, in accordance with the legislation.

Paragraph 5 Visits carried out until the form is updated will be recorded in the model available in the CNIEP.

Article 6 It is the responsibility of the GMFs to ensure the periodic inspections in support of judges with criminal and penal enforcement jurisdiction, as well as to act directly in urgent, exceptional, or crisis situations in the prison system, conduct thematic inspections, coordinate and implement task forces, also being responsible for monitoring, systematizing, and publicizing recommendations, data, and reports produced, based on the attributions provided for in article 6, V, X, and XVIII, of CNJ Resolution No. 214/2015.

Article 7 It is the responsibility of the courts to provide the logistical, human, and security conditions to the judge for conducting inspections of places of deprivation of liberty, according to the presented needs.

Paragraph 1 The courts may establish an inspection schedule to be carried out by appellate judges who are members of criminal chambers.

Paragraph 2 Inspections will be duly considered for the purpose of evaluating the productivity of judges with penal enforcement jurisdiction.



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Paragraph 3 The courts, in collaboration with the GMFs and judicial schools, will promote courses and studies on the content of this Resolution and the inspection methodology, for the permanent qualification and functional updating of judges and court staff working in Criminal Courts, Special Criminal Courts, and Penal Enforcement Courts.

Article 8 It is the responsibility of enforcement judges and internal affairs officers to consider the reports submitted by the Community Council when planning and conducting inspections, in addition to ensuring the Council's access to places of deprivation of liberty, to people deprived of liberty or interned, to staff, and to existing documentation, in the exercise of its supervisory function, in accordance with CNJ Resolution No. 488/2023.

Article 9 The Department for Monitoring and Inspection of Prison and Socio-educational Systems of the National Council of Justice (DMF/CNJ, acronym in Portuguese) may act in cooperation with other bodies to strengthen transparency and implement joint measures aimed at ensuring the functioning of places of deprivation of liberty in accordance with the legal framework.

Sole paragraph The monitoring of compliance with this Resolution will have the technical support of the DMF/CNJ, which will promote the updating of the CNIEP, the *Geopresídios* Platform, and a public panel for data monitoring, to ensure the publicizing and transparency of non-confidential data produced in inspections.

Article 10 CNJ Resolution No. 47/2007 and CNJ Recommendation No. 131/2022 are hereby revoked.

Article 11 This Resolution comes into force 180 (one hundred and eighty) days after the date of its publication.

Justice **Luís Roberto Barroso**