LUMEN ET VIRTUS

THE SPECIAL PRISON OF THE MILITARY POLICE OFFICER: LITERATURE REVIEW ON MAINTENANCE AFTER THE FINAL AND UNAPPEALABLE CRIMINAL SENTENCE

https://doi.org/10.56238/levv15n40-004

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ABSTRACT

The special prison of the military is an institute existing in the Code of Military Criminal Procedure, with the purpose of ensuring security and physical integrity, a guarantee to this special class. The scope of this work is to bring the most relevant considerations about the institute of special prison of military police officers in our country and its maintenance even after the supervenience of the final criminal conviction, specifically to the military police officer. Thus, through a literature review, it seeks to briefly present the concepts, theories, in addition to the legal, doctrinal and jurisprudential aspects related to special prison in Brazil. It is concluded that there is a legal gap. Thus, there is a need for legislative change so that the constitutional guarantee of security can be implemented, through the amendment of the Military Penal Code, in order to ensure that this agent is not placed in civilian prisons after a final sentence, with a view to guaranteeing his physical and psychological safety, or even that he is not "sentenced to death".

Keywords: Military Police, Special Prison, Maintenance, Final Criminal Sentence.

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INTRODUCTION

The Federal Constitution of 1988 established in its article 5, caput, that everyone is equal before the law, without distinction of any kind", thus enshrining the principle of isonomy (BRASIL, 1988). However, it is known that such equality is not absolute, and it is common ground that this basic principle of law should be seen from the perspective of relativity, insofar as it seeks to give equal treatment to equals, and unequal treatment to those who are unequal, given the existence of peculiar situations that require such distinction by the State (LENZA, 2024).

It is in this context that the issue of special imprisonment emerges in our national legal system, which would be a way to protect certain agents who, due to the nature of the function they occupy, deserve specific treatment in the fulfillment of their sentence, with a view to ensuring their physical and psychological safety by preventing them from being placed in prison establishments common to all (NOON, 2024).

Thus, the present work arises as a way to contextualize this institute of special prison and, singularly, with regard to the military police, aiming to analyze the legal mechanism that guarantees this agent, a protagonist actor in the fight and prevention of the most diverse criminal activities, the maintenance of these conditions even after the final and unappealable criminal sentence.

Nevertheless, some jurisprudential understandings do not understand that the claim to maintain the special prison, after the final sentence, in view of the simple condition of military police, is sufficient not to place these agents in penal establishments intended for common prisoners.

Thus, the research aims to discuss the importance of creating a legal device that enables the maintenance of the special prison of the military police, even after the final and unappealable criminal sentence, as a way to ensure the safety conditions of their physical integrity and life.

MATERIAL AND METHODS

The research was based on the methodology of literature review, through the deductive argumentation method, having as its main methodological resource the bibliographic research and the collection of information from public security institutions in Tocantins and other Brazilian states, on websites, newspapers and specialized magazines, as well as in the country's courts, in order to verify the perspectives on the subject (MATTAR AND RAMOS, 2021.

In addition, bibliographic research was carried out, focusing on a legislative filtering, in the search for similar bills that could subsidize the proposed theme and, therefore, serve as a basis for the preparation and respective presentation of a draft bill regulating the right alluded to.

Corroborating, Marconi and Lakatos (2017) state that with the advancement of the internet, sources of information have become more accessible and diverse. In addition to traditional academic databases, such as Scopus, online platforms, institutional repositories, and academic social networks play a significant role in articles, theses, and other relevant documents.

THE SPECIAL PRISON OF THE MILITARY POLICE

GENERAL CONSIDERATIONS ABOUT THE SPECIAL PRISON IN BRAZIL

Special imprisonment is regulated in the Brazilian legal system by Decree-Law 3.689/41, of October 3, 1941 (Code of Criminal Procedure), which provided for such an institute in its article 295, describing the list of people, positions and functions benefited from this distinct treatment, as can be seen:

> **Article 295.** The following shall be taken to **barracks or to a special prison**, at the disposal of the competent authority, **when subject to imprisonment** **before final conviction**:
> I - the ministers of State; II – the governors or intervenors of States or Territories, the mayor of the Federal District, their respective secretaries, the municipal mayors, the councilors and the chiefs of police; III – the members of the National Parliament, the Council of National Economy and the Legislative Assemblies of the States;
> IV - citizens registered in the "Book of Merit"; **V – the officers of the Armed Forces and the military of the States, the Federal District and the Territories;** VI – the magistrates; VII – graduates from any of the higher faculties of the Republic; VIII – ministers of religious confession; IX – the ministers of the Court of Auditors; X – citizens who have already effectively exercised the function of juror, except when excluded from the list due to incapacity to exercise that function; XI – the police chiefs and the civil guards of the States and Territories, active and inactive. (BRASIL, 1969, emphasis added)

The concept of special prison is brought by paragraphs 1 and 2 of the aforementioned article, which teach us that special prison consists exclusively of confinement in a place different from the common prison, emphasizing, moreover, that, if there is no specific establishment for the special prisoner, he must be collected in a different cell of the same establishment. (BRAZIL, 1941)

In the same vein, article 242 of Decree-Law No. 1,002, of October 21, 1969 (Code of Military Criminal Procedure), reproduces the aforementioned diploma, as highlighted:

> Article 242. The following shall be taken to the barracks or special prison, at the disposal of the competent authority, when subject to arrest, before an unappealable conviction:

> [...]
> **f) Officers of the Armed Forces, Police and Fire Brigades, Military, including those in the reserve, paid or unpaid, and retirees;** [...]. (BRASIL, 1969, emphasis added)

It can be seen above that the Code of Criminal Procedure has a wider range of special imprisonment in relation to military police officers because, while the military criminal procedural law provides only for officers, the former provided for the military in general, not making this differentiation (NEVES, 2023).

Under the terms of Decree-Law No. 1,001/69 (Military Penal Code) we have that:

> Article 61. The sentence of deprivation of liberty for more than two (2) years, applied to military personnel, is served in a military penitentiary and, **failing that, in a civil prison,** and the prisoner or detainee is subject to the regime in accordance with the common criminal legislation, whose benefits and concessions he may also enjoy. (Text given by Law No. 6,544, of 6.30.1978)" (Emphasis added)

It is verified that this article has a legal permissive, insofar as it submits the military to serve the sentence in a civilian prison, in the absence of a military penitentiary. In these terms, Cunha (2017) asserts that:

> [...] the military, once sentenced to a Deprivation of Liberty Sentence of more than (02) two years in an open regime and in a certain place where there is no military penitentiary or differentiated prison, by virtue of the provisions of Art. 61 of the Military Penal Code (CPM) and in line with the exception brought by Art. 6 of the Code of Military Criminal Procedure (CPPM), the sentence will be served in a common penal establishment, in light of the Penal Execution Law (LEP).

In general, Mirabete (1997, p. 364) teaches us that, in this context of political redemocratization, the scope of the special prison has been increased. In this sense, from Decree No. 38,016/1955 to the present day, in addition to the addition of categories to article 295 of the CPP, many other indications of special imprisonment have been created, in their own laws, covering the Merchant Navy, union leaders, civil police, elementary and high school teachers, justices of the peace, magistrates and members of the public prosecutor's office.

In addition to those mentioned above, it was found that several other institutes provide for the special imprisonment of their professional categories. We can cite as examples Law No. 8,906/1994 (Statute of the Attorney General), Complementary Law No. 80/1994 (Federal Public Defender's Office), Law No. 3,313/1957 (Federal Department of Public Security), among others.

In accordance with the Penal Execution Law (Law No. 7,210/1984), specifically in its Article 84, we find the provision for separation between pretrial detainees and those convicted by final sentence, as well as those who, at the time of the fact, were employees of

the Criminal Justice Administration, who should be in "separate dependence". Finally, more specifically, it also provides that the prisoner who has his physical, moral, or psychological integrity threatened by living with other prisoners will be segregated in a proper place, which applies to the military police officer (LIMA, 2022).

Thus, there should be in the Brazilian penitentiary system, even among common prisoners, criteria for separation that observe whether they are pretrial detainees or convicts, the nature and seriousness of the crime, primarity, criminal record and, in all cases, not allowing under any circumstances, attacks that vilify the physical, moral or psychological integrity of those awaiting a judicial decision or, still, they wait incarcerated for the fulfillment of their sentence that, given its retributive character, truly promotes the achievement of its purpose, reintegrating the individual into society.

PREROGATIVES OF THE MILITARY POLICE OFFICER IN THE EXECUTION OF SENTENCE

With regard to the extensions of the Tocantins military police officers, Law No. 2,578/2012, known as the Statute of the Military Police and Firefighters of the State of Tocantins, provides as follows in its Article 101, III:

> Article 101. The prerogatives of the military are constituted by the honors, dignities and distinctions due to hierarchical degrees and positions.
> Sole Paragraph. The prerogatives of the state military are:
> III – the **execution of a prison sentence or detention only in a military organization**, whose Commander, Chief or Director has hierarchical precedence over the prisoner or detainee, in accordance with the legislation in force.
> (TOCANTINS, 2012, emphasis added)

It should be noted that, despite the provision for the curtailment of the special prison of the military police officer after the final and unappealable criminal sentence, as well as the existence of jurisprudential interpretations favorable to this understanding, what we can observe is that the aforementioned statute does not make this distinction, considering the true prerogative of the military from Tocantins to serve the sentence in a military organization.

It also urges us to verify the provisions of the aforementioned Statute of the Military of Tocantins:

> **Article 102, § 2** Whenever the military officer, when on trial in the Common Courts, is at **risk of death**, it is incumbent upon the Commander-General of the Corporation, in agreement with the judicial authority, to provide the necessary measures for the security of the praetorium or courts with the use of the military police force.
> **(**TOCANTINS, 2012, emphasis added**)**

Law No. 6,880/1980, known as the Statute of the Military of the Union, corroborates this understanding, as observed:

> [...] **Article 74, § 2 -** If, during the process and trial in the civil court, there is a **danger to the life of** any military prisoner, the competent military authority, upon request of the judicial authority, shall order the praetorium or courts to be guarded by federal force. [...] (BRASIL, 1980, emphasis added)

In this way, as already exposed, one of the main beams of the special prison is precisely the protection of those contemplated with the institute of having their protection and inviolability, whether physical or psychological, guaranteed.

Thus, within the scope of the Military Police, the focus of this work, the top manager of the Corporation must be responsible for ensuring the physical integrity of the military police officer, always in line with the judicial understanding and appreciation, as well as providing measures that safeguard and prevent situations that may interfere with the safety of these agents.

JURISPRUDENTIAL UNDERSTANDINGS ON THE MAINTENANCE OF THE SPECIAL PRISON OF MILITARY POLICE OFFICERS AFTER A FINAL SENTENCE

It should be noted that some decisions have demonstrated the understanding that the military police officer would only have the right to the benefit of special imprisonment while the conviction did not become final, as we can observe the understanding of the Court of Justice of the State of Rio de Janeiro below:

> HABEAS CORPUS. CRIMINAL PROCEDURE. [...]. **SPECIAL PRISON. MILITARY POLICE. In the event <u>of the supervenience of the final and unappealable judgment of the criminal conviction</u>, as is the case in the present case, the guarantee contained in article 295 of the Code of Criminal Procedure arises in the hypothesis, which authorized, given the principle of innocence, the right to special imprisonment, and from then on, this benefit is <u>terminated</u>.** It should be noted, moreover, that the plaintiff did not even prove the demonstration that the patient could be at risk to his physical integrity by entering a common prison unit, **limiting himself to stating that he acted harshly in the fight against crime when in the effective exercise of police activity. However, it should be recommended to the court of law of the criminal execution court to adopt the necessary measures and mechanisms to remove any possibility of danger to the physical integrity of all convicts, especially this patient, who held the quality of public agent, assigned to the public security secretariat. DENIAL OF THE ORDER.** (TJ-RJ - HC: 00541284820128190000 RJ 0054128-48.2012.8.19.0000, Rapporteur: DES. SIDNEY ROSA DA SILVA, Judgment Date: 10/16/2012, SEVENTH CRIMINAL CHAMBER, Publication Date: 11/26/2012 5:16 PM) (TJRJ, 2012, Emphasis added).

In this decision of the Distinguished Court of Justice of Rio de Janeiro, it is clearly understood that the military police officer would only be entitled to this benefit while there is no final and unappealable conviction. It also justifies that the possibility of risk to the

physical integrity of the military at entry was not demonstrated just because he was placed in a common prison unit, also emphasizing that there is no plausibility in the argument that he only acted in the fight against crime and in the exercise of police activity. Against this reason, the court of law of the criminal execution court recommended the adoption of measures to prevent any danger to the physical integrity of the convict. It is undoubted, therefore, that there is a real fear on the part of the magistrate that something will happen to the military police during the execution of the regime.

In the same context, another judgment with the understanding of the Superior Court of Justice (STJ) is observed:

> HABEAS CORPUS. [...] NEED FOR SEGREGATION FROM THE OTHER PRISONERS IN VIEW OF THE CONDITION OF FORMER POLICE OFFICER OBSERVED BY THE COURT OF ORIGIN. **ILLEGAL CONSTRAINT NOT VERIFIED.** [...] 2. The exclusion of the patient from the Military Police staff, due to leave for the sake of discipline, implies the **loss of the right to secrecy to a barracks or special prison,** provided for in article 295 of the CPP. 3. Although the right to special imprisonment is beyond the reach of the patient, the **need to keep him segregated from other pretrial detainees** should not be neglected, as a security measure, which was duly observed by the Court of origin when it authorized his **transfer to a common prison**. Illegal embarrassment not verified. 4. Habeas corpus not known, maintaining the observation made by the Court of origin regarding the need to segregate the patient from the other pretrial detainees, given his condition as a former military police officer. (STJ - HC: 257679 RJ 2012/0223841-9, Rapporteur: Justice MOURA RIBEIRO, Judgment Date: 02/18/2014, T5 - FIFTH PANEL, Publication Date: DJe 02/21/2014) (STJ, 2014, emphasis added)

It can be seen that the Court of origin authorized the transfer of the military police officer to the common prison, not understanding that there would be any type of embarrassment or danger to the patient, ignoring his condition as a former military police officer. In an antagonistic way, the same Court recognized that there should be, as a security measure, the separation from the other common prisoners. In this decision, the Superior Court of Justice, despite the fact that the patient had been excluded from the Military Police, recognized the need for segregation from the other pretrial detainees, but did not recognize the appeal and kept him in the common penal establishment.

It is worth highlighting the judgment held in the Federal Supreme Court, the supreme court of our country, as observed:

> PENAL. CRIMINAL PROCEDURE. HABEAS CORPUS. MILITARY POLICE. DOUBLE QUALIFIED HOMICIDE. CONVICTION. RES JUDICATA. PATIENT COLLECTED IN A COMMON PRISON. ALLEGATION OF RISK TO PHYSICAL INTEGRITY. DISMISSAL. ILLEGAL CONSTRAINT. NONEXISTENCE. ORDER DENIED. I – **The supervening of the final and unappealable nature of the conviction terminates the right of a military police officer to be held in a special prison**, under the terms of article 295 of the Code of Criminal Procedure. II – The petitioner was unable to demonstrate the existence of a risk to the patient's physical safety, since the execution court determined his confinement in a cell

> separate from the other prisoners. III - Order denied. (STF - HC: 102020 PB, Rapporteur: Justice RICARDO LEWANDOWSKI, Judgment Date: 11/23/2010, First Panel, Publication Date: DJe-240 DIVULG 12-09-2010 PUBLIC 12-10-2010 EMENT VOL-02448-01 PP-00056) (STF, 2010, emphasis added)

It should be noted, again, that there is no recognition of illegal constraint in the fact that the military police officer is placed in the common prison, and it is sufficient, according to the understanding of the Supreme Court, that he is in a separate cell from the others. It is important to note that the decision mentions the fact that the plaintiff has not demonstrated the existence of a risk to his physical safety. Thus, the STF's understanding is also verified for the non-recognition of the extension of the special prison to the military police officer after the final and unappealable criminal sentence.

From all the above, we can see that the aforementioned decisions place the military police officer in civilian prison establishments, reasoning that the right would only be before a final conviction, not measuring or making the synchrony and adequacy of the other provisions as a whole. If the sentence, therefore, becomes final, this right is immediately taken away from the military and, thus, he is sent to the common prison.

Therefore, it should be noted that, once the military police officer is kept incarcerated in the same establishment as the common prisoner, a true affront to the constitutional text would be promoted, in a flagrant attack on the dignity of the human person, insofar as the only possibilities would be the death of these agents or eventual physical and psychological damage of the most diverse natures.

LEGISLATIVE PROCESS IN BRAZIL TO AMEND THE MILITARY PENAL CODE

It is indisputable that, according to article 1, caput, of the CF/1988, the Federative Republic of Brazil is a Democratic State of Law (BRASIL, 2018) and, as such, is built under the rule of law.

In this context, it is necessary to know the legislative procedures, since their creation, as well as the development and necessary evolution of the norms of the Brazilian State. Thus, in order for the right of military police officers to special imprisonment to be implemented, even after a final sentence, it is necessary to change the current legislation.

It should be noted, with regard to the constitutional division of competences, that, in the case of criminal law, the matter is exclusive to the Union, as observed:

> Article 22. It is exclusively the responsibility of the **Union** to legislate on:
> I - civil, commercial, **criminal**, procedural, electoral, agrarian, maritime, aeronautical, space and labor law; (BRASIL, 1988, emphasis added).

It should be noted that the responsibility for this task lies with the Legislative Branch, which is exercised by the National Congress, in accordance with what our Constitution proposes, *in verbis:*

> Article 44. The Legislative Power is exercised by the National Congress, which is composed of the **Chamber of Deputies** and the **Federal Senate**.
> Sole Paragraph. Each legislature will last **four years**. (BRASIL, 1988, emphasis added).

In this way, it is concluded that it is a private legislative attribution of the Union, and cannot be carried out at the state level, only, that is, it would not be possible to draft a law that would create a right in the criminal field only to the military of Tocantins, in view of the conflict of competences.

Therefore, it is necessary that the initiative comes from one of the legitimate parties for the initial proposal, as provided for in our constitutional diploma:

> Article 61. The initiative of complementary and ordinary laws is the responsibility of any member or Commission of the Chamber of Deputies, the Federal Senate or the National Congress, the President of the Republic, the Federal Supreme Court, the Superior Courts, the Attorney General of the Republic and the citizens, in the manner and in the cases provided for in this Constitution. (BRASIL, 1988, emphasis added).

Therefore, there are several legitimate to take the initiative to create and change laws. In view of this, it is verified that the most appropriate way would be through a proposal by one of our representatives in the Chamber of Deputies, in accordance with Resolution No. 17/1989 (Internal Regulations of the Chamber of Deputies):

> Article 100. Proposition is any matter subject to the deliberation of the Chamber.
> Paragraph 1 - Propositions may consist of a proposal for an amendment to the Constitution, **project**, amendment, indication, request, appeal, opinion and proposal for inspection and control. (BRASIL, 1989, emphasis added)

It should be noted that the definition of proposition is very broad, however we can list as main types: "Proposals for Amendment to the Constitution (PEC), Complementary Bills (PLP), Ordinary Bills (PL), Legislative Decree Projects (PDC), Draft Resolutions (PRC) and Provisional Measures (MPV)".[3]

Thus, with regard to the proposition of bills for the initiation of the due legislative process, the aforementioned provision is specifically consistent with what is provided in our Constitution, *verbis*:

[3] Available at: <https://www2.camara.leg.br/transparencia/acesso-a-informacao/copy_of_perguntas-frequentes/processo-legislativo##3>. Accessed on: 18 nov. 2019.

> Article 59. The legislative process includes the preparation of:
> I - amendments to the Constitution; II - complementary laws; III - ordinary laws; IV - delegated laws; V - provisional measures; VI – legislative decrees; VII - resolutions. (BRAZIL, 1988)

In the meantime, it is understood that the most viable method for legislative change and, therefore, for the realization of the right to serve the prison sentence of the military police officer only in penitentiaries or military organizations, even after the final and unappealable criminal sentence, would be through the proposition of a bill that amends article 61, of the Military Penal Code.

Therefore, it should be noted that the current military penal law was received with the status of ordinary law by our Magna Carta and, at the time, was in line with the Penal Code of 1969, which was revoked even before it came into force, as it was considered too severe at the time of its creation.

RESULTS AND DISCUSSION

Based on the data and information, it was glimpsed that there is a need to seek statistical data regarding the military institutions of Brazil, specifically with regard to the collection of information that demonstrates an overview of the situation of serving the prison sentence of military personnel, and that can subsidize the debate on the topic studied.

In this way, it was verified, in view of the searches carried out on the website of the Chamber of Deputies, the existence of two bills referring to the special prison of military personnel in general, aimed at amending the Code of Criminal Procedure, which are PL No. 8,870/2017 and PL No. 3,572/2019 (Annexes I and II, respectively), and the latter, is in progress, and the former has already been shelved for lack of completion of its processing within the legislature and not resubmitted, under the terms of article 105, of the Internal Regulations of the Chamber of Deputies. (BRAZIL, 2019)

However, after analyzing the aforementioned projects, notably PL No. 3,572/2019 that is in progress, it is concluded that the respective text still contains legal permissives that authorize the military to serve the sentence in a civil penitentiary, if there is an act of exclusion from the Institution, not contemplating the excluded military police officers, given that it is intended that, Under no circumstances should the military be placed in a common penal establishment, even if in a separate cell, and even if he has been excluded. However, the conviction alone to a custodial sentence for more than two years already induces the exclusion of the military from active service (NEVES, 2023).

Therefore, it is not enough for the military to be placed in separate cells to ensure their integrity, since there are cases of rebellions in civilian prisons where inmates invade

such special cells and execute police officers who may be there. As an example, we can cite the case of a former police officer who was killed during a rebellion in Manaus-AM, who was in his cell that is in a so-called "safe" area, when the inmates invaded the place, dismembering the former military and set fire to the cell soon after (A CRÍTICA, 2017).

In order to verify the data of the survey, first, a survey was carried out with the General Internal Affairs of the Military Police of Tocantins (PMTO) and with the Secretariat of Citizenship and Justice of Tocantins (SECIJU).

In addition, research was carried out with the Military Police of some states of Brazil about the military prisoners of the Military Police. From these, information was obtained on the Military Police of São Paulo (PMESP), the Military Police of Santa Catarina (PMSC), the Military Brigade of Rio Grande do Sul and the Military Police of Pernambuco

From the analysis, it was found that in the Military Police of São Paulo (PMESP), according to the corporation, it was found that in relation to the number of military police officers imprisoned in civilian prisons, it was informed that such data being the responsibility of the Personnel Directorate for such control and in relation to cases in which military police officers, being in civilian prisons, have suffered attacks on their physical or psychological integrity, there is no news of such a practice because in the Military Police of the State of São Paulos there is a Prison for state military personnel (Presidio Militar Romão Gomes), who remain detained there, while still in the condition of state military. From the moment they are dismissed, expelled or lose their link with the Institution, they are transferred to civil prisons, where they remain grouped with other individuals in the same condition, as a form of "insurance", in order to avoid contact with the other prisoners.

The Military Police of Santa Catarina (PMSC), through the General Internal Affairs, reported that there are no military police officers of the PMSC currently imprisoned in civilian prisons; Only former police officers, who were excluded from the corporation.

The Military Brigade of Rio Grande do Sul, informed, through the corporation's Internal Affairs Department, that there are no Military Police officers serving their sentences in Civil Prisons, only in Military Prisons (PPM), and there are no cases of military police officers who, being in these civilian prisons, have suffered any attacks on their physical or psychological integrity.

Regarding the Military Fire Brigade of Pernambuco (PMPE), it informed through the Justice and Discipline Center of the Military Fire Brigade, that there are no military personnel imprisoned in civilian prisons, and there is the CREED - PMPE Reeducation Center, in the city of Abreu e Lima, belonging to the Military Police of Pernambuco.

What can be seen in the current context with the military corporations that presented the information is that, currently, the military police officer, when excluded or dismissed from the corporation, in case of a final and unappealable conviction, is transferred to a civilian prison (MARCÃO, 2023).

This demonstrates the state's disregard for the safety of the citizen who joins the corporation, who for many years dedicates his life to the police mission, however, due to adverse and legal circumstances, he is penalized and placed in situations that compromise his integrity and even his life.

In this area, the former military police officer has the human right to his security, since he will only be charged with the deprivation of liberty, and the State must guarantee him the security provided for in the Constitution, since he becomes an easy target because he was a military police officer (BRASIL, 1988).

FINAL CONSIDERATIONS

It is concluded that, in view of the existing problem, it was found essential and current in the national conjuncture the creation of a law that ensures special imprisonment, even after the dismissal of the military police. Such a measure is salutary to the extent that it demonstrates the lack of legal support to guarantee the right to special imprisonment, since there is an insecurity in the performance of the military police, who acts on the fine line, between excess and omission, both criminally punished, in the face of complex occurrences and unpredictable scenarios, including those that in many cases cost them their lives.

In this aspect, it was found that there was a need to give a different treatment to military police officers with regard to serving their sentences in a different place from common prisoners, which unfortunately is not a peaceful understanding in the country's courts, however understandable by the lack of legal permissive, but which could be attenuated and avoided, especially so that what is an exception does not become the rule.

It should be noted that this article does not discuss the merits of the culpability of the military, but rather the respect for their constitutional guarantee of protection of their physical and psychological integrity, as well as the inexistence of the "death penalty", which is the possible sentence that is established when placing this agent in civilian prison establishments, common to all prisoners.

In addition, it is important to highlight the importance of the creation of military penitentiaries in all states, which could be used as a method for future work, ending the uproar over the maintenance of the special prison, since there would be binding judicial decisions, which should obligatorily allocate military prisoners to these establishments.

Thus, it is imperative that emergency measures be adopted to guarantee the physical and psychological integrity of military police officers in the face of the possibility of being placed in common prison establishments, which reveals the importance of the implementation of public policies in this aspect, such as the amendment of the Military Penal Code and Military Criminal Procedure regarding the fulfillment of the criminal offense when they lose their military status.

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