

# THE OMBUDSMAN OF SPAIN

ANNUAL REPORT 2011 Spain's National Preventive Mechanism



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### Presentation

This second report submitted by the Office of the Ombudsman of Spain in its role as NPM covers activities in 2011, and represents the outcome of work in the service of particularly vulnerable persons. Spain's international commitment to the prevention of torture and mistreatment through a specific system for monitoring places of deprivation of liberty, as expressed in its ratification of the OPCAT and the subsequent designation of the Ombudsman of Spain as the NPM, requires us to continue our efforts to perform this important task.

This second year of activity has been marked by significant innovations made as a result of our wish to take our commitment in the service of our citizens to the next level. Independent technical specialists in certain scientific disciplines have been incorporated into the inspection visits made in order to provide new perspectives for analysis; the use of photographs to document the condition of facilities has been generalised, and the methods have been enhanced to obtain better information on the opinions, problems and concerns of persons deprived of their liberty.

As the NPM, the Office of the Ombudsman forms part of the array of guarantees of fundamental rights contained in Spain's body of law. It is also the representation at national level of a system of international law, completing the circle formed by the SPT (UN Subcommittee on the Prevention of Torture). Efforts have been made to strengthen the preventive aspect of this task, in line with SPT doctrine, and to cooperate with other NPMs, particularly those of other European Union Member States, and with the Council of Europe with a view to sharing experiences and objectives.

The Spanish parliament has recently reformulated the regulations governing the organisation and workings of the Office of the Ombudsman to regulate the NPM Advisory Council, pursuant to Subsection 2 of the Sole Final Provision of the Public General Act on the Ombudsman, in the wording enacted under Public General Act 1/2009 of November 3. The Council is defined in law as a "technical and legal cooperation body for the exercising of the functions of the National Preventive Mechanism", and as such will be a forum for dialogue and cooperation with civil society and with accredited specialists. Once all its members have been designated the institutional design pursued by law-makers will be complete, with the Office of the Ombudsman of Spain as the NPM and an Advisory Council available to cooperate with it on the terms laid down in the relevant regulations.

I would like to recall here my words a year ago when I presented the first NPM annual report: "With budgetary constraints in mind, all this has been done through the reallocation of in-house personnel. This has required extra efforts by all the services in our institution, which I should like to publicly acknowledge here". This statement remains true today, and is worth repeating.



#### Annual report 2011: Spain's National Preventive Mechanism

In presenting this report I look towards the future with the satisfaction of representing one of the few countries in the world that have a consolidated NPM (to gauge from the number of annual reports submitted to the SPT last year there are just fifteen), but also with a sense of duty and responsibility: we have a long road ahead of us in the service of basic rights as we strive to improve the conditions in which persons deprived of liberty are held in our country. Our citizens deserve and require much of us, and there is much that we must offer them. I am sure that the Office of the Ombudsman of Spain will be able to meet this great challenge.

> M.ª Luisa Cava de Llano y Carrió Acting Ombudsman of Spain

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## Acronyms & Abbreviations used

ABP	Basic Policing Area
AECID	Spanish Agency for International Development Cooperation (Ministry of Foreign Affairs & Cooperation)
APT	Association for the Prevention of Torture
CCAA	Regional Autonomous Communities
CGC	Civil Guard Barracks
CGPC	General Police Force of the Canary Isles
CIE	Detention Centre for Foreign Nationals
СМ	Centre for Young Offenders
CNP	National Police Force
Convention	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punish- ment (adopted by the General Assembly of the United Nations in Resolution 39/46 of Decem- ber 10, 1984.)
СР	Prison
СРТ	European Committee for the Prevention of Torture (Council of Europe)
сѵ	Curriculum vitae
DDHH	Human Rights
DGGC	Directorate General for the Civil Guard
DGP	Directorate General for the Police
DUE	Holder of a (short-course) University Degree in Nursing
EDM	Military Detention Centre
FJ	Legal Grounding
GC	Civil Guard
HIV	Human Immunodeficiency Virus
IA-2010	Annual Report for 2010 of the National Preventive Mechanism against Torture
ICCPR	International Covenant on Civil and Political Rights
IG	CPT General Report
IMAP	Independent Medical Advisory Panel
INE	Spanish National Statistics Office [Instituto Nacional de Estadística]

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#### Annual report 2011: Spain's National Preventive Mechanism

II	Magistrate's Court [Juzgado de Instrucción]
LECrim	Criminal Procedures Act [Ley de Enjuiciamiento Criminal]
LODP	Public General Act on the Ombudsman [Ley Orgánica del Defensor del Pueblo]
LORPM	Public General Act on the Criminal Liability of Juveniles [Ley Orgánica reguladora de la responsabilidad penal de los menores]
MER	Education & Respect Modules
NGO	Non-Governmental Organisation
NPM	National Preventive Mechanism against Torture
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrad- ing Treatment or Punishment (adopted by the General Assembly of the United Nations in Resolution 77/199 of December 18, 2002)
PAIEM	Framework Programme for the Integrated Care of the Mentally Ill
PPS	Suicide Prevention Programme
REPM	Regulations Governing Military Detention Centres
ROFDP	Regulations for the Organisation and Workings of the Office of the Ombudsman
RP	Prison Regulations
SES	Office of the Secretary of State for Security (Ministry of the Interior)
SGIP	Office of the Secretary General for Prisons (Ministry of the Interior)
SPT	UN Subcommittee on the Prevention of Torture
STC	Constitutional Court Ruling
STS	Supreme Court Ruling
UCER	Central Expulsion & Deportation Unit (National Police Force)
UCH	Secure Hospital Unit
UIP	Police Intervention Unit
UN	United Nations Organisation

# Introduction §1-§12

**1.** The NPM Annual Report 2010 detailed the work of the Office of the Ombudsman of Spain from the time of its designation as the National Preventive Mechanism against Torture under Public General Act 1/2009 of November 3, which incorporated a single final provision into the Public General Act on the Ombudsman. The report gave an account of the 231 inspection visits made to places of deprivation of liberty in all 17 of Spain's regional autonomous communities and in the autonomous cities of Ceuta and Melilla in the course of the Ombudsman's first year as the NPM. This large number of visits enabled a preliminary picture to be drawn up of the situation as regards deprivation of liberty in Spain as a whole.

**2.** With this initial overview of the situation at places of deprivation of liberty having been drawn up, it was considered preferable in 2011 that there should be fewer inspection visits -77 in all- but that they should be made in greater depth, focussing on specific aspects of the establishments visited. The intention was to centre attention not so much on the infrastructures themselves as on living conditions there, and above all to listen to persons deprived of their liberty.

**3.** This second year of the Ombudsman as the NPM has also seen progress towards compliance with the requirements of the OPCAT. Evidence of the commitment entered into can be seen in the stage by stage deployment of the NPM as per paragraph 19 of the NPM's Annual Report 2010. This has been done by introducing a number of different perspectives, through the incorporation of independent experts – doctors, psychiatrists and psychologists – into the inspection work as detailed below.

**4.** Once again this year the system employed was to make unannounced visits at any hour of the day or night. Several inspection visits were timed to take place in the early hours or on non-working days. Another new feature with respect to last year is that in 2011 photos were taken of all the establishments visited and incorporated into the visit reports. Some of those photos are included in this report.

**5.** The main problems and shortcomings detected on the inspection visits were reported to the authorities responsible for the establishments inspected so that the necessary corrective measures could be taken. This marked the start of a constructive dialogue: the Ombudsman monitors the responses of the authorities in question to assess whether they are positive. As laid down by the APT in its *Guide: Establishment and Designation of National Preventive Mechanisms*, published in 2006, this dialogue must be based on the premise that the recommendations of the NPM "… are an opportunity for the state to benefit from detailed and practical expert advice …".

**6.** As pointed out in paragraph 18 of the Annual Report 2010, if there are complaints concerning improper treatment or allegations of mistreatment on the part of persons deprived of their liberty, without prejudice to the aforesaid analysis, those complaints are submitted to the corresponding area of the Office of the Ombudsman for examination and, if relevant, investigation as required. At the

The 231 inspection visits made in 2010 provided an overall picture of deprivation of liberty in Spain

The 77 inspection visits in 2011 focussed on learning about the living conditions of detainees

Multi-disciplinary inspection visits were made, with the participation of independent experts

This report is supported by photos taken during unannounced inspection visits made at any hour of the day or night

The inspection visits by the NPM set off a constructive dialogue with the authorities responsible for the establishments inspected

The Ombudsman may resort to the resolutions held under law: suggestions, warnings and reminders of legal duty same time, when the authorities show themselves to be unwilling to take into consideration or implement the recommendations that emerge from each inspection visit, the Office of the Ombudsman may formally resort to the recourses vested in it under law, such as recommendations, suggestions and reminders of legal duty.

The report is constructive **7.** In short, the Ombudsman seeks to ensure that the authorities do not see the NPM as a body whose basic remit is to criticise and file complaints, but rather as a mechanism with which they can cooperate to improve their practices and work towards what should be a common goal: the prevention of torture and mistreatment. Promoting human rights and disseminating the associated values is an essential task of the Ombudsman, and that includes educating society in general and the actors directly involved in dealing with and watching over persons deprived of their liberty in particular: this report seeks to be a useful, effective tool for achieving that purpose.

Follow-up visits were made to check that earlier recommendations were being implemented and identify any further shortcomings where relevant

To date, the authorities responsible have all cooperated with the NPM

The report is similar in structure to the 2010 report, and also covers multi-disciplinary inspection visits **8.** The Ombudsman also monitors the implementation of the recommendations made and checks that official responses match what is actually happening. It does this by making further inspection visits to come places of deprivation of liberty. In 2011 this included follow-up visits to Civil Guard establishments in Intxaurrondo (Donostia/San Sebastián) and Arguineguín (Las Palmas), to the Detention Centre for Foreign Nationals in Valencia, to the Central District police station in Madrid and to the Central Register of Detainees of the National Police, also in Madrid. As indicated, such follow-up visits give the NPM a chance to check at first hand that its earlier recommendations have been implemented, but they also provide an opportunity to identify further shortcomings and points where work is required other than those detected on the initial inspection visits.

**9.** In general, the attitude of the authorities responsible for the places of deprivation of liberty inspected by the representatives of the Ombudsman has been one of cooperation. However, mention must be made of an incident during the visit to the EDM in Las Palmas de Gran Canaria, when the inspectors were prevented from taking photos or accessing disciplinary files for "reasons of national security". This was reported to the Ministry of Defence so that appropriate corrective measures could be taken. There was no such lack of cooperation on the inspection visit to the EDM at San Cristóbal de La Laguna (Santa Cruz de Tenerife) the following week, where no such restrictions were imposed.

**10.** The following pages contain a detailed report of the activities of the Ombudsman as the NPM in 2011. As in the 2010 report, the inspection visits made are grouped according to the duration of deprivation of liberty (short-, medium-and long-term). The multi-disciplinary visits made since this form of inspection was introduced in October 2011 are included under each heading.

Introduction

11. As indicated in the Annual Report 2010, the full design of the NPM included the setting up of an Advisory Council. Accordingly, a proposal for a reformulation of the regulations governing the Office of the Ombudsman was submitted to the Spanish Parliament in 2011. The changes in the regulations required to designate the members of the Advisory Council were approved at the first meeting of the Bureau of Joint Committees [Mesa Conjunta] of the Upper and Lower Houses following the constitution of the new parliament after the election, on January 25, 2012. Accordingly, the Council is to be made up of the two Assistants to the Ombudsman, one of whom is to act as its Chair, and up to 10 ordinary members. One member is to be appointed by the General Council of Spanish Lawyers [Consejo General de la Abogacía Española], one by the Spanish Medical Association [Organización Médica Colegial], one by the General Council of Official Spanish Associations of Psychologists [Consejo General de Colegios Oficiales de Psicólogos de España], up to two by organisations with which the Office of the Ombudsman has entered into cooperation agreements and the remaining five from among such persons as may, personally or on behalf of organisations or associations that represent civil society, submit their candidatures to the Ombudsman following a public call. The said reformulation of the regulations governing the operations of the Office of the Ombudsman was published in the Official State Journal [Boletín Oficial del Estado] on March 1, 2012. The Advisory Council is intended to establish an ongoing channel for dialogue and cooperation with civil society and with accredited specialists in issues of interest to the Spanish NPM which will broaden the perspectives with which it works.

**12.** Finally, in 2012 the Ombudsman intends to continue making a significant number of multi-disciplinary inspection visits, which will certainly help to enhance efforts to prevent torture and other mistreatment in line with the mandate as NPM.

In 2011 the Ombudsman submitted a proposal to Parliament for a reformulation of regulations to enable the members of the Advisory Council to be designated. This proposal was passed on January 25, 2012 and published in the Official State Journal on March 1, 2012

Multi-disciplinary visits are to continue in 2012

# Inspection visits §13-§15

**13.** In 2011 a total of 77 inspection visits were made to 72 places of deprivation of liberty throughout Spain (2 prisons and 3 centres for young offenders were visited twice). The locations and types of establishment are listed in Graphic 1.

77 inspection visits were made in 2011

PLACES OF DEPRIVATION OF LIBERTY INSPECTED	Nº of places visited	Nº of visits made
District police stations & other places of short-term deprivation of liberty: National Police	13	13
Barracks and other places of short-term custody: Civil Guard	12	12
Prisons	10	12*
Centres for young offenders	8	11**
Local police stations	7	7
Courtroom holding cells	7	7
Secure hospital units	4	4
Regional police establishments (Mossos d'Esquadra, Ertzaintza & General Police Force of the Canary Isles)	3	3
Detention centres for foreign nationals	3	3
Military detention centres	2	2
Primary assistance & detention centres for foreign nationals	1	1
Police facilities at border control posts	1	1
National Police units attached to Regional Autonomous Communities	1	1
Total	72	77

#### Table 1. Types of place of deprivation of liberty inspected

\* Two prisons were visited twice: Castelló/Castellón and the women's prison in Alcalá de Guadaíra (province of Seville).

\*\* Three centres for young offenders were visited twice: Albaidel in Albacete, El Molino in Almería and Pi Gros in Castelló/Castellón.

**14.** In 2011 inspection visits were made to places of deprivation of liberty of types not visited the previous year. These include the Psychiatric Prison Hospital in Alicante, a National Police unit attached to a Regional Autonomous Community (Regional Government of Valencia), the Primary Assistance & Detention Centre for Foreign Nationals at the port of Almería and the Incarcerated Mothers Unit in Seville.

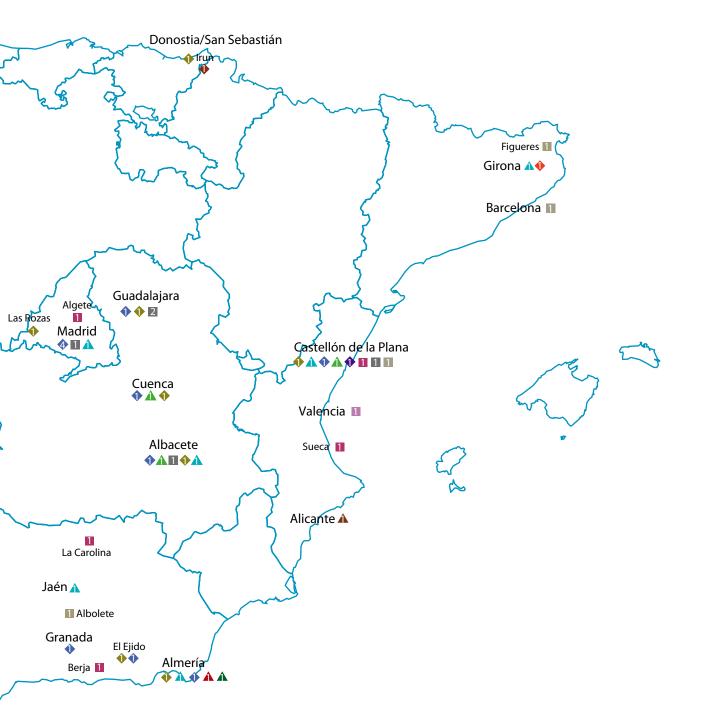
**15.** Multi-disciplinary inspection visits are more intensive and are organised differently: most of them last between two and four days. The new method also entails several days' work prior to the visit, and more detailed follow-up work in preparing reports and minutes.

More types of establishment were visited

Multi-disciplinary visits involve 2-4 days of work on site

### Graphic 1. Geographical locations of the establishments visited in 2011

		and the second	Zm	Land Land	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
<ul> <li>Places of deprivation of liberty visited in 2011</li> <li>National Police Force (CNP)</li> <li>Civil Guard</li> <li>Ertzaintza</li> <li>Mossos d'Esquadra</li> <li>CNP unit attached to Regional Autonomous Community</li> </ul>	13 12 1 1 1					
<ul> <li>Canary Isles Police</li> <li>Local Police</li> <li>Courthouse holding cells</li> <li>Military detention centres</li> <li>Detention centres for foreign nationals (CIE)</li> <li>Prisons</li> <li>Incarcerated Mothers Unit (Prison)</li> <li>Centres for young offenders</li> <li>Secure hospital units</li> <li>Psychiatric prison hospital</li> <li>Primary assistance/det. centre for foreign nationals</li> </ul>	1 7 2 3 8 1 8 4 1 1		~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	می ج	No no	L'
Police facilities at border control posts TOTAL	1 72		~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	Yalverde del C	amino	~
			Ayamonte Ayamonte Hue		el lado	Alcalá d Guadai
Santa Cruz de Tenerife		Ę.	3	No. of the second secon		~
San Cristóbal de La Laguna La Esperanza Arguinegun		$\mathcal{J}$				





# Table 2. National Police Headquarters, District Stations & CentralRegistries

POLICE HEADQUARTERS				
Nº in order	Location	Province		
1	Granada	Granada		
	DISTRICT POLICE STATIONS			
Nº in order	Location	Province		
2	Albacete	Albacete		
3	Almería	Almería		
4	Ayamonte	Huelva		
5	Castellón de la Plana	Castelló/Castellón		
6	Cuenca	Cuenca		
7	El Ejido	Almería		
8	Guadalajara	Guadalajara		
9	Huelva	Huelva		
10	Madrid, Central District	Madrid		
11	Madrid, Chamberí District	Madrid		
	OTHER ESTABLISHMENTS			
Nº in order	Location	Province		
12	Almería, Primary Assistance & Det. Centre for Foreign Nationals	Almería		
13	Almería, Port	Almería		
14	Madrid, Prov. Information Brigade	Madrid		
15	Madrid, Central Reg. of Detainees	Madrid		

HEADQUARTERS				
Nº in order	Location	Province		
1	Albacete	Albacete		
2	Almería	Almería		
3	Castellón de la Plana	Castelló/Castellón		
4	Cuenca	Cuenca		
5	Guadalajara	Guadalajara		
6	Huelva	Huelva		
7	Donostia/San Sebastián	Gipuzkoa		
	CUARTELES			
Nº in order	Location	Province		
8	Aljaraque	Huelva		
9	Arguineguín	Las Palmas		
10	Bollulos Par del Condado	Huelva		
11	El Ejido	Almería		
12	Las Rozas	Madrid		

#### Table 3. Civil Guard Headquarters and Barracks

#### Table 4. Regional Autonomous Police Stations & Other Establishments

MOSSOS D'ESQUADRA				
Nº in order	Location	Province		
1	Girona	Girona		
ERTZAINTZA				
Nº in order	Location	Province		
2	Irun	Gipuzkoa		
GENERAL POLICE FORCE OF THE CANARY ISLES				
Nº in order	Location	Province		
3	Santa Cruz de Tenerife	Santa Cruz de Tenerife		

#### Table 5. CNP Unit Attached to Regional Autonomous Community

CNP UNIT ATTACHED TO THE REGIONAL GOVT. OF VALENCIA				
Nº in order	Location	Province		
1	Castellón de la Plana	Castelló/Castellón		

#### Table 6. Local Police Forces

LOCAL POLICE				
Nº in order	Location	Province		
1	Algete	Madrid		
2	Ayamonte	Huelva		
3	Berja	Almería		
4	Castellón de la Plana	Castelló/Castellón		
5	La Carolina	Jaén		
6	Sueca	Valencia		
7	Valverde del Camino	Huelva		

#### Table 7. Courthouse Holding Cells

COURTHOUSE HOLDING CELLS			
Nº in order	Location	Building	
1	Albacete	Courthouse	
2	Ayamonte	Courthouse	
3	Castellón de la Plana	Courthouse Complex	
4	Guadalajara	Court nº 1 & Court of 1st instance, Criminal Court lo Penal	
5	Guadalajara	Provincial Court of Appeal	
6	Huelva	Courthouse	
7	Madrid	National Court of Appeal	

#### Table 8. Detention Centres for Foreign Nationals

DETENTION CENTRES FOR FOREIGN NATIONALS				
Nº in order	Location Province			
1	Las Palmas de Gran Canaria	Las Palmas		
2	Santa Cruz de Tenerife	Santa Cruz de Tenerife		
3	Valencia	Valencia		

#### Table 9. Military Detention Centres

MILITARY DETENTION CENTRES			
Nº in order Location Province			
1	Las Palmas de Gran Canaria	Las Palmas	
2	San Cristóbal de La Laguna	Santa Cruz de Tenerife	

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#### Table 10. Prisons

PRISONS				
Nº in order	Location	Province		
1	Albolote	Granada		
2	Barcelona	Barcelona		
3	Castellón de la Plana	Castelló/Castellón		
4	Figueres	Girona		
5	La Esperanza	Santa Cruz de Tenerife		
6	Las Palmas de Gran Canaria	Las Palmas		
7	Melilla	Melilla		
8	Seville Seville			
	INCARCERATED MOTHERS U	INITS		
Nº in order	Location	Province		
9	Seville	Seville		
	PSYCHIATRIC PRISON HOSPITAL			
Nº in order	Location	Province		
10	Alicante	Alicante		

#### Table 11. Centres for Young Offenders

CENTRES FOR YOUNG OFFENDERS			
Nº in order	Centro	Location	Province
1	Albaidel	Albacete	Albacete
2	El Baluarte	Melilla	Melilla
3	El Molino	Almería	Almería
4	Las Lagunillas	Jaén	Jaén
5	Montilivi	Girona	Girona
6	Pi Gros	Castellón de la Plana	Castelló/Castellón
7	Renasco	Madrid	Madrid
8	Valle Tabares	Santa Cruz de Tenerife	Santa Cruz de Tenerife

#### Table 12. Secure Hospital Units

SECURE HOSPITAL UNITS			
Nº in order	Hospital	Location	Province
1	General	Castellón de la Plana	Castellón
2	Infanta Elena	Huelva	Huelva
3	Universitario	Albacete	Albacete
4	Virgen de la Luz	Cuenca	Cuenca

The prevention of torture: state of the matter §16-§21

**16.** It is worth pointing out once again here that in exercising the functions attributed to it under law as Spain's National Preventive Mechanism against Torture the Ombudsman becomes an actor on the international stage. Accordingly, the reports issued by the Office of the Ombudsman in its role as NPM are not destined solely for the Spanish parliament, for which the Ombudsman is a High Commissioner under Article 54 of the Spanish constitution. This annual report, and any special reports that may be drawn up in the exercise of these particular functions, are also submitted to the United Nations Subcommittee on the Prevention of Torture in Geneva (referred to hereinafter as the SPT).

**17.** The specific relationship of the Spanish Ombudsman with the SPT is based not only exchanges of information whenever either party so requests, but also on the formal presentation of the Annual Report 2010 by the Ombudsman at the SPT's headquarters in Geneva on February 21st 2012. The SPT does not always convene all the NPMs that have drawn up annual reports, but it decided to do so in the case of Spain.

**18.** An analysis of the degree to which the prevention of torture is institutionalised around the world at this moment reveals an unflattering picture. This is backed up by the facts and figures: of the 193 states that make up the United Nations, 71 have signed the OPCAT and only 62 have ratified it. The current status after signing a ratification process can be summed up as follows: This annual report is submitted to the Spanish parliament and to the UN Subcommittee for the Prevention of Torture (SPT)

At the request of the SPT, the Annual Report 2010 was presented at its headquarters in Geneva (Switzerland) on February 21, 2012

Of the 193 states that make up the UN, 71 have signed the OPCAT and only 62 have ratified it

Signed but not ratified		Ratified
Africa	Cape Verde, Cameroon, Congo, Ghana, Guinea, Madagascar, Mauritania, Sierra Leone, South Africa & Zambia	Benin, Burkina Faso, Gabon, Lebanon, Liberia, Maldives, Mali, Mauritius, Nigeria, D. R. of the Congo, Senegal, Togo & Tunisia
America	Venezuela	Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru & Uruguay
Asia	Timor	Armenia, Azerbaijan, Cambodia, Georgia, Kazakhstan, Kyrgystan & Turkey
Europe	Austria, Belgium, Finland, Greece, Ireland, Iceland, Italy, Norway & Portugal	Albania, Germany, Bosnia & Herzegovina, Bulgaria, Cyprus, Croatia, Denmark, Slovenia, Spain, Estonia, France, Hungary, Liechtenstein, Luxembourg, FYR Macedonia, Malta, Moldova, Montenegro, Netherlands, Poland, Czech Republic, UK, Romania, Serbia, Sweden, Switzerland & Ukraine
Oceania	Australia	New Zealand

#### Table 13. Signing and ratification of the OPCAT

Of the 62 states that have ratified the OPCAT, as of the start of 2012 only 31 have set up an NPM under the parameters required. 18 of them are from Europe

19. Moreover, as of the start of 2012 only 31 of the 62 states that have ratified the OPCAT have actually set up an NPM under the parameters required by the OPCAT. A breakdown by geographical location reveals that 18 of those 31 states are European: Albania, Cyprus, the Czech Republic, Denmark, Estonia, France, Germany, Liechtenstein, Luxembourg, Malta, Poland, Moldova, Slovenia, Spain, Sweden, Switzerland, FYR Macedonia and the UK. Only five are from Africa: the Maldives, Mali, Mauritius, Senegal and Nigeria; four from the Americas: Costa Rica, Honduras, Mexico and Uruguay; three from Asia: Armenia, Azerbaijan and Georgia; and one from Oceania: New Zealand. The 31 countries that have designated NPMs (29 discounting the two that have not yet formally notified the SPT) have chosen many different forms. Each country is free to choose whatever form of NPM best suits its particular characteristics or interests. As a result, some NPMs consist of a single institution (e.g. in Spain, France, Macedonia, etc) while others comprise a number of different organisations, one of which acts as a coordinator (as is the case in the UK). The tables below show the forms taken by NPMs in Europe and Latin America, the two main geographical areas in terms of international relations for the Ombudsman of Spain.

#### Table 14. Form of NPMs in Europe and Latin America

Europe	Ombudsman	Other institutions
Country	<ul> <li>Albania: People's Advocate.</li> <li>Cyprus: Commissioner of Administration.</li> <li>Denmark: Ombudsman.</li> <li>Slovenia: Human Rights Ombudsman in combination with NGO.</li> <li>Spain: <i>Defensor del Pueblo</i>.</li> <li>Estonia: Chancellor of Justice.</li> <li>Luxembourg: Médiateure du Grand-Duché de Luxembourg.</li> <li>Moldova: Centre for Human Rights (Ombudsman) in combination with the Consultative Council.</li> <li>Poland: The Commissioner for Civil Rights Protection (Ombudsman).</li> <li>Czech Republic: Public Defender of Rights.</li> <li>FYR Macedonia: Ombudsman.</li> <li>Sweden: Parliamentary Ombudsman &amp; Chancellor of Justice.</li> </ul>	<ul> <li>Germany: Federal Agency for the Prevention of Torture &amp; Joint Commission of the Lander.</li> <li>France: Contrôleur Général des Lieux de Privation de Liberté.</li> <li>Liechtenstein: Corrections Commission.</li> <li>Malta: Board of Visitors for Detained Persons &amp; Board of Visitors of the Prisons.</li> <li>UK: 18 organisations, with HM Inspectorate for Prisons as coordinator for all 18.</li> <li>Switzerland: National Commission for the Prevention of Torture.</li> </ul>

#### The prevention of torture: state of the matter



Latin America	Ombudsman	Other institutions
Country	<ul> <li>Costa Rica: Defensoría de los Habitantes.</li> <li>Mexico: Comisión Nacional de</li> </ul>	<ul> <li>Honduras: Comité Nacional para la Prevención de la Tortura</li> </ul>
,	Derechos Humanos.	<ul> <li>Uruguay: Institución Nacional de Derechos Humanos</li> </ul>

**20.** The other 14 annual reports submitted to the SPT along with that of Spain for 2010 have been analysed to determine their main characteristics and any issues worthy of mention. It should be pointed out here that this analysis did not cover the content of the reports, as it is not the job of an NPM to examine private, internal issues of other countries. The purpose was to highlight any significant, original or specific issues that might provide assistance or ideas for other NPMs in terms of guidelines for future work, and to strive for greater consistency in the format of reports as a tool for increased effectiveness in the prevention and banning of torture, mistreatment and inhuman or degrading treatment.

The other 14 annual reports submitted to the SPT in 2010 were analysed to learn their main characteristics and most significant aspects

A summary of that analysis is presented in the table below.

Country	Nº of inspections	Results & other activities	Noteworthy observations
Albania	162	<ul> <li>370 complaints filed during inspections are covered.</li> <li>250 telephone conversations with inmates &amp; detainees. Approx. 900 interviews with persons deprived of liberty.</li> <li>81 recommendations made.</li> <li>Proposals for changes in legislation.</li> <li>Activities to promote human rights.</li> </ul>	<ul> <li>The report covers 2008, 2009 &amp; 2010.</li> <li>The NPM team comprised 5 members, one of whom acted as leader.</li> <li>32 psychiatric units visited.</li> </ul>
Germany	5	• Recommendations.	<ul> <li>Inspection method included.</li> <li>Transparency: references to Federal Agency budget included.</li> <li>Regulatory annex included.</li> </ul>

# Table 15. Summary of the annual reports submitted by the various NPMs for 2010

Country	Nº of inspections	Results & other activities	Noteworthy observations
Azerbaijan	396	<ul> <li>In 2010 1241 persons deprived of liberty &amp; 252 staff were interviewed.</li> <li>Technical, legal &amp; doctrinal analyses, plus recommendations &amp; proposals for changes in regulations.</li> <li>Activities to promote human rights – seminars, leaflets, press releases, lectures, etc.</li> </ul>	<ul> <li>The report covers 2009 &amp; 2010.</li> <li>The NPM team comprised 17 members.</li> <li>There are around 250 places of deprivation of liberty in the country.</li> <li>Scheduled and/or exceptional or ad hoc visits were made.</li> <li>Many of the investigations conducted have resulted in serious sanctions and liabilities for the authorities and agents of authority.</li> <li>The report includes a regulatory annex and a photo annex.</li> </ul>
Costa Rica	59	• Recommendations.	<ul> <li>The NPM team has 3 members, but Ombudsman's office staff &amp; independent personnel also took part in the inspections.</li> <li>An inter-institutional committee has been set up with the Ombudsman and the Government that meets regularly to analyse the outcomes of inspections &amp; decide on measures to be taken.</li> <li>The inspection reports from previous years have been reformulated.</li> <li>A strategic plan is drawn up for each year.</li> </ul>
Slovenia	44	• Recommendations.	<ul> <li>A regulatory annex is included.</li> <li>The report has a financial/ economic part.</li> <li>Old people's homes &amp; geriatric units are visited.</li> <li>Slovenian Red Cross personnel &amp; independent experts take part in the visits.</li> <li>The standard form contracts &amp; regulations governing independent experts are included, along with the way in which they are contracted via public tender.</li> </ul>
Estonia	33	<ul> <li>Technical, legal &amp; doctrinal analyses, recommendations &amp; proposals for changes in regulations.</li> <li>Activities to promote human rights – training seminars, leaflets, lectures, etc.</li> <li>Processing of complaints &amp; claims.</li> </ul>	<ul> <li>Most but not all inspection visits are unannounced.</li> <li>The country has around 150 places of deprivation of liberty.</li> <li>The report covers specific doctrinal issues (e.g. video-surveillance, use of phones &amp; PCs, protection of personal data, etc.) and adopts working criteria.</li> <li>A method of action for each potential situation is worked out.</li> </ul>

Country	Nº of inspections	Results & other activities	Noteworthy observations
France	140	<ul> <li>Recommendations, observations &amp; proposals for changes in regulations.</li> <li>Complaints &amp; claims are received, processed &amp; sent to the <i>Défenseur des Droits</i> or whichever other organisation is competent.</li> <li>Regular meetings with representatives of associations, groups, etc. for purposes of information &amp; documentation.</li> <li>Participation in talks &amp; events with college students &amp; staff at academies that train staff to care for persons deprived of their liberty.</li> </ul>	<ul> <li>Follow-up of recommendations from previous years is included.</li> <li>Thematic studies &amp; visits are made each year as well as general inspections.</li> <li>Inspection visits last an average of 3 days. This is longer than in previous years.</li> <li>Both scheduled and unannounced visits are made.</li> <li>Cooperation agreements with the public authorities and other institutions are in place.</li> <li>The NPM has a full-time staff of 14 plus 16 part-timers, and is multi-disciplinary. There are also 17 trainees.</li> <li>Transparency: the report accounts for the NPM's budget allocation.</li> <li>A code of practice has been drawn up for NPM personnel.</li> <li>Working regulations for the NPM have been drawn up.</li> <li>A regulatory, statistical &amp; financial annex is included, and the report contains photos.</li> <li>The inspection reports for each visit are posted on the NPM website when specifically authorised by the <i>Contróleur Général</i>.</li> </ul>
Georgia	68 + 440	• Around 1200 persons deprived of liberty were interviewed and visited.	<ul> <li>Half-yearly and special reports are drawn up along with the annual report.</li> <li>Scheduled visits (68) and/or exceptional or ad hoc visits (440) are made.</li> <li>A study of medical pathologies among persons deprived of their liberty has been drawn up.</li> </ul>
Honduras	25	<ul> <li>Recommendations &amp; proposals for changes in legislation.</li> <li>Presentation of actions for enforcement of rights.</li> </ul>	
Liechtenstein	5	• Recommendations.	• The NPM inspection team comprises 5 members.

Country	Nº of inspections	Results & other activities	Noteworthy observations
Mexico	424	<ul> <li>Recommendations &amp; follow-up.</li> <li>Activities to disseminate &amp; promote human rights.</li> </ul>	<ul> <li>115 of the places inspected had been visited previously.</li> <li>Along with the annual report the NPM prepares numerous other reports for various competent authorities.</li> <li>Regular meetings are held with authorities to analyse the results of inspection visits.</li> <li>Complaints from persons deprived of liberty are received and investigated.</li> <li>45 specific investigations have been conducted, with the Istanbul Protocol being applied to persons who allege torture or mistreatment.</li> </ul>
New Zealand	54	• Recommendations.	<ul> <li>There are 5 NPMs: a central unit that coordinates their work plus another four, one of which is the Ombudsman.</li> <li>The report details the activities of all 5 NPMs.</li> <li>An annex with the standards applicable to inspections is included.</li> <li>A regulatory annex is included.</li> </ul>
Poland	80	<ul> <li>Recommendations.</li> <li>Proposals for changes in regulations.</li> <li>Cooperation with associations &amp; civil society in general.</li> </ul>	<ul> <li>The NPM has a staff of 6, supplemented by a further 10 persons when necessary for inspection visits.</li> <li>Multidisciplinary: most staff are jurists, but there are also educators, doctors and psychologists.</li> <li>Reference is made to the budget allocation of the NPM.</li> <li>There are 1826 places of deprivation of liberty liable to be inspected in Poland.</li> <li>The CVs of the NPM members are included.</li> </ul>
UK	Not specified, though thousands have been made since the system was set up.	• Recommendations.	<ul> <li>The NPM comprises 18 organisations, coordinated by HM Inspectorate for Prisons.</li> <li>The coordination of these 18 organisations is seen as an objective in itself.</li> </ul>

**21.** Finally, the first 10 members of the SPT were chosen on December 18, 2006. Membership was increased to 25 on October 28, 2010 at the third Meeting of States Party to the OPCAT, which elected five members to replace those whose mandate expired on December 31, 2010. Pursuant to paragraph 1 of article 5 of the OPCAT, 15 more members were selected following the registration of the 50th ratification in September 2009, bringing membership of the subcommittee up to 25. To ensure an orderly transfer of functions in line with established practices, the mandate of seven of the 15 new members – designated by drawing lots – was reduced to two years. Accordingly, the current makeup of the subcommittee is as follows.

The SPT has 25 members. 10 of them were selected on December 18, 2006 and the remaining 15 in 2009 following the registration of the 50th ratification

Name	Nationality	Mandate expires on
Ms. Mari AMOS	Estonia	31 December 2014
Mr. Mario Luis CORIOLANO, Vice-Chairperson	Argentina	31 December 2012
Mr. Arman DANIELYAN	Armenia	31 December 2014
Ms. Marija DEFINIS-GOJANOVIC	Croatia	31 December 2012
Mr. Malcolm EVANS, Chairperson	UK	31 December 2012
Mr. Emilio GINÉS SANTIDRIÁN	Spain	31 December 2014
Ms. Lowell Patria GODDARD	New Zealand	31 December 2012
Mr. Zdenek HAJEK, Vice-Chairperson	Czech Republic	31 December 2012
Ms. Suzanne JABBOUR, Vice-Chairperson	Lebanon	31 December 2012
Mr. Goran KLEMENCIC	Slovenia	31 December 2012
Mr. Paul LAM SHANG LEEN	Mauritius	31 December 2012
Mr. Zbigniew LASOCIK	Poland	31 December 2012
Mr. Petros MICHAELIDES	Cyprus	31 December 2014
Ms. Aisha Shujune MUHAMMAD, Vice-Chairperson	Maldives	31 December 2014
Mr. Olivier OBRECHT	France	31 December 2014
Mr. Hans Draminsky PETERSEN	Denmark	31 December 2014
Ms. María Margarida E. PRESSBURGER	Brazil	31 December 2012
Mr. Christian PROSS	Germany	31 December 2012
Mr. Víctor Manuel RODRIGUEZ-RESCIA	Costa Rica	31 December 2012
Ms. Judith SALGADO	Ecuador	31 December 2014
Mr. Miguel SARRE IGUÍNIZ	Mexico	31 December 2014
Ms. Aneta STANCHEVSKA	FYR Macedonia	31 December 2014
Mr. Wilder TAYLER SOUTO	Uruguay	31 December 2014
Mr. Felipe VILLAVICENCIO TERREROS	Peru	31 December 2014
Mr. Fortuné Gaétan ZONGO	Burkina Faso	31 December 2014

#### Table 16. Current membership of the SPT

Multi-disciplinary inspection visits §22-§33

**22.** Initially, NPM teams were made up of people with legal training, but with no expert knowledge in the fields of medicine, psychiatry or psychology. In this regard it should be recalled that under article 13.3 of the OPCAT team members "may be accompanied if needed by experts of demonstrated professional experience and knowledge in the field covered by the present Protocol ...". Article 7.2 of the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contains similar provisions.

**23.** To fulfil all the functions that international organisations expect of preventive mechanisms the Ombudsman of Spain, as announced in paragraph 22 of the Annual Report 2010, has entered into cooperation agreements with experts of proven experience and training to enlist their assistance and cooperation as independent experts accompanying NPM team members on recent visits. This helps to ensure a full, multi-disciplinary assessment of the centres and places of deprivation of liberty visited.

**24.** These experts trained in other areas first joined the Spanish NPM inspection visit teams in October 2011. Between that time and the end of the year nine multi-disciplinary inspection visits were made. The establishments visited were those listed below. Some of them had been visited previously but were deemed to have special characteristics that made it advisable to revisit them accompanied by the said experts.

- 2 National Police Force establishments in Madrid: the Central Registry of Detainees and the Provincial Information Brigade.
- 3 centres for young offenders in Castellón, Albacete and Almería.
- 1 psychiatric prison hospital in Alicante.
- 1 prison in Castellón.
- 1 women's prison in Seville.
- 1 incarcerated mothers unit in Seville.

**25.** The co-operation of these experts in forensic and legal medicine, psychiatry and psychology has enriched the reports of the NPM by providing analyses of conditions of deprivation of liberty and potential incorrect practices or risks of mistreatment based on their respective areas of professional expertise and experience. Some disciplines, such as psychiatry and psychology, provide specialist approaches to the conducting of individual interviews with persons deprived of their liberty and to assessing the results of those interviews, and especially important point in the case of mentally ill persons held in psychiatric hospitals, prisons, therapy centres for young offenders, etc. Other disciplines, such as forensic and legal medicine enable an exhaustive examination to be made of the medical records of persons deprived of their liberty, and of any injury reports contained therein.

**26.** To integrate the independent experts into the inspection visits, they are provided beforehand with all the documentation prepared on the establishments to

Initially the NPM team members on inspection visits comprised persons with legal training only

To ensure a full, multidisciplinary assessment, cooperation agreements have been entered into with independent experts

They joined in October, and nine visits were made between then and the end of the year

They assessed centres already visited that were deemed to have characteristics that made it advisable to revisit them

The help of specialists in forensic and legal medicine, psychiatry and psychology provided specialist approaches to NPM reports

Independent experts are provided with

<u>74.380</u>

documentation on the establishments to be visited

Expert collaborators are a free to conduct technical actions

Inspection visit reports include reports by independent experts as annexes

Visits were selected to take place over several days, to include non-working days and night-time visits

Places of long-term deprivation of liberty were chosen first, some of which had been visited before

The following centres for young offenders were visited: Albaidel in Albacete, El Molino in Almería, Pi Gros in Castelló/Castellón

Inspection visits were also made to the prison in Castelló/Castellón, the Women's Prison and be visited, thus enabling them to acquire sufficient prior knowledge. Specific objectives are also established for each inspection visit, i.e. specific points on which each expert is to focus, such as medical care, disciplinary regime, coercive methods, safety measures, etc.

**27.** During inspection visits, the multi-disciplinary team is led by a member of the NPM, who coordinates all the team members including the independent collaborators. Independent experts are nevertheless free to carry out such technical actions in their specialist fields as they may consider appropriate.

**28.** During the final phase, the NPM members must draw up a visit report, including the reports drawn up by the independent experts as independent annex is. These must be taken into consideration when drawing up the conclusions of each inspection visit. These reports are the sole responsibility of the experts in question.

**29.** Once a decision had been made to conduct multi-disciplinary visits to places of deprivation of liberty and appropriate independent experts had been selected and incorporated into the NPM team, the next step was to decide which establishments they should visit first. Like all other NPM inspections, the visits would be unannounced and would cover several days, including a nonworking day and not ruling out the possibility of night-time visits.

**30.** Places of long-term deprivation of liberty were chosen first in view of the repercussion of such deprivation of liberty on the physical and mental state of those held there. Some of the establishments visited had been inspected before, e.g. the centres for young offenders in Castellón, Albacete and Almería, the prison in Castelló/Castellón and the women's prison in Seville. For others this was the first visit, e.g. for the new incarcerated mothers' unit in Seville and the Fontcalent psychiatric prison hospital in Alicante (though the latter had been inspected on various occasions prior to the designation of the Ombudsman as NPM).

The visits to centres for young offenders took place as follows: the Albaidel centre in Albacete was submitted to a three-day inspection (including one nonworking day) by a team comprising three members of the NPM accompanied by a psychiatrist and a psychologist as independent experts. The El Molino centre in Almería also received a three-day visit from two members of the NPM accompanied by a child psychiatrist and a psychologist as independent experts; finally, the Pi Gros centre in Castellón received a two-day inspection visit from one member of the NPM unit accompanied by an adviser from the Security and Justice Area of the Office of the Ombudsman, a psychiatrist and two psychologists as independent experts.

The Fontcalent Psychiatric Prison Hospital (Alicante) received a four-day inspection visit (including two nonworking days) from a team comprising two members of the NPM, an advisor from the Security and Justice Area of the Office of the Ombudsman, two psychiatrists and a psychologist. There was a two-day visit to Castellón Prison by one member of the NPM, an advisor from the Security and Justice Area of the Office of the Ombudsman and a forensic medical practitioner as an independent expert. One-day visits were made to the Women's Prison and the Incarcerated Mothers' Unit in Seville by two NPM members and a forensic medical practitioner who is also a Professor of Legal Medicine.

**31.** Certain places of short-term deprivation of liberty run by the CNP were assigned second place on the list of priorities. In view of the particular characteristics of these establishments, inspection visits were made on nonworking days and at night. The establishments in question were the Provincial Information Brigade headquarters, which had not previously been inspected, and the Central Registry of Detainees, both in Madrid. They are located in a major police complex. Both visits were made in the early hours of a non-working day, by three NPM members and a psychiatrist acting as an independent expert.

**32.** These visits were intended to check whether any shortcomings detected on previous inspections had been put right, and to interview a representative number of persons deprived of liberty, to check medical files (types of medication & frequency with which they were administered), and to check any case records in which there were medical reports recording injuries suffered by persons deprived of their liberty; to check the case files on any incidents recorded, examine and check disciplinary records and sanctions imposed; to examine the complaints book at each establishment; to examine the visitors' book; to interview staff, etc.

**33.** Finally, mention should be made of an interesting initiative by the Council of Europe in appointing an Independent Medical Advisory Board (IMAP) under the framework of the European NPM Project. This is a board of medical experts with broad experience in visiting places of deprivation of liberty, whose remit is to advise NPMs on medical issues that may arise during their mandates, such as the right of detainees to healthcare, the psychiatric consequences of time in prison and the use of coercion measures. One of the independent experts who accompanied the Spanish NPM on inspection visits attended an international workshop organised by this project.

the Incarcerated Mothers' Unit in Seville and the Fontcalent Psychiatric Prison Hospital in Alicante

CNP-run places of short-term deprivation of liberty were visited in second place

The inspection visits focused mainly on interviewing persons deprived of liberty and assessing medical and disciplinary issues, among others

One of the independent experts attended an international workshop organised under the framework of the Council of Europe's IMAP initiative

# Situations of deprivation of liberty

I. Short-term deprivation of liberty §34-§73

**34.** As indicated in paragraph 34 of the Annual Report 2010, this section refers to inspection visits to places of short-term deprivation of liberty, i.e. those where maximum holding time is measured in days. No detailed analysis of the various organisations and police forces operating in Spain is given here, as such an analysis appeared in the 2010 report.

**35.** The information provided by the various police forces indicates that throughout Spanish territory over 425,000 detentions entailing persons being confined in holding areas were made in 2011, around 9% fewer than the previous year. All police and security forces were asked to provide data on complaints filed by detainees against staff for alleged mistreatment. If this information is found to contain noteworthy data concerning individual establishments, those data are considered as a major parameter in deciding which establishments should be visited in the future, for the sake of proper prevention.

The CNP made 275,737 arrests in 2011, though it was not possible to determine exactly how many detainees were confined in holding cells. 172,039 people were arrested for alleged criminal offences, 13,274 for misdemeanours and 90,424 for infringements of the Foreign Nationals Act [*Ley de extranjería*]. The table below breaks down these figures by regional autonomous communities, autonomous cities and provinces.

Maximum holding time is measured in days

In 2011 there were over 425,000 detentions entailing persons being confined in holding areas

The CNP made a total of 275,737 arrests

## Table 17. Arrests made by the CNP broken down by regions, autonomous cities and provinces

Regional Autonomous Community	Province	Nº of detainees
Andalusia		52,220
	Almería	5,394
	Cadiz	8,140
	Cordoba	2,448
	Granada	5,040
	Huelva	1,854
	Jaén	2,407
	Malaga	17,281
	Seville	9,656
Aragon		7,961
	Huesca	741
	Teruel	243
	Zaragoza	6,977
Principality of Asturias		5,207
Balearic Islands		6,650
Canary Islands		10,356

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Regional Autonomous Community	Province	Nº of detainees
	Las Palmas	5,821
	Santa Cruz de Tenerife	4,535
Cantabria		2,580
Castilla-La Mancha		9,294
	Albacete	2,951
	Ciudad Real	2,321
	Cuenca	506
	Guadalajara	833
	Toledo	2,683
Castilla y León		9,396
	Ávila	448
	Burgos	1,829
	León	1,761
	Palencia	867
	Salamanca	1,241
	Segovia	466
	Soria	279
	Valladolid	2,144
	Zamora	361
Catalonia		8,561
	Barcelona	6,452
	Girona	1,190
	Lleida	404
	Tarragona	515
Ceuta		6,599
Community of Valencia		35,424
	Alicante	14,382
	Castelló/Castellón	2,542
	València/Valencia	18,500
Extremadura		3,467
	Badajoz	2,504
	Cáceres	963
Galicia		7,819
	A Coruña	3,017
	Lugo	1,041
	Ourense	711

Regional Autonomous Community	Province	Nº of detainees
	Pontevedra	3,050
La Rioja		1,587
Community of Madrid		88,411
Melilla		5,591
Murcia		10,947
Navarre		1,266
Basque Country		2,401
	Araba/Álava	440
	Gipuzkoa	1,459
	Bizkaia	502
Sum total		275,737

*Source:* own work based on data provided by the DGP.

The DGP reports that in 2011 a total of 13 disciplinary proceedings were brought at administrative level for alleged wrongful practices, torture or mistreatment of persons deprived of liberty on the part of CNP personnel. Seven of those proceedings are currently suspended pending court rulings and the other six were shelved. The DGP also reports that in the last three years two officers have been reported twice each for alleged mistreatment of detainees. One of them, who was stationed at the Western Andalusia Police Headquarters, was suspended from duty for a maximum of three years. The second complaint against him is currently pending a court ruling. Legal proceedings against the second officer, stationed at the District Police Station in Castellón, were dismissed and the disciplinary proceedings were also closed. 61 complaints were filed in 2011 against officers stationed at the CNP establishments inspected that year, at least seven of which are currently pending court proceedings.

The Civil Guard (GC) made a total of 79,267 arrests entailing confinement in holding cells in 2011. The table below gives a breakdown by regional autonomous communities, autonomous cities and Civil Guard headquarters.

61 complaints were filed in 2011 against officers stationed at the establishments inspected that year. At least 7 are currently pending court proceedings

The GC made 79,267 arrests entailing confinement in cells

Autonomous Community	Headquarters	Nº of detainees held in cells
Andalusia		20,093
	Algeciras	1,392
	Almería	4,098
	Cadiz	2,294
	Cordoba	1,088
	Granada	2,952
	Huelva	1,846
	Jaén	1,409
	Malaga	2,267
	Seville	2,747
Aragon		1,947
	Huesca	538
	Teruel	209
	Zaragoza	1,200
Asturias		1,182
	Gijón	581
	Oviedo	601
Balearic Islands		4,363
Canary Islands		5,965
	Las Palmas de Gran Canaria	3,990
	Santa Cruz de Tenerife	1,975
Cantabria		1,212
Castilla-La Mancha		5,836
	Albacete	1,034
	Ciudad Real	1,399
	Cuenca	724
	Guadalajara	482
	Toledo	2,197
Castilla y León		3,364
	Ávila	337
	Burgos	487
	León	572
	Palencia	325

## Table 18. Arrests by the Civil Guard broken down by regional autonomouscommunities, autonomous cities and GC headquarters

Autonomous Community	Headquarters	Nº of detainees held in cells
	Salamanca	236
	Segovia	308
	Soria	195
	Valladolid	604
	Zamora	300
Catalonia		898
	Barcelona	474
	Girona	173
	Lleida	39
	Tarragona	212
Ceuta		1,336
Community of Valencia		14,894
	Alicante	7,730
	Castellón de la Plana	2,055
	Valencia	5,109
Extremadura		1,072
	Badajoz	515
	Cáceres	557
Galicia		4,504
	A Coruña	2,350
	Lugo	446
	Ourense	567
	Pontevedra	1,141
La Rioja		733
Community of Madrid		6,835
	Community of Madrid	6,804
	Information Division HQ	31
Melilla		584
Murcia		3,549
Navarre		760
Basque Country		140
· · · · · · · · · · · · · · · · · · ·	Araba/Álava	24
	Gipuzkoa	30
	Bizkaia	86
Sum total		79,267
		. ,,

*Source:* own work based on data provided by the DGGC.

The GC also escorted 229,678 transfers

Complaints for alleged wrongful practices or torture/mistreatment were filed at two of the GC establishments visited.

The Ertzaintza made 9,056 arrests entailing confinement in cells In 2011 the GC also handled 124,480 transfer operations between prisons or from prison to courtroom or healthcare facilities, escorting a total of 229,678 individuals.

Finally, the data compiled by the NPM reveal that in 2011 a total of 23 complaints were filed for wrongful practices or alleged torture or mistreatment of persons deprived of liberty by GC officers at official establishments or in transit. 22 of those complaints are at the investigative stage of proceedings and the other was closed without liability. 2 of the 23 complaints were filed against officers stationed at Civil Guard establishments visited in 2011: one against an officer stationed at the headquarters in Castellón, who was absolved in a firm court ruling, and the other against an officer at the post in Arguineguín (Las Palmas), which was dismissed without further action.

The Basque Autonomous Police (Ertzaintza) made a total of 9056 arrests entailing confinement in cells in 2011. The table below shows a breakdown by provinces ("historical territories") and stations.

Table 19.	Arrests by the Ertzaintza entailing confinement in cells, broken
	down by provinces and stations

Table 10 America by the Entreintee anteiling on Engranding calls by large

Province	Station	Nº of arrests
Araba/Álava		1,194
	Laudio	105
	La Guardia	52
	Vitoria-Gasteiz	1,037
Bizkaia		4,439
	Balmaseda	94
	Basauri	113
	Bilbao	2,101
	Durango	353
	Erandio	146
	Galdakao	120
	Gernika	292
	Getxo	203
	Muskiz	287
	Ondarroa	84
	Sestao	646
Gipuzkoa		3,253
	Azkoitia	111
	Beasain	213
	Bergara	168

Province	Station	Nº of arrests
	Donostia/San Sebastián	789
	Eibar	267
	Errenteria	385
	Hernani	495
	Irun	431
	Tolosa	131
	Zarautz	172
	Zumarraga	91
Other Units		170
	Traffic Unit	152
	Other Units	18
Sum total of arrests		9,056

Source: own work based on data provided by the Basque Govt. Dept. of the Interior

Finally, the Basque Government Department of the Interior reports that in 2011 no complaints for wrongful practices, torture or mistreatment of persons deprived of liberty were filed against officers of the Ertzaintza.

The data provided by the Dept. of the Interior of the Regional Government of Catalonia [Generalitat] concerning the Catalan Autonomous Police [Mossos d'Esquadra] refer to the number of persons confined at establishments of the force and at courthouses, plus arrests by local police that resulted in confinement in Mossos d'Esquadra establishments.

## Table 20. N° of persons confined in cells of the Mossos d'Esquadra and<br/>courthouses in 2011 by stations

Catalan Autonomous Police establishment	Nº of detainees
Central Policing Region	2,366
ABP Osonoa	567
ABP Anoia	606
ABP Bages	1,013
ABP Solsonès	37
ABP Berguedà	143
Girone Policing Region	5,918
ABP Gironès-Pla de l'Estany	1,723
ABP Alt Empordà-Figueres	1,006
ABP Alt Empordà-Roses	409
ABP Baix Empordà-La Bisbal	545
ABP Baix Empordà-Sant Feliu	331

No complaints for wrongful practices

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Catalan Autonomous Police establishment	Nº of detainees
ABP Garrotxa	193
ABP Ripollès	136
ABP Selva Litoral	1,102
ABP Selva Interior	473
Barcelona Metropolitan Policing Region	22,328
ABP Sant Martí	2,647
ABP Ciutat Vella	8,140
ABP Eixample	4,271
ABP Sants-Montjuïc	2,039
ABP Les Corts	804
ABP Sarrià-Sant Gervasi	846
ABP Gràcia	548
ABP Horta-Guinardó	826
ABP Nou Barris	1,068
ABP Sant Andreu	942
ABP Barcelona	197
Southern Metropolitan Policing Region	7,984
ABP Alt Penedès	575
ABP Martorell	790
ABP Gavà	907
ABP Sant Feliu de Llobregat	528
ABP Garraf	907
ABP L'Hospitalet de Llobregat	2,105
ABP del Prat de Llobregat	855
ABP Sant Boi de Llobregat	440
ABP Cornellà de Llobregat	651
ABP Esplugues de Llobregat	226
Northern Metropolitan Policing Region	11,815
ABP Arenys de Mar	833
ABP Mataró	928
ABP Premià de Mar	414
ABP Granollers	1,346
ABP Mollet del Vallès	503
ABP Badalona	2,089
ABP Cerdanyola	1,186
ABP Rubí	742

Catalan Autonomous Police establishment	Nº of detainees
ABP Sabadell	1,526
ABP Terrassa	1,364
ABP Santa Coloma de Gramenet	884
Pirineu Occidental Policing Region	371
ABP Alt Urgell	105
ABP Cerdanya	134
ABP Pallars Jussà-Pallars Sobirà	78
ABP Vall d'Aran-Alta Ribagorça	54
Ponent Policing Region	2,268
ABP Segrià-Garrigues-Pla d'Urgell	1,720
ABP Segarra-Urgell	364
ABP Noguera	184
Camp de Tarragona Policing Region	5,265
ABP Alt Camp-C. de Barberà	294
ABP Baix Camp-Priorat	1,502
ABP Baix Penedès	816
ABP Tarragonès	2,653
Terres de l'Ebre Policing Region	1,496
ABP Baix Ebre	951
ABP Terra Alta- Ribera d'Ebre	133
ABP Montsià	412
TOTAL	59,811

Source: own work based on data provided by the Dept. of the Interior of the Regional Govt. of Catalonia.

Finally, the Dept. of the Interior of the Regional Government of Catalonia reports that in 2011 a complaint was filed by the mother of a minor. This complaint was dismissed in a court ruling, though disciplinary proceedings are currently being processed through administrative channels.

The Regional Police Force of Navarre made a total of 1,416 arrests in 2011 entailing confinement in cells. The table below gives a station by station breakdown of these arrests. One complaint was filed but dismissed in a court ruling

The Navarre police made 1416 arrests entailing confinement in cells

Station	Nº of detainees
Alsasua	29
Elizondo	64
Estella	91
Pamplona	798
Sangüesa	15
Tafalla	129
Tudela	290
Total	1,416

## Table 21. Arrests by the Regional Police Force of Navarre entailing confinement in cells, broken down by stations

*Source:* own work based on data provided by the Dept. of the Presidency, Public Administration & the Interior of the Regional Govt. of Navarre.

Two complaints for wrongful practices or alleged torture, mistreatment or cruel

1 of the 2 complaints filed against officers of the Regional Police Force of Navarre is being investigated by the competent court

or inhuman treatment committed by officers of this force against persons deprived of liberty at police establishments or in transit were filed in 2011. The first was for defamation while a detainee was being processed at the Regional Police station in Tafalla, filed against two corporals serving in the Protection & Public Assistance Unit [*Grupo de Protección y Atención Ciudadana*] at the said station, one of whom was the leading officer in the process. This complaint was heard by the competent court and provisionally closed and dismissed, so no action was taken against the officers in question. The second was filed by a detainee after release, against a corporal and a constable attached to the Information Division [*División de Información*] and the officers in charge of preparing police reports on the grounds that the detention had been prolonged irregularly. The detainee also complained of having received inhuman treatment during the detention. The allegations affected 6 officers, all attached to the Detainee Custody & Transfer Unit [*Grupo de Custodia y Traslado de Detenidos*]. This complaint is currently being investigated by the competent court.

No arrests with confinement in cells were made by the General Police Force of the Canary Islands Finally, the Department of the Economy, Treasury and Security of the Regional Government of the Canary Islands reports that no arrests entailing confinement in cells were made at either of the two stations of the General Police Force of the Canary Islands in 2011.

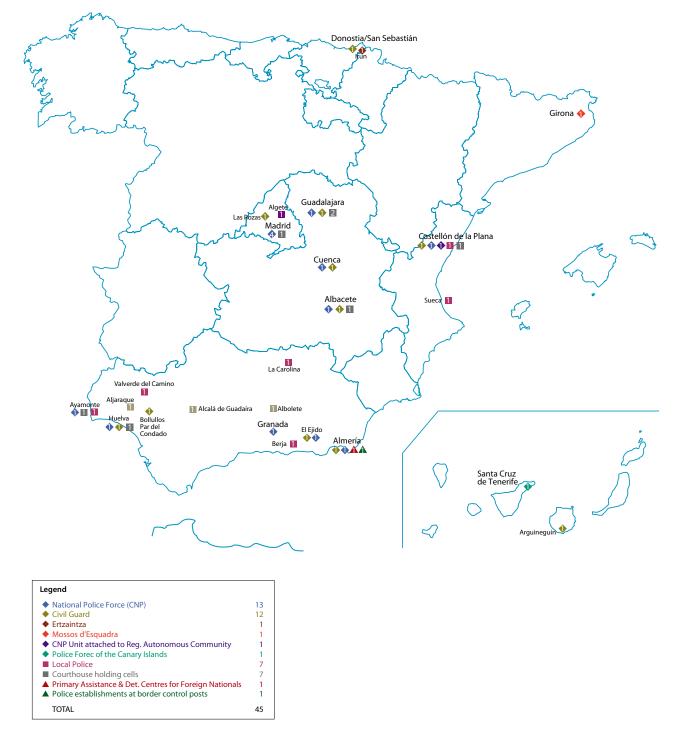
It is also reported that no complaints were filed for alleged torture, mistreatment, cruel or inhuman treatment or wrongful practices committed by CGPC officers against persons deprived of liberty at police establishments or in transit, so no internal investigations were carried out.

**36.** As can be seen from Tables 2-7, in 2011 personnel from the Office of the Ombudsman inspected 45 places of short-term deprivation of liberty. In year one the establishments visited were mainly those which had the greatest throughput of detainees, but in 2011 the focus was on those provinces not inspected the previous year, plus certain specific establishments already visited in 2010 to check that the changes requested following the first NPM inspection had been implemented.

Short-term deprivation of liberty

45 places of short-term deprivation of liberty were inspected in 2011





The conclusions of the Annual Report 2010 were followed up in 2011

The shortcomings in video surveillance pointed out in the 2010 report persist

The CNP and the GC have undertaken to install cameras in cells as funding becomes available

A recommendation was made regarding the need to install video-surveillance systems at places of shortterm deprivation of liberty. The Ombudsman does not consider this as an infringement of the privacy rights of detainees **37.** During the period covered by this report work was done with the competent authorities to monitor the general and specific conclusions recorded in the Annual Report 2010. The responses of the various authorities are recorded in the tables at the end of this section.

The conclusions reached following the inspection visits made to places of shortterm deprivation of liberty in 2011 are outlined below.

**38.** Most of the video surveillance systems observed at the establishments inspected in 2011 fail to meet the criteria indicated in paragraph 477 of the Annual Report 2010 as regards extending those systems to all establishments where persons deprived of liberty may be present, including the route to cells, with the exception of bathrooms, rooms for meetings with legal counsel, ministers of religion and family visits. It is considered that recordings should also incorporate audio.

Notwithstanding, both the CNP and the GC have made an undertaking to have cameras installed in the cells at their respective establishments as funding becomes available for that purpose. Evidence of this was observed on the visits made in 2011 to the Central District Station and the Central Registry of Detainees in Madrid, where it was observed that comprehensive video-surveillance equipment had been installed in the cell areas. Similarly, the DGP reports that new cameras have been installed at the Primary Assistance and Detention Centre for Foreign Nationals at the port of Almería.

On the inspection visit made in 2011 to the Girona police station of the Mossos d'Esquadra it was observed that (just as had been the case at the establishments of this force inspected in 2010) the system in place did not allow audio recordings to be made in all parts of the cell area. The Ombudsman again advised that such a system be incorporated. At Ertzaintza establishments video-surveillance does not cover the interior of the cells, as the Basque Government Dept. of the Interior holds that such measures would contravene the privacy rights of detainees. In this regard the Supreme Court has generally ruled that cells occupied by inmates at places of long-term deprivation of liberty are areas where occupants are entitled to privacy and that although inmates "... may be deprived of their liberty, that does not entirely override their right to personal and family privacy as guaranteed for all persons in general by Article 18 of the Constitution" (Supreme Court Ruling 7/04 FJ 1). For its part the Constitutional Court has asserted that one of the most painful of all the major constraints in terms of loss of liberty entailed by confinement and prison sentences for the privacy of those who suffer them is the reduction of their private space practically to the scope of their inner lives, while many situations commonly regarded as private and intimate are exposed to public scrutiny and even require authorisation. Such constraints - the special need to maintain areas of privacy unaffected by the sentence or the measures for its enforcement - must ipso facto be considered unlawful on grounds of breach of privacy and thus as degrading treatment when they go beyond the min-

imum required for orderly life in prison (Constitutional Court Rulings 89/1987 & 089/2006 FJ 2). However, these considerations concerning the limits of and respect for the right to privacy of inmates are based fundamentally on the long duration of the deprivation of liberty of those inmates and are not therefore comparable to short-stay detention in police and courthouse facilities. A recommendation has therefore been made that video-surveillance systems be installed in such establishments. Finally, during the inspection visits made in 2011 it was observed that the video-surveillance system at the district police station in Las Palmas de Gran Canaria (Las Palmas) and the Autonomous Police of the Canary Islands only covered the hallways of the cell area, and that the CNP station attached to the Regional Government of Valencia had no video-surveillance. The Department of Governance [Consejería de Gobernación] of the Regional Government of Valencia reports that it has taken note of the criterion applied by the Ombudsman, although the establishment in question is not being used to hold detainees. Similarly, shortcomings in video-surveillance were observed on inspection visits to local police establishments and courthouse holding cells and the organisations responsible for the establishments in question were informed accordingly. The Department of Governance and Justice [Consejería de Gobernación y Justicia] of the Regional Government of Andalusia reports that an estimate has been requested from a specialist firm with a view to determining whether it is affordable to install such systems at the courthouse in Ayamonte (province of Huelva) and the courthouse complex in Huelva city.

**39.** In most of the inspection visits made in 2011 it was observed that measures in regard to the activating of recordings, security protocols for access to them, the extracting of images that show any incidents involving persons deprived of liberty that may take place, the time for which recordings are kept, the informing of detainees that recordings are being made and the conducting of regular internal audits of video recordings were either non-existent or not fulfilled. The latter case was found at the establishments of the Ertzaintza and the Mossos d'Esquadra. For instance it was observed during the inspection visit to the GC headquarters in Donostia/San Sebastián (Gipuzkoa) that the recording system had to be manually activated and that there could be cases - as indeed occurred on the day of the inspection - in which due to omission or negligence recording did not commence at the time of entry of the detainee in the cells. In this regard the DGGC reports that a continuous recording system is now in place at this establishment, as per the requirements of the Ombudsman. The DGP reports that a continuous recording period of 15 days has been established and that recordings showing incidents involving persons deprived of liberty can be extracted. For its part the Office of the Secretary of State for Justice reports that video recorders have been installed in the courthouse in Guadalajara so that all the images captured by the cameras there can be stored. It is also reported that access to the recordings at this establishment is restricted in line with the criteria recommended by the Ombudsman.

Shortcomings were observed in the activation of recordings, the time for which images were kept and the access security protocols Monitor screens need to be installed in custody areas

New monitor at the CNP Central District station

in Madrid

**40.** The Office of the Ombudsman considers that, in order to permit custodial officers to react rapidly to any incident in the cells, screens for monitoring video-surveillance images should be modernised and that such screens should be installed in the custody areas, regardless of whether there are already screens in the access control area of the establishment, as indicated in paragraph 55 of the Annual Report 2010. On the inspection visit to the Central Registry of Detainees in Madrid in 2011 it was found that the said criteria had been followed and that 5 monitors covering the cameras in the cells had been installed in the area adjacent to the cell area.



photo



Obsolete monitor at the CNP Chamberí District station in Madrid

Inspection visits revealed a lack of audio call systems at some establishments **41.** On the inspection visits to the CNP headquarters in Granada, the Central Registry of Detainees in Madrid, the CNP district police station in Huelva, the CNP Centre for Primary Assistance and Detention of Foreign Nationals at the port of Almería, the local police stations in Berja (Almería), La Carolina (Jaén) and Sueca (Valencia), the courthouse complex in Ayamonte (Huelva) and the

courthouse complex in Castellón, it was found that there were no audio call systems, so communication between detainees and custodial officers was not assured. The CNP reports that in general it is studying the possibility of there being a buzzer in each cell that can be pressed by each detainee. The same response was obtained from the Department of Justice & Social Welfare [*Consejería de Justicia y Bienestar Social*] of the Regional Government of Valencia in regard to the courthouse complex in Castellón and from the Department of Governance and Justice of the Regional Government of Andalusia in regard to the courthouse in Ayamonte (Huelva).

42. At some establishments visited although there were video-surveillance systems in cells and/or buzzers for calling custodial staff there was not always anyone stationed in the holding area when the cells were occupied. This is a potential source of risk in situations where immediate assistance from staff is needed, as pointed out in paragraph 104 of the Annual Report 2010. This same shortcoming continued to be observed on the inspection visits made this year to the local police stations in Berja (Almería), La Carolina (Jaén) and Sueca (Valencia), and in GC establishments in general. At CNP establishments (where it was observed less frequently) this shortcoming was made known to the relevant authorities, which have subsequently reported that instructions have been issued to implement the criteria laid down by the Ombudsman. For its part, the Civil Guard authorities report that they do not have enough personnel in general to station an officer permanently in the cell area when there are detainees, and officers have numerous tasks to fulfil and must respond to continual calls from the public. However, it has been indicated that when video-surveillance and buzzer systems are considered insufficient the stationing of an officer in the cell area will be considered.

**43.** The documents examined and the interviews held with detainees reveal no cases of failure to observe the obligation to read detainees their rights as per Article 520 of the LECrim on the part of the officers at any of the establishments visited.

Specifically in regard to the provisions of the said Article 520 requiring detainees to be informed of the reasons for their arrest, one of the detainees at the Mossos d'Esquadra station in Girona reported that he had been informed that he had been detained in compliance with a court order, but had not been given a specific reason. Detainees at other establishments reported that they were aware of the reasons for their arrest ("for gender violence", "for larceny", "for being in Spain illegally") and made no complaints in this regard.

**44.** In regard to how quickly the various rights acknowledged in the said Article 520 are assured, with particular reference to the provision of legal counsel for detainees, the information provided by the officers in charge of the establishments inspected and the examination of the log books held there reveal that in the vast majority of establishments requests for legal counsel are met when a statement is to be taken from the detainee or, as relevant, when detainees are to

There should be officers stationed permanently in cell areas when videosurveillance and buzzer systems are insufficient

The obligation to read detainees their rights (Art. 520 LECrim) is seen to be met

Access to legal counsel in the period immediately following the commencement of deprivation of liberty is a basic right of detainees The interviews with detainees reveal a wide variety of situations. be subjected to a visual search. However, at the CNP district station in Almería, the GC headquarters in Huelva, the Mossos d'Esquadra station in Girona and the Ertzaintza station in Irun (Gipuzkoa) it was observed that requests for legal counsel were met immediately. This question was put to detainees interviewed, and the replies varied substantially. Detainees interviewed at the GC barracks in Bollullos Par del Condado (Huelva) stated that "the duty lawyer I requested appeared almost immediately" and in the barracks at El Ejido (Almería) that "the lawyer came quickly". Another detainee, who had been arrested at midnight, stated that he was not provided with legal counsel until the following morning. Detainees interviewed at the Central District National Police station in Madrid who had been arrested the previous afternoon stated that they had been read their rights but that a statement in the presence of legal counsel had not yet been taken from them. One of the detainees interviewed at the CNP Chamberí District station in Madrid reported that officers had questioned him prior to the taking of a formal statement, though they had informed him that he had the right to refuse to answer. He stated that he had been arrested at 7:25 and that a statement had been taken from him in the presence of a duty lawyer at 11:25 that same morning. In line with paragraph 468 of the Annual Report 2010, the criterion applied by the Ombudsman is that access to legal counsel in the period immediately following the commencement of deprivation of liberty is fundamental for the prevention of torture and mistreatment.

**45.** Paragraph 476 of the Annual Report 2010 indicated that information for detainees should be provided in terms understandable to persons not familiar with legal terminology. In this regard, it was observed that the use of synonyms such as "*letrado*" and "*abogado*" continues to be widespread on the forms that inform detainees of their rights, with the exception of the GC establishments in Almería and Albacete.

**46.** Some of the detainees interviewed at the Central Registry of Detainees in Madrid stated that their families had not been called from the police stations where they had originally been held, or that they themselves had not been informed of whether their families had been contacted, though they did not give the names of the specific establishments where they had originally been arrested. Some said that not knowing whether their families knew where they were had caused them great anxiety. One detainee stated "I asked them to call my mother but they didn't call her either, and the poor woman couldn't sleep and was worrying whether something had happened to me until my lawyer arrived and then they called her".

**47.** At almost all the establishments inspected the staff stated that they informed detainees verbally of their right to file for habeas corpus proceedings, as per SES Instruction 12/2007. However, with the exception of the CNP district stations in Castellón and Cuenca, this information was not given in writing to provide proof of its provision, as proposed in paragraph 476 of the Annual Report 2010 for all

Different terms ["letrado" and "abogado"] continue to be used on forms

Detainees at the Central Registry of Detainees in Madrid complained that their families had not been called

It was repeated that written information on habeas corpus proceedings should be provided

situations of deprivation of liberty. Therefore, at the end of the inspection visits made this year this point was put once again to the competent authorities. In this regard, the DGP reports that it is studying the possibility of introducing a new form that includes notice of this right. In some of the interviews with detainees it was learned that this information had not been provided or the right had been refused, e.g. in the case of a detainee at the Central Registry of Detainees in Madrid who stated that "at the police station [he did not say which one] they treated me badly at first. I asked for habeas corpus and they wouldn't let me write the application". One of the 5 detainees interviewed during the visit to the CNP district station in Almería also stated "I asked to file habeas corpus proceedings but they took no notice". This information was passed on to the custodial officers, who denied that the detainee had already made such a request and proceeded to process it forthwith. Finally, of all the CNP and GC establishments inspected in 2011 the following stand out: the CNP district station in Albacete, where 19 habeas corpus proceedings were filed in the course of the year, and the GC barracks in Arguineguín (Las Palmas), where there were 14. This right was little used at other establishments.

Also in regard to the rights of detainees, reminders were given that persons who arrive at the Spanish coast illegally by boat and are admitted to the CNP-run Centre for Primary Assistance and Detention of Foreign Nationals in the port of Almería or to the holding cells at the Provincial Police Station must be provided with the information leaflet on international protection. The DGP reports that these leaflets have been ordered in sufficient numbers to ensure that they can be handed over to all detainees, and that up to November 23, 2011 a total of 59 people attempting illegal entry by boat had been intercepted in Almería.

**48.** The situation as regards healthcare for detainees has not changed from that recorded in paragraphs 58 and 105 and elsewhere in the Annual Report 2010. Detainees are normally taken to see a doctor on request, as was observed during the inspection visit at the CNP district station in Huelva, when one of the detainees being interviewed asked for medical attention. The request was met immediately by the officers on duty in the holding cells. Another detainee, interviewed at the Regional Police headquarters for Andalusia in Granada, complained of stomach pains and stated that he had been seen by a doctor, who had diagnosed the problem as caused by the nervous state brought on by his arrest. Complaints were also received concerning medical attention, e.g. by a detainee at the Central District station in Madrid, who stated during the interview that he had asked to continue his methadone treatment but his request had been ignored. At the Central Registry of Detainees in Madrid two people complained in regard to this right: one stated that at the police station where he had been held (he did not identify it by name) he was at first not given medical attention: "I asked for a doctor but I had to wait until my lawyer arrived before I saw one". The other stated that force had been used on her arrest and that on being informed of her rights she had asked to be seen by a doctor, after which she was taken to a medical facilThe DGP is considering the possibility of introducing a new form in this regard.

Some interviewees stated that this information had not been provided or that the right had been denied

Reminders were given that an information leaflet on international protection must be handed over to persons who attempt to enter Spain illegally by boat

The situation as regards healthcare is identical to that reported in 2010.

Detainees normally receive medical attention on reauest ity and seen. She stated that at the same time one of the police officers also filed an injury report so that she could be accused of resisting authority: "When I was arrested I tried to get away because I was not guilty and the policeman did things to his own body so he could file a medical report. Was it to make me look more guilty? ... Some people take their authority too far, and what can we do about it? Nothing ... I went to the doctor but I never saw the report. I only have bruises and the policeman scratched and punched himself, and when the doctors saw him I had to leave the room".

No opinion is given here as to whether arrests by the CNP and GC in which force was used involved proportionate force or not, since this is up to the courts to decide. However it was learned at the establishments inspected in 2011 that some detainees had had to be taken to healthcare facilities for treatment following arrests in public places, prior to being taken to police establishments, as per the following tables.

Police HQs & District Stations	Nº of detainees*	Nº taken to hospitals*
Albacete	2,406	900
Almería	4,163	928
Ayamonte (Huelva)	186	0
Castellón de la Plana	2,064	**
Cuenca	506	91
El Ejido (Almería)	1,231	370
Granada	2,824	50
Guadalajara	833	47
Huelva	1,668	42
Madrid, Information Brigade	**	**
Madrid, Central District	7,028	**
Madrid, Chamberí District	1,180	**
Madrid, Central Registry of Detainees	**	**

## Table 22. Detainees taken to healthcare facilities prior to their admissionto police establishments

Source: own work based on data provided by the DGP.

\* The DGP reports that the data provided are approximations, as there is no specific statistic for this issue.

\*\* No data provided.

HQ or Barracks	Nº of detainees	Nº taken to hospitals
Albacete	233	78
Aljaraque (Huelva)	121	8
Almería	1,135	115
Arguineguín (Las Palmas)	352	75
Bollullos Par del Condado (Huelva)	198	0
Castellón de la Plana	830	275
Cuenca	77	48
El Ejido (Almería)	572	2
Guadalajara	361	37
Huelva	120	0
Intxaurrondo (Gipuzkoa)	33	6
Las Rozas (Madrid)	479	48

## Table 23. Detainees taken to healthcare facilities by the GC prior to theiradmission to police establishments

Source: own work based on data provided by the DGGC.

**49.** In paragraphs 58 & 105 and elsewhere in the Annual Report 2010 it was indicated that the various police forces needed to set up a general protocol for action in case signs of potentially contagious diseases were detected and specific guidelines for dealing with pregnant detainees. On the inspection visits made in 2011 the Ombudsman asked again about this matter and found that in most establishments there were still no such protocols in place. However the CNP reports that a draft document has recently been completed under the title "Protocol for police action in dealing with pregnant detainees" [*Protocolo de actuación policial para el tratamiento de mujeres detenidas en estado de gestación*], and that a working group is shortly to be set up to distribute the document to a number of units whose police work is directly linked to the guarding of detainees, for suggestions and comments to be made.

**50.** On the inspection visits made it was observed that most establishments were adequately equipped with prophylactic measures for dealing with cases of infectious/contagious diseases, though their provision had to be requested in some cases, e.g. the CNP district station in Cuenca, the local police station in La Carolina (Jaén) and the courthouse complexes in Albacete and Ayamonte (Huelva). The DGP and the Dept. of Governance and Justice of the Regional Government of Andalusia report that they will proceed to acquire such measures.

**51.** Most of the detainees interviewed during inspection visits stated that they had been properly treated by custodial officers. One interviewee at the Central District police station in Madrid complained of the treatment received at another station: "They've treated me properly, here, much better than in the station at

There is still no general protocol for action in case of potentially contagious diseases

The CNP has drawn up a draft protocol for dealing with pregnant detainees

Most of the establishments visited were equipped with prophylactic measures

Most detainees interviewed stated that they had been properly treated by custodial officers, though various opinions were expressed

Three detainees at the Central Registry of Detainees in Madrid claimed to have been mistreated at the stations from which they had been transferred. None of them provided an injury report or evidence of having called for medical attention

Procedure for Action 26433 at the GC HQ in Almería is highlighted as a good practice

The objects on display in the room at the Provincial Information Brigade establishment in Madrid were detainees are initially processed may be taken as intimidatory Aluche". Other detainees at various establishments also said that they had been properly treated: "They've treated me right. I think the way they treat you depends on how you treat them. If you show respect they usually do the same"; "I've been treated very well ... everything is fine"; "the officers have treated me very correctly". However other detainees complained at the treatment received: "Some of them ought to be given psychological tests"; "arrogant, cocky, rude ... the way the guards treat you leaves a lot to be desired, because we're not all bad people, we're not dogs"; "arrogant and stroppy"; "yes, stroppy in their attitudes"; "humiliating treatment"; "Very poor treatment. Threatening, shouting ..."; "Treated as if we were rats". Some detainees also referred to how other detainees were treated and complained of poor treatment of foreigners and people with drug addiction problems: "Yes, there was an Arab who was badly treated"; "They don't treat everyone alike, especially if you're poor or an addict"; "they discriminate against drug addicts"; "Not everyone gets the same treatment: it depends on the officer and on the addict".

Finally at the interviews held at the Central Registry of Detainees in Madrid three people claimed to have suffered mistreatment at the district police stations from which they had been transferred. In two cases this was the Carabanchel district station in Madrid. One stated as follows: "at the police station in Carabanchel they mistreat you, they don't feed you. They hit me and I had nothing to eat for 25 hours". Both interviewees reported that they had been shackled to a wall for around 12 hours at the said station, and had suffered blows and mistreatment of various types. One of them was examined by a medical professional who was with the inspection visit team from the office of the Ombudsman, and was found to have scratches and an erythematous rash of recent origin on the ankles. This rash was visible to the naked eye but its origin was very difficult to determine. The third interviewee failed to identify the station at which the mistreatment had taken place, and referred to injury reports as follows: "the medical treatment is OK but you can see that they're under pressure or afraid ... you only get an injury report from time to time. And the police hold on to the report". However none of these persons provided an injury report or referred to having called for medical treatment.

In terms of the treatment of detainees, the safety, security and action procedure for holding areas in place at the GC headquarters in Almería is worth highlighting. It is known as "Procedure for Action n° 26433", and is available for consultation by personnel on custodial duty.

On the inspection visit to the Provincial Information Brigade establishment in Madrid it was observed that in the meeting room usually used to hold detainees for initial processing and for reading them their rights there were two display cabinets containing items confiscated in the course of the Brigade's operations, such as Molotov cocktails, explosive devices with timers, balaclavas and throwing stars thrown during demonstrations. In this regard, the Ombudsman has informed the Ministry of the Interior that the said objects in the cabinets in the meeting room could be considered as intimidatory or threatening to detainees being processed there. The DGP reports that measures have been taken to correct this shortcoming.

**52.** It is still frequent to find officers at the establishments visited (mainly those of the CNP and the GC) without proper identification, in contravention of SES Instruction 13/2007 concerning the use of personal identification numbers on the uniforms of members of the state police and security forces, and the criteria indicated in paragraphs 66 and 113 and elsewhere in the Annual Report 2010. Both forces have been urged to monitor compliance with these regulations and with the recommendations of the Ombudsman and, in the case of the CNP, to bring disciplinary proceedings as relevant. Given that the DGP has not yet taken the measures needed to change the typeface on ID badges to make them more readable and to enable badges to be attached to uniforms as indicated in paragraph 66 of the Annual Report 2010, this shortcoming should be corrected immediately.

**53.** Widely differing criteria continue to be applied concerning whether or not firearms are carried in holding cell areas, especially in the establishments of CNP and the GC but also in some local police stations visited, such as Berja (Almería), La Carolina (Jaén) and Valverde del Camino (Huelva). In paragraph 65 and elsewhere in the Annual Report 2010 it was recommended that instructions be given to unify criteria, since it was considered that for the sake of the safety of detainees and officers alike no one should enter holding areas while carrying a gun, but no such instructions have been issued. Thus, during the inspection visits made in 2001 this same shortcoming was again observed. With the exception of the Las Rozas barracks (Madrid), where specific instructions have been issued to enforce the criteria expressed by the ombudsman, the GC has stated that "in many barracks the holding cells are within or attached to other police facilities and the only architectural possibility of separating them is via a corridor or the cell door itself. This makes it operationally impossible for officers on duty to take off their regulation firearms". The Ombudsman considers this assertion to be unacceptable, since there is nothing to prevent gun cabinets from being located at the entrances to holding areas, where guns can be deposited while their wearers are in contact with detainees. Indeed, this is common practice at the establishments of the Mossos d'Esquadra, as explained in paragraph 168 of the Annual Report 2010.

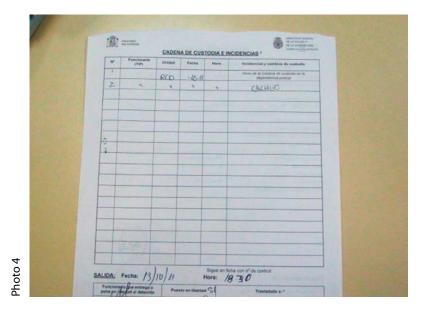
The CNP and GC have been urged to see that officers are properly identified and to take measures to ensure that ID badges are properly readable

It was observed, especially in the establishments of the CNP and GC, that the recommendations of the Ombudsman advising that officers in holding areas should not carry guns have not been enforced Gun cabinet at the Mossos d'Esquadra station

in Girona



As in 2010, it was found that the Detainee Registration and Custody Log was not being properly kept up at CNP and GC establishments 54. It was again found that the Detainee Registration and Custody Log was not being properly filled in at the establishments of the CNP and the GC, so a written notification was sent to the heads of both forces requesting that a reminder be issued of the obligation to comply with SES Instruction 12/2009, which establishes that the said log must be used to note down all incidents in regard to detainees, along with any significant incidents as noted in paragraphs 71 and 116 and elsewhere in the Annual Report 2010. At the presentation of the said report the SPT specifically mentioned completion of this log as a good practice. On the second inspection visit to the Central Registry of Detainees in Madrid it was observed that the shortcomings recorded in 2010 in regard to completion of the Detainee Registration and Custody Log had not been corrected. The log was seen to be completed in a perfunctory manner with little relation to actual events, and custody data were not being filled in diligently and correctly. This may give rise to the undesirable situation of all the steps in the chain of custody of each detainee not being known. Given the large throughput of detainees at the Central Register of Detainees (an average of between 50 and 100 per day) it would be advisable for the said log to be computerised. A similar failure to keep up the custody log properly was observed on the inspection visit to the GC barracks in Bollullos Par del Condado (Huelva). When a detainee was asked questions concerning the conditions under which he was being held, data were obtained that should have been recorded in the custody log but had not been.





Exceptionally in regard to these two forces, logs were found to be properly completed on the inspection visits made to the CNP district station in Almería and the GC headquarters in Cuenca. At the latter establishment the custody files on detainees admitted directly and those on detainees transferred from other GC establishments in the province were all found to be properly completed, and to include records of all incidents of any kind during custody. Failure to keep logs properly was also observed at the local police station in Algete (Madrid), and was duly reported to those in charge for correction. At the time of writing of this report, their reply is still pending. Finally, it is considered advisable that a photocopy of the file showing the chain of custody be made whenever persons detained by the GC are held at local police establishments, so that any incidents during the custody and transfer of those detainees can be recorded.

Similar failings were observed to be widespread as regards the logs required under SES Instruction 7/2005. A case in point is the Central Registry of Detainees in Madrid, where the telephone message log was examined and found to record only around 10 calls per month, an unlikely figure for an establishment that handles so many calls and arrangements. Several cases were also found of telephone messages detailing care provided for detainees by SAMUR when the Detainee Registration and Custody Log contained no record of such care.

Moreover, it has been observed that no log of any kind is kept of how many people are admitted each day to the holding cells in courthouses to await appearances in court. The Ombudsman considers that all courthouses with cells should have a register where they log all the detainees who come through the establishment under the auspices of a judicial body, and that it should be obligatory for that log to be kept up by the officers of the various police and security forces who transfer persons deprived of their liberty to the said establishments. Exceptionally, logs were found to be properly kept at the CNP district station in Almería and the GC HQ in Cuenca

A log must be kept of all detainees and inmates who come through courthouse holding cells each day **55.** On the inspection visits made, detainees were asked about the searches to which they had been subjected. In general, they had no complaints in this regard. For example a female detainee reported that the search at the Central District police station in Madrid had been correctly conducted by a female officer in the toilet area of the cell. However on other visits it was observed once again that full body searches were not always logged in the Detainee Registration and Custody Log with specific details of the reasons for such searches and confirmation that the judicial authorities had been informed as part of the procedural case file, as per the criteria set out in paragraphs 66 and 114 and elsewhere in the Annual Report 2010. One detainee at the CNP Chamberí District police station stated that he had been subjected to a superficial search "but then they told me to drop my trousers and crouch down". In this regard the CNP reports that instructions have been issued to district stations and regional police headquarters for this shortcoming observed during the inspection of its establishments to be corrected.

56. As indicated in paragraphs 46, 95 and 466, among others, of the Annual Report 2010, taking detainees to the cells via the main door of an establishment, via common areas used for services to the general public, has implications from the point of view of both security and the exposure to view of detainees, who although they have been deprived of their liberty still maintain their fundamental rights to their honour and their image. In 2011 this shortcoming was observed at several Civil Guard establishments and at the courthouses in Albacete, Ayamonte (province of Huelva) and the city of Huelva itself. The GC report that this criterion has been taken into account in newly constructed establishments, but that reforming all their facilities is financially unviable, given that the force has 571 facilities with holding cells and it would cost a great deal of money to implement such reforms. However, on the inspection visit to the barracks at Arguineguín (Las Palmas) it was observed that following the criterion expressed by the Ombudsman on the first visit to the establishment new cells had been built which were accessible directly from the outside. The Department of Governance and Justice of the Regional Government of Andalusia reports that it is looking into the possibility of correcting this shortcoming at the courthouse buildings in Ayamonte (Huelva) and the courthouse complex in Huelva city. The DGP reports that instructions have been issued to officers stationed at the courthouse complex in Albacete to ensure that detainees are taken into the building via the garage rather than the main entrance.

In general the detainees interviewed did not complain about the searches conducted

It was again observed that Detainee Registration and Custody Logs failed to record full body searches conducted

Detainees should not be taken to the cells via the main door of the establishment

The GC report that the criterion set out by the Ombudsman has been taken into account in newly built facilities

57. Multiple shortcomings continued to be observed in terms of the conservation and upkeep of cells. Cases in point include the CNP stations in the Central District of Madrid and at the port of Almería, the GC barracks in Aljaraque (Huelva), the local police station in Berja (Almería) and the courthouse complex in Ayamonte (Huelva). The Department of Governance and Justice reports that repairs have been made at this last establishment. At the CNP station at the port of Almería dangerous wiring was observed in the rooms where the video monitors were set up. The DGP reports that this has been repaired, and that the shortcomings noted in the cells are also to be corrected.

were again observed in the conservation and upkeep of cells

Direct access to cells at the Arguineguín barracks (Las Palmas)

Multiple shortcomings

Damp patches in a cell at the CNP Central District police station in Madrid

Short-term deprivation of liberty







. ....

A cell in poor condition at the courthouse in Ayamonte (Huelva)

Toilets located inside cells are not acceptable because of the lack of privacy entailed **58.** Paragraph 241 of the Annual Report 2010 gave clear criteria regarding toilets located inside cells. It was acknowledged that they make it easier to handle detainees, who do not have to be escorted out every time that they need to use the toilet, but they are unacceptable in terms of the lack of privacy entailed and the resulting unpleasant odours for other detainees. This same shortcoming was detected again on the inspection visit this year to the Police Force of the Canary Islands, where it was reported to those in charge. The office of the Secretary of State for Justice reports that the toilets in the multi-person cells at the courthouse in Albacete are to be closed, pursuant to the recommendation made following the inspection of the said establishment.



Interviews revealed different opinions on whether detainees had any problems in being taken to the toilet **59.** Different opinions were obtained when detainees interviewed were asked whether they had any problems in getting taken to the toilet. Some stated that they had been taken without delay (at the CNP district stations in Castelló/Castellón and the Central District in Madrid, at the GC headquarters in Albacete and the GC barracks in El Ejido (province of Almería)), but others complained of

Toilet in a cell at the Canary Islands Regional Autonomous Police station in Tenerife

<sup>2</sup>hoto 8

long delays in getting someone to escort them to the toilet. For example during the inspection visit to the Central District police station in Madrid one of the detainees stated "it took them ages to take me to the bathroom". At an interview in the Mossos d'Esquadra station in Girona a detainee stated "it took 20 minutes for them to take me to the bathroom, in spite of my calling the officers".

**60.** Most of the places of deprivation of liberty visited had sufficient cells to cater for the number of detainees held there, and were compliant with the separation criteria envisaged in Article 521 of the LECrim. However, a detainee held at the Central District police station in Madrid stated that he was being held "in a cell with five more detainees, and there is not much room". At the Central Registry of Detainees in Madrid it was found that although the establishment had sufficient cells all the detainees were held together in just a few of them. This overcrowding must be avoided by reducing the number of detainees permitted per cell, as recommended in paragraph 50 of the Annual Report 2010. This would also prevent other detainees from being disturbed in excess when one person needs to be removed from the cell, e.g. to visit the bathroom. It was observed that persons detained for criminal offences were not kept separate from those detained for infringement of the Foreign Nationals Act [Ley de extranjería]. The Ombudsman feels that when both types of detainee are held in the same place of deprivation of liberty measures should be taken to ensure that they are held in separate cells.



In general the ratio of detainees per cell is satisfactory, enabling the separation criteria envisaged in Article 521 of the LECrim to be met

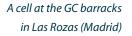
Video-surveillance monitor showing a cell at the Central Registry of Detainees in Madrid

**61.** Shortcomings in regard to the size of cells were observed at the GC headquarters in Albacete, the CNP station attached to the Regional Government of Valencia, the GC barracks in las Rozas and the local police station in Castelló/ Castellón. The GC report that the cells in the said headquarters building are no longer in use, as new cells have been built, and the CNP reported during the visit that the cells at the said station had in fact never been used. At the Las Rozas barracks the double cells measure 4,24 m2 and the individual cells 3.54 m2. It is re-

Shortcomings were observed in regard to the size of cells ported that it is not possible to renovate them, so the cells at this establishment should be closed.



Photo 10



CNP station attached to the Regional Government

of Valencia

in Castelló/Castellón



At some of the establishments inspected, bars and sheet metal continued to be found on the cell doors that could be a danger to the physical well-being of detainees **62.** Shortcomings that could affect the physical well-being of detainees were again observed. Specifically, cell doors with vertical and horizontal bars and sheet metal doors with barred openings were found in the cells at the CNP district police station in Ayamonte (Huelva), the Canary Islands Police Force station in Santa Cruz de Tenerife, the local police stations in La Carolina (Jaén) and Valverde del Camino (Huelva) and the courthouses in Ayamonte (Huelva) and the city of Huelva. At the Primary Assistance and Detention Centre for Foreign

Nationals at the port of Almería it was observed that the communal cells had metal mesh ceilings, and at the two cells in the local police station in Valverde del Camino (Huelva) the inside windows were also fitted with bars. It was therefore requested that they be replaced in line with the criteria set out in paragraphs 47 and 208 and elsewhere in the Annual Report 2010, on the grounds that they are dangerous and could be used by detainees to injure themselves or attempt suicide. The DGP reports that the shortcoming observed at the district police station in Ayamonte (Huelva) is to be corrected, and accepts the recommendation of the Ombudsman concerning the Primary Attention and Detention Centre for Foreign Nationals at the port of Almería, though implementation of the changes requested is conditional on the availability of funding. The Department of Governance and Justice of the Regional Government of Andalusia reports that the possibility of changing the cell doors at the courthouse buildings in Huelva and Ayamonte (province of Huelva) to prevent detainees from injuring themselves is being considered.



Bars on the door of a cell at the local police station in La Carolina (Jaén)

Photo 12



Bars on the door of a cell at the local police station in Valverde del Camino (Huelva)

<sup>2</sup>hoto 13



Metal mesh ceilings at the CNP-run Primary Assistance and Detention Centre for Foreign Nationals in Almería

Photo 14

Shortcomings in building structures were observed that could hinder the urgent evacuation of the GC barracks in El Ejido (Almería) and the GC headquarters in Cuenca Another shortcoming that could affect the safety of both detainees and custodial officers was observed at the GC barracks in El Ejido (Almería): a narrow spiral staircase down which detainees must be taken to reach the cells in the basement. The area has an outside door that is never used. Instead detainees are always escorted through the main entrance to the barracks. The DGGC has reported that structural renovation work and the elimination of this staircase are being considered. Similarly, in the GC headquarters in Cuenca the corridor where the cells are located is so narrow that when cell doors are opened they touch the opposite wall. This is considered unsuitable for emergencies or urgent evacuation, in line with the criteria indicated in paragraphs 96 and 103 and elsewhere in the Annual Re-

port 2010. The DGGC reports that to correct this situation the entire cell area would need to be restructured, but that this possibility will be considered in the coming years.



Staircase leading to the cells in the GC barracks in El Ejido (Almería)

Photo 15



Corridor in the cell area in the GC HQ in Cuenca

Finally, the construction of new cells at the GC headquarters in Albacete must receive a particularly favourable mention. The cell door locking and unlocking

The new cells in the GC HQ in Albacete are especially good

system fitted considerably improves the security of the area, as custodial officers no longer need to come into contact with detainees to escort them to the toilets.

**63.** Following the inspection visits made this year requests had to be submitted for the implementation of an evacuation plan in case of fire in the cell areas at the CNP district station and the GC barracks in El Ejido (Almería), and for the provision of sufficient fire detection and extinguishing systems at the Regional Police headquarters in Granada, the GC headquarters in Castellón, the GC barracks in Las Rozas (Madrid) and the local police stations in Berja (Almería), La Carolina (Jaén), Sueca (Valencia) and Valverde del Camino (Huelva), in line with the criteria established in paragraphs 65 and 103 and elsewhere in the Annual Report 2010. The DGP reports that measures will be taken to correct the shortcomings detected at the district police station in El Ejido (Almería) and that those observed at the Regional Police headquarters in Granada have already been corrected. Similarly, the DGGC has ordered the preparation of an evacuation plan for the cell area in El Ejido and reports that extinguishers are to be installed in the headquarters in Castellón and the barracks in Las Rozas (Madrid).

**64.** Shortcomings continued to be observed in lighting conditions in some of the cells at the establishments inspected. As pointed out in paragraph 51 and elsewhere in the Annual Report 2010, this means subjecting detainees to an unnecessary inconvenience. Such shortcomings were observed in the CNP district station in Guadalajara, the GC barracks in El Ejido (Almería) and the courthouse complex in Albacete. The relevant authorities report in all cases that lighting conditions will be assessed and corrected if necessary. On the other hand the lighting in some of the cells at the CNP district station in Huelva, the GC headquarters in Cuenca, the Ertzaintza station in Irun (Gipuzkoa) and the local police station in Valverde del Camino (Huelva) can be classed as excellent: they have windows that give onto the exterior and let natural daylight into the cells. This last station has a dimmer system for adjusting the brightness of the artificial light in the cells, which is also considered a good practice.

The DGP and the DGGC report that the shortcomings detected in the establishments visited in terms of fire-fighting equipment in cell areas are to be corrected

Lighting in the cells inspected varied considerably. The best conditions were those at the Ertzaintza station in Irun (Gipuzkoa) and the local police station in Valverde del Camino (Huelva)





Natural daylight in the cells at the local police station in Valverde del Camino (Huelva)

Natural daylight in the cells at the GC HQ in Cuenca

Photo 18

**65.** Temperature conditions at some of the establishments inspected were found to be unsuitable. Accordingly, in line with the criteria set out in paragraphs 53 and 100 and elsewhere in the Annual Report 2010, a request for improvements was filed. Cases in point include the CNP district stations in Almería (where

The temperature at some of the establishments visited was unsuitable. However the climate control

at the CNP district station in Huelva stands out positively there was no glass in the windows of some cells), Ayamonte (Huelva) and El Ejido (Almería), the GC headquarters in Castelló/Castellón, the GC barracks in Aljaraque (Huelva) and El Ejido (Almería), the local police stations in Algete (Madrid), Berja (Almería) and Valverde del Camino (Huelva) and the courthouse in Ayamonte (Huelva). It is reported that since the inspection by the NPM temperature conditions at the GC headquarters in Castellón and the barracks in El Ejido (Almería) have been improved, and that at the barracks in Aljaraque (Huelva) installation of a heat pump is pending authorisation of funding. The DGP reports that renovation work is to be carried out at the CNP establishments in question to solve the shortcomings observed. On the other hand, the presence of an individual climate control system with a separate programmer for controlling each cell at the CNP district station in Huelva stands out positively. The Department of Governance and Justice of the Regional Government of Andalusia reports that temperature readings are to be taken at the courthouse in Ayamonte (Huelva) and measures to correct any shortcomings found will be taken accordingly.



Heating controls in the cells of the CNP district station in Huelva

Problems of ventilation and unpleasant smells were detected **66.** Problems concerned with ventilation and unpleasant odours were detected at the GC barracks in El Ejido (Almería) and Las Rozas (Madrid), the local police station in Sueca and the courthouse complex in Huelva. It is reported that the ventilation at the barracks in El Ejido (Almería) has been improved by installing a heat pump. In regard to the courthouse complex in Huelva, the Department of Governance and Justice of the Regional Government of Andalusia has reported that a malfunctioning extractor fan is to be repaired. Some of the detainees interviewed at the Central Registry of Detainees in Madrid were asked about the ventilation in the cells at the district police stations in Madrid where they had been held. In general their opinion was that it was poor: "… there is no ventilation, it smells awful", "bad smells in the cells". Finally, unpleasant odours were also detected in the changing rooms used by the officers stationed at the CNP district station in the port of Almería. The DGP reports that this problem will be corrected.

<sup>2</sup>hoto 20

**67.** In general the standard of cleanliness at the establishments inspected in 2001 was satisfactory, but improvements had to be requested in some cases, e.g. at the Primary Assistance in Detention Centre for Foreign Nationals run by the CNP in the port of Almería, the CNP district station in Cuenca, the GC head-quarters in Cuenca, the GC barracks in Aljaraque (Huelva), Bollullos Par del Condado (Huelva), El Ejido (Almería) and Las Rozas (Madrid) and the local police station in Valverde del Camino (Huelva). The DGGC reports that measures have been taken to reinforce cleaning services at all GC establishments. Some of the detainees interviewed also complained at the lack of hygiene in some establishments. The DGP reports that orders have been given for the CNP-run Primary Assistance and Detention Centre from Foreign Nationals in the port of Almería to be cleaned as soon as the persons detained there have left.



Some improvements had to be requested in standards of cleanliness at some of the establishments visited. The DGGC reports that measures have been taken to reinforce cleaning services

State of the toilets during the inspection visit to the CNP-run Primary Assistance and Detention Centre for Foreign Nationals in the port of Almería

79





Dirty conditions in the cells at the GC barracks in El Ejido (Almería)

> **68.** Requests had to be issued for a bare minimum of toiletries to be provided to detainees in the cells at the GC barracks in Aljaraque (Huelva), at the local police stations in Algete (Madrid) and Valverde del Camino (Huelva) and at the courthouse complexes in Ayamonte (Huelva) and the city of Huelva itself. In this regard the DGCC reports that toiletries are stocked at all its establishments and provided on request from detainees. In the Central Registry of Detainees in Madrid detainees have no opportunity to clean themselves up even minimally before they appear before the judge, as they are not provided with toiletries of any kind on admission to the cells, there is no soap in the bathrooms and no hot water: on the day of the inspection the electric water heater was disconnected, though no good reason was given for this. It would also be advisable for basic items of clothing to be available for persons who are admitted with their clothes torn or stained with blood, etc. to wear when they are not awaiting identity parades or other processes in which their appearance is relevant, as is done at the Ertzaintza station in Irun (Gipuzkoa). Finally, it must be noted that the Department of Governance and Justice of the Regional Government of Andalusia reports that orders have been given for toiletries to be provided in the courthouse in Ayamonte (Huelva) and the courthouse complex in the city of Huelva.

At some of the establishments visited it was requested that a bare minimum of toiletries be provided

It would be advisable for basic items of clothing to be available to detainees who are admitted to the cells with their clothes in poor condition, as is done at the Ertzaintza station in Irun (Gipuzkoa)



Clothing for the use of detainees at the Ertzaintza station in Irun (Gipuzkoa)

<sup>5</sup>hoto 22

69. Differences in criteria were once again observed in who was considered responsible for feeding detainees or inmates held at courthouses under instructions from courts. In general, police detainees and prison inmates are given breakfast at the establishments where they spend the night, but when statements are taken by judges in the afternoon or evening there are no facilities for providing food. This shortcoming was pointed out in paragraph 239 of the Annual Report 2010, but it proved necessary to lodge a further request for a solution at the Provincial Appeal Court of Guadalajara, the courthouse complex in Castellón de la Plana and the courthouses of Ayamonte, Huelva and Albacete. The Office of the Secretary of State for Justice reports that the normal procedure at the courthouses in Albacete and Guadalajara is for the Regional Justice Authority of Castilla-La Mancha to pay for meals and for the food actually to be provided by the police and security forces. Other bodies with authority in this matter, e.g. the Department of Governance and Justice of the Regional Government of Andalusia, consider that it should be the police forces guarding the detainees or the SGIP that supply any food required if detainees or inmates must be held in cells in the evening as indicated above. The Office of the Ombudsman does not consider this to be appropriate, and recommends that the various authorities responsible for the matter should change their criteria.

Different criteria are applied in regard to who is responsible for feeding detainees and prison inmates held at courthouses



Packaged food for detainees at the CNP district station in Chamberí, Madrid

It was also observed that food was being provided by third parties, in contravention of the criteria laid down by this office

From the interviews held with detainees it is concluded that in general there are no complaints about the food provided

Requests were filed that beds be provided in those cases where cells were found not to contain any It was also observed at some of the establishments inspected that food for detainees continued to be provided by third parties, in contravention of the recommendations in paragraphs 59 and 106 and elsewhere in the Annual Report 2010, based on the food safety problems that this could entail. This situation was detected at the CNP district stations in Albacete, Almería, El Ejido (Almería) and Huelva, the GC headquarters in Cuenca and the GC barracks in Aljaraque (Huelva), Bollullos Par del Condado (Huelva) and El Ejido (Almería). In the opinion of the DGCC this is acceptable and does not contravene point 11 of Section 5 of the SES Instruction 12/2007. The reply received from the DGP suggests that each district police station applies its own criteria, but that the practice is only allowed exceptionally and is subject to proper safety and security controls in compliance with Instruction 12/2007. This practice is however contrary to the recommendation made in the aforesaid paragraphs and needs to be changed.

In the interviews held with detainees at various establishments there were in general no complaints about the food provided. However a detainee at the Mossos d'Esquadra station in Girona stated that he had eaten neither dinner nor breakfast "because my stomach was upset". Some detainees at the Central Register of Detainees in Madrid complained that they had not eaten for hours and were hungry, and that at the district stations from which they had been transferred the food was scant and they had to shout when they wanted water. One stated that he was glutenintolerant and that for breakfast only sponge-cakes and similar products were offered, which he was unable to eat because of his condition. He also stated that at the district station where he had been held he had been given food containing gluten: "They didn't give me anything that I could eat: my family brought me food from Friday to Sunday. Three days with nothing to eat would have been terrible".

**70.** At all the establishments inspected to date the cells contain built-in plinths that serve as beds, except at the CNP district station in Almería, where there were several communal cells with no plinths. This is a shortcoming that affects how

well the persons held there are able to rest, and it was requested that improvements be made as necessary to correct the problem. A request for the same problem to be solved was filed following the inspection visit to the CNP-run Primary Assistance and Detention Centre for Foreign Nationals in the port of Almería. This facility is used to hold persons who are picked up off the Spanish coast in open boats, most of whom are in poor condition after long sea voyages and should not be made to sleep on mattresses on the floor. The DGP reports that bench-type beds are to be installed cells not already equipped with beds at the district station in Almería.



Communal holding area at the CNP-run Primary Assistance & Detention Centre for Foreign Nationals in the port of Almería

Cell at the CNP district station in Almería

Photo 24



<sup>2</sup>hoto 25

The provision of used blankets is unacceptable, even if they are not dirty

Complaints about this were made at the interviews held

State of the mattresses at the GC barracks in El Ejido (Almería) **71.** Linked to the provision of clothing in cells, uneven criteria were also observed in regard to the provision to and use by detainees of blankets and mattresses. At some establishments, e.g. the GC barracks in El Ejido (Almería), the mattresses were observed to be in poor condition. At some of the establishments inspected it was reported that detainees were provided with a clean blanket at the time of admission to the cells, but elsewhere they were provided with blankets already used by other detainees if the custodial officers felt that they were acceptably clean. This same shortcoming was observed on inspection visits this year to the Central Registry of Detainees in Madrid and the Primary Assistance and Detention Centre for Foreign Nationals in the port of Almería, both of which are run by the CNP, and at the local police stations in Berja (Almería), La Carolina (Jaén) and Valverde del Camino (Huelva). The Ombudsman insisted in all these cases that the practice of providing detainees with used blankets, even if they are not dirty, was unacceptable on grounds of hygiene, as already stated in paragraphs 61 and 108 and elsewhere in the Annual Report 2010. Complaints in this regard were received from some of the detainees interviewed. At the Central District station of the CNP in Madrid two detainees complained that they had been cold in the night, and that although they requested another blanket they were not given one. A female detainee in the same establishment complained of the smell of the blankets and mattresses. Similar complaints were made by detainees at other establishments. A detainee interviewed at the Central Registry of Detainees in Madrid stated that "whether or not you get a blanket depends on which officer is on duty".



<sup>2</sup>hoto 26

#### Short-term deprivation of liberty



Blankets in a cell at the local police station in La Carolina (Jaén)

On the inspection visits to the local police stations in Algete (Madrid) and Berja (Almería) the Ombudsman observed that no mattresses were available. At the Ertzaintza station in Irun there were only sleeping mats. In these cases it was requested that mattresses be provided, and in the case of the Ertzaintza establishment that they comply with the criteria indicated in paragraph 133 of the Annual Report 2010. That report indicated that although sleeping mats might be acceptable when detainees were held for just a few hours, they were not acceptable for overnight stays in cells.

Sleeping mats are not suitable for use in cells

85



Sleeping mats at the Ertzaintza station in Irun

Proper storage of belongings confiscated from detainees must be guaranteed 72. In general the belongings confiscated from detainees before they are admitted to cells (to prevent them from injuring themselves or causing harm to other detainees or custodial officers) are placed in plastic bags and heat-sealed to prevent anyone other than the owner from accessing them. On the inspection visits to the CNP headquarters in Granada, the GC headquarters in Albacete, Castellón de la Plana (Castellón), Huelva and Donostia/San Sebastián (Gipuzkoa), the GC barracks in Aljaraque and Bollullos Par del Condado (both in the province of Huelva), the Ertzaintza station in Irun (Gipuzkoa), the Mossos d'Esquadra station in Girona and the local police stations in Berja (Almería), La Carolina (Jaén), Sueca (Valencia) and Valverde del Camino (Huelva) it was observed that belongings were placed in unsealed envelopes or plastic bags, with no guarantee of proper safeguarding. In line with the recommendations in paragraphs 67 and 114 and elsewhere in the Annual Report 2010, the authorities responsible for these establishments were asked to correct this shortcoming so as to assure proper storage of the belongings confiscated. This criterion has been adopted by the CNP station attached to the Regional Government of Valencia and the GC headquarters in Donostia/San Sebastián (Gipuzkoa). The DGP reports that the absence of proper bags at the headquarters in Granada was temporary and that such bags are normally available.



Belongings in a plastic bag at the Mossos d'Esquadra station in Girona

At some establishments, e.g. at the CNP-run Primary Assistance & Detention Centre for Foreign Nationals at the port of Almería, the GC headquarters in Albacete and the courthouse in Albacete, these bags and envelopes are not stored securely, as there are no lockable cabinets where they can be kept separately. The Office of the Secretary of State reports in regard to this last establishment that all establishments where detainees are held are to be provided with such cabinets. This same shortcoming was observed to be widespread at cells in courthouses, and should be corrected as soon as possible. The DGP reports that a lockable cabinet is to be installed at the Primary Assistance and Detention Centre for Foreign Nationals at the port of Almería.

Courthouses should be provided with lockable cabinets where belongings can be stored securely

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Chest used to store belongings at the GC headquarters in Albacete



Photo 30

Lockable cabinets for storing the belongings of detainees at the CNP headquarters in Granada



Follow-ups to inspection visits made in 2010

**73.** The table below sets out the replies of the authorities responsible for the various establishments in reaction to the conclusions presented following the inspection visits made in 2010. This information is of course checked out when follow-up inspections are made to the establishments in question. To date such inspections have been made at the Central Registry of Detainees and the Central District station in Madrid, both run by the CNP, and at the GC barracks in Arguineguín (Las Palmas).

Video-surveillance				
٢	Video-surveillance system: inst	tallation, extension, mo	dernisation, etc.	
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received	
National Police Force	Directorate General for the Police, Ministry of the Interior	55 & 477	The criterion laid down in \$477 is accepted and video-surveillance systems	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	80 & 477	will gradually be extended as funding becomes available.	
Ertzaintza	Basque Govt. Dept. of the Interior	126 & 477	No reply has yet been received to the recommendations made.	
Regional Police of Navarre	Dept. of the Presidency, Justice & the Interior of the Regional Govt. of Navarre	185 <b>&amp;</b> 477	The criterion of the NPM as per §477 is	
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	211 & 477	accepted, and orders have been given for video-surveillance to be extended.	
Local Police in Ciudad Real	Municipal Council of Ciudad Real	211 & 477		
Local Police in Marchena	Municipal Council of Marchena (Seville)	211 & 477	The criterion laid down in §477 is accepted & will be implemented at new local police facilities to be built shortly.	
Local Police in Palma de Mallorca	Municipal Council of Palma de Mallorca (Balearic Islands)	211 & 477	The criterion laid down in §477 is accepted & will be factored into the project for the full refurbishment of the cell area.	
Local Police in Pamplona	Municipal Council of Pamplona (Navarre)	211 & 477	The current video-surveillance system meets the criterion in \$477.	
Local Police in Santander	Municipal Council of Santander (Cantabria)	211 & 477	The criterion laid down in §477 is accepted and orders have been given for video-surveillance to be extended.	
Courthouse buildings in Andalusia	Dept. of Governance & Justice of the Regional Govt. of Andalusia	236 & 477	Following the recommendation made, the criterion laid down in §477 is accepted and will be implemented when funding becomes available.	
Court of 1st Instance, Magistrate's & Criminal Court of Zaragoza	Dept. of the Presidency & Justice of the General Council of Aragon	236 & 477	Following the recommendation made, the criterion laid down in §477 is accepted and will be factored in when new courthouse premises are built.	
Court of 1st Instance & Magistrate's Court of Avilés	Dept. of the Treasury & the Public Sector of the Govt. of the Principality of Asturias	<b>236 &amp; 4</b> 77	The suggestion made is rejected for budgetary reasons.	

 Table 24. Follow-ups to inspection visits made in 2010

Video-surveillance			
	Video-surveillance system: ins	tallation, extension, mo	dernisation, etc.
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received
Courts of San Bartolomé de Tirajana & Las Palmas de Gran Canaria	Dept. of the Presidency, Justice & Equality of the Regional Govt. of the Canary Islands	236 & 477	The criterion of the NPM as per \$477 is accepted, and will be factored into the study into the potential renovation of
Magistrate's & Criminal Courts of A Coruña	Dept. of the Presidency, Public Administrations & Justice of the Regional Govt. of Galicia	236 & 477	video-surveillance systems that is under way.
Magistrate's Courts of Plaza de Castilla, Madrid	Dept. of the Presidency & Justice of the Regional Govt. of Madrid & Secretariat General for Prisons	236 & 477	There are differences in criteria between the two administrations concerning who has the authority to install video-surveillance systems.
Courthouse complex in Pamplona	Dept. of the Presidency, Justice & the Interior of the Regional Govt. of Navarre	236 & 477	The criterion laid down in §477 is accepted and specific orders have been given for its implementation.
Courthouses answerable to the Ministry of Justice	Secretariat of State for Justice	236 & 477	Extension of video-surveillance at courthouse buildings in León & Palma de Mallorca: no reply has yet been received to the recommendations made.
	Video-su	rveillance monitors	
National Police Force Establishments	Ministry of the Interior (Police)	55	The criterion of the Ombudsman is accepted and monitors are being installed insofar as budgetary constraints permit. The Central Registry of Detainees and the Central District station in Madrid have been checked.
Ertzaintza	Basque Govt. Dept. of the Interior	126	No reply has yet been received to the recommendations made.

Rights of Detainees					
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received		
Habeas corpus: inform detainees verbally & in writing of this right					
National Police Force	Directorate General for the Police, Ministry of the Interior	70 & 476	The criterion laid down in \$476 is accepted, and orders have been given for a written notice to be included in the new form.		
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	115 & 476	The criterion laid down in §476 is rejected because this is not compulsory under the LECrim.		
Ertzaintza	Basque Govt. Dept. of the Interior	141 & 476	The criterion laid down in §476 is rejected because this is not compulsory under the LECrim. A recommendation has therefore been made, to which no reply has ye been received.		
Mossos d'Esquadra	Dept. of the Interior of the Regional Govt. of Catalonia	172 & 476	The recommendation made has been rejected.		
Regional Police Force of Navarre	Dept. of the Presidency, Justice & the Interior of the Regional Govt. of Navarre	199 <b>&amp;</b> 476	The criterion laid down in §476 is accepted and detainees will therefore		
Local Police in Ciudad Real	Municipal Council of Ciudad Real	223 & 476	be given written notice of their right to file for habeas corpus.		
Local Police in Marchena	Municipal Council of Marchena (Seville)	223 & 476			
Local Police in Pamplona	Municipal Council of Pamplona (Navarre)	223 & 476	The criterion laid down in §476 is rejected because this is not compulsory under the LECrim.		
Local Police in Santander	Municipal Council of Santander (Cantabria)	223 & 476	The criterion laid down in §476 is accepted and detainees will therefore be given written notice of their right to file for habeas corpus.		
Local Police in Donostia/ San Sebastián	Municipal Council of Donostia/San Sebastián (Gipuzkoa)	223 & 476	The recommendation is accepted and the forms for reading detainees their rights will be changed.		
	Comprehensible written	information on detain	ees' rights		
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	476	It is argued that the Judicial Police National Coordination Committee is the body with authority for the procedural step of informing detainees of their rights.		
Local Police in Haro	Municipal Council of Haro (La Rioja)	476	The criterion laid down in §476 is		
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	476	accepted and information will be provided in terms that are easily		
Local Police in Marchena	Municipal Council of Marchena (Seville)	476	understood.		



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Information on rights in various languages			
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	476	The criterion laid down in §476 is accepted and forms with information
Local Police in Marchena	Municipal Council of Marchena (Seville)	476	on rights will be provided in various languages.

Healthcare				
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received	
	Healtl	hcare Protocols		
National Police Force	Directorate General for the Police, Ministry of the Interior	58	The criterion laid down by the NPM in \$58 is accepted and a "Protocol for police action in dealing with pregnant detainees" is being drawn up.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	105	The criterion laid down by the NPM is rejected.	
Local Police in Palma de Mallorca	Municipal Council of Palma de Mallorca (Balearic Islands)	214	The criterion laid down by the NPM in \$214 is accepted and the current protocol will be updated.	
Local Police in Pamplona	Municipal Council of Pamplona (Navarre)	214	The criterion laid down by the NPM is rejected as unnecessary.	
Local Police in Donostia/ San Sebastián	Municipal Council of Donostia/San Sebastián (Gipuzkoa)	214	A recommendation has been made and accepted, and the protocol for dealing with detainees with infectious and contagious diseases will be changed.	
	Voluntary statements on	state of health & food in	ntolerances	
Regional Police Force of Navarre	Dept. of the Presidency, Justice & the Interior of the Regional Govt. of Navarre	478		
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	478		
Local Police in Ciudad Real	Municipal Council of Ciudad Real	478	The criterion laid down by the NPM in \$478 is accepted and this possibility	
Local Police in Haro	Municipal Council of Haro (La Rioja)	478	will be offered to detainees.	
Local Police in Donostia/ San Sebastián	Municipal Council of Donostia/San Sebastián (Gipuzkoa)	478		
Local Police in Santander	Municipal Council of Santander (Cantabria)	478		

Provision of prophylactic measures				
National Police Force	Directorate General for the Police, Ministry of the Interior	58	The Financial & Technical Coordination Division supplies prophylactic measures to establishments upon request.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	105	The criterion laid down by the Ombudsman is accepted and the Sant Antoni de Portmany barracks (Balearic Islands) has been supplied with prophylactic measures.	
Local Police in Haro	Municipal Council of Haro (La Rioja)	214	The criterion laid down by the Ombudsman is accepted and orders	
Courthouses answerable to the Ministry of Justice	Secretariat of State for Justice	214	have been given for the necessary prophylactic measures to be acquired.	

Official information & monitoring of detention			
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received
	Upkeep of the Detain	ee Registration & Custo	ody Log
National Police Force	Directorate General for the Police, Ministry of the Interior	71	The criterion laid down by the Ombudsman is accepted and instructions have been given for this shortcoming to be corrected & for disciplinary measures to be applied where necessary.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	116	The criterion laid down by the Ombudsman is accepted and personnel have been reminded that the log must be kept up properly.
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	223	The criterion laid down by the Ombudsman is accepted and a log will
Local Police in Marchena	Municipal Council of Marchena (Seville)	223	be provided where all incidents occurring in regard to detainees can be recorded.
Rec	ording of full body searches in	1 the Detainee Registrat	ion & Custody Log
National Police Force	Directorate General for the Police, Ministry of the Interior	68	The criterion laid down by the NPM is accepted and instructions have been given for the shortcoming to be corrected & for disciplinary measures to be applied where necessary.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	114	The criterion laid down by the Ombudsman is accepted and officers have been reminded of the pertinent instructions from the Secretariat of State for Security.

Ertzaintza	Basque Govt. Dept. of the Interior	139	Body searches are recorded in the "Atxilo" application. This contradicts what was said by the officers interviewed during the inspection visit, so a recommendation has been made. No reply has yet been received.
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	222	The criterion laid down by the Ombudsman is accepted and a section will be included in the Detainee Registration Log for this purpose.
Local Police in Pamplona	Municipal Council of Pamplona (Navarre)	222	The criterion laid down by the NPM is accepted and this will be included in the procedure covering the custody of detainees.
Local Police in Donostia/ San Sebastián)	Municipal Council of Donostia/San Sebastián (Gipuzkoa)	222	It is stated that the log contains a section for this purpose. However, shortcomings in its upkeep were observed during the inspection visit, so a recommendation has been made, to which no reply has yet been received.

Treatment of detainees				
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received	
	Identif	ication of officers		
National Police Force	Directorate General for the Police, Ministry of the Interior	66	The criterion laid down by the NPM is accepted and instructions have been given for this shortcoming to be corrected and for disciplinary measures to be applied where necessary.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	113	The criterion laid down by the NPM is accepted and officers have been reminded of their obligation to wear their ID number in a visible place at all times.	
Ertzaintza	Basque Govt. Dept. of the Interior	137	A recommendation has been made for officers to wear their ID numbers. No reply has yet been received.	
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	221	The criterion laid down by the NPM is accepted and ID badges have been incorporated into officers' uniforms.	

#### Recording of full body searches in the Detainee Registration & Custody Log

Continuous presence of officers in the cell area				
National Police Force	Directorate General for the Police, Ministry of the Interior	57	The criterion laid down by the Ombudsman is accepted and instructions have been given for this shortcoming to be corrected and for disciplinary measures to be applied where necessary.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	104	At many establishments this is impossible due to insufficient personnel. However, when intercom and video-surveillance systems are considered insufficient an officer is posted in the area adjacent to the cells.	
Local Police in Calahorra	Municipal Council of Calahorra	213	Impossible due to insufficient personnel.	
	Searching of	detainees		
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	114	The criterion laid down by the Ombudsman is accepted and instructions have been given at the barracks in Tafalla (Navarre) for searches to be made by female personnel ranked as agents of authority.	
	Food & access to c	lrinking water		
National Police Force	Directorate General for the Police, Ministry of the Interior	59	The criterion laid down by the Ombudsman is accepted and orders have been given by the National Police Regional Headquarters for Western Andalusia in Seville for food to be supplied in sealed packages. Similar measures will be considered at the district station in Eivissa (Balearic Islands).	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	106	The current system enables special dietary needs to be catered for without stocking specific foodstuffs for such cases which would often end up being disposed of when they are beyond their "best-before" dates. At the barracks in Jerez de la Frontera (Cadiz) it is agreed that third parties should not be permitted to bring in food for detainees.	
Regional Police Force of Navarre	Dept. of the Presidency, Justice & the Interior of the Regional Govt. of Navarre	189	The criterion laid down by the Ombudsman is accepted and new catering arrangements have been made to provide more suitable food for detainees.	

	Food & access to drinking water			
Local Police in Marchena	Municipal Council of Marchena (Seville)	215	The criterion laid down by the NPM is accepted and orders have been given to prohibit third parties from bringing in food for detainees.	
Courts of San Bartolomé de Tirajana & Las Palmas de Gran Canaria	Dept. of the Presidency, Justice & Equality of the Regional Govt. of the Canary Islands	239	The criterion laid down by the NPM is rejected on the grounds that this falls	
Magistrate's & Criminal Courts of A Coruña	Dept. of the Presidency, Public Administrations & Justice of the Regional Govt. of Galicia	239	under the authority of the police forces that guard the detainees.	
	Safeguarding of the b	elongings of deta	ainees	
National Police Force	Directorate General for the Police, Ministry of the Interior	67	All stations have heat-sealable bags available.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	114	The criterion laid down by the Ombudsman is accepted and self- sealing bags have already been acquired at the headquarters in Donostia/San Sebastián (Gipuzkoa) and the barracks in El Astillero, Jerez de la Frontera (Cadiz), Sant Antoni de Portmany (Balearic Islands) and Torrelavega (Cantabria) and will be shortly at the headquarters in Tarragona.	

Fire-fighting measures			
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received
National Police Force	Directorate General for the Police, Ministry of the Interior	56	Signs and extinguishers are distributed to units on request, and consideration is being given to the setting up of a basic evacuation plan that can serve as a guideline to help each establishment prepare its own specific evacuation plan.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	103	The criterion laid down by the Ombudsman is accepted and he shortcomings observed have been or are being corrected at the headquarters in A Coruña, Alicante, Ceuta, Gijón (Asturias), Malaga, Murcia, Santander (Cantabria) and Valladolid, and the barracks in Cartagena (Murcia), El Astillero (Cantabria), Inca (Balearic Islands), Jerez de la Frontera (Cadiz), the port of Malaga, Sant Antoni de Portmany (Balearic Islands) and Torrelavega (Cantabria).

Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	212	The criterion laid down by the Ombudsman is accepted and orders have been given for the emergency lighting & signage to be extended.
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	212	The criterion laid down by the
Local Police in Marchena	Municipal Council of Marchena (Seville)	212	<ul> <li>Ombudsman is accepted and an evacuation plan will be drawn up.</li> </ul>
Local Police in Pamplona	Municipal Council of Pamplona (Navarre)	212	There are extinguishers in the area adjacent to the cells. However the criterion laid down by the Ombudsman in regard to preparing an evacuation plan is accepted.
Court of 1st Instance, Magistrate's & Criminal Court of Zaragoza	Dept. of the Presidency & Justice of the General Council of Aragon	237	Following the recommendation made, the criterion laid down by the Ombudsman is accepted and will be factored in when new courthouse premises are built.
Magistrate's & Criminal Courts of A Coruña	Dept. of the Presidency, Public Administrations & Justice of the Regional Govt. of Galicia	237	The criterion laid down by the Ombudsman is accepted and instructions have been given to correct these shortcomings.
Magistrate's Courts of Plaza de Castilla, Madrid	Dept. of the Presidency & Justice of the Regional Govt. of Madrid & Secretariat General for Prisons	237	The Dept. of the Presidency & Justice accepts the criterion laid down by the Ombudsman and will draw up a protocol for action in cooperation with the security forces.
Courthouses answerable to the Ministry of Justice	Secretariat of State for Justice	237	The criterion laid down by the Ombudsman is accepted and instructions have been given to correct these shortcomings at the courts of 1st instance and magistrate's courts of Palma de Mallorca (Balearic Islands). However reports received from and inspections made at the courthouse in Valladolid show no shortcomings there.

	Places of Deprivation of Liberty			
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received	
	Places of Dep	rivation of Liberty		
National Police Force	Directorate General for the Police, Ministry of the Interior	46	At the district station in Eivissa (Balearic Islands) the shortcoming will be corrected when new premises are built. At the police headquarters in the Basque Country and the district stations in Bilbao (Bizkaia), Donostia/ San Sebastián (Gipuzkoa) & Torrelavega (Cantabria) the necessary renovation work will be done as funding becomes available.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	77	The criterion laid down by the Ombudsman is accepted and has been taken into account in recently-built facilities, but cannot be applied at all establishments due to budgetary constraints.	
Provincial Court of Appeal, Duty Court & Criminal Court of Seville	Dept. of Governance & Justice of the Regional Govt. of Andalusia	243	The criterion laid down by the Ombudsman is accepted and will be taken into account in the building of the new courthouse complex in Seville.	
	Upkeep & ma	aintenance of cells		
National Police Force	Directorate General for the Police, Ministry of the Interior	48	The shortcomings at the police headquarters for Extremadura (Badajoz) and the district station in San Blas (Madrid) are to be corrected, but corrections cannot be made at the Central District station in Madrid or the Campo Madre de Dios district station in Cordoba due to budgetary constraints.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	94	The criterion laid down by the Ombudsman is accepted and new cells have been built at the barracks in Arguineguín (Las Palmas), renovation work has been done at the Guzmán el Bueno barracks & the defects at the barracks in Cartagena (Murcia) have been repaired.	
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	205	Not possible due to budgetary constraints.	
Local Police in Marchena	Municipal Council of Marchena (Seville)	205	The criterion laid down by the Ombudsman is accepted and will be taken into account when new local police facilities are built.	
Local Police in Palma de Mallorca	Municipal Council of Palma de Mallorca (Balearic Islands)	205	The criterion laid down by the Ombudsman is accepted and will be taken into account in the project for the full renovation of the cell area.	

	Upkeep & mai	ntenance of cells	
Magistrate's Courts of Plaza de Castilla, Madrid	Dept. of the Presidency & Justice of the Regional Govt. of Madrid & Secretariat General for Prisons	228	The criterion laid down by the Ombudsman is accepted and some of the defects observed have already been repaired. A study is being prepared on ways of safeguarding the privacy and health of detainees.
	Size	of cells	
National Police Force	Directorate General for the Police, Ministry of the Interior	49	There is a plan to renovate the cells at the headquarters in Murcia, and a new district station is being built in Eivissa (Balearic Islands) with cells of sufficient size.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	97	The criterion laid down by the Ombudsman is accepted and new facilities have been built at the Vecindario barracks (Las Palmas). At the barracks in Eivissa (Balearic Islands) it is not possible to increase the number of cells or their size.
Provincial Court of Appeal & Duty Court of Seville	Dept. of Governance & Justice of the Regional Govt. of Andalusia	232	The criterion laid down by the Ombudsman is accepted and will be taken into account in the construction of the new courthouse complex in Seville.
Courts of Melilla	Secretariat of State for Justice	232	The suggestion is rejected as it is not possible to enlarge the cells.
	Cell doors & window	vs with horizontal	bars
National Police Force	Directorate General for the Police, Ministry of the Interior	47	The criterion laid down by the Ombudsman is accepted at the district stations in Torrelavega (Cantabria) & Segovia.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	96	The criterion laid down by the Ombudsman is accepted and the shortcomings have been corrected at the barracks in Avilés (Asturias), Cartagena (Murcia) & Sant Antoni de Portmany (Balearic Islands), and will be corrected shortly at the barracks in Eivissa (Balearic Islands).
Mossos d'Esquadra	Dept. of the Interior of the Regional Govt. of Catalonia	155	The suggestion that the cell doors at Mossos d'Esquadra station in Les Corts be modified is rejected.
Provincial Court of Appeal, Duty Court & Criminal Court of Seville	Dept. of Governance & Justice of the Regional Govt. of Andalusia	231	The suggestion that the cell doors be replaced is accepted.

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	Li	ighting	
Courts of Melilla & Courts of Palma de Mallorca	Secretariat of State for Justice	231	The criterion laid down by the Ombudsman that the cell doors be replaced is accepted.
National Police Force	Directorate General for the Police, Ministry of the Interior	51	The criterion laid down by the Ombudsman is accepted and instructions have been issued that the facilities be checked and brought into compliance with UNE-EN 12464-1, with cells considered as equivalent to rest areas.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	98	The criterion laid down by the Ombudsman is accepted and the lighting in cells has been improved at the headquarters in A Coruña, Las Palmas de Gran Canaria, Malaga, Valladolid & Zaragoza and the barracks in Arguineguín (Las Palmas), Avilés (Asturias), Casablanca de Zaragoza, Eivissa (Balearic Islands), El Prat airport (Barcelona), the port of Malaga and Vecindario (Las Palmas). At the headquarters in Tres Cantos a new detention centre is shortly to be built that will comply with all requirements.
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	206	The criterion laid down by the Ombudsman is accepted and lighting in cells has been improved.
Local Police in Marchena	Municipal Council of Marchena (Seville)	206	The criterion laid down by the
Local Police in Palma de Mallorca	Municipal Council of Palma de Mallorca (Balearic Islands)	206	<ul> <li>Ombudsman is accepted and will be taken into account in the construction of the new establishment.</li> </ul>
Courts of Las Palmas de Gran Canaria	Dept. of the Presidency, Justice & Equality of the Regional Govt. of the Canary Islands	234	The criterion laid down by the Ombudsman is accepted and lighting conditions in the courthouse building in Las Palmas de Gran Canaria will be reviewed.
Juvenile Court of Palma de Mallorca	Secretariat of State for Justice	234	The criterion laid down by the Ombudsman is accepted and the shortcomings have been corrected.

	Venti	lation	
National Police Force	Directorate General for the Police, Ministry of the Interior	52	The criterion laid down by the Ombudsman is accepted and instructions have been given to improve the ventilation at the police headquarters for Western Andalusia in Seville, the Central Registry of Detainees in Madrid and the district stations in Malaga and Torremolinos (province of Malaga); similar measures are to be considered at the district station in Gijón. At the district stations in Campo Madre de Dios (Cordoba) and Torrelavega (Cantabria) full-scale refurbishment projects are pending approval and a new district station is under construction in Eivissa. It is not, however possible to correct the problems at the police headquarters for Asturias and the district stations in the Central and San Blas-Vicálvaro districts of Madrid due to budgetary constraints.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	99	The criterion laid down by the Ombudsman is accepted and the ventilation in the cells has been improved at the headquarters in A Coruña and the barracks in Arguineguín (Las Palmas), Arnedo (La Rioja), Avilés (Asturias), Cartagena (Murcia), Guzmán el Bueno (Madrid), Inca (Balearic Islands), Malaga airport, Sant Antoni de Portmany (Balearic Islands), Santiago de Compostela (A Coruña), Torrelavega (Cantabria) and Vecindario (Las Palmas). At the barracks in Tafalla (La Rioja) a full refurbishment of the cells is under consideration.
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	206	Not possible due to budgetary constraints.
Local Police in Marchena	Municipal Council of Marchena (Seville)	206	The criterion laid down by the
Local Police in Palma de Mallorca	Municipal Council of Palma de Mallorca (Balearic Islands)	206	Ombudsman is accepted and will be taken into account in the construction of the new facilities.
Court of 1st Instance, Magistrate's & Criminal Courts of Zaragoza	Dept. of the Presidency & Justice of the General Council of Aragon	234	The criterion laid down by the Ombudsman is accepted and improvements in the ventilation system will be looked into.

	Vent	ilation	
Courthouse complex in Gijón	Dept. of the Treasury & the Public Sector of the Govt. of the Principality of Asturias	234	The criterion laid down by the Ombudsman is accepted and the ventilation system has been repaired.
Courts of Las Palmas de Gran Canaria	Dept. of the Presidency, Justice & Equality of the Regional Govt. of the Canary Islands	234	The criterion laid down by the Ombudsman is accepted and the ventilation system will be checked and improved if possible.
Magistrate's & Criminal Courts of A Coruña	Dept. of the Presidency, Public Administrations & Justice of the Regional Govt. of Galicia	234	There is a climate control system in place in the cells.
	Temp	erature	
National Police Force	Directorate General for the Police, Ministry of the Interior	53	The criterion laid down by the Ombudsman is accepted and ways of improving the temperature will be considered at the headquarters in Asturias & Melilla and the district stations in Jerez (Cadiz) and Gijón (Asturias). At the Campo Madre de Dios district station in Cordoba a full refurbishment project is pending approval. However it is not possible to correct the shortcomings at the district station in Torrelavega (Cantabria) due to budgetary constraints.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	100	The criterion laid down by the Ombudsman is accepted and instructions have been given to improve the temperature at the headquarters in Oviedo (Asturias), Ávila, Malaga and Toledo and the barracks in Cartagena (Murcia), Inca (Balearic Islands), Malaga airport, port of Malaga, Sant Antoni de Portmany (Balearic Islands) and Torrelavega (Cantabria).
Local Police in Calahorra	Municipal Council of Calahorra (La Rioja)	206	The criterion laid down by the Ombudsman is accepted and a climate control system has been installed in the cells.
Local Police in Lebrija	Municipal Council of Lebrija (Seville)	206	Not possible due to budgetary constraints.
Local Police in Marchena	Municipal Council of Marchena (Seville)	206	The criterion laid down by the Ombudsman is accepted and will be taken into account in the construction of the new facilities.
Local Police in Palma de Mallorca	Municipal Council of Palma de Mallorca (Balearic Islands)	206	

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	Temp	perature	
Courthouse complex in Gijón	Dept. of the Treasury & the Public Sector of the Govt. of the Principality of Asturias	236	The criterion laid down by the Ombudsman is accepted and the climate control system has been repaired.
Courts of Las Palmas de Gran Canaria	Dept. of the Presidency, Justice & Equality of the Regional Govt. of the Canary Islands	234	The criterion laid down by the Ombudsman is accepted and the temperature will be checked and improved if possible.
Magistrate's Courts of Plaza de Castilla, Madrid	Dept. of the Presidency & Justice of the Regional Govt. of Madrid & Secretariat General for Prisons	234	The Dept. of the Presidency & Justice accepts the suggestion that the temperature be checked as per §234.
	Clea	nliness	
National Police Force	Directorate General for the Police, Ministry of the Interior	54	The criterion laid down by the Ombudsman is accepted and attempts will be made to improve cleanliness at the district stations in Cordoba and the Central District of Madrid. Instructions have been given to correct the shortcomings in the toilets at the police headquarters in Seville and the district station in Tarragona.
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	101	The Civil Guard considers the cells to be clean enough, though the frequency of cleaning has been increased at the barracks in El Astillero (Cantabria).
Local Police in Marchena (Seville)	Municipal Council of Marchena (Seville)	210	The criterion laid down by the Ombudsman is accepted and instructions to improve cleanliness have been given.
Magistrate's Courts of Plaza de Castilla, Madrid	Dept. of the Presidency & Justice of the Regional Govt. of Madrid & Secretariat General for Prisons	235	The SGIP considers that the problem is due to the overcrowding at this establishment.

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Blankets				
Establishment	Competent authority	Paragraph of Annual Report 2010	Reply received	
National Police Force	Directorate General for the Police, Ministry of the Interior	61	Police establishments are provided with blankets on request.	
Civil Guard	Directorate General for the Civil Guard, Ministry of the Interior	108	The criterion laid down by the Ombudsman is accepted and sufficient mattresses have been provided at the barracks in Eivissa (Balearic Islands), and clean blankets are now provided at the headquarters in Lleida and the barracks at El Prat de Llobregat airport (Barcelona) and the port of Malaga.	
Mossos d'Esquadra	Dept. of the Interior of the Regional Govt. of Catalonia	172	The recommendation is rejected.	
Local Police in Marchena	Municipal Council of Marchena (Seville)	217	The criterion laid down by the Ombudsman is accepted and clean blankets will be made available to detainees.	

Waiting areas for persons denied entry & asylum seekers				
Competent authority Paragraph of Annual Reply received Reply received				
Directorate General for the Police, Ministry of the Interior	76-89	It is reported that AENA has been asked to establish a protocol for the management of video images at the establishment at Madrid-Barajas airport. At El Prat airport in Barcelona video-surveillance systems have been installed in the waiting areas for persons denied entry and asylum seekers, and monitors at the entrance to those areas, which are constantly supervised by a CNP officer. It is planned to extend this system when funding becomes available.		

# Situations of Deprivation of Liberty

II. Medium-term deprivation of liberty §74-§114

II.1. Detention centres for foreign nationals §75-§106

II.2. Military detention centres §107-§114

**74.** As indicated in paragraph 249 of the Annual Report 2010, the Ombudsman considers "medium-term deprivation of liberty" to mean instances in which persons are held for no more than 60 days, e.g. in the case of detentions of foreign nationals and military disciplinary arrests for serious midemeanours. In both cases deprivation of liberty is based on administrative procedures.

Establishments where persons may be held for no more than 60 days

#### II.1. Detention centres for foreign nationals

**75.** As indicated in the Annual Report 2010, detention centres for foreign nationals (CIEs) are public establishments of a non-penitentiary nature where foreign nationals are held pending expulsion or deportation. Judicial authorisation is required for detention at these centres, and they are monitored by courts. The maximum holding time is 60 days. Data from the Ministry of the Interior reveal that in 2011 8,788 persons were detained while entering Spain illegally in open boats, swimming ashore, hidden in vehicles or other means of transport or crossing borders, as per the table below:

# Table 25. Entry of illegal immigrants via non-authorised border crossingsin 2010 and 2011

	2010	2011
Ceuta and Melilla	1,567	3,345
Canary Islands	196	340
Mainland Spain & Balearics	3,436	5,103
Total	5,199	8,788

Source: own work based on data from the Ministry of the Interior website.

**76.** Information provided by the DGP indicates that in 2011 there were 90,424 detentions entailing confinement in cells for breaches of the Foreign Nationals Act [*Ley de extranjería*].

of a non-penitentiary nature used to hold foreign nationals pending expulsion or deportation

Publicly-run establishments

90,424 detentions with confinement in cells for breaches of the Foreign Nationals Act

#### Table 26. Breakdown by regional autonomous communities, autonomous cities and provinces of detentions in 2011 with confinement in cells for breaches of the Foreign Nationals Act

Regional Autonomous Community	Province	Nº of Detainees
Andalusia		12,100
	Almería	2,888
	Cádiz	1,776
	Cordoba	373
	Granada	2,414
	Huelva	574
	Jaén	531
	Malaga	2,544
	Seville	1,000
Aragon		1,215
	Huesca	172
	Teruel	75
	Zaragoza	968
Principality of Asturias		635
Balearic Islands		676
Canary Islands		911
	Las Palmas	593
	Santa Cruz de Tenerife	318
Cantabria		508
Castilla-La Mancha		2,617
	Albacete	754
	Ciudad Real	468
	Cuenca	153
	Guadalajara	228
	Toledo	1,014
Castilla y León		2,446
	Ávila	158
	Burgos	396
	León	459
	Palencia	337
	Salamanca	423
	Segovia	90
	Soria	73
	Valladolid	448

Regional Autonomous Community	Province	Nº of Detainees
	Zamora	62
Catalonia		5,731
	Barcelona	4,440
	Girona	865
	Lleida	193
	Tarragona	233
Ceuta		4,419
Community of Valencia		6,304
	Alicante	2,778
	Castelló/Castellón	501
	València/Valencia	3,025
Extremadura		571
	Badajoz	320
	Cáceres	251
Galicia		917
	A Coruña	305
	Lugo	167
	Ourense	141
	Pontevedra	304
La Rioja		441
Community of Madrid		41,553
Melilla		3,678
Murcia		3,374
Navarre		387
Basque Country		1,939
	Araba/Álava	369
	Gipuzkoa	1,281
	Bizkaia	289
Central Organisations		2
Sum Total		90,424

Source: own work based on data provided by the DGP.

11,456 of those 90,424 individuals were confined in the course of 2011 at Spain's 9 CIEs, as shown in the following table.

11,456 foreign nationals were held at Spain's 9 CIEs

CIF		Nº of Detainees	
CIE	Men	Women	Total
Algeciras	2,919	157	3,076
Barcelona	1,627	33	1,660
Fuerteventura	118	1	119
Las Palmas de Gran Canaria	347	24	371
Madrid	2,342	343	2,685
Malaga	308	117	425
Murcia	1,296	40	1,336
Santa Cruz de Tenerife	113	12	125
Valencia	1,510	149	1,659
Sum total	10,580	876	11,456

#### Table 27. Foreign nationals confined in CIEs in 2011

Source: own work based on data provided by the DGP.

Confinement is a means of ensuring that foreign nationals are successfully deported **77.** As indicated in paragraph 250 of the Annual Report 2010, confinement is seen as a means of ensuring that foreign nationals are successfully deported. The data from the DGP presented in the following table reveal that in 2011 there were in all 18,422 deportations of foreign nationals.

# Table 28. Deportations of foreign nationals residing illegally in Spainin 2010 & 2011

	2010	2011	Difference
Immediate deportations*	7,297	7,064	-233
Automatic deportations**	3,258	2,244	-1,014
Court-ordered deportations***	8,196	9,114	+ 918
Total	18,751	18,422	-329

Source: own work based on data posted on the Ministry of the Interior website.

\* Persons who attempted to enter Spain at non-authorised border crossing points.

\* Persons intercepted on Spanish soil without the proper documentation.

\*\*\* In 2009 the Ministry of the Interior set up a CNP unit known as BEDEX (Foreign Offender Deportation Brigade), whose remit is to deport foreigners with serious criminal and/or court records, links with terrorism, organised gangs, gender violence or any other serious offence that could pose a threat to public safety. These deportations are ordered by courts and entail a ban on entering Spain and other Schengen signatory countries.

Over 40% of those held at CIEs have not been deported Of the 11,456 foreign nationals confined in Spain's 9 CIEs, 6,825 were eventually deported, as shown in the following table. This means that over 40% of those confined at CIEs in 2011 were not in the end deported from Spain.

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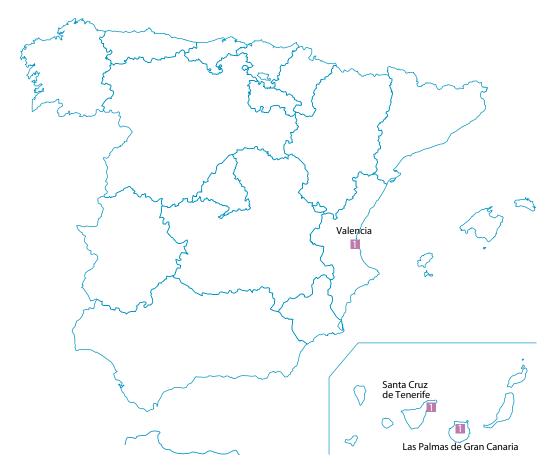
CIE	Nº detainees	Expulsions	Percentage
Algeciras	3,076	1,533	49,84
Barcelona	1,660	914	55,06
Fuerteventura	119	47	39,50
Las Palmas de Gran Canaria	371	221	59,57
Madrid	2,685	1,905	70,95
Malaga	425	257	60,47
Murcia	1,336	798	59,73
Santa Cruz de Tenerife	125	62	49,60
Valencia	1,659	1,088	65,58
Sum Total	11,456	6,825	59,57

#### Table 29. Deportation of foreign nationals held at CIEs

*Source:* own work based on information provided by the DGP. Data obtained from the Ministry of the Interior website.

**78.** Three CIEs were inspected in 2011: Barranco Seco in Las Palmas de Gran Canaria, Hoya Fría in Santa Cruz de Tenerife and Zapadores in Valencia. This last visit was a follow-up to the inspection made in 2010, to check on the extent to which the recommendations passed on to the then Directorate General for the Police and Civil Guard (DGPGC) had been implemented and to enable further conclusions to be drawn concerning the confinement conditions there. With the inspections made in 2011 the Obudsman in its role as NPM has now visited eight of Spain's nine CIEs. The remaining CIE is that of El Matorral in Fuerteventura (Las Palmas), which has been inspected in the past by the Ombudsman.

After the inspections made in 2011 the NPM has now visited 8 of Spain's 9 CIEs



## Graphic 3. Geographical location of the detention centres for foreign nationals visited in 2011

No specific confinement regime for foreign nationals has yet been drawn up.

In response to the criterion laid down by the Ombudsman, the role of police officers at CIEs should be limited to security only. **79.** As indicated in paragraph 250 of the Annual Report 2010, Royal Decree 557/2011, which approved new regulations for the implementation of Public General Act [*Ley Orgánica*] 4/2000, devotes one of its articles to CIEs (Art. 258). Subsection 8 of that article envisages specific regulations to govern the confinement regime for foreign nationals pursuant to Additional Provision Three of Public General Act 2/2009 of December 11, which amended Act 4/2000. More than two years have elapsed since the entry into force of Act 2/2009, but at the time of writing this report no such specific regulations governing the confinement of foreign nationals have yet been drawn up. The instrument drawn up should have the rank of a major regulation, as it may come to govern the exercise of fundamental rights. In this regard it must be said that the Minister of the Interior stated in January 2012 during an appearance before the Committee of the Interior [*Comisión de Interior*] of the lower house of the Spanish Parliament that his department was to proceed to draw up the said regulations.

**80.** At the said appearance the Minister explained that, in line with the recommendations made by the Ombudsman and the criterion laid down in paragraph 253 of the Annual Report 2010, a management model was to be drawn up in which the role of police officers would be curtailed to the tasks for which they are actually trained, i.e. security, while other tasks would be handled by specialist

non-police personnel, which should help to improve living conditions at the centres. The Minister also stated that improvements were to be made in healthcare and sanitation at these centres and that sufficient space would be given over to communal and recreational activities.

**81.** There are no consistent criteria for requesting that a foreign national be confined in a CIE, which means that these centres contain a mix of persons who have just left prison and are awaiting deportation and persons who have been detained and confined merely for residing illegally in the country. This mixing of convicted criminals with persons who have committed only adminstrative offences gave rise to complaints from the latter on the inspection visits made in 2011. A reminder should be issued that the standard punishment for illegal residence is a fine and not deportation.

**82.** This Office is also concerned at the absence of social welfare services in these centres. Social workers are present only in Madrid, under an agreement entered into with the Spanish Red Cross, and in Santa Cruz de Tenerife, where the Red Cross provides intercultural mediation services. Although the DGP has reported that it intends to extend such agreements to other CIEs, this Office has issued a reminder to the DGP of its legal duty to provide CIEs with social workers and intercultural mediators, pursuant to Article 60.2 of Public General Act 4/2000 of January 11 on the rights & freedoms of foreign nationals in Spain and their social integration.

**83.** Some detainees complained that they were addressed or identified by numbers rather than by their names. The explanation given for this was that the names of detainees of some nationalities were very similar or were hard for the staff to pronounce in a way that the detainees themselves could understand when they were called to undergo any procedures. This practice should be avoided out of respect for the dignity of the detainees as human beings, which should be a fundamental ethical value of the managers and staff of CIEs. In this regard, Article 10 of the International Covenant on Civil and Political Rights states that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person".

**84.** Detainees are not given sufficient prior notice of the date on whichthey are to be expelled from Spanish territory for them to be able to gather their belongings, advise friends and relatives in Spain or in their countries of origin and make any bureauratic arrangements that may be necessary. The Office of the Ombudsman shares the criterion laid down by a ruling of magistrate's courts  $n^{\circ}$  6, 19 & 20 of Madrid (in their role as monitors of the CIE in Madrid) that the administrative authorities should give detainees sufficient notice of the time of their expulsion and of the details of the process for them to be able to make arrangements as indicated above. The public administration has stated that such prior notice may lead, and indeed has led on occasions, to detainees injuring themselves to avoid being expelled. Such measures as may be deemed necessary must therefore be

Foreign nationals who have been in prison are housed alongside persons held merely for residing illegally in the country.

A reminder has been sent to the DGP of its legal duty to provide CIEs with social workers and intercultural mediators.

The practices of identifying detainees by numbers should be avoided.

The right of detainees to prior notice of their expulsion must be assured, and their physical wellbeing must be guaranteed. adopted to safeguard both the physical well-being of detainees and their right to information prior to their expulsion.

**85.** In general, when the Office of the Ombudsman learns of the death of a detainee or of an allegation of mistreatent of detainees, the Migration & Equal Treatment Area starts appropriate action in regard to the police authorities. In most cases an inspection visit is made to the centre in question to view footage from security cameras, interview affected parties and potential wintesses and check any other incident or data concerned with the event. The utmost respect is maintained for the corresponding judicial investigation into potential unlawful acts, which is always monitored closely via the General Public Prosecutor's Office.

The criterion applied by the Ombudsman is that any violent incident involving a detainee in which he/she caims to have been assaulted by a member of staff or another detainee must be reported to the judicial authorities. This applies in all cases when the detainee calls for medical assistance as a result of the alleged aggression. A reminder had to be issued of the legal duty incumbent upon all security and healthcare personnel to comply with the provisions of Article 262 of the LECrim when they learn of any injury that might have been caused by aggression. Similarly, any injury reports issued to staff or detainees must also be sent to the duty magistrate's court, without prejudice to the obligation to send them also to the magistrate's court that monitors the detention facility.

The DGP reports that since the opening of the CIE in Barcelona there have been eight investigations arising from complaints for alleged mistreatment filed by foreign nationals confined there. In all these cases, inquiries were made as relevant to check on the truthfulness of the allegations, and the results were reported to the competent judicial authorities. As a result of the complaints filed, five legal proceedings were brought. Two of these proceedings ended with rulings of provisional dismissal for lack of evidence, one with a ruling of full dismissal for lack of evidence, one with a ruling of stay of proceedings and the last with a ruling clearing the officers accused and finding the detainee guilty of minor offences against public order and recklessness resulting in injury. No judicial proceedings were brought in the other three complaints, in spite of their having been reported to the courts that had authorised the detentions. All the disciplinary inquiries in each case concluded with no ruling of liability of any kind for the police officers involved. This office is concerned at the number of complaints that are dismissed because the foreign national in question has been deported and is therefore unable to appear in court to follow up and resolve the proceedings brought.

**86.** The Ombudsman considers that any injuries suffered by detainees as a result of the use of coercive measures or any other cause, including fights between detainees, self-inflicted injuries and any injuries already present at the time of admission, should be documented by means of a medical report and photographs. In this regard the criterion laid down in paragraph 357 of the Annual Report

The Ombudsman starts an investigation whenever it learns that a detainee has passed away or an allegation of mistreatment is made.

The Ombudsman has drawn up a reminder list of legal duties to ensure compliance with Art. 262 of the LECrim (reporting to judicial authorities of any injuries attributed by detainees to assault).

There is concern at the number of complaints dismissed because the foreign national has been expelled and is therefore unable to appear in court.

When there are injuries the Istanbul Protocol must be followed, i.e. medical reports must be accompanied by photographs 2010 (referring to prisons) should be applied so that the inquiries made are structured as laid down in the *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* commonly known as the Istanbul Protocol, section 174 of which establishes that photographs should be a habitual part of examinations, pursuant to Chapter iii, Section C.5.

**87.** In regard to the shortcomings in the video-surveillance systems at the various CIEs referred to in paragraph 261 of the Annual Report 2010, the DGP reports that it accepts the general criteria laid down by the Office of the Ombudsman as per paragraph 477 of the said report, and that the said shortcomings will be corrected as funding becomes available. Without prejudice to the foregoing, in the wake of the 2011 inspection at the CIE in Valencia it was requested that a video-surveillance camera be installed in the area used for temporary isolation of detainees.

**88.** On the inspection visits made in 2011 it was again frequently observed that some officers failed to wear their ID badges at all times. The DGP reports that instructions have been given to correct this shortcoming and that disciplinary measures will be taken as relevant.

**89.** CIEs usually have female custodial officers on staff, but on the visit to the CIE in Las Palmas de Gran Canaria (Las Palmas) it was observed that although the detainees included two women there were no female CNP officers on duty. It is considered essential that staff of both sexes be on duty when there are female detainees.

**90.** This Office is concerned at the failure to provide detainees with information on their rights as persons deprived of liberty. In this regard, it was observed on the inspection visits made in 2011 that detainees were not provided with information on the possibility of filing for habeas corpus proceedings when legally relevant, or on the possibility of requesting asylum or refugee status, with such circumstances being incorporated into detainee records. Nor were the leaflets on international protection drawn up by the OAR (Asylum & Refugee Office) or information on human trafficking distributed effectively. Given the particularly vulnerable circumstances in which detainees at CIEs find themselves, and in accordance with the criteria laid down in paragraphs 275 and 476 of the Annual Report 2010, the Ombudsman considers it essential that detainees be informed of their rights. A recommendation in this regard has been made to the DGP.

**91.** Similarly, the Ombudsman considers that detainees may find their legal rights constrained, depending on the CIE where they are confined. If the centre is in a province other than that in which foreign nationals have been granted free legal aid, the possibility of meetings with legal counsel may be reduced. Paragraph 275 of the Annual Report 2010 mentioned that not all CIEs had agreements

The DGP has agreed to improve video-surveillance systems as funding becomes available.

The DGP has issued instructions that officers must wear their ID badges.

When there are female detainees there must also be female staff on duty.

The Ombudsman has issued a recommendation to the DGP concerning the need to inform detainees of their rights.

The Ombudsman has issued a recommendation that the mechanisms required to offer free legal counselling be made available. with the relevant provincial bar associations for the provision of legal counselling free of charge. This situation was found to persist during the inspections conducted in 2011, so the Ombudsman issued a recommendation to the DGP for procedures to be drawn up and agreements to be signed as necessary to ensure that the legal rights of detainees are not constrained.

Access to interpreters and translators must be facilitated at all CIEs. **92.** Article 27, subsection e) of the Ministerial Order of February 22nd 1999 establishes that detainees who do not speak or understand Spanish have the right to be assisted by an interpreter. At the CIEs visited to date it has been observed that this provision is not implemented. At some centres access to translators is provided only in special cases, while for the rest other detainees who can act as interpreters are used. Being foreign nationals, many detainees do not speak Spanish, so the services of an interpreter and must be guaranteed throughout their detention to guarantee their right to medical attention, legal aid, the filing of complaints and claims, etc. Measures must be taken as necessary to ensure that access to translators and interpreters is feasible at all CIEs.

Healthcare must be available at all times

**93.** Article 22 of the Ministerial Order of February 22, 1999 establishes that foreign nationals must undergo a medical examination within 24 hours as from their admission. However, on the inspection of the CIEs in de Las Palmas de Gran Canaria, Santa Cruz de Tenerife and Valencia it was found that there was no doctor on duty at weekends, so it was not possible to conduct medical examinations on detainees admitted after midday on Fridays. This lack of healthcare personnel over a significant period of time including night-time and weekends may compromise the right to health of detainees, since it may force unqualified personnel to make decisions regarding urgent healthcare. Since healthcare provision at all CIEs is outsourced to the company SERMEDES, the contract between the Ministry of the Interior and the said company should be extended so that care is available at all times.

On the inspection visit to the CIE in Valencia a significant number of complaints were received from detainees who considered that the medical care available was insufficient. On the inspection visit to the CIE in Santa Cruz de Tenerife one of the detainees complained of the way in which he had been treated by the doctor at the centre. He felt that the treatment prescribed at the hospital, to which he had been taken with orchitis, was not suitable and that the doctor was unwilling to send him back to hospital for further tests. This complaint was brought up in the conversation held with the head of the Centre at the end of the inspection visit, and this Office was informed that the doctor considered the treatment prescribed on the initial visit to the hospital to be correct, but that the patient was being monitored in case further tests proved necessary.

Finally, it must be placed on record that the DGP reports that a protocol is being drawn up on dealing with pregnant women held in police custody, as requested in paragraph 265 of the Annual Report 2010.

A significant number of complaints were received about the medical care provided. **94.** On the inspection visits made in 2011 shortcomings were found in the psychological and psychiatric assistance available to detainees during their time at these centres. Moreover, the lack of a protocol for the prevention of suicide, as mentioned in paragraph 266 of the Annual Report 2010, was found to persist. This Office has therefore issued a recommendation to the GDP for the correction of these shortcomings, taking the suicide prevention protocol in place at SGIP-run prisons as a reference point. The existence of such a protocol would help minimise the risk of death by suicide, as occurred in the case currently under investigation by the Migration & Equal Treatment Area of the Office of the Ombudsman of the death of a foreign national at the CIE in Barcelona in 2010, in which the Association of appearing complained of the failure to adopt adequate measures which, in its opinion, could have prevented this death.

**95.** On all three inspection visits in 2011 it was again observed that there was no written evacuation protocol in place and that there were no intercom units in the dormitory areas to enable permanent contact to be maintained between detainees and custodial officers, as mentioned in paragraph 262 of the Annual Report 2010. This Office has issued a recommendation that both these shortcomings be corrected.

96. For security reasons, the dormitories at most CIEs do not have toilets and are kept locked at night. On the inspection visit to the CIEs in Las Palmas de Gran Canaria and Valencia it was reported that the women's dormitory module was left unlocked so that they had free access to the toilet facilities, but that this was not the case in the men's module. Complaints were received during the inspection visit to the CIE in Valencia concerning an officer who habitually ignored requests from detainees for dormitory doors to be opened so that they could go to the toilet during the night, which meant that they had to use empty water bottles to relieve themselves at night. On the day of the inspection visit to the CIE in Santa Cruz de Tenerife there were only six detainees and, as an exception, the dormitory doors were left unlocked all night so that detainees were free to go to the bathroom. These two individual cases notwithstanding, the Ombudsman has issued a recommendation to the DGP for detainees to be guaranteed access to their dormitories and bathrooms at all times, as per the criterion laid down in paragraph 268 of the Annual Report 2010. It must be pointed out that magistrate's courts nº 6, 19 and 20 in Madrid, in their role as monitors of the CIE in the city passed resolution 12/2010 on November 25, 2011, in which they required the head of the said CIE to guarantee that detainees who needed to relieve themselves during the night when the dormitories were locked could access toilets within no more than three minutes of their requesting to do so. The DGP reports that renovation work is being carried out at the said CIE to install toilets in the dormitories.

**97.** All three centres inspected were found to be operating at below their maximum capacity – e.g. 125 people were confined at the CIE in Santa Cruz de Tenerife in the course of 2011 – but this Office is aware that other CIEs were practi-

A recommendation has been made to the DGP for the preparation of a suicide prevention protocol.

A recommendation has been issued concerning the need for a written evacuation protocol.

A recommendation has been issued to the DGP for detainees to be guaranteed access to dormitories and bathrooms at all times.

A recommendation has been issued to the DGP for detainees to be allowed to

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sleep in individual or at most two-person bedrooms cally at full capacity, e.g. throughput at the Madrid centre was 2,685 foreign nationals. This means that the communal dormitories are full, with all the problems that this entails. A recommendation was therefore issued to the DGP for renovation work to be done as necessary at CIEs to enable detainees to sleep in individual or at most two-person bedrooms, since the current situation is not considered reasonable when deprivation of liberty may last for as long as 60 days, as mentioned in paragraph 256 of the Annual Report 2010.

Men's dormitory at the CIE in Santa Cruz de Tenerife

Women's dormitory at the CIE in Las Palmas de Gran Canaria

There needs to be a specific room for visits from the families and legal counsel of detainees **98.** On the inspection visit to the CIE in Las Palmas de Gran Canaria it was observed that there was no specific room set aside for visits from detainees' families and legal counsel: visits take place in the access corridor, where confidentiality of communication is not guaranteed. One of the female detainees complained about this, and about the short duration of visits (around 10 minutes). Magistrate's Court n° 3 Valencia, which monitors the CIE in that city, ruled on April 27,

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<sup>2</sup>hoto 33



hoto 32

2011 that provision should be made to ensure that the partition screens in the visitors' room did not prevent direct contact between detainees and visitors. The solution adopted by the staff at the said centre, as shown in the photograph below – taken during the inspection visit – was to cut circular openings in three of the five partitions in the said room, and to stop using the other two.



Visitors' room at the CIE in Valencia

However, this Office considers the solution adopted to be unsuitable: privacy on family visits is not ensured, as there is no separation between adjacent booths and the openings are too small to allow direct contact between detainees and visitors. Such problems do not exist at other CIEs. For instance, on the inspection visit to the CIE in Madrid in 2010 it was observed that the booths ensured privacy of communication and allowed direct contact provided that the windows or partitions were left open, as instructed by Magistrate's Court n° 6 of Madrid in its ruling of January 13, 2011, in its role as the monitor of the city's CIE.



Visitors' room at the CIE in Madrid

A recommendation was made to the DGP for the system of visits to be extended and for direct contact with visitors to be permitted.

The CIE in Valencia has taken steps to facilitate contact between detainees and NGOs.

A recommendation has been issued to the DGP for detainees to be guaranteed access to their personal belongings and mobile telephones.

All CIEs should keep compulsory registers of the measures of containment and isolation applied. The closing of two booths at the CIE in Valencia limits the number of visits that detainees can receive, even though visiting hours have been extended by half an hour. As mentioned in paragraph 274 of the Annual Report 2010, other CIEs also have trouble catering for visiting hours due to shortages of space. The Ombudsman has issued a recommendation to the DGP for longer visiting hours to be established in general than are currently permitted, for more suitable facilities to be provided where there can be direct contact with visitors and for conjugal visits to be permitted along similar lines to those allowed in prisons.

**99.** Article 62bis of Public General Act 4/2000 of January 11 on the rights and freedoms of foreign nationals in Spain and their social integration recognises the right of detainees to "come into contact with non-governmental organisations for the protection of immigrants" and the right of such organisations to visit CIEs. The Act states that regulations will be drawn up to establish the relevant conditions for this. No such regulations have yet been enacted, but in 2011 two rulings by the courts that monitor the CIEs in Madrid and Valencia established that contact between detainees and NGOs should be facilitated, and authorised NGOs to enter CIEs. In this regard, it was observed on the 2011 inspection visit to the CIE in Valencia that the centre had taken steps to comply with the court ruling and that visits took place in the rooms and at the times envisaged for meetings with legal counsel.

**100.** On the 2011 inspection visit to Valencia it was also observed that there was no written list (as there is at other centres) to indicate what belongings should be confiscated from detainees on admission. Instead this was left up to the staff on duty, which is not considered a suitable practice. Moreover, the DGP does not appear to have taken steps to ensure that detainees can access their personal belongings and mobile telephones. A recommendation has been made for such access to be guaranteed, within the limits of the organisational and security criteria that must be applied, as mentioned in paragraphs 278 and 279 of the Annual Report 2010.

**101.** As indicated in paragraph 281 of the Annual Report 2010, in case of altercations custodial officers may, pursuant to Article 62 quinquies of Public General Act 4/2000, isolate detainees in individual rooms or use means of physical containment, though this is only permitted "when there is no other, less harsh means of achieving the goals pursued, and only for such time as may be strictly necessary". To that end, some CIEs have one or more isolation cells. Such a cell was observed on the inspection visit to the CIE in Valencia; it was located adjacent to the dining area and was reportedly used to isolate detainees for a few hours in case of altercations and to prevent conflicts from escalating. To ensure proper monitoring of the application of these means of containment, all CIEs should have a compulsory register in which the names of detainees are recorded, along with the means of containment used (physical force, handcuffs, isolation), the time of commencement and ending of containment, any incidents during containment (meals, visits from the doctor, etc.) and the dates on which the measures taken are reported to the courts.

**102.** At the CIE in Las Palmas de Gran Canaria detainees complained that they were not allowed to have toiletries brought in from outside to supplement those in the kit given to them on their arrival at the centre. as mentioned in paragraph 268 of the Annual Report 2010. The Ombudsman considers that there should be consistency between all the kits of toiletries provided at all CIEs. Given the basic nature of the items involved, third parties should be permitted to bring in additional items, provided that proper security measures are taken.



The same items should be provided in all the kits of toiletries provided by CIEs

Kit of toiletries provided at the CIE in Las Palmas de Gran Canaria

**103.** The DGP reports that recreational material and sports equipment are to be provided at those centres where none was observed on inspections in 2010, as pointed out in paragraphs 271 and 272 of the Annual Report 2010, but the same shortcoming was observed on the inspection visit to the CIE in Las Palmas de Gran Canaria. This was once again reported to the DGP. This was a cause for complaints by detainees at the centre, where one detainee stated that board games had been provided by her family and that "the day-to-day routine at the centre gets very boring". On the other hand, it was observed at the CIE in Santa Cruz de Tenerife that the number of books in the library had been increased and that musical instruments had been brought in for use by detainees.

The DGP was again reminded of the need to provide recreational and sports material at CIEs Recreational material at the CIE in Santa Cruz de Tenerife



Yard time should be increased and yards should have roofed areas so that detainees can go outside in bad weather.

104. Article 29 of the Ministerial Order of February 22, 1999 establishes that detainees should be allowed at least two hours exercise a day. Complaints were received from detainees in this regard, e.g. at the CIE in Valencia, where they were allowed outdoors for three hours per day but considered that this was insufficient, and detainees complained that no other activities were laid on to help them pass the time. The Ombudsman considers that yard time should be increased, and that security issues and risk of absconding should not be considered as good reasons for not doing this, as stated in paragraph 272 in regard to the CIE in Murcia. Measures of the kind observed on the inspection visit to the CIE in Santa Cruz de Tenerife can be taken: the exercise yards there have special fencing that detainees cannot climb. This Office also maintains that yards should have roofed areas so that detainees can go outside in bad weather. In this regard, it was observed during the inspection visit to the CIE in Santa Cruz de Tenerife that part of the yard had been roofed over. It was also observed that the yards at the CIEs in Las Palmas de Gran Canaria and Valencia had no roofed areas at the time of the inspection, though the DGP reports that in Valencia the relevant work will be done when funding becomes available.



**105.** The conditions at the CIEs inspected in 2011 were not good enough. Apart from the shortcomings described above, the furniture was found to be uncomfortable and insufficient, taking into account how long people may be held at these facilities.

Insufficient, uncomfortable furniture

Roofed yard at the CIE in Santa Cruz de Tenerife



Recreation room at the CIE in Las Palmas de Gran Canaria

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Recreation room in the CIE at Santa Cruz de Tenerife



This Office considers the location of the women's module at the CIE in Las Palmas de Gran Canaria to be unacceptable, since it is very close to the area where the dogs of the CNP Canine Unit are kept, and their constant barking (noted during the inspection visit) prevents detainees from resting properly even during the day. This module should either be relocated or insulated against noise.

The problem of unpleasant odours in the staff area of the CIE in Valencia, mentioned in paragraph 254 of the Annual Report 2010, remain unsolved. Repeated requests from this Office for partition screens to be installed in the showers to protect the privacy of detainees have been met at the CIE in Santa Cruz de Tenerife, where it was observed that the necessary work had been done, but not at the CIE in Valencia, where no such work had been done. The DGP reports that this work will be carried out when funding becomes available.



The women's module at the CIE in Las Palmas de Gran Canaria needs to be relocated or insulated against noise.

The problem of unpleasant odours in the staff area of the CIE in Valencia have not been solved

Showers in the CIE in Santa Cruz de Tenerife Finally, the lack of laundry services mentioned in paragraph 270 of the Annual Report 2010 was again observed on the inspection visits made in 2011. Bearing in mind that detainees may be held at these centres for as long as 60 days, this Office reiterates that laundry facilities need to be installed or outsourced at CIEs to enable detainees to maintain basic levels of hygiene and cleanliness in their clothing.

The need for laundry facilities to be installed or outsourced was again pointed out.

Laundry area at the CIE in Valencia

**106.** The tables below show the replies received from the DGP to the recommendations made concerning the CIEs visited in 2010. This information is checked out on follow-up visits such as the visit to the CIE in Valencia.

Follow-up to recommendations made to the DGP following visits to CIEs in 2010.

<page-header>

Showers in the CIE in Valencia



#### Table 30. Follow-ups to inspection visits in 2010

Vi	Video-surveillance system: installation, extension, modernisation, etc.				
CIE	Paragraph of report 2010	Reply received			
Algeciras (Cadiz)	261 & 477	There are 44 cameras, 2 monitors & 3 digital recorders.			
Algeciras (Tarifa facilities, Cadiz)	261 & 477	There are 17 cameras, 1 monitor and 1 digital recorder.			
Barcelona	261 & 477	The criterion laid down by the Ombudsman is accepted and the system has been extended. It now has 36 cameras, 9 monitors & 3 digital recorders. A further extension is pending the availability of funding.			
Madrid	261 & 477	There are 41 cameras, 4 monitors & 3 digital recorders.			
Malaga	261 & 477	There are 20 cameras, 2 monitors & 2 digital recorders.			
Murcia	261 & 477	There are 11 cameras, 2 monitors & 1 digital recorder.			
Valencia	261 <b>&amp;</b> 477	A procedure has just been processed for the installation of 36 cameras, 3 monitors & 3 digital recorders as an extension of the existing set-up.			

	Treatment of detainees				
	CIE	Paragraph of Annual Report 2010	Reply received		
		Supervision of de	tainees by specialist staff		
All		253	The criterion laid down by the Ombudsman is accepted, and a management model will be drawn up in which non- security-related tasks are taken over by specialist staff.		
	Identification of officers				
All		280	The criterion laid down by the Ombudsman is accepted, and instructions have been issued for this shortcoming to be corrected and for disciplinary measures to be applied when relevant.		
		System for handlin	g complaints and requests		
Algeciras		250	No reply has been received, so a recommendation has been sent to the DGP so that the system for handling complaints and requests by detainees can be improved and a proven, effective procedure with all due assurances can be established that includes providing detainees with receipts in proof of submission and a registration number.		

Healthcare			
CIE Paragraph of Annual Report 2010		Reply received	
All	265	The criterion laid down by the Ombudsman is accepted, and a "protocol for police action in dealing with pregnant detainees" is to be drawn up.	
Algeciras	263	No reply has been received, so a recommendation has been sent to the DGP for mechanisms to be put in place to enable suitably exhaustive medical examinations to be conducted at those times when large numbers of illegal immigrants are intercepted off the coasts of Spain.	
Madrid	264	No reply has been received, so a recommendation has been sent asking the DGP to consider reaching an agreement for detainees who are undergoing methadone treatment to have it brought to the centre by healthcare personnel, so that CNP officers are relieved of this task.	
Malaga	263	No reply has been received, so a recommendation has been sent to the DGP for the possibility to be examined of providing medical facilities with equipment for performing cardiograms.	
Murcia	263	No reply has been received, so a recommendation has been sent to the DGP for mechanisms to be put in place to enable suitably exhaustive medical examinations to be conducted at those times when large numbers of illegal immigrants are intercepted off the coasts of Spain.	

Provision of recreational material & sports equipment				
CIE	Reply received			
Algeciras	271	The criterion laid down by the Ombudsman is accepted, and the relevant instructions have been issued.		
Algeciras (Tarifa facilities, Cadiz)	270			
Madrid	271			
Malaga	271			
Valencia	271			

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		Facilities		
CIE	Paragraph of Annual Report 2010	Reply received		
Maintenance & upkeep				
Algeciras	254, 260, 268 & 279	The criterion laid down by the Ombudsman is accepted, and a refurbishment project is to be drawn up to remedy the shortcomings in the plumbing, lighting, toilets, exercise yards and elsewhere. Water heaters are available. Since the facility is not to be closed, a recommendation has been made accordingly. Without prejudice to the foregoing, for so long as the centre remains open it is recommended that the standard of cleanliness be improved and guarantees be provided that the payphones, the beverage, food and cigarette vending machines and the TVs in the common rooms all work.		
Algeciras (Tarifa facilities, Cadiz)	254, 258 & 272	The criterion laid down by the Ombudsman is accepted, and work to improve perimeter fencing and install benches in the yard is pending the allocation of funding. However no reply has been received concerning the possibility of conditioning other buildings at the facility to cater for the possible closure of the centre in Algeciras and to decongest the modules here, so a recommendation has been sent to the DGP for this possibility to be considered and for the lighting in some areas of the centre to be reviewed.		
Barcelona	259, 268 <b>&amp;</b> 272	The criterion laid down by the Ombudsman is accepted, and a plan for the roofing of part of the yard is under consideration. Water heaters are also available.		
Madrid	272	The criterion laid down by the Ombudsman is accepted in regard to roofing the exercise yard. The work is pending the availability of funding.		
Malaga	254 <b>&amp;</b> 259	The criterion laid down by the Ombudsman is accepted in regard to roofing the exercise yard. The work is pending the allocation of funding. Since the facility is not to be closed, a recommendation has been made accordingly. Without prejudice to the foregoing, for so long as the centre remains open it is recommended that the number of detainees should not be increased and that the lighting & temperature conditions in the facility be reviewed.		
Murcia	272	The criterion laid down by the Ombudsman is accepted in regard to roofing the exercise yard and installing partitions in the showers to guarantee the privacy of detainees. The work is pending the allocation of funding. In the absence of a reply, a recommendation has been sent to the DGP that the library and worship area, which were being used to store detainees' luggage, be opened up for use by detainees, for detainees to be allowed to remain in the yard in the afternoons and that their freedom o movement within the CIE should not be restricted.		



Maintenance & upkeep				
Valencia	254 & 272	The criterion laid down by the Ombudsman is accepted in regard to roofing the exercise yard and the partitioning of the showers to guarantee the privacy of detainees. The work is pending the allocation of funding. However a recommendation has been made for measures to be taken as necessary to correct the problem of unpleasant odours in the staff areas, as noted in paragraph 254 of the Annual Report 2010, which remains unsolved.		
	La	undry services		
Algeciras	270	There is nowhere to install a laundry, but an alternative solution is being sought.		
Malaga	270	The possibility of installing laundry facilities is being		
Murcia	270	considered.		
	Mechanical	opening systems for cells		
Algeciras	262	The criterion laid down by the Ombudsman is accepted and		
Algeciras (Tarifa facility, Cadiz)	262	the Heritage & Architecture Office is considering the possibility of installing such a system.		
Madrid	262	No reply has been received, so a recommendation has been sent to the DGP.		
Malaga	262	The criterion laid down by the Ombudsman is accepted and the Heritage & Architecture Office is considering the possibility of installing such a system.		
Murcia	262	No reply has been received, so a recommendation has been sent.		
Valencia	262	No such system can be installed due to the architecture of the building, but the criterion laid down by the Ombudsman will be taken into account in future facilities of this type. As a result, a recommendation has been made.		

#### **II.2.** Military Detention Centres

Two EDMs were inspected in 2011, both located in the Canary Islands **107.** Two military detention centres (EDMs) were inspected in 2011, both of them located in the Canary Islands: one in Las Palmas de Gran Canaria and the other it San Cristóbal de La Laguna (Santa Cruz de Tenerife).

## Graphic 4. Geographical location of the military detention centres inspected in 2011



A recommendation has been issued to the Ministry of Defence for the regulation of conjugal visits, access to mobile telephones and searches of cells and inmates, and for an organisation to co-ordinate all EDMs to be set up **108.** Investigations following the first inspection visits to EDMs in 2010 continued on into 2011. In the course of those investigations it was noted that there was no single body in charge of coordinating all the EDMs run by the Ministry of Defence. In practice, this means that each branch of the Armed Forces interprets the relevant regulations (basically Ministerial Order 97/1993 of September 30) and procedures for action in its own way, and that substantial differences may therefore exist in the conditions in which detention takes place and in the regime of arrests for serious offences. Likewise, differences from one EDM to another in technical, material and human resources were observed. An examination of the regulations applicable to EDMs revealed a number of shortcomings, e.g. the absence of regulations covering important issues such as the possibility of detainees receiving conjugal visits as enviaged in Article 45 of Royal Decree 190/1996 of February 9, which approved prison regulations; allowing detainees unrestricted

access to their mobile telephones, once such security measures as may be deemed convenient are adopted; and the searching of cells and detainees, including specific mention of who is authorised to order such searches, written records of them and the submitting of reports to the immediate superior of the person in charge of the EDM for purposes of supervision and control. Accordingly, a recommendation was sent to the Ministry of Defence for amendments to be introduced into Ministerial Order 97/1993 of September 30, as per the procedures envisaged in Ministerial Order 105/2002 of May 22 regulating the setting up of regulations under the authority of the Ministry of Defence, and in Instruction 116/2002 of May 30 issued by the Undersecretary of Defence, along the lines mentioned by the Ombudsman in paragraphs 300, 301 and 305 of the Annual Report 2010. The said recommendation also proposed that the Ministry of Defence set up a single body to coordinate all EDMs, so that common procedures for action and regulations can be issued, consistency can be assured in the provision of technical, material and human resources and there are no substantial differences in the conditions of detention and the regime for arrests for serious offences. The reply received from the Undersecretary of Defence states that a report has been requested from the general staffs of the three branches of the armed forces so that a decision can be made concerning the amendment of the said Ministerial Order as requested.

In spite of the recommendations that the use of mobile telephones be permitted, on the inspection visits to the EDM at San Cris tóbal de La Laguna (Santa Cruz de Tenerife) the officer in charge stated that their use was authorised only on some occasions. This was corroborated by the two detainees confined in the centre at that time, who said that calls had to be made from the wardens' recreation room and that mobile phones had to be switched off and handed back at the end of each call.

**109.** The video-surveillance cover and equipment at EDMs is still insufficient. Evidence of this was found on the two inspection visits made this year to the centres in Las Palmas de Gran Canaria (Las Palmas) and San Cristóbal de La Laguna (Santa Cruz de Tenerife), where there was no video-surveillance inside the premises. A recommendation was therefore issued that technical studies be conducted as necessary and funding be allocated for projects to extend video-surveillance to all areas where persons deprived of their liberty may be held except bathrooms and bedrooms, in line with the criterion laid down in paragraphs 293 and 477 of the Annual Report 2010, and that new recording equipment should include audio. The Undersecretary for Defence reports that this criterion will be taken into account but that equipment will be installed when funding becomes available.

**110.** The Ministry of Defence makes no provision for supplying toiletries to detainees whose full monthly income is maintained. This was observed on both the visits made in this year, in spite of the fact that this this Office advised in paraVideo-surveillance cover and equipment is still insufficient.

A recommendation has been issued that sufficient funding be authorised to supply detainees with

toiletries free of charge.

It has been requested that a psychological counselling service be set up at those establishments that do not already have one.

The infrastructures at the EDMs inspected were found to be adequate

Climate control systems need to be installed

Fire-fighting systems evacuation plans, cleanliness & lighting are adequate graph 297 of the Annual Report 2010 that the military authorities should supply such items free of charge to persons deprived of their liberty. A recommendation has therefore been issued for sufficient funding to the authorised to supply detainees with toiletries free of charge, as provided for in Article 19.3 of Public General Act 1/1979 of September 26 (the General Prisons Act [*Ley General Penitenciaria*]), which states that "for reasons of cleanliness, careful personal hygiene will be required. To that end the authorities will provide inmates free of charge with daily toiletries and services as necessary".

**111.** On the inspection visit to the EDM at San Cristóbal de La Laguna (Santa Cruz de Tenerife) it was reported that inmates received counselling from a psychologist stationed at the barracks. However, such support is not provided at other EDMs. The Ombudsman has therefore asked the Ministry of Defence to set up a psychological counselling service at those establishments that do not already have one, taking on board one of the conclusions drawn from the 2<sup>nd</sup> EDM Seminar, where such a service was recommended "given the large number of inmates who are admitted with psychological problems and need assistance". The Under-Secretary for Defence reports that the General Inspectorate for Health [*Inspección General de Sanidad*] has been asked to draw up a report considering the advisability of setting up psychological counselling services at those centres that do not already have them.

**112.** The infrastructures observed at the EDMs visited in 2011 were similar to those described in the Annual Report 2010, and were found to be adequate. In regard to the shortcomings detected on the inspection visits made in 2010, it is reported that changing rooms have been provided for staff at the EDM in San Fernando (Cadiz) and that the feasibility of installing similar facilities at the EDMs in Ceuta and Melilla is being considered. Similarly, at the EDM in Ceuta a study is being conducted into the possibility of providing an area for sports or having detainees use sports facilities at nearby barracks, pursuant to the the mention of the lack of such facilities made in paragraphs 290 & 299 of the Annual Report 2010.

**113.** On the inspection visit to the EDM at San Cristóbal de La Laguna (Santa Cruz de Tenerife) the temperature was not found to be extremely high but to be in need of assessment and correction, and the establishment had no climate control system. This same shortcoming was mentioned in paragraph 292 of the Annual Report 2010 in regard to the EDMs in Ceuta and Melilla. The Office of the Head of the General Staff of the Army has asked the Logistics Division to assess whether air conditioning and heating can be installed at both these EDMs.

**114.** Finally, the custodial facilities at these establishments can be considered as adequate. They all have fire-fighting equipment and evacuation plans and are clean and well lit, as can be seen in the photos below.

#### Medium-term deprivation of liberty



Photo 44



Photo 45

Officers' sleeping quarters at the EDM in Santa Cruz de Tenerife Enlisted men's sleeping quarters at the EDM in Santa Cruz de Tenerife.

# Situation of deprivation of liberty

III. Long-term deprivation of liberty §115-§206

#### III.1. Prisons §115-§163

- III.1.1. Prisons answerable to the SGIP (Office of the Secretary General for Prisons) and the Justice Department of the Regional Government of Catalonia §115-§160
- III.1.2. Alcalá de Henares Military Prison (Madrid) §161-§163
- III.2. Centres for young offenders §164-§206

#### III.1. Prisons

#### III.1.1. Prisons answerable to the SGIP (Office of the Secretary General for Prisons) and the Justice Department of the Regional Government of Catalonia

**115.** During the year, Spain's total prison population continued to fall, in line with the downward trend begun in 2010. This marked a reverse of the previous situation, when for many years the number of inmates had risen unchecked. According to Interior Ministry statistics, on 22 January 2010 Spain had a prison population of 76,033 people; By 7 January, 2011 the figure had fallen to 73,784 and by 30 December 2011 it had dropped again, to 70,491. This means that in the last two years, the number of inmates has fallen by 5,542, or 7.30%. Of these, 85.08% (59,967) are in prisons answerable to the SGIP (Office of the Secretary General for Prisons (Ministry of the Interior)) and 14.92% (10,524) are in facilities run by the Regional Government of Catalonia.

On 30 December 2011, there were 5,376 women and 65,115 men in prison, 7.63% and 92.37% of the prison population respectively. A total of 58,046 individuals (82.34%) individuals were serving prison sentences and a further 12,445 (17.66%) were on remand. This reflects a continuation of the fall in the proportion of preventive inmates observed last year (see Paragraph 313 of Annual Report 2010. Non-nationals accounted for 34.76% of the prison population (24,502 individuals).

Depending on their prison regime (or "degree") the figures for sentencees break down as follows: first degree 998 (1.73%); second degree 40,501 (70.51%); third degree 9,701 (16.88%); unclassified 6,240 (10.86%).

# Table 31. Breakdown of prison population (SGIP and Justice Department<br/>of the Regional Government of Catalonia) by sex and remand<br/>inmates/inmates serving sentences

SGIP		САТА			
	Remand inmates	Sentencees	Remand inmates	Sentencees	Total
Males	9,529	45,796	1,781	8,009	65,115
Females	958	3,684	177	557	5,376
Total	10,487	49,480	1,958	8,566	70,491

The prison population continued to fall in 2011

The proportion of remand inmates also continues to fall

70.51% of the prison population are serving their sentences under the "second-degree" regime

# Table 32. Distribution of prison population by autonomous communities, sex and court/penalsituation

Aut. Comm.	Remand		Total	Sentencees		Total	Overall
	Male	Female	Preventive	Male	Female	Sentencees	Total
Andalusia	2,451	178	2,629	12,636	940	13,576	16,205
Aragon	198	19	217	2,179	103	2,282	2,499
Asturias	142	13	155	1,191	95	1,286	1,441
Balearic Islands	370	32	402	1,242	128	1,370	1,772
Ceuta	106	10	116	119	21	140	256
Melilla	89	5	94	186	9	195	289
Canary Islands	646	111	757	2,604	214	2,818	3,575
Cantabria	62	1	63	578	20	598	661
Castilla-La Mancha	326	12	338	1,615	34	1,649	1,987
Castilla & Leon	359	34	393	4,981	360	5,341	5,734
Catalonia	1,781	177	1,958	8,009	557	8,566	10,524
Extremadura	180	8	188	1,089	50	1,139	1,327
Galicia	352	28	380	3,146	184	3,330	3,710
La Rioja	43	2	45	305	19	324	369
Madrid	2,577	365	2,942	5,646	832	6,478	9,420
Murcia	283	17	300	1,268	70	1,338	1,638
Navarre	75	2	77	157	17	174	251
Basque Country	180	10	190	1,122	125	1,247	1,437
Valencia	1,090	111	1,201	5,732	463	6,195	7,396
Total	11,310	1,135	12,445	53,805	4,241	58,046	70,491

The SGIP reports that 55 investigations into alleged abuse have been made, of which 35 were dismissed, 15 are currently being processed and 5 are awaiting a court decision. In a further 3 cases, disciplinary proceedings have begun **116.** According to information provided by the SGIP, 55 investigations were carried out into alleged abuse during 2011. Of these, 35 were dismissed, 15 are currently being processed and 5 are awaiting a court decision. In a further 3 cases, disciplinary proceedings have begun. In one case, in which an officer is alleged to have punched a prisoner in the mouth, causing him to swallow a tooth, action has been suspended until judicial proceedings related to the same incident have been resolved in a magistrates' court [*juzgado de instrucción*]. Of the other two, one case involved an argument between an inmate and an officer, in which the latter took the former to solitary confinement, where he conducted a full body search and allegedly punched him. In the other case, a sports monitor allegedly assaulted an inmate because he had another monitor's keys. As a result, he was provisionally suspended from duty for nearly 6 months.

For its part, the regional government of Catalonia reports that during 2011, the Inspection Service of the Directorate General for the Prison Service has begun a total of 30 purely administrative report proceedings for alleged abuse, aggression, injury, degrading treatment, humiliation, etc., presented by the inmates against prison officers. Of these, 26 were discontinued for lack of proof or evidence that the alleged offences had taken place. Three are still being investigated and one, due to the injuries allegedly caused to the inmate by an officer, resulted in a classified report and subsequent disciplinary proceedings against an officer, which is currently under court investigation. In the latter case, a report on the administrative proceedings has been sent to a magistrates' court. Finally, the service reports that disciplinary proceedings have been taken against another 4 officers for various reports of improper practices (abuse of authority, degrading treatment, psychological abuse, etc.). The service did not report the outcome of these proceedings.

No detailed information is given in the reports received from either the SGIP or the regional government of Catalonia on judicial proceedings taken and/or completed during the year arising out of allegations made by inmates against staff for alleged torture, abuse or inhuman or degrading treatment. Given that the state and regional prison authorities are unlikely not to have been aware of the allegations made by inmates in magistrates' courts [*juzgados de instrucción*], parole courts [*juzgados de vigilancia penitenciaria*] or the public prosecutor's office, this office has begun an investigation and asked the authorities to expand on the information furnished by providing these details.

**117.** In 2011, 12 inspection visits were made to 10 prisons, two of which, Figueres (Girona) and Barcelona men's prison - are run by the Department of Justice of the regional government of Catalonia. The other eight are run by the SGIP: the prisons of Albolote (Granada), Alcalá de Guadaíra (Seville), Castellón de la Plana, Las Palmas I in Las Palmas de Gran Canaria, Melilla and Tenerife II in La Esperanza (Santa Cruz de Tenerife), Fontcalent psychiatric prison hospital (Alicante) and the Incarcerated Mothers' Unit in Seville. Two visits were made to the prisons of Castellón and of Alcalá de Guadaíra (Seville). The latter of these was multidisciplinary in nature –with experts in psychiatry, forensic medicine, psychology and criminology. Visits were also made to the Psychiatric Prison Hospital of Fontcalent and the Incarcerated Mothers' Unit in Seville.

The regional government of Catalonia reports that 30 report proceedings were begun for alleged abuse. 26 have been discontinued, 3 are under investigation and in one case disciplinary proceedings were taken against an officer

A request has been made for further information on judicial proceedings processed and/or completed over alleged abuse

Twelve inspection visits were made to 10 prisons. Two of these are run by the Catalan government



Graphic 5. Geographical location of the prisons visited in 2011

One of the facilities visited was specifically for women, two for men, one for incarcerated mothers and the other six had a women's module

Occupation rate varies greatly from one facility to another **118.** Of the facilities inspected in 2011, one was exclusively for women – Alcala de Guadaíra prison (Seville); two were exclusively for men – Barcelona men's prison and Figueres prison (Girona); one was for mothers with dependent children aged up to 3 (Seville Incarcerated Mothers' Unit) and the other six had at least one women's module, which was inspected in all cases.

**119.** The occupation rate of the facilities inspected ranged from 16 inmates in the Incarcerated Mothers' Unit of Seville on the day of the visit (12 with one child and 4 with two) to 1,851 in Barcelona men's prison.

Prison	Occupation on day of visit (inmates)	
Albolote prison (Granada)	1,676	
Alcala de Guadaíra prison (Seville)	127	
Castellón de la Plana prison	694	
Figueres prison (Girona)	199	
Barcelona men's prison	1,851	
Las Palmas I prison, Las Palmas de Gran Canaria	1,267	
Melilla prison	315	
Tenerife II prison in La Esperanza (Santa Cruz de Tenerife)	1,085	
Fontcalent psychiatric prison hospital (Alicante)	367	
Seville Incarcerated Mothers' Unit	16	

#### Table 33. Occupation of the prisons inspected

Of the various facilities we inspected, we found the most severe overcrowding in Barcelona, where there were 1,900 inmates at the time of inspection, with 71 individual cells and 558 shared, some with up to six occupants in three-tier bunks; Figueres (Girona), where at the time of the inspection visit, there were 170 inmates housed in 56 cells, in some cases four or even six to a cell; Castelló/Castellón, in which there were 47 inmates despite having only 33 places. Indeed, we were told that a few days before the visit two of the cells in the prison had 4 double bunks, a very severe case of overcrowding. The situation improved when a workshop was fitted out to be used as a cell, allowing the inmates to be divided between three shared cells with three bunks each. Nonetheless, there is clearly not enough room in the cells for 6 occupants, particularly in two of the cells where the space is more limited. This situation is in breach of the legal requirement for there to be one prisoner per cell (the "individual cell confinement" principle), referred to in Paragraph 318 of the Annual Report 2010. The result is not only a shortage of space for inmates, but also a shortage of staff to attend to them. On the day of the inspection visit, the women's module at Castellón de la Plana prison had a 42.4% overcrowding rate (33 places for 47 inmates). Nonetheless, occupation at the facility has fallen by 15% over the last a year and a half -possibly due to the transfer of inmates to the nearby prison of Albocàsser (Castelló/Castellón), which opened in September 2008. This trend is considered very positive, given the overcrowding at the facility in previous years.

Barcelona men's prison and Castelló/Castellón women's prison are overcrowded in breach of the legally binding "individual cell confinement" principle (one prisoner per cell)





Photo 46



Cell at the women's module in Castellón de la Plana prison

Cell in Barcelona men's prison



ing any incident with an inmate.

The SGIP reports that it has costed implementation of the recommendations of the Ombudsman's Office but budgetary restrictions prevent them from being implemented in their entirety

CCTV surveillance system at Alcala de Guadaíra prison (Seville)

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120. In most of the prisons inspected in 2011, the CCTV surveillance system

did not meet the criterion set out in Paragraphs 334 and 477 of the Annual Re-

port 2010, which advised extending these technical resources to all establish-

ments in which there may be people deprived of liberty, except for cells and

sanitary facilities. In Albolote (Granada), for example, there are serious deficien-

cies and considerable deterioration in the system, due to its age and the fact that

it has not been upgraded. In Alcala de Guadaíra (Seville), the existing CCTV

surveillance system is obsolete and is not used. At Barcelona prison CCTV systems are only in place in the open section, where footage is not recorded, and in the solitary confinement cells. At Castellón de la Plana, the system only covers the common areas in the modules; it is very old, and the images are blurred and in black and white; At Figueres (Girona), some cameras have blind angles, and only some of them record footage. At Fontcalent psychiatric prison hospital (Alicante) there is no CCTV surveillance in some common areas. It is also lacking from some of the cells in the acute care department and nearly all the infirmary department. At Melilla the system only covers the yards and inter-modular corridors; At Tenerife II prison there is no video-surveillance system whatsoever. The SGIP reports that a study was made of the cost of meeting the recommendations of the Ombudsman's office and that for the time being it is not possible to go ahead with the improvements, due to budgetary shortages, within the priorities established by prison authorities. However, in the specific case of Albolote (Granada), it reports that it is currently examining the characteristics of the system, the needs for modernisation and recording and storage protocol. The Office of the Catalan Justice Department has told us that in view of the imminent opening of the new Puig de les Basses prison in Figueres (Girona), it is not considered necessary to make any investments in this section, given that the new facility will meet all criteria on CCTV surveillance. Nonetheless, the necessary measures have been taken to regulate the recording and storage of images showWe observed that the call systems in the cells in Alcala de Guadaíra and Castellón de la Plana prisons and in Fontcalent psychiatric prison hospital (Alicante) were either nonexistent or in poor working order

**121.** Although they have committed themselves to installing intercoms and call systems inside the cells so that inmates can communicate with the officers on duty (see Paragraph 336 of the Annual Report 2010), in our 2011 visits to Alcala de Guadaíra prison (Seville) Castellón de la Plana prison and the psychiatric prison hospital at Fontcalent (Alicante) we found call systems and intercoms to be deficient or non-existent, which meant that communication could not be assured. In Alcala de Guadaíra, although there were intercoms in the cells, they were found not to be working properly. This was corroborated by the inmates interviewed ("You really need to have bells"; "the bell in the cell doesn't work"; "the intercom in the cell for calling if you don't feel well doesn't work. Something could happen to you in the time it takes for them to come, because your own cellmates have to knock at the door for help"). At Castellón de la Plana these systems are only fitted in the women's module and in the infirmary. At Fontcalent, intercoms are only fitted in Modules I and III of the men's prison, in the infirmary and in the two upper floors of the acute care department, while the women's module has a system with bells. In the latter, various testimonies from inmates and officers, reported that the intercoms do not always work properly. Some inmates say officers do not always answer their calls, especially at night, or if they do, they take a long time to respond. Given that is technically possible and would involve no additional cost to the centre, it would be advisable to record the conversations between inmates and officers, since complaints have been received about failure to respond to calls for help.



Continued breaches have been observed with regard to the provision of information to inmates on arrival regarding rights and duties **122.** We observed a number of discrepancies with regard to the information furnished to inmates on their rights and duties when they first entered the facility. At the inspection visit of the Seville Incarcerated Mothers' Unit, this information was found to be available only in Spanish, with no translation into other languages. At Castellón de la Plana, questionnaires were handed out to a large

Intercom in Barcelona men's prison number of male and female inmates. Asked whether they were given information upon arrival regarding their rights and duties in the facility, more than half of those surveyed in Module 1 said they were not. Similarly, the majority of the inmates in both this module and in the women's module said that the information was not clear and easy to understand; that it had not been provided in written form and in their language; that they were not allowed to keep a copy; and that there was no place where they could regularly view the information, in breach of Article 52 of the Prison Regulations. Finally, at the psychiatric prison hospital in Fontcalent (Alicante), we observed that inmates were provided with no written information on arrival regarding the characteristics of the facility and their rights and duties in it.

**123.** Although in most of the prisons inspected during 2011 the inmates were verbally informed of the possibility of filing habeas corpus proceedings, this information was not furnished in writing (except in Barcelona men's prison). Such a change would ensure that there was irrefutable evidence that this requirement had been complied with, as recommended last year. Paragraph 476 of the Annual Report 2010 states that persons involved in any situation of deprivation of liberty should be provided with written information on their statutory rights in such circumstances, including the right to habeas corpus, whenever legally applicable, and that this information is to be provided in a clear and concise manner that can be understood by someone who is not familiar with legal jargon.

**124.** In the specific case of the inspection visit made to the psychiatric prison hospital (HPP) at Fontcalent (Alicante), we considered it advisable to examine the court files of some of the inmates. The reasons were the particular vulnerability of the inmates, and because they are psychiatric patients requiring specialist care on whom a security measure had been imposed. We observed that a significant number of the patients had been placed in this facility for the crime of "attack against the public authorities" [atentado contra la autoridad], -in all likelihood as a consequence of their illness. This suggests that this sentence is being overutilised and also that there is a profound conceptual futility, from a psychiatric perspective, of detaining some of the patients in this facility. Our review of the files also revealed cases of persons declared to be immune from prosecution by a court, which had ordered that they should be placed in the psychiatric prison hospital instead; they were subsequently tried for crimes committed between the first offence (in which they were declared immune from prosecution) and their entry into the HPP. In other words, the judge had ruled that the patients were entirely immune from prosecution, but they were sentenced to an alternative measure which was added to the previous one, and their detention at the facility extended by the corresponding number of years. This type of sentencing reinforces the idea that the HPP is not viewed socially as an area of therapy or social protection, but rather as a form of punishment equivalent to prison for people with mental illnesses. In this regard we have informed the Ministry of Justice of the need to review the legal treatment of mental patients, who are deprived of Except in Barcelona men's prison, written information on habeas corpus proceedings is not provided

The legal-penal treatment of mental patients, deprived of liberty for long periods of time with no therapeutic grounds, needs to be revised

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their liberty for long periods of time with no therapeutic grounds, since the logic of recidivism and the accumulation of sentences should not be applied to mental patients. At the same time, it should be taken into account that prison sentences of less than two years should be served in the autonomous community of origin.

125. In pursuance of a ruling passed on 22 April, 2010, the SGIP revised the daily allowances paid for prison inmates' food. The unit values per inmate used to calculate the economic provisions destined to food in prisons, including taxes, were as follows: Group I (facilities with fewer than 200 inmates), 4.15 euro; Group II (facilities with between 200 and 500 inmates), 3.67 euro; and Group III (facilities with more than 500 inmates), 3.65 euro. The same amounts apply to the three types of inmate: healthy inmates, young inmates and infirmary rations. These amounts correspond to the allocation made in the prisons inspected, where the food is prepared in the prison's own kitchen or in the case of the psychiatric prison hospital in Fontcalent (Alicante), for which the food is prepared and sent from the neighbouring prison of Alicante. In Seville Incarcerated Mothers' Unit the daily allocation per inmate is 6.92 euro. This amount is stipulated in the contract between the SGIP and the catering firm that provides the service. Our inspections show that the medical service monitors the type of food and supervises the menus, in some cases allowing the inmates to participate in preparing it. A food calorie study is carried out, and they seek to strike a balance in the essential nutrients (proteins, carbohydrates and lipids), and where necessary for reasons of age, religion, cultural factors and medical condition, special menus or diets are provided in the facilities, which are supervised by the prison health service.



Photo 51

Although a majority of inmates interviewed in Castellón de la Plana prison said they liked the food, nearly all of the men interviewed in Module I said they did not. In Barcelona men's prison, a group of "first-degree" inmates said the food was cold, because it was served up while they were enjoying their yard time. Taking advantage of the fact that the interview was held with them in the yard, we

The medical service monitors the type of food and supervises the menus, in some cases allowing the inmates to take part in its preparation

Tray of food in Melilla prison

In Barcelona men's prison, first degree inmates should be given their yard time at non-mealtimes

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visited some cells in the module and found that in effect, the food was served up on the tables and was not at a suitable temperature. When queried, the service staff said that that food distribution times could not be altered, and that although the food was taken from the kitchen on thermal trolleys, if the inmates were in the yard, it was only natural that the food would eventually go cold. It would therefore be advisable to allow the inmates into the yard at some time other than their meal times. In Tenerife II prison in Santa Cruz prison de Tenerife, one of the inmates told us: "The food is good, although there's a lot of frozen produce which seems strange, because there are very good quality vegetables and other produce on the island". Two of the inmates interviewed complained about the food: "The food is very fatty [or greasy], although from time to time they let us buy in food from outside". In Fontcalent psychiatric prison hospital (Alicante), we attended distribution of one lunch and one dinner. The inmates themselves were in charge of handing out the food and we were told by various different sources that the food was better than when this task was performed by an external catering firm.

126. With regard to the healthcare provided to inmates, in general all centres inspected have a sufficient staff of doctors, nurses and auxiliaries, although there is only a night shift in attendance at Barcelona men's prison, Las Palmas I in Las Palmas de Gran Canaria, Tenerife II in Santa Cruz de Tenerife and Fontcalent psychiatric prison hospital (Alicante). At the other facilities there are doctors or nurses on call. For example, in Castellón de la Plana prison several male and female inmates said they had had problems being attended by a doctor when they needed, especially at nights, at weekends and on public holidays. Comments included the following: "They make you wait all day and in the end they tell you have to go to a doctor's surgery"; "they might give you a headache pill or sometimes they just don't pay any attention to you"; "they seldom bother about you unless you're in a very bad way"; "it varies from case to case whether they visit you or not"; "they don't normally take me to the infirmary". Specifically with regard to requests for assistance at night, they said: "You go to the officer and if it's something serious, they take you to the infirmary"; "You wouldn't dream of bothering them"; "If you ask them to come, they make you wait all night"; "some attend to you and others ignore you"; "there's only one doctor on nights in the centre and he's not always available. You'd have to be dying to call at night and have them attend to you"; "you have to disturb the whole gallery. And if the head of service thinks it's not serious, you could get into trouble". In Seville Incarcerated Mothers' Unit some inmates said they were not satisfied with the night-time medical assistance: "At night, if the officer sees it's urgent, he informs the head of service and he decides whether to call the medical services"; "if it's urgent or they find you in a bad way, the nurse comes and if they have to take you to hospital they do so right away; in the case of the children, especially, they given them a lot of attention". During night hours (from 10 pm to 8 am), in situations where medical assistance is required, the inmate tells the supervisor

In general, the prisons inspected had sufficient healthcare personnel

of the situation and he or she calls the healthcare personnel from the CIS (a nurse), who assesses the situation.

127. As for the quality of the medical attention provided, despite criticisms regarding health care at nights, on weekends and on public holidays in the Castellón de la Plana prison, male and female inmates were generally positive in their remarks about the medical team at the facility. One woman inmate complained about an alleged lack of medical attention at the weekend when medical staff are on call, and about the psychiatric attention received. The forensic doctor participating as an independent expert in the inspection checked the woman's claims against her medical record and found no evidence of the medical services' failing to attend her. Interviews were also carried out with a number of inmates in the infirmary with different conditions. None of them had any complaints about the attention provided by the medical services, nor about the treatment they had received from nonmedical personnel. In Alcala de Guadaíra prison (Seville), the inmates generally consider the medical assistance they receive and their relationship with the medical staff to be good. As one inmate said: "They normally deal with you straight away. The medical services at this centre are quite effective". At the psychiatric prison hospital in Fontcalent (Alicante), the inmates generally rated the professionalism of the doctors and nurses very highly (70% and a 90% respectively). The figures are similar with regard to their treatment and to their perception that they are being appropriately monitored for their condition (in both cases, 95% gave a positive score to nurses and 80% to doctors). The health care provided at Seville Incarcerated Mothers' Unit includes promotion of healthcare education and public children's health programmes and staff include a paediatrician, employed by the SGIP. The inmates generally consider the medical care received and the relationship with the staff as being very good in the case of the children, although they feel that there is room for improvement in the care for mothers.

**128.** With regard to the observance of processes and aspects regarding medical records, at Alcala de Guadaíra prison (Seville) we observed that the protocols recommended by the Prison Institutions were followed. Two systems are used for recording data in clinical records: the SAMIT database (includes epidemiological data and other basic care information for each inmate); and the physical medical record (on paper) which consists of a folder and standardised forms. Another positive aspect is the confidentiality of the medical records in Fontcalent psychiatric prison hospital (Alicante). This is assured using a system of profiles and a program specially devised on a voluntary basis by a staff member at the hospital was very well rated by the psychiatrists on the inspection team.

**129.** Following the inspection visits carried out at the prison during 2010 and 2011, we have learnt of the serious problem and grave consequences for the health of the inmates resulting from a lack of medical appointments for performing tests and consultations with specialists which cannot be performed in the medical modules of the facility and therefore have to be carried out externally. According

Most of the inmates interviewed were satisfied with the quality of the medical attention provided

In the specific case of the Seville Incarcerated Mothers' Unit, inmates consider the medical assistance received by the children to be good, but feel that the care they themselves receive could be better

The confidential treatment of the inmates' medical records at Fontcalent psychiatric prison hospital (Alicante) is particularly good

The DGP and DGGC have launched an enquiry to determine why inmates are failling to attend medical appointments outside the prison

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to information provided by the SGIP, in 2011 51,859 external consultations were requested. Of these, 2,242 (4.32%) could not be provided because the agents charged with escorting and transferring inmates from the prison to the medical centre in question failed to materialise, due to staffing shortages. There are prisons in which this problem is particularly pressing. At Castellón de la Plana prison, for example, the medical services reported that in 2011 and at the time of the inspection in mid-December, of a total of 434 consultations with prior appointment, 77 (17.74%) had had to be rescheduled for this reason. Nonetheless, they said that no such custody problems existed for urgent transferrals. An ex officio investigation has been launched with the Directorate General for the Police and the Directorate General for the Civil Guard to determine the specific causes of this problem and identify possible solutions.

**130.** Whatever the measures that need to be taken by the respective directorates general to alleviate these problems, it is of fundamental importance that protocols be drawn up between the SGIP and the respective regional government departments with powers for health in the autonomous communities to provide certain medical consultations using videoconferencing and remote healthcare systems, as stated in Paragraph 339 of the Annual Report 2010. This would reduce waiting times in medical services, improve flexibility in scheduling prisoners' medical appointments and increase the information provided on the possible duration of consultations and surgery. The SGIP has expressed its willingness to reach agreements with the regional health departments, although there are as yet few facilities that have remote healthcare services in operation.

**131.** Although generally speaking, the infirmary facilities visited in 2011 were adequate, in Castellón de la Plana prison, it would help the work of the medical services if the number of computers was increased and Internet access were provided. At Alcala de Guadaíra (Seville), the infirmary has first-aid equipment which, we were told, has never been used and requires inspection. We recommend that this be done immediately and the equipment upgraded. Finally, the infirmary at Fontcalent psychiatric prison hospital (Alicante) has recently been comprehensively refurbished, as repeatedly requested by the Ombudsman's Office. It looks entirely different to the rest of the centre, and is similar in appearance to newly-constructed facilities. However, in the words of one of the psychiatrists from the facility interviewed: "It is designed like the infirmary of a prison, not a hospital". According to the assistant medical director, this department also caters to people who are awaiting examination by an expert psychiatric, ordered by the judicial authority. This examination is performed by a psychiatrist who is not on the staff of the centre, to prevent doctors from being faced with a possible conflict of interests in issuing a report on someone they are also treating.

Protocols must be drawn up for collaboration between the SGIP and the regional health departments, to offer remote healthcare systems and videoconferencing

# The infirmary facilities visited in 2011 are adequate



Doctor's surgery at the infirmary of Fontcalent psychiatric prison hospital in Alicante

> The DP is especially concerned about the number of inmates in ordinary prisons with psychiatric disorders

The Framework Programme for the Integrated Care of the Mentally III has been set up in ordinary prisons. During the inspection visit to Castellón de la Plana prison, the programme was found to be at a very early stage

Problems related to medical care could be resolved by signing collaboration agreements **132.** The Ombudsman's Office is particularly concerned by the number of inmates in prison with psychiatric disorders of differing degrees, who consequently require specific care. According to a study carried out by the SGIP in December 2006, one out of every four inmates has one or more psychiatric diagnoses in their medical record. Most of these inmates are in ordinary prisons. Their situation is different to that of inmates who have been exempted from criminal liability by court decision and are thus deemed immune from prosecution, for which reason the sentencing body agrees that they should be sent to one of the psychiatric prison hospitals in the country, as a safety measure, for the maximum period that would correspond to the offence in question under the Criminal Code.

As stated in Paragraph 341 of the Annual Report 2010, the Framework Programme for the Integrated Care of the Mentally Ill (PAIEM) was launched to cater to the mental health needs of inmates in ordinary prison. During the inspection visit to Castellón de la Plana prison, the forensic doctor in the inspection team paid particular attention to application of the programme. According to the data provided for the third quarter of 2011, at 30 September 2011 there were a total of 35 inmates with one or more diagnoses of mental illness (out of a total of 237 inmates receiving treatment with psychopharmacological drugs) included in the PAIEM. Nonetheless, we observed that the programme is still at a very early stage. Only occupational activities have been carried out and the measures provided for in the programme have not been introduced. We therefore believe it is of priority importance to implement the programme in its entirety, including comprehensive therapeutic actions containing psycho-educational intervention, and to try to ensure greater coordination of medical services with the other multidisciplinary services.

With regard to the medical attention provided at Fontcalent psychiatric prison hospital, at the time of the inspection visit, the facility had a staff of 5 full-time psychiatrists, plus 4 GPs with training in mental health. Most of the people interviewed said that they see the psychiatrist approximately once a month, although several also remarked that there are psychiatrists who only attend to patients who sign up on a list. Remarks by inmates included the following: "I would say that my treatment is adequately monitored but sometimes we're left a bit adrift due to

a lack of time and resources. Sometimes your desire and your willingness to improve and overcome your illness is not enough; you need a real and convincing explanation that you can believe and that will help you understand the reasons for your condition"; "the treatment is effective and adequate"; "they make an effort, sometimes there are too many of us"; "without calling into question the professionalism of the staff at the centre, I think it's understaffed; there should be more personnel to treat patients. People get worn down working at a facility like this, and that has negative consequences for the inmates"; "sometimes they do attend to the patients, but on other occasions they don't do it quickly enough or when it's needed. Especially when people are sick"; "the doctor is wonderful, but there's another one who is very irresponsible"; "when they do attend to me, they're good". The management of the facility report that there are major difficulties in finding psychiatric and technical staff. Reasons include pay, which is lower than that for equivalent posts in the healthcare sector; the difficulties staff have in returning to the health network after a few years, and the requirement to maintain an exclusive contractual relationship, which prevents them from combining their work with private practice or teaching/academic activities. All of these problems could be resolved, by implementing collaboration agreements allowing healthcare staff working in these institutions to be institutionally dependent on the regional health department in question, in this case Valencia. One inmate remarked: "This is the fifth psychiatrist we have had in 5 years. There's a high staff turnover. If you put your name down on the list, you get to speak to the psychiatrist, but if not, you don't ... The care system varies from one psychiatrist to another, which means that it changes every time there's a change in personnel".

Finally, it should be noted that in Figueres prison in Girona, we interviewed one of the doctors who said that due to the increase in Attention Deficit Hyperactivity Disorder (ADHD) among inmates with a drug addiction, for the last two years tests have been conducted at this centre to detect indications of the disorder, the degree of seriousness, the presence and importance of other psychiatric disorders and a range of behavioural problems, which will be of help when making a diagnosis.

133. With regard to the medication administered to inmates, in the particular case of Castellón de la Plana prison, we noted that there was no direct supervision of the oral administration of psychopharmacological drugs (except in the case of patients in the infirmary). Instead the medication is dispensed three times in week, and it is left up to the patient to fulfil the instructions on treatment. This situation could be resolved by increasing the number of auxiliaries at the infirmary (at present there are only two, which is clearly insufficient) and by allowing demands for medical attention to be filtered in times when doctors are on-call. The psychiatrists on the inspection team were generally moderate in their appraisal of Fontcalent

with the health departments of the relevant regional governments

Staff levels of auxiliaries at the infirmary in Castellón de la Plana prison need to be increased

According to the psychiatrists on the multidisciplinary inspection team at Fontcalent psychiatric prison hospital



(Alicante) the inmates generally received lower doses of medication than would be prescribed to patients with analogous conditions in the extrapenitentiary health system

The number of deaths and suicides fell significantly in 2011

psychiatric prison hospital in Alicante. The dosage was lower than that which would be given to patients with analogous conditions in health services outside prison. This contrasts with concerns over possible overmedication expressed by three members of the AFAPIHPPA (Association of Family and Friends of Patients at the Psychiatric Prison Hospital of Alicante) interviewed - specifically the mother of a former inmate, an inmate at the hospital who was out on weekend leave and his brother. The medical services report that the facility itself provides a means of contention, which means that psychotic symptoms are permissible as long as they do not disturb other patients or lead to violence. This is considered beneficial as the use of higher doses of medication leads to a greater incidence of side effects, especially in the medium to long term. The following are some of the remarks from inmates: "Having tried various drugs, we finally managed to find one which kept me stable and which had no side effects"; "I think they're giving me the right medication and I need it". Nonetheless, during the visit we also received some complaints about the medication: "They don't give me enough medicine, I go through hell and the psychiatrist doesn't understand me"; "I'd like them to lower my levels of medication ".

**134.** According to information provided by the SGIP and the Catalan regional justice department, there were 203 deaths in prison in 2011: 148 in prisons answerable to the SGIP and 55 in prisons answerable to the Catalan government. In the case of the SGIP, this is a considerable drop on the previous year, when there were 185 deaths. In contrast, in Catalonia there was a slight increase on the figure for 2010, when 53 people died in prison. There was also a significant fall in the numbers of suicides in prison, from 23 in SGIP prisons in 2010 to 15 in 2011, and from 5 to 2 in Catalonia. The Ombudsman has initiated 15 ex officio investigations into prison deaths in 2011.

-		
	SGIP prisons	Catalan govt. prisons
Drugs	31	9
Suicide	15	2
HIV/AIDS	10	2
Assault	4	0
Accidental	2	1
Other conditions	79	41
Awaiting autopsy report	7	0
TOTAL	148	55

# Table 34. Deaths of prison inmates in 2011

Source: authors, based on figures provided by SGIP and Catalan regional justice department.

The suicide prevention programme in Castellón de la Plana prison is being successfully applied

During our inspection visit to Castellón de la Plana prison, we found that the suicide prevention programme is being applied successfully. This is evidenced by a low rate of attempted suicide and the lack of any successful suicides over the last

7 years. Castellón de la Plana is one of nine prisons in Spain to have recorded no cases of suicide since 2004. In keeping with the usual strategies for detecting cases, the staff from the health services who interview new inmates assess the risk profiles to identify those that should be included in the suicide watch programme. At the time of the inspection, 4 inmates had been included in this scheme and had been recommended to a psychiatrist for assessment.

Table 35.	Death of inmates at Fontcalent psychiatric prison hospital
	(Alicante) in 2009, 2010 and 2011

	Cause of death	Place of death
2011	Respiratory failure, asystole, ischaemic heart disease (1) Hanging (2) Overdose (1)	Hospital (0) Cell (4)
2010	Respiratory failure, asystole, ischaemic heart disease (5) Hanging (1) Hospital (1)	Cell (5)
<ul> <li>Respiratory failure, asystole, ischaemic heart disease (3) pulmonary embolism (2)</li> <li>Sepsis (1)         <ul> <li>Cancer of the larynx (1)</li> <li>Hanging (2)</li> </ul> </li> </ul>		Hospital (3) Cell (4) Unspecified (2)

Source: authors, based on data gathered during the visit.

During the inspection visit to Fontcalent psychiatric prison hospital in Alicante we analysed the files on deaths in confinement for the last three years. As shown in the table above, the majority of deaths occurred in the facility itself and not in an external hospital. Particularly striking is the death in confinement of one inmate from cancer.

The psychiatrists on the inspection team examined all the files on suicides for the last 4 years, including classified reports and post-mortems. They noted that the Suicide Prevention Programme had not managed to reduce the number of suicides; indeed, none of the patients who had committed suicide had been included in the scheme. The files show that all suicides were caused by hanging, with 80% using the power cord on the television in their room or a cable from their own stereo systems. This was tied to the horizontal bars on the windows, as shown in the photograph below.

None of the inmates who committed suicide at Fontcalent psychiatric prison hospital was on the Suicide Prevention Programme



Horizontal bars on the window of one of the cells at Fontcalent psychiatric prison hospital, Alicante

Following a suicide, the psychiatrist should use indirect methods of investigation to determine the circumstances, framed within a bereavement therapy programme

Specific drug and addiction programmes are organised. However other programmes, such as those related to the treatment of prisoners sentenced for sexual assault, are not applied The suicides match a pattern known as "opportunity suicide", in which the most important factor is not the severity of the clinical condition but the easy availability of the means. In other words, people without a real death wish make suicide attempts that might otherwise not be fatal, but become so because of the availability of necessarily lethal means. We also found that after a suicide had been committed, an internal committee of enquiry was set up to question any possible witnesses, including cellmates and nearby inmates. This practise concerned the psychiatrists on the inspection team, who felt it might provoke serious feelings of guilt by leading the inmates in question to fantasise as to what they could or should have done to prevent the suicide. In many cases these sessions do not provide really substantial information. Therefore, apart from cases in which other patients are eye witnesses or have key information that helps shed light on the facts, investigations should be carried out using indirect methods that do not require direct interrogation of patients regarding matters related to the suicide or their role in the incident. In all cases, such enquiries should be made by the psychiatrist treating them, as part of a programme of bereavement therapy.

**135.** With regard to other specific programmes implemented by prison authorities, Alcala de Guadaíra prison (Seville) applies the Andalusian Drug and Addiction Plan, which involves creating a basic drug addiction treatment file and a programme for the prevention of infectious and contagious diseases. Seville Incarcerated Mothers' Unit also promotes healthcare education and public children's health programmes, specifically the Infant Nutrition Programme and the programme for vaccination and prevention of infectious diseases. Barcelona men's prison has two detoxification programmes, the Intensive Detoxification Programme (MID), depending on each inmate's specific circumstances. Management at the prison report that there are also a number of programmes run by the Catalan prison authorities. These include SAC (dealing with crimes against sexual liberty), DEVI

(for crimes involving serious violence) and VIDU (for gender-based violence). Yet although these programmes have been put in place, none of them is actually being applied. Treatment programmes do not begin until the inmate is close to release. However this particular prison is only for prisoners in preventive custody and once they are sentenced they are transferred to other prisons. As a result, they have no inmates signed up to this type of programme. Finally, at Castellón de la Plana prison, the treatment programme for inmates sentenced for sexual assault was not operating at the time of the inspection because the officer in charge of running the programme had been transferred elsewhere. Tenerife II prison in Santa Cruz de Tenerife, as well as having a drug-free module, also has an addiction treatment and detoxification programme. On arrival, prisoners with withdrawal symptoms are prescribed symptomatic/psychotropic medication. According to the director, on the day of the visit there were somewhat over 120 inmates on the methadone programme, and there was also a syringe exchange programme. Methadone maintenance treatment schemes are also in place in the prisons in Melilla and Figueres (Girona). The latter also has addiction treatment and syringe-exchange programmes (with a small number of inmates).

136. As stated in Paragraph 354 of the Annual Report 2010, inmates and their cells are searched for reasons of internal security. From our inspection of Castellón de la Plana prison, we concluded that the protocol for searches at the prison should be reviewed, since several male and female inmates said they were not allowed to cover themselves during full body searches. Most of the inmates interviewed said that at some time or other they had been subjected to a full body search. Most of the inmates interviewed said they had undergone rub-down searches, although a minority reported that at some time they had been subjected to a full body search. At these interviews, most of those questioned said that these are very humiliating moments and make them feel distressed, sometimes for days afterwards. Some also said that that it is an uncomfortable and unpleasant experience, but that it is necessary for security at the facility, and they never felt that their dignity was compromised. One of the inmates said: "Making a man get undressed and making him go through that humiliation is too much". Finally, two inmates said that the full body search had been carried out in a public place, and nine said that they were not allowed to cover themselves during the search. Only one inmate said she was not allowed to cover herself during the search on her arrival at the centre.

The search protocol at Castellón de la Plana prison should be reviewed

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Cell for body searches in the men's module at Castellón de la Plana prison



Some inmates at the Alcala de Guadaíra prison (Seville) and the Seville Incarcerated Mothers' Unit did not know which personnel were supposed to carry out the searches and whether they needed authorisation

At Fontcalent psychiatric prison hospital in Alicante, full body searches were carried out in exceptional cases. The search order is notified to the parole judge The female inmates interviewed in the Alcala de Guadaíra prison (Seville) considered the procedures to be appropriate and suitable, as well as necessary for security at the facility, although in some cases they said they did not know who was supposed to perform the searches or whether they needed authorisation to do so. One inmate said: "The search is of almost no use. Everyone "embeds" whatever they want to get through (i.e. they insert it in their rectum or vagina) or they have hiding places in their clothes". In Seville Incarcerated Mothers' Unit the inmates interviewed said that the searches they had undergone –in all cases rub-downs– were appropriate and only some reported that they do not know which personnel should carry out the searches and whether they needed authorisation, and stated that they were always searched when they returned from leave.

At Fontcalent psychiatric prison hospital, Alicante, although over a third of those interviewed said they had undergone full body searches, and some said they were not allowed cover themselves during the searches, the management of the facility said they were only performed in exceptional cases. An examination of the record books and files showed that the first order for a full body search in 2011 was authorised on 29 October. As the graphic below shows, the order sets out the reasons why it was considered necessary to adopt this measure, the duration, place where it was carried out, clothing and electronic media used, the authorising party, the prohibited objects that were confiscated and any incident that occurred during the search. This search order was notified to the Parole Judge.

#### Long-term deprivation of liberty

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Order for a body search at Fontcalent psychiatric prison hospital, Alicante

Remarks from inmates included the following: "Sometimes in the acute care ward they did do a full body search. But only in very specific cases. You see someone smoking in the acute patients' cell and there's nobody that could have given them a light"; "body searches in the visits. They caught me with 200 grams of coffee that my mother brought me. They confiscated it. They've never strip searched me, though I think it has happened to others"; "the body searches by the police can be a bit humiliating, but not the ones by the staff here ".

**137.** 30% of men and 10% of women interviewed during the inspection visit to the Castellón de la Plana prison said that the cell searches were carried out without their being present. We have therefore asked for a review of the protocol on cell searches. In Fontcalent psychiatric prison hospital (Alicante) the inmates interviewed said that these searches are very sporadic and are superficial. This was

We have called for a review of the protocol for cell searches at Castellón de la Plana prison

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corroborated by the management of the facility, who said: "There are no reasons for more", given that it is very rare for drugs to be introduced into the hospital and there have been no known cases of inter-inmate assaults with knives or other sharp objects. Remarks from inmates included the following: "The last body or cell search was carried out 6 years ago"; "they told me they'd searched my handbag in my absence"; "they carry out searches when the person's not there. They search your 'hut' and if you have anything, they send you to the acute care section. They've never searched me". Finally, the security staff said that they never performed large-scale cell or body searches (e.g., of a whole floor or module), as this would be impractical, given the large number of cells and the small number of security personnel on each shift. They only act in very specific cases when they suspect that drugs have been introduced or there have been thefts between inmates. One of the staff said: "You carry out a search inside the cell of whatever you can see, among the clothes. I've sometimes seen a razor blade".

**138.** With regard to the rules that inmates have to observe, during the inspection visit to Castellón de la Plana prison, the great majority of female inmates interviewed said that the centre has clear rules. In contrast, most of the male inmates said the opposite. Examples included: "The rules should be clearer and simpler and a bit more human"; "the rules are not the same for everyone"; "the rules that each official imposes"; "the rules are imposed by each officer; they each make their own personal interpretation of the prison rules"; "management applies the rules arbitrarily", or "prisoners suffer the consequences because the officers have a lot of power and we only have duties".

Because Fontcalent psychiatric prison hospital (Alicante) is a care facility, the prison regulations are not intended to be disciplinary/corrective. However, judging from interviews with inmates, officers and management, as well as a meticulous examination of the inmates' individual files, we observed that measures such as transferral to the acute care department and confinement to the prisoner's room for an indeterminate length of time, after some incident has occurred are not always based on therapeutic grounds or ordered by a doctor. There are situations in which it seems necessary to isolate one or more people as a result of some altercation in their module and it is for this reason that this type of measure is adopted. The management know that such actions are not backed by the regulations but feel it would be desirable if such regulations existed. The assistant security manager's office insisted that "reports" are not equivalent to "sanctions", but refer to the "notification of an incident". This does not reflect the understanding of the inmates, who do consider "report" and "sanction" to be indistinguishable. Likewise, one officer interviewed spontaneously remarked: "The way you keep someone under control when they're disrespecting you is to tell them that you'll issue them with a report. They know that if they get two reports, they'll be sanctioned by having their time out rescinded". When we remarked on the use of the term "sanction", he said: "Well, they're not allowed to have their time out. It comes to the same thing in practice".

The female inmates at the Castellón de la Plana prison said that the rules at the centre are clear; however, the male inmates said they were not

At Fontcalent psychiatric prison hospital (Alicante), there appears to be an unwritten set of rules, which are used to create sanctions

Although the lack of rules makes the institution feel less like a prison, it is also true that the absence of a clear set of rules means that inmates do not know how they are supposed to behave. All inmates interviewed agreed that there are "unwritten rules". One inmate interviewed said there were "sanctions" for consuming certain substances, for unsuitable clothing or hygiene, and for not taking their medication. Another said: "There is no written rule; they should be as rigid about the regulations on living together as they are about times. The only (unwritten) rule there is that you can't smoke in the dining room and nobody obeys it. It bothers me when people smoke...; there's clearly a problem knowing what rules you have to obey". For others the rules are about "smuggling coffee in" to the centre, "quarrelling or fighting with other inmates". Another inmate said, somewhat cryptically: "The sanctions are for autolytic and heterolytic risks". Others said: "The difference between a sanctioning measure and a therapeutic measure is not clear. Inmates are not told what gets put in the report. The officer takes it away and then speaks to the psychiatrist, who decides on how long they'll spend. To apply a sanction, you have to inform the judge, for a therapeutic measure you don't"; "the decision to transfer you to acute care is taken by the officer who in turn requests the order from the psychiatrist. The psychiatrist who deals with you in acute care is not your usual doctor"; "they only use mechanical restraint in acute care. It can be used as punishment"; "In theory, solitary confinement cells are used when the condition becomes acute again. In practice, they're used as punishment after some act of violence; the duration varies".

Overall, there appears to be a varied set of elements which are not officially reported making up an unwritten corpus of rules, which can be used to issue sanctions. There is an awareness that there is certain "unauthorised" behaviour by the centre, in a context of confusion and some myths.

An analysis of the files and logs showed that over the last two years, 42% of people have had some report issued, and some have accumulated ten or more. The most common causes were fights or insults amongst inmates, harm to self or others, cells in insalubrious conditions and disobedience and resistance to an order by staff. According to the inmates interviewed, such behaviour had the following consequences: "They take away your therapeutic time out"; "they move you to another module and they take you to the one with the troublesome ones"; "If it's serious, they take you to acute care or you spend a day in the cell"; "Unless an inmate is involved in a fight, in which case they are deprived of their right to time out to attend events and therapeutic time out. In other cases, there's no consequence for ignoring the rules"; "The sanctions are solitary confinement, denial of time out, including attending mass, which is where the female inmates get to see their boyfriends, because it's the only mixed activity"; "there are different types of sanctions; they can refuse you time out, not let you out of the module, put you in solitary confinement cells in the acute care module, which are locked and take you out only to have a shower"; "they issued a report against me for having my room in bad condition. They suspend your time out and your activities... I was

The absence of a clear set of rules means that inmates do not know how they are supposed to behave

We discovered that in the last two years 42% of people had had a report (caution) issued against them, and some had ten or more sanctioned for something really petty". Despite this evidence and the clear relationship that exists between certain behaviour and transfers to the acute care unit, changes in module and suspension of therapeutic time out, the centre itself denied the existence of any formal "sanctions". This contrasts with the fact that the inmates believe they are being sanctioned.

The institution has created what is called an "Individual Intervention Plan" (PII): i.e. decisions of regimental type which can be taken by the director on his own judgement without seeking the opinion of the professionals. These may range from a change in module to issuing or removing authorisation to participate in certain activities. The existence of this type of decision (PII) is in clear contravention of the repeatedly expressed idea that all decisions should come from clinical and therapeutic staff. It may suggest that there is a system of regulations which are undeclared but clearly in operation at the institution. We found evidence that following an incident involving an altercation in the women's section, it was decided to temporarily isolate the patient who had caused the incident. She was taken first to her own cell and it was then agreed to transfer her to the acute care department. The incident was reported to the Parole Courts, demonstrating that the authorities are entirely transparent when it comes to adopting these measures. The judge does not normally expressly issue an opinion on the measure but neither does he or she remove authorisation for it, except in cases in which the affected party submits a complaint.

In addition, many of the decisions that affect patients are not taken by the Treatment Panel (as legal regulations require) but by the Management Committee on which the director and assistant directors sit and which has no representation from healthcare personnel. This committee takes many decisions of a regimental type (which might be interpreted as sanctions), once again contradicting the claim that all decisions are taken on the basis of medical criteria and that there are no sanctions in place.

For all of these reasons, the Ombudsman's Office believes it is necessary to regulate the reaction taken to behaviour that upsets the normal running of the facility. We have observed a lack of regulation which –although backed by the best intentions– might result in the taking of arbitrary decisions and a situation in which patients were unprotected. Because the situation is not regulated, it is not possible to lodge a complaint, as it would be if express public regulations were in place.

**139.** With regard to sanctions for failure to comply with the rules, during our inspection visit to Albolote prison (Granada), of the 350 disciplinary proceedings initiated since 1 January, 2011, we analysed 16 in detail in which coercive measures had been taken or which had resulted in injury. We found that the processing periods were observed, and that where injuries had occurred, a medical report had been issued. We also found that the medical report is sent the same day to the Parole Judge, together with a form listing the precautionary measure or measures taken in each case. Where necessary, the medical report stated whether

Within the PII the director can make decisions without requesting an opinion from the professionals

Many of the decisions that affect the patients are not taken by the treatment panel

We believe it is necessary to regulate the reaction to behaviour that disturbs normal running of the facility

Thanks to the mediation of the Ombudsman's Office with the SGIP, there is an extra officer in charge of disciplinary proceedings at Albolote prison (Granada). the coercive measures used for precautionary purposes were appropriate. We were told that although 1,350 disciplinary proceedings were processed in 2010 and in the first three months of 2011, more than 300 had been initiated, there was only one officer in charge of processing them, despite requests from the director of the prison for another officer to be allocated for this task, a need about which the institution informed the SGIP. The prison authorities subsequently reported that an extra officer had been allocated to this work.

During the inspection visit to Castellón de la Plana prison, it was concluded that the protocol on action in the case of solitary confinement needs to be reviewed, since several inmates claimed that during both sanctionary and provisional confinement, they had not received daily visits from the doctor. Sixteen of the inmates interviewed said they knew someone who had spent more than 5 days in solitary confinement and a further 12 said they knew someone who had spent more than 14 days. Remarks from inmates in this regard included the following: "In the punishment cells, it's not just that you can't see the sun. They keep you under surveillance and they screw you around 24 hours a day with body searches, lack of privacy, etc."; "too much time and it's overused. It's a way of imposing authority. They lock people up in a prison within the prison. They feel like monkeys under surveillance; there's no type of rehabilitation. It's just great to see how they waste away when they're locked up because of one guard's personal interpretation of the rules", and "separating us from the others just makes us more rebellious. I'm scared of the cooler".

**140.** During the 2011 inspection visits, we paid particular attention to situations requiring the use of coercive measures, such as provisional solitary confinement, physical force, rubber batons, properly-used aerosol sprays and handcuffs. As already mentioned in Paragraph 355 of the Annual Report 2010, Article 72 of the Prison Regulations establishes that the use of these resources, to avoid altercations, must not involve a sanction in disguise. The majority of inmates interviewed at Castellón de la Plana prison (Castellón) said they felt there was no clear distinction between sanctions and coercive methods. This was also observed at Fontcalent psychiatric prison hospital, in Alicante (see Paragraph 138 of this report).

**141.** All the prisons visited, with the exception of the Incarcerated Mothers' Unit in Seville, have solitary confinement cells or modules, both for serving a solitary confinement order and for provisional solitary confinement. It was noted at the prison in Castellón de la Plana that coercive measures had been applied on 53 occasions over the previous six months, with 50 of these involving provisional solitary confinement. During the visit to the solitary confinement module, an interview was held with two of the inmates who were interned there at that moment. One of them had been put into provisional solitary confinement the night before as a coercive measure, as he had returned to the centre after being granted leave "in a very agitated state and with alcohol and trankimazin in his rucksack",

The protocol for action in the event of solitary confinement at the Castellón de la Plana prison needs to be reviewed

During the 2011 inspections, we paid particular attention to situations requiring the use of coercive measures

All the prisons visited, with the exception of the Incarcerated Mothers' Unit in Seville, have solitary confinement cells or modules, both for serving a solitary confinement order and for provisional solitary confinement according to the director. The inmate, who was interviewed, stated that the officer who searched him: "Got stroppy with me and refused to turn a blind eye, as soon as they know you've only got a few days left they try and crack you". The other inmate was in the module because he had attacked his two cell mates, one of whom he had allegedly stabbed with a broom handle, following which the decision was taken to lower his degree, and he was now awaiting transport for his transfer to another prison. During the interviews conducted at this prison, although only one of the female inmates stated that she had been in provisional solitary confinement, several of the male inmates admitted they had been on one or more occasions. Accordingly, one inmate stated: "They are used too often and the time you spend there depends on the officer in charge. Power is unfairly given to a person to humiliate, lock up and make life impossible for you for as long as they like". Concerning the conditions in which provisional solitary confinement is served, some inmates denied that the person involved could go out into the yard.

Regarding the precautionary solitary confinement measure at the prison in Albolote (Granada), the records show that although a note is made of the time and date of the start and end of the measures, no reference is made to any regular monitoring of the inmate's condition with a view to deciding upon the length of time the measure is to be applied. The Ombudsman considers that such information, although not specifically provided for in the RP, would be convenient in order to have on record that the precautionary measure was applied for strictly the time required according to the circumstances. Along these lines, the SGIP has reported that the protocol for notification sent to the Parole Judge regarding the application of precautionary measures now includes the circumstances that recommend its maintenance, and in the specific case of physical restraints (handcuffs or straps), a check is to be made at least once an hour. The Ombudsman has called for permanent monitoring in such cases.

When solitary confinement is ordered as a precautionary or punitive measure at the prison in Alcalá de Guadaíra (Seville), the inmate's personal file also includes a report from the prison doctor regarding the existence or not of impediments for the application of the solitary confinement regime or for its fulfilment as a punitive measure. Regarding solitary confinement, some of the female inmates declared: "It's not usually applied, hardly ever, only until the person calms down or until the next day, depending on the inmate's attitude"; "At this prison I see people sent into solitary confinement almost every week, and then they are let out the next day".

During the inspection visit to the Fontcalent Psychiatric Prison Hospital in Alicante, it was noted in the log book on the application of coercive measures that from 5 February to 1 November 2011, these measures had been applied on 80 occasions, of which 59 corresponded to therapeutic solitary confinement, all of which had been authorised by the doctor, with some of these lasting up to three days. Nevertheless, this Office was informed that besides these therapeutic solitary confinement measures authorised by the doctor, there are instances of solitary confinement regimes, normally due to altercations, in which the doctor sim-

The Ombudsman considers it convenient to keep a record of the monitoring process when the precautionary solitary confinement measure is applied. In the specific cases involving physical restraints, the monitoring is to be permanent

At CP Alcalá de Guadaíra (Seville), the inmate's personal file includes a medical assessment report

The Fontcalent Psychiatric Prison Hospital in Alicante has very high standards of best practices and outperforms other institutions in terms of the low use of physical coercive isolation measures ply observes the patient, and such measures do not normally last for more than a day. In addition to the information provided by the corresponding log books, the interviews conducted revealed that there is a very low use of physical coercive measures and solitary confinement for an institution with such a large number of patients. According to the psychiatrics in the inspection team, the number involved is much lower than that recorded in psychiatric wards in general hospitals or in most civil psychiatric hospitals, and lower than the figure for most European countries. Accordingly, this centre reveals very high standards of best practices and outperforms other institutions. Of concern is the high number of inmates who believe that non-medical staff can order the application of restraints and, especially, that 33% believe that a custodial officer may do so: "The solitary confinement cells are used for relapses in the illness, in theory. In practice, they are used as a punishment after some act of violence. The cure is variable"; "you can be in solitary confinement for more than a month, but it's not always as a punishment".



Solitary confinement cell at CP Albolote (Granada)

Photo 56

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Solitary confinement cell at CP Figueres (Girona)





Photo 58



Solitary confinement cell at the Fontcalent Psychiatric Prison Hospital (Alicante)

Photo 59

142. Instruction 18/2007, of 20 December, issued by the Directorate General for Prisons, authorised and justified the use of physical restraints, although they are not provided for in article 72 of the RP, in the event that, according to the text of said instruction, "when the prison regulations (RP) refer to handcuffs, they are in fact referring to the need to immobilise, hold or restrain an inmate's movements by physical means", and furthermore, these devices - which had already been used in the event of restraint for medical reasons - cause less harm than handcuffs, "above all when the immobilisation is not immediate and the need is foreseen (or arises) to extend it over time or during a period of observation". Accordingly, the Ombudsman considers that the records drawn up as a result of the use of coercive measures should necessarily specify and describe the measure applied in each situation.

Along these lines, when examining the records at Albolote prison (Granada), it was noted that, given that the standard forms used for the application of coercive measures do not contain the term "physical restraints", when these measures are used the form is filled in using the term "handcuffs" by default, which leads to confusion regarding the coercive measure actually applied. After relaying this matter to the SGIP, said General Secretariat has reported that the protocol for notification sent to the Parole Judge regarding the application of coercive measures now includes the specification of whether the physical restraint applied to the inmate has involved straps or handcuffs. During the inspection visit to the men's prison [CP Hombres] in Barcelona, the director reported that restraint in the so-called "Superman" position, denounced by the CPT in the report on its inspection visit to Spain from 19 September to 1 October 2007, has been forbidden, and is now applied with arms in front or by the side. Indeed, the Spanish Government's response to the CPT's report states that "during solitary confinement with immobilisation, use is to be made of regulation straps specifically designed for medical use, in a prone or supine position, as deemed more appropriate, but under all circumstances avoiding forced positions such as when the arms are in a diagonal (Superman) position that is described in the CPT's report, which since Circular 2/2007 has been expressly forbidden".

At the Castellón de la Plana prison, an examination of the log book on the application of coercive measures revealed that this had been applied on 53 occasions over the six months prior to the inspection visit (provisional solitary confinement on 50 occasions and handcuffs on three). On the other hand, all the female inmates who answered the question as to whether they had been applied such measures over the preceding week answered they had not, and only one stated that she had been applied them over the past month; and only two men stated that such measures had been applied to them in the past month, whereby it can be concluded that the application of these measures is not very common at this prison. The forensic doctor in the inspection team verified that the application of coercive measures always entailed a medical examination of the inmate and that in those cases in which solitary confinement is applied a standard selfThe Ombudsman considers that the records drawn up as a result of the use of coercive measures should necessarily specify and describe the measure applied

At the Ombudsman's request, the SGIP has reported that the protocol for notification sent to the Parole Judge regarding the application of coercive measures now includes the specification of whether the physical restraint applied to the inmate has involved straps or handcuffs

At CP Castellón de la Plana, it was noted that the application of coercive measures always entails a medical examination of the inmate

At the Fontcalent Psychiatric Prison Hospital in Alicante, it was noted that almost no use is made of physical restraints copying form is filled in that assesses the presence of an illness that advises against the application of the measure and records the presence of any injuries.

Likewise, the inspection visit to the Fontcalent Psychiatric Prison Hospital in Alicante revealed that almost no use is made of physical restraints, with physical force being used whenever restraint is required, and this was confirmed by several interviewees who stated: "Until they get to severe cases, they manhandle you on the way there. They do not use restraints"; "if anyone has an attack, 5, 6 or 7 officers appear and dissuade you (because they're in charge)". During the inspection visit no one was seen wearing physical restraints and none of the people who filled in the questionnaires remembered being restrained at the hospital. The duration of these measures differs, and so on most of the occasions when an immobilisation measure had to be applied, it lasted for between one and three hours, although there were occasions in which the measure lasted for five hours and in another for almost a whole day. One of the officers interviewed at this centre stated: "The use of coercive measures has improved since the introduction of the EUNOMIA programme and staff training in 2005. The notion has been instilled in staff that a patient under restraint gives rather than saves work". Finally, a female inmate at Alcalá de Guadaíra prison stated in the interview held: "I have to say I've never seen any restraint applied in women's modules. A female inmate is calmed down by her mates".



Albolote (Granada)

Restraining straps at CP

## Long-term deprivation of liberty



Bed with physical restraints at the Fontcalent Psychiatric Prison Hospital (Alicante)

Photo 61



Bed with physical restraints at CP Tenerife II in Santa Cruz de Tenerife

Photo 62

**143.** The men's prison (CP Hombres) in Barcelona has three specific cells with immobilisation beds, being equipped with a permanent CCTV system, even when they are empty, and when use is made of any one of them the recording is retrieved by the IT technician. The arrangement involves twin cameras in each cell that in addition to recording allow the display to be seen in the guard station, for permanently monitoring each one of them. Furthermore, every so often the module's officers and medical staff are required to check on the inmate's condition. The prison director also has a monitor for supervising the situation in the immobilisation cells. The recording is made onto a hard drive, which is in the office area and to which the officers do not have access; and the director keeps the corresponding footage on an independent disc for six months, being required to ask the Directorate General for permission to delete it. This arrangement for stor-

CP Hombres in Barcelona has three dedicated cells with restraining beds and are equipped with a permanent CCTV system ing footage on separate discs has been applied since 11 March 2010, and up to the time of the inspection visit, a total of 114 have been made. During the visit, one of the discs was viewed that recorded the immobilisation of an inmate. The process required 11 officers to introduce the person into the cell, lay him on the bed and apply the restraining straps, and took almost 30 minutes. Once the officers had left the cell, the person under restraint was visited by a doctor. It was noted that the entire process was conducted in the proper manner, using only the force required to immobilise the person, with no indications of any excess force whatsoever being used. In the two interviews held with two of the inmates who were in solitary confinement, these stated that following an altercation with officers they had been immobilised in these cells, one for 20 hours and the other for 36.

Likewise, Albolote prison in Granada has a solitary confinement module, where the bed in one of the cells is fitted with restraining straps for those cases as required, and it was noted that the cell had a CCTV system inside, installed to ensure the wellbeing of the person confined in it, with the camera being viewed in the room controlling access to the module. The solitary confinement module at Figueres prison in Girona is also fitted with a CCTV system, as are the majority of the cells in the severe cases ward at Fontcalent Psychiatric Prison Hospital, three cells in the women's ward, where patients with a suicide risk are housed, and the isolation cell located beside the infirmary guard station.



The cell with a bed fitted with restraining straps in the solitary confinement module at CP Albolote, in Granada, has a CCTV system inside

CCTV in the solitary confinement cells at the Fontcalent Psychiatric Prison Hospital in Alicante

Those persons who are physically restrained need to be permanently supervised, preferably by medical staff At all the other prisons inspected, note was taken of the lack of CCTV systems in the cells where this type of immobilisation is applied. The Ombudsman's criterion is that those people who are physically restrained need to be permanently supervised, preferably by medical staff, to avoid possible complications that might arise while the inmate is completely immobilised and incapacitated for suitably dealing with such complications. In addition, this permanent supervision needs to be supplemented by a CCTV system that allows recording the sounds and images produced during the time such a restrictive measure is applied. **144.** The prisons inspected in 2011 have again revealed that any injuries the inmates may suffer are registered in a doctor's report, although not by means of photographs, contrary to the recommendation made by the Ombudsman on 16 November 2010, whereby the necessary instructions were issued to proceed to take photographs of the injuries the inmates may have sustained as a result of the application of coercive measures or for any other reason, either through altercations with other inmates or self-inflicted, as well as those they may have upon entering prison for the first time or from another prison establishment. Likewise, the general criterion laid down in paragraph 357 in the 2010 Annual Report is that, in such cases, an investigation is to be opened that complies with the provisions of the "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", commonly referred to as the Istanbul Protocol, whose section 174 stipulates that a photograph should be a standard feature in examinations, as per the provisions of Chapter III, Section C.5.

Elsewhere, during the visit to the Castellón de la Plana prison, the forensic doctor in the inspection team examined the log book on the application of coercive measures, confirming that none of the 14 check-ups recorded in it over the two months prior to the visit featured an injury report. Given that it was surprising that no injuries were recorded in any case, not even minor ones, it has been deemed appropriate to inform the SGIP of the convenience of recording even those injuries of a minor nature. On the other hand, given the special sensitivity of medical care when coercive measures are applied, it would be convenient for injury reports to describe with the utmost details the restraining mechanisms used and the agents causing them according to the inmate (blow, struggle, use of batons, use of handcuffs, etc), even in the absence of injuries that can be objectively verified, as well as, in the event an injury is diagnosed, a description that is as detailed as possible of its specific characteristics (location, dimensions, morphology, colouring, etc.), whereby an evaluation may be made of the degree of consistency between the marks observed in the physical examination and the events described by the inmate. The SGIP, in agreement with this Office's criterion whereby injury reports should contain the inmate's version of events, has issued instructions accordingly to those responsible in all the prisons.

**145.** Without prejudice to the investigations launched by this Ombudsman's Security and Justice Department, either at the request of an interested party, following the lodging of a written complaint from inmates, relatives or associations, or ex oficio, due to news items appearing in the media that reveal possible mistreatment, improper treatment or abuse by officers against inmates, interviews are held with inmates during the inspection visits made to the different prisons and they are asked to fill in some questionnaires, with the aim being to gather as much information as possible about their time in prison and the conditions there, the application of the disciplinary regime, the treatment and care received, the relations between inmates and between these and the officers, etc. Logically enough, of greatest inter-

Neglecting the recommendation made by the Ombudsman whereby in the event of possible injuries application is to be made of the Istanbul Protocol, it has still been observed that inmates' injuries are not documented in photographs

It is advisable to list all injuries, even minor ones

In the event of possible mistreatment, improper treatment or abuse by officers against inmates, it would be more proper for the initial inquiries to be conducted by Prison Inspection and not by the prison where the events allegedly took place est among these issues are any statements made by those deprived of their liberty regarding alleged violations of rights, referring mainly to torture, mistreatment or other cruel, inhuman or degrading treatment. In those cases in which complaints of this nature are received, permission is sought from the persons involved to launch the corresponding investigation, which is undertaken by the Ombudsman's competent department. Regarding those investigations pursued by the prison authorities in response to a complaint about the alleged mistreatment received by an inmate, the Ombudsman's criterion is that it would be more proper for the initial inquiries to be conducted by Prison Inspection and not by the prison where the events allegedly took place, with this view being finally shared by the SGIP, without prejudice to the consideration that the persons in charge of the prisons have proceeded in a proper manner when conducting the investigations.

At the prison in Castellón de la Plana, although the majority of the female inmates who filled in the questionnaire affirmed that the treatment they received from the officers was proper, 9% of them stated that there were certain officers who were less respectful regarding the inmates' rights. Concerning the questionnaires given to inmates detained in Module I for men, deemed to be the most conflictive, when asked how safe they felt in the prison, 44% of them stated that they felt very insecure. In these questionnaires, filled in anonymously, some of the inmates' stated the following: "I feel very insecure in front of the officers"; "I'm frightened of the officers and of the other inmates"; "we're treated like dogs."; "I'm frightened because I'm surrounded by so many people, if I could transfer to another module all my fears would go away". 72.2% claimed to have been physically or verbally abused in the prison, some by officers and others by inmates. Regarding the question of whether they thought some officers were less respectful of inmates' rights, 95% answered affirmatively. One inmate declared that it was common for officers to try and make them "grass" on each other. Finally, another inmate stated that there were officers who treated him well and others that did not: "They want you to snap and react, put you on report or take your work away from you.

At the men's prison in Barcelona, where according to the director legal proceedings were under way in response to a claim for alleged mistreatment, several interviews were held with inmates who were classified as first degree. Although they stated that the treatment they received from certain officers was excessively authoritarian and that they had sometimes confronted them, they did not want to provide any more detailed information on the matter, even though they were told that anything they said to us was strictly confidential.

The director of Tenerife II prison reported altercations between inmates and attacks on officers, which are reported to the judge and to the prison inspection service; he also indicated that a complaint was sub judice for alleged mistreatment, lodged by an inmate. An interview was subsequently conducted with the inmate in question, who was detained in solitary confinement, in which he stat-

44% of the inmates in Module I at CP Castellón de Ia Plana have stated in the anonymous questionnaires that they feel very insecure

> At CP Hombres in Barcelona, legal proceedings were underway regarding a claim for alleged mistreatment

Most of the inmates interned in the infirmary at CP Tenerife II stated that they were treated well by the officers

ed: "He tried to avoid taking his pills because they made him groggy" and that he had lodged the complaint before the court because, after his mobile phone had been confiscated and he had protested, he was moved to the solitary confinement area by several officers and they hit him in the garden. He continued by saying that when they reached the solitary confinement module he was physically restrained, but, in his view, they did not know how to use the straps properly, and in response to his protests, one of the officers in the cell threatened him. Regarding this incident, another of the inmates, who was already in the solitary confinement module, stated that the inmate making the claim arrived in the company of many officers and he heard him shout asking them to treat him well. In addition, he stated that the conduct of the officers in that module was not appropriate and that the inmates sometimes "had to bite their lips to avoid being reported". The infirmary at this prison held six inmates in the men's section and in the same room, one of whom was an orderly. The majority stated that the officers treated them properly, except for one who affirmed that one officer had psychologically mistreated him, showing him press cuttings that reported on the crime he had committed. The women's section in the infirmary had five female inmates, two of whom were orderlies and, in general, they had no complaints about their treatment and stay there.

At the prison in Alcalá de Guadaíra (Seville), only one of the female inmates interviewed expressed her discontent at the treatment received: "I've sometimes felt I was being verbally abused by the instructors. I felt intimidated. Intimidation is the coercive measure most commonly used. But I forgive them because it's not easy to deal everyday with female inmates who have no manners and act in a threatening manner. Something always rubs off onto you when you deal with such people".

At the Fontcalent Psychiatric Prison Hospital in Alicante, the inspection visit, which lasted several days, revealed that the treatment the inmates receive is, to a certain extent, paternalist and protective, due to the centre's care component, with this being confirmed by one of the officers, who stated that, at this centre, "We put up with things that wouldn't be tolerated in other prisons. We realise they are ill". The way the staff treat the inmates receives a positive assessment overall, although some state that "there are all sorts" and they specifically single out certain officers as "sadists", "insensitive", etc. Others state: "The officers do not behave badly, we all have an off day, but overall they don't treat us badly"; "the women officers don't do anything. There are a lot of fights and they never intervene. They just watch". In a private interview, some of the people complained about certain officers, generally referring to staff who have been working at the hospital for a long time. In none of these cases was the complaint an especially serious one. Even though no evidence has been found of degrading or humiliating treatment, and the social climate perceived at the hospital does not suggest that anything like this occurs, consideration should be given to the fact that almost half the patients who were given a questionnaire refused to answer these

At CP Alcalá de Guadaíra (Seville) only one of those interviewed complained about the treatment received

At the Fontcalent Psychiatric Prison Hospital in Alicante, the treatment the inmates receive from the staff is generally assessed in a positive way

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questions, despite being repeatedly assured they were strictly confidential. In the women's module, the majority of the inmates said they had no compliant whatsoever regarding trips to the outside, or with their medication, and neither did they complain about the treatment they received from the women officers, except in certain specific cases, stating: "The problems are caused by the prisoners who confront the officers"; "I don't like the way they sometimes behave on night duty. But for me all the women officers are fine". One female inmate in a personal interview stated: "There are fights between inmates. The women officers occasion-ally shout at them and swear. The excesses are always verbal, never physical and never by the hospital porters or nurses". In the interviews held in the men's module, some made the following statements: "I think they are very communicative with the inmates"; "I don't think there should be prison officers in a psychiatric hospital. All the inmates in this hospital are ill"; "the officers treat us like delinquents, not as patients with a mental illness"; "the officers all treat me well except for the short one with glasses who thinks he's the bee's knees".

2011 has seen inspection visits to the MER at the following CPs: Albolote (Granada), Alcalá de Guadaíra (Seville), Castellón de la Plana, Fontcalent Psychiatric Prison Hospital (Alicante), Melilla and the Incarcerated Mothers' Unit in Seville. The two CPs located in the province of Seville (Alcalá de Guadaíra and Incarcerated Mothers' Unit) operate as if the whole prison were a MER

146. The Education & Respect Modules (MER), which are referred to in paragraph 346 in the 2010 Annual Report, are separate interior units in prisons, occupied by inmates who voluntarily consent to be housed in them and who agree to maintain an attitude of respect toward both the officers and their fellow inmates as well as obey the rules governing these units, which means that the assessment of their behaviour is not only individual but also collective. According to data provided by the SGIP, at the beginning of 2011 there were a total of 12,600 inmates involved in this programme, in 146 modules. The inspections made in 2011 to different prisons included visits to the MER at Albolote (Granada), Alcalá de Guadaíra (Seville), Castellón de la Plana, Fontcalent Psychiatric Prison Hospital (Alicante), Melilla and the Incarcerated Mothers' Unit in Seville. It should be noted that the two prisons located in Seville (Alcalá de Guadaíra and the Incarcerated Mothers' Unit) operate as if the whole centre were a MER; with a highlight being the fact the Incarcerated Mothers' Unit does not have cells, but instead has 33 accommodation units (akin to a small apartment), of which 30 are single and three are doubles. On the day of the visit to this prison, as already mentioned, there were 16 women in custody living with their children (12 with one child and four with two). All the inmates affirmed they feel safe living in the prison and prefer it to other ones: "I feel safe, above all because my children are completely looked after and cared for, and I am too, and that's what makes me feel safe and secure". "The difference is that this is not a prison, rather it is for people who are on parole and are better off with their children here". "Everything is different here, I'm much happier here and the conditions and treatment are fabulous, above all for my son". The differences you can see are that here I'm semi-free, but not in the other prisons". "There is no doubt that I'm better off here, and I've been though the mothers' modules at Granada and Alcalá de Guadaíra. My son's behaviour has improved, and so has mine, as I'm more relaxed".

#### Long-term deprivation of liberty



Dining room at the Incarcerated Mothers' Unit in Seville

The women's module at CP Castellón de la Plana is noteworthy for being a MER, and as it is the only women's module at the prison, it houses first-degree inmates and female inmates who do not belong to the MER. Accordingly, it should be noted that many female inmates complained that the same module accommodates female inmates that do not belong to the MER, and vice versa. This leads to problems of co-existence that are not usually encountered in a MER, due to the resentment of the few female inmates that do not enjoy the living conditions of this special module. Furthermore, expulsion from the MER, which would normally mean a change of module, here involves the drastic measure of being transferred to another prison, which is the reason that in the eighteen months it has been operating there have only been two transfers. Nevertheless, the director herself states that the proper classification of female inmates requires another women's module. Another problem detected in this module, as already noted in paragraph 119, is overcrowding, as at the time of the visit there were 47 women in custody, when the module's capacity is for only 33 places, with three cells with three bunks in each one, although in the interviews held with the female inmates, some of them stated: "I feel better here, I'm treated with more respect, there are fewer women and the food is better". One of the female inmates, who at the time of the inspection was the module's secretary and a member of the legal and welcome committees - with the latter attending to new inmates when they arrive -, explained that every Sunday all the inmates in the MER gather for an assembly in the module, without the presence of officers, and that every day, from Monday to Friday, they have meetings with the instructor, where they discuss their requirements, problems, concerns and suggestions. Another expressed her very positive opinion about the MER: "This is not a prison, it's like a hostel"; "they listen to our opinions"; "if you give, they give back"; "the relationship with the staff is very good, they are my family"; "the female inmates get on very well together, they're a very tight-knit group"; "although there are some who don't want to integrate". A third indicated that: "there are a lot of people who shouldn't be in the module", "the new girls don't

The women's module at CP Castellón de la Plana is a MER, and as it is the only women's module at the prison it houses first-degree inmates and female inmates who do not belong to the MER, which generates problems of co-existence appreciate the effort we've put in", so they petitioned for another module so that a classification could be made, or "at least they could house the new ordinary regime inmates in one of the common ones, so they can appreciate what it means to be in a MER".

The MER at the Fontcalent Psychiatric Prison Hospital, in Alicante, houses primary patients who are well adapted, with good therapeutic commitment and who interact well with other people, as well as having good self-control. They all have a suitable degree of self-sufficiency so as not to have to depend on other people to attend to their basic needs. Although it is a MER, the typical rules for departments of this nature have been adapted to the hospital's characteristics. The activities encouraged are of a leisure-instructive nature, with occupational, sports and recreational activities and fostering family relations. The activities that each inmate can do are determined by medical criteria, and the psychiatrists are the ones responsible for their assignation. This module is the one with the highest number of therapeutic outings, given the inmates' profile. Finally, during the inspection visit to Tenerife II prison in Santa Cruz de Tenerife, the director reported that two MER were in operation, one especially demanding one with 50 people, and the other with 160.



Corridor in the women's MER at CP Castellón de la Plana

The MER at the Fontcalent

Psychiatric Prison Hospital,

in Alicante, houses primary

patients who are well

adapted, with a good

therapeutic commitment

and a suitable degree of

self-sufficiency

The female inmates interviewed at CP Albolote (Granada) have complained about the shortage of art, sports and education activities on offer **147.** Regarding the activities available to the inmates for developing their artistic, sports and educational skills, which are referred to in paragraphs 347 and 348 in the 2010 Annual Report, the common complaint among the female inmates and those inmates interviewed during the inspection of the Albolote prison (Granada) was the shortage of activities. Along these lines, the SGIP has reported that in 2011 the centre held 10 vocational training courses, which were attended by 315 inmates, and two mentoring schemes were organised for job insertion that involved 187 inmates, with a similar number scheduled for 2012. In addition, a range of different activities were organised: artistic painting, computers, marquetry, typing, book-binding, journalism, reading classes, film appreciation, audiovisual media, leatherwork, sewing, etc.

In turn, the female inmates at the prison in Alcalá de Guadaíra (Seville) stressed the need for a broader range of training, educational and occupational activities that could help them prepare for life after they are released and for their social reinsertion (for example, computer courses). "More free-time, and above all new activities that keep us busy and courses to prepare us for our future outside". Furthermore, the inspection of this prison revealed a lack of full-time sports monitors, with attempts being made to resolve this problem through temporary hiring; there was also a noticeable shortage of human resources in the training areas.

At the prison in Castellón de la Plana, the female inmates affirmed they pursued different sports and leisure activities: sports, yoga, dressmaking, relaxation, computer studies, drama, press, Pilates, etc. Nevertheless, when the first-degree female inmates in this prison were interviewed, they complained they have fewer activities to choose from compared to those available in other prisons that have specific modules for this purpose, so their only options are to go to the sports centre and out into the yard. For their part, the male inmates stated they could pursue a series of different sports and recreational activities: sports, gymnasium, chess, drama and reading group; and training courses, such as welder-tiler, although 55% of them thought these activities did not cater for their interests.

According to the information provided, Figueres prison (Girona) has occupational and manufacturing workshops, a computer room and an art room, with four other rooms for art activities. At the Incarcerated Mothers' Unit in Seville, the inmates said they were very satisfied with the activities and workshops the prison organises (gymnasium, computers, library, etc.).

The inmates at the Fontcalent Psychiatric Prison Hospital (Alicante) were very positive about their access to the activities available at the prison. Nonetheless, a significant number of them refused to take part in them. Some of the opinions expressed by the inmates were: "The activities are designed for the majority (with low intellectual capacity). I have a university degree and they don't provide me with any activity of interest to suit my level"; "there are one or two okay activities (hairdressing, painting...)"; "hairdressing, dressmaking, I'm very happy with the volunteers". Finally, at the prison in Melilla, it was noted that the female inmates did not take part in any activity outside their module and that 25% of the inmates receive training courses from Spain's national employment agency (INEM) in brick-laying, hairdressing, painting, carpentry, electricity and plumbing.

It should be ensured that the vast majority of inmates in all the prisons are offered activities, occupational workshops, courses, etc., to fill the long periods of inactivity throughout the day. The female inmates at CP Alcalá de Guadaíra (Seville) called for a broader range of activities

The first-degree female inmates at CP Castellón de la Plana complained that their only options were to go to the sports centre or out into the yard

CP Figueres (Girona) offers occupational and manufacturing workshops

A significant number of inmates at the Fontcalent Psychiatric Prison Hospital (Alicante) refused to take part in the activities organised there

All the prisons should provide occupational workshops, etc. Art workshop at Fontcalent Psychiatric Prison Hospital (Alicante)

Computer room at CP Las Palmas de Gran Canaria





Photo 67

Hairdressing workshop at CP Tenerife II in Santa Cruz de Tenerife



**148.** The prison inspections made in 2011 revealed that the offer of jobs and paid duties for inmates had fallen compared to prior years, as contained in paragraph 349 in the 2010 Annual Report, which calls for attention to be paid to the lack of manufacturing workshops, as only a minority of inmates have a paid job.

Thus, regarding prior inspection visits, the prison in Castellón de la Plana revealed a drop in the number of inmate-workers in the prison's manufacturing workshops. At this prison, six male inmates were employed in manufacturing work, only one performed paid duties and fourteen were involved in unpaid duties. Regarding female employment, six inmates had a job in the prison, five performed paid duties and eight were involved in unpaid duties.

During the visit to the manufacturing workshops at the men's prison in Barcelona, the inspectors were told that the employment available had dropped off significantly because of the crisis. At the time of the inspection, there was work for only around 12% of the inmates in the various workshops provided: incense (formerly a pilot light workshop), dressmaking (making sheets and operatingtheatre gowns), printing, bakery and car brakes. The inspectors were also told there are paid duties, such as operating the oven in the bakery, where eight inmates are employed, and the kitchen, where approximately 60 inmates work.

One of the inmates at Albolote prison (Granada) explained that he wanted to work even if he was not paid, as he wanted to do something, and he complained – a common grievance among the inmates of both sexes interviewed during the inspection visit – about the shortage of activities or occupational workshops, training courses or paid jobs for outside companies to be undertaken in the prison's manufacturing workshops. This problem – which was already mentioned in the report on the inspection conducted in 2008 by advisers to the Ombudsman – was relayed to the officers hosting the inspection, who admitted that the collaborating firms had closed their workshops and withdrawn their machinery from the prison. The inspectors were also told that there were 218 paid duties, which tallied with the list of people registered with the Social Security on 13 April 2011.

At Figueres prison (Girona), the inspection team was told that despite the difficulties arising from the current economic recession, the manufacturing workshop, mainly involving electrical products, employed 50-60 inmates in four-hour working days, in morning and afternoon shifts, in tandem with an outside company. The prison in Alcalá de Guadaíra (Seville) has two premises that house the workshops for locksmith and industrial textile production. There is a need to address the shortage of manufacturing workshops

The number of workers in the manufacturing workshops at CP Castellón de la Plana has fallen

The CP Hombres in Barcelona has seen a significant drop in employment

The inmates at CP Albolote (Granada) have complained about the lack of occupational workshops

CP Figueres (Girona) has a manufacturing workshop

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Textile workshop at CP Alcalá de Guadaíra (Seville)

Manufacturing workshop in CP Figueres (Girona)



Photo 69



At some of the prisons inspected, the facilities where inmates can receive visits from their families and friends, as well as from their legal counsel or consular officials, are in a poor state of repair

149. All the prisons have facilities where inmates can receive visits from their families and friends, as well as from their legal counsel or consular officials, as appropriate. At the prison in Castellón de la Plana, 75% of the inmates that filled in the questionnaires considered that the visiting booths or rooms were not in a good condition, and 60% thought the treatment their relatives or friends received from officers was inappropriate. The inspection of the prison in Melilla revealed the poor condition of the area set aside for oral, family and intimate communications, so the SGIP was called upon to refurbish it. This same deficiency was noted at the prison in Figueres (Girona), whose visitors' rooms had obsolete furniture. Finally, at the men's prison in Barcelona, the inspectors saw the visiting booths, the family visit rooms and the rooms for intimate visits. These facilities, which receive thousands of people each week, are obsolete regarding both the inmates' own cells and those facilities provided for visitors, and their state of repair and maintenance was poor. Furthermore, the access to this area has major building obstacles for disabled people, as it involves a stairway, and there is no lift up to this floor.

## Long-term deprivation of liberty



Room for intimate visits at CP Melilla

<sup>2</sup>hoto 71



Visiting booth at CP Figueres (Girona)

**150.** Shortcomings have been detected as regards the means available to inmates for both telephone conversations and ensuring the privacy of the same. Thus, at the prison in Castellón de la Plana, 55% of the inmates interviewed considered that the modules did not have enough telephones, 37.5% said they did not work properly and 77% declared they had little privacy when making calls, as the phones were in the middle of the corridor, which was verified during the inspection. It was noted that the women's module had only one telephone, which was insufficient considering its high occupancy. The lack of privacy and confidentiality of the calls, given the positioning of the telephones, was a general complaint during the inspection visit to the prison in Alcalá de Guadaíra (SeShortcomings have been detected as regards the means available to inmates for both telephone conversations and ensuring the privacy of the same

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ville). Some female inmates stated the following: "We have three phones in the same place - between the dining room and the corridor - and they are all close to each other, which makes it difficult to hear the person you are talking to and takes away any privacy"; "the phones are in the same booth that measures 4 x 4 m"; "they are between the dining room and the day room and the officers walk by with no respect for the fact you are talking to your family". This same shortcoming was also the reason for a general complaint at the Incarcerated Mothers' Unit in Seville, where the inmates said: "Because we are right beside the officers' guardhouse (little privacy)"; "because it's right next to the officers' room, where everyone goes to hand in papers and talk to the officers and you can't hear at all well"; "if you are talking about something important, well, you can't, because there's no privacy at all". Only one complaint was received at the prison in Melilla regarding telephone conversations, and it was made by a female inmate in preventive custody, who said that she wanted the telephone calls to which she was entitled to be longer. In other matters, it has been noted that the requirement of having to present the phone contract for the authorisation of communications with family and friends is an insurmountable obstacle for some inmates, in particular for those whose families live in countries where telephone contracts are not drawn up in writing. This problem was specifically referred to by inmates at the prison in Castellón de la Plana and at Tenerife II prison in Santa Cruz de Tenerife, who found it impossible to meet this requirement "as there are no contracts like the ones here in Spain".

Attention has been drawn to the fact that some inmates are unaware of the procedure to be followed for making complaints and requests

**151.** Concerning the right inmates have to make requests and complaints, as referred to in paragraph 358 in the 2010 Annual Report, it has been noted that a number of inmates are still unaware of the procedures and the authorities they are to address in order to exercise this right. Thus, at the prison in Alcalá de Guadaíra (Seville), among the answers the female inmates provided on this matter, it was apparent that they did not have overly clear information on the arrangement for submitting complaints or requests, with the vast majority not knowing who to address them to, including the possibility of writing to the Ombudsman. Some of them expressed their mistrust of the way the prison's management would treat their complaints, with one female inmate expressly stating: "I would always submit my complaints directly to the Ombudsman, as senior staff at the prison would cover for each other". Likewise, at the prison in Castellón de la Plana, the bulk of the inmates said they were not familiar with the channels available for contacting the prison's management, the parole judge and the Ombudsman, which means that information should be made available and clearly displayed on how to make complaints and requests to these authorities. By contrast, at the Incarcerated Mothers' Unit in Seville, the vast majority of the inmates said they were well aware of the procedure and system for making complaints and requests, although one or two complained that their requests were not processed with due diligence. During the inspection visit to the men's prison in Barcelona, it was noted that the management system for inmates' complaints and requests did not appear to be

the most appropriate one, as they are recorded in each unit but then kept in the destination unit, as no provision is made for making a copy. Finally, it should be noted that at Albolote prison (Granada), several officers reported the case of an inmate in module 2 who was constantly submitting complaints and requests to the management, the parole judge, instructors etc., which was confirmed in the subsequent interview held with the inmate, as he showed the inspectors a large number of copies of letters he had written, stating that the judge answered them all, but he complained that the instructor did not. After the interview, we were told that the instructor had met the inmate on several occasions but given the number of petitions he could not meet each and every one of his requests for an interview.

152. It has been noted that the Ombudsman's criterion stated in paragraph 358 in the 2010 Annual Report, calling for greater use to be made of videoconferencing systems for communications between prisons and the courts, with a view to avoiding the unnecessary displacements and transfers of inmates, is being applied at some of the prisons inspected, such as Alcalá de Guadaíra (Seville), Hombres in Barcelona and the Fontcalent Psychiatric Prison Hospital (Alicante), which have significantly increased the use of these systems.

and courts

153. Most of the prisons are located in areas that are far from cities, which means they are difficult to access, regarding both the visitors inmates may receive and the latter's authorised outings. At Castellón de la Plana prison, although the majority of the inmates interviewed stated they maintained normal contact with their families and friends, almost 40% said that their families found it difficult to get to the prison. Along these lines, one female inmate declared that her family found it difficult to visit her "because they live in Valencia and they give them a very early appointment". Another inmate complained that his relatives faced difficulties when they tried to make an appointment for a communication, either by telephone or over the Internet. This same problem was identified at Albolote prison (Granada) where, before the actual

The geographical location of most of the prisons, situated in areas far from cities, makes them difficult to access



Some of the prisons inspected are applying the criterion expressed by the Ombudsman in the 2010 Annual Report regarding the use of videoconferencing systems between prisons

Videoconferencing room at CP Hombres in Barcelona

visit started, the inspectors had a chance to interview some of the relatives, who complained about the "difficulties in communicating with the prison, as there is no public bus service to it". This complaint was referred to the SGIP, which has reported that there are two bus services that stop at the prison if there are passengers getting off there. One of these relatives furthermore expressed displeasure at not being able to see the inmate in question, despite having scheduled an intimate visit, as that same morning the inmate had been taken to appear before the court for certain legal formalities, without his relatives being informed of this circumstance, thereby rendering it expedient to draw up a protocol for notifying families when, for whatever reason, an inmate cannot attend a previously arranged visit. On this matter, the SGIP has reported that whenever a prior communication has to be cancelled, the prison management gives the inmate permission to phone his family. In the event of hospitalisation without due prior notice, the department of social work notified the family. It was likewise noted that the absence of public transport to the Incarcerated Mothers' Unit in Seville has a negative impact on outside communications, both for third-degree female inmates who go out to work and for relatives and other people who want to visit the prison. It shares this problem with the half-way house (CIS) Luis Jiménez de Asúa, located nearby. On this matter, the female inmates made a general complaint about this deficiency, which restricts their chances of social and job reinsertion. This situation hinders the outings of those female inmates who are under a semi-open regime and need to leave the prison everyday to go to work, restricting their job opportunities. Furthermore, they cannot receive visits from their families as often as they are allowed. For this reason, a petition has been submitted to the SGIP and the Seville Local Authority regarding the adoption of the necessary means to improve the transport and communications between these two prisons and the city of Seville.

**154.** The inspections have continued to uncover deficiencies in certain prisons, depending on whether they are the so-called "standard models", built over the past twenty years, or older ones. The latter ones that have been inspected are Figueres prison (Girona) and the men's prison in Barcelona. The first of these, which was built in the early 20<sup>th</sup> century, has not been suitably adapted to the current requirements of the prison system. Although Order JUS/330/2010, of 2 June, of the Department of Justice of the regional government, the Generalitat, of Catalonia ordered the building of the Puig de les Basses prison and the current state of repair of the facilities of Figueres testify to its obsolescence and inadequacies according to the requirements of a modern prison system", at the time of writing of this annual report, the relocation was still pending, with the aforementioned department reporting that, within the budgetary provisions for 2012, it will pursue the opening of the prison through the gradual and progressive provisioning of the necessary human and material resources. This means that, al-

Deficiencies have been detected in those prisons built more than 20 years ago. At the time of writing of this report, CP Figueres (Girona) was pending closure though necessary, minor repair work is not being undertaken because of this impending relocation. Nevertheless, the smallness of the prison favours a very close relationship between officers and inmates (according to the director, the guards "pace the yard"), which is very positively assessed, with both the officers and the inmates stating that it is a very peaceful prison.

The facilities at the men's prison in Barcelona are obsolete, both in terms of the inmates' cells and regarding those areas where visits are held, and their state of maintenance and repair is extremely deficient, with plants growing under the eaves on the galleries, damp patches and flaking on the walls. There are building obstacles for disabled people, such as, for example, the entrance area, which has an uneven surface that impedes the use of wheel-chairs and access to the visiting booths mentioned in paragraph 149. Finally, it was noted that the yards for the sixth gallery do not have facilities for providing shelter against the inclemency of the weather, contrary to the criterion established in paragraph 348 in the 2010 Annual Report.



Photo 74

THE OMBUDSMAN OF SPAIN



The inspection visit to Albolote prison (Granada) has also revealed dampness in some of the cells on the second floor in module 4 for men.

The facilities at CP Hombres in Barcelona are obsolete

Inner façade of CP Hombres in Barcelona

Corridor in one of the modules at CP Hombres in Barcelona

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Dampness in a cell at CP Albolote (Granada)

A complete refurbishment is pending of the infirmary

at CP Tenerife II in Santa

Cruz de Tenerife



Photo 76

The inspectors visiting Melilla prison observed rust on several doors and windows, and the necessary measures have not been adopted to avoid objects being thrown in from the outside. At Tenerife II prison in Santa Cruz de Tenerife, the state of maintenance and repair of the various modules is poor, especially in the case of the infirmary, which is pending a complete refurbishment, but the corresponding funding has yet to be allocated. Regarding the rat infestation that, according to certain media, had plagued the centre, the director declared this was due to the gully that separates the administrative offices from the rest of the prison, and that a pest control firm was visiting every week. This had led to the almost complete removal of these rodents, which was confirmed by the inmates interviewed. The director also reported that both the autonomous government, the Cabildo, and the local authority of La Esperanza, were dealing with the infestation on the outside, given there was also a problem with ants and black worms on this part of the island.

Inside of a cell at CP Tenerife II in Santa Cruz de Tenerife



<sup>photo 77</sup>



*Entrance to the infirmary at CP Tenerife II in Santa Cruz de Tenerife* 

At the Fontcalent Psychiatric Prison Hospital in Alicante, the deficiencies detected in the wards for severe cases and women are worth noting. The situation in the former must be improved, as the living conditions in the unit's communal areas are unacceptable. The so-called "goldfish bowl" or "television room" is an empty space measuring around 25 square metres, with columns and a few items of furniture and fittings with protruding corners and edges, with a television (that does not work) mounted on the wall, and where men and women are grouped together and enclosed, without any kind of stimulus and in full view of anyone walking past. Inside the so-called "goldfish bowl" there are two toilets used indistinctly by men and women with doors that only extend to midheight, which means there is a clear view of the person lifting or lowering their clothes ready to go to the toilet, without even the slightest degree of dignity deemed acceptable. Cigarettes, food and medicines are handed out through a small hatch with no contact between the medical staff and the patient. One of the female inmates interviewed declared: "In severe cases, there's no fresh air, the window's closed, camera, no change of clothing. I had to wash my underwear in the washbasin".

Deficiencies have been detected in the wards for severe cases and women at the Fontcalent Psychiatric Prison Hospital in Alicante

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The "goldfish bowl" at the Fontcalent Psychiatric Prison Hospital (Alicante)

Communal showers for men and women that do not have any partitions or any other feature for protecting people's privacy The department has communal showers for men and communal showers for women, which do not have any partitions or any other feature for protecting people's privacy. Although they are obviously used in turns, their location in a walk through area means that staff can pass by when someone is having a shower. Access to the department is via a stairway that has two flights, which according to the officers makes it difficult to return patients in an agitated state to their cells. This situation can become dangerous for both the patient and the actual officers involved. During one of the interviews held with an officer, he stated the following: "The transfer of severe cases is carried out as follows: firstly, the altercation is stopped (warning them that more offices are on the way) and each one is led away by the arm and that's it. They sometimes have to be restrained and then they're picked up from the ground and carried between all of us". On the other hand, the yard is at one end of the ward and is also accessed via a narrow stairway, which can also pose safety issues in the event somebody has to be taken out into the yard in an agitated state.



Access stairway to the yard for severe cases at the Fontcalent Psychiatric Prison Hospital in Alicante

photo 80

Regarding the gallery of cells on the second floor, special note should be taken of communal toilets that restrict foot traffic, narrowing the way through two corridors, whose width practically coincides with the opening of each cell door. In the past, this has led to dangerous situations when attempting to restrain someone, as reported by the deputy director for safety and security. When visiting the cells on the floor, the inspectors noted that the windows have no opening mechanism and are reinforced on the outside not only with bars but also with a slat arrangement, which restricts the amount of incoming daylight. There is, nonetheless, an air-conditioning ventilation system, which can be hazardous in the event of a fire inside the cell, as the smoke could travel through the system's conduit. In some of the cells visited, the inspectors noted that the light bulb did not have any protection, hanging freely in the air, with the safety issues this entails. The cells are fitted with smoke alarms, although at the time of the inspection some of them were not in working order. This prison has a women's module that is the only one of its kind in Spain, and given the low number of female inmates, it has no inner separation. The whole facility is considered a "Coexistence Module". The truth is the women coexist in a small, rundown area in which there is a mix of people with very different levels of severity in terms of their illness and their level of trouble-making. This implies a noticeable deterioration in the physical environment and significantly detracts from the social climate of coexistence. During the visit, they were arguments and shouting, patients with irascible and profoundly psychotic behaviour alongside patients who were clinically asymptomatic, who sought to behave in a normal manner. Thus, some of the inmates interviewed literally affirmed: "In this module we are all lumped together with no classifica-

In the women's module at the Fontcalent Psychiatric Prison Hospital in Alicante, the only one of its kind in Spain, a small single area houses people with very different levels of severity in terms of their illness and their level of troublemaking

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tion. There is no differentiation. I have to put up all day with the conversations of this bunch. They want to see the doctor, then they start sobbing... Being grouped together affects the ones who are better off, as they have to listen to and put up with the ones who are out of control, and it affects the ones who are worse off because they are jealous and want to have the same privileges as the other ones"; "I have become fully stabilised, but the atmosphere and the violence with the girls and the difficult coexistence delay my recovery. I even feel sorrier for them than for myself"; "there's clearly an unfair situation between men and women. A single module for women with all kinds of pathologies. I honestly don't think people will be cured here." "In the women's module, if a woman does something wrong, they take her off to spend some time with the severe cases, but she always has to come back …"; "from the very first moment I stepped inside this module, I thought, this is hell. The atmosphere is clearly violent, one of anxiety, not at all pleasant. Very volatile…, I'm looking for the way of settling in here and integrating, but I haven't found the right recipe yet".

A positive note is the good condition of the facilities at the Incarcerated Mothers' Unit in Seville In spite of the deficiencies in infrastructure that have been highlighted, it should be noted that the facilities at the Incarcerated Mothers' Unit in Seville are in good condition, being modern, with adequate light and ventilation, with no sensation of being in a prison. The priority focus is on the minors living there. Indeed, the assessment the female inmates make of the centre and of the staff is, in general, very positive. Furthermore, the mothers said they were happy with the treatment afforded to the under-three-year-olds who live with them. All the inmates had previously been in other prisons and the general opinion was that there were a lot of differences in favour of the one they are now in. This opinion is confirmed by the following verbatim statements: "The difference is that this is not a prison, it's rather for people who are going out on parole, and more suited to having your child with you here"; "there are differences in everything, I'm much better off here and the conditions and treatment are fabulous, above all for my son"; "well, this one is better for my little girl and in the other one, you see, I couldn't be with her and this is the best one for me, of course"; "the difference I see is that here it's semi-open, while the other prisons aren't".



Yard at the Incarcerated Mothers' Unit in Seville

THE OMBUDSMAN OF SPAIN

#### Long-term deprivation of liberty



Children's playroom at the Incarcerated Mothers' Unit in Seville

CP Tenerife II in Santa Cruz
 de Tenerife does not meet
 the ratio of 7 m<sup>2</sup> of cell
 space per inmate

**155.** The criterion expressed in paragraph 49 in the 2010 Annual Report, referring to the 2nd GR of the CPT, considers that the desirable size is around 7 m<sup>2</sup> for cells designed for single occupancy. Accordingly, it should be noted that during the visit to Tenerife II prison in Santa Cruz de Tenerife, the inspectors found that the size of the cells, 8 m<sup>2</sup>, did not comply with the aforementioned criterion in those cases in which there were two inmates in the same cell. This shortcoming had already been highlighted by the CPT following its visit to this prison in 2003. Most of the cells at Figueres prison (Girona) measure around 8-8.5 m2, and they all have two-tier bunk beds. On this matter, it should be noted that although some cells have three-tier bunk beds, it was confirmed that the top one is not used as a bed.

**156.** Regarding the doors on the cells, at the prison in Alcalá de Guadaíra (Seville), many of them are double ones, with an outer steel one with a hatch and another inner one made of vertical and horizontal bars, called a "cangrejera" (lobster pot), which can be used as a cupboard, but because of its design it can be used by female inmates to self-inflict injuries upon themselves. This same type of double-door arrangement was observed in the cells in the sixth gallery at the men's prison in Barcelona and in the three solitary confinement cells at Figueres prison (Girona). The Ombudsman's criterion is that in those cases in which there are no proven security reasons, these inner doors should be removed to avoid the possibility of self-inflicted injuries and, when they are used as improvised shelving, an improvement should be made to the area set aside for storing the inmates' clothing and personal possessions in these cells. At the Fontcalent Psychiatric Prison Hospital (Alicante), the doors on the cells in the severe cases ward have a tray hatch that is placed at a height that requires the inmate to adopt an awkward position, which has been reported to the SGIP for its correction.

In those cases in which there are no proven security reasons, these inner doors should be removed



Door at CP Alcalá de Guadaíra (Seville)

Lack of a centralised system for the mechanical opening of cell doors

At several of the prisons inspected it was noted that the temperature was inappropriate

There is a need to regulate the temperature of the hot water in the women's modules at the Fontcalent The majority of the prisons visited do not have a centralised system for the mechanical opening of the cell doors to allow for an urgent and rapid evacuation in the event of an emergency, and this situation should be remedied in those custodial facilities with a high number of places.

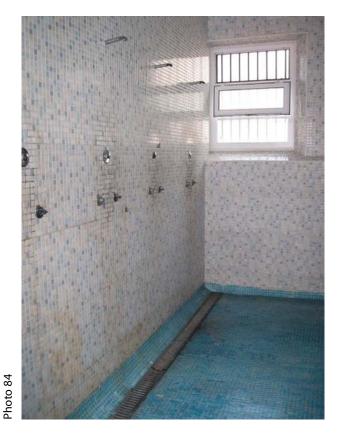
**157.** The general criterion, according to the text of paragraphs 53, 100 and 328, among others, in the 2010 Annual Report, is that the temperature in the cells should be monitored throughout the year to ensure it remains between 18 °C and 25 °C. Nonetheless during the inspection visit to Tenerife II prison in Santa Cruz de Tenerife, the temperature in the cells was inappropriate, despite there being radiators in certain areas, which can be especially uncomfortable for inmates during the winter months. Likewise, the cells at the Fontcalent Psychiatric Prison Hospital (Alicante) have no heating and some inmates stated: "It's very cold"; "There are no heaters or air-conditioning in the various areas". During the visit to module 1 at the prison in Castellón de la Plana, the inspectors noted that the heating was not working in several parts of the same, which meant that it felt extremely cold. At the men's prison in Barcelona, there is heating in only three of the six galleries. At the prison in Alcalá de Guadaíra (Seville), several female inmates said they were unhappy with the temperature in the prison: "The cell's too cold"; "More hours of heating".

**158.** Of the prisons inspected in 2011, only the men's module in the prison in Las Palmas de Gran Canaria has no hot water. On the other hand, there is a need to regulate the temperature of the hot water in the showers in the women's modules at the Fontcalent Psychiatric Prison Hospital (Alicante) and at Tenerife II prison in

Santa Cruz de Tenerife. At Figueres prison (Girona), the communal showers are in the small yard, with special note taken of the fact they do not have partitions (they were removed five years ago to make space for more showers) and that certain areas on the ceiling were rusty. Finally, at the prison in Castellón de la Plana, complaints were received from the female inmates regarding the lack of privacy in the showers. One stated the following: "there is no privacy in the showers. They have walls but no doors or curtains". Psychiatric Prison Hospital (Alicante) and at CP Tenerife II in Santa Cruz de Tenerife

Showers at CP Figueres (Girona)

All the communal areas in the prisons inspected in 2011 have fire-fighting measures. It would be convenient for all the prisons to be fitted with smoke alarms inside the cells



159. Regarding the information gathered on fire-fighting measures in the pri-

sons inspected in 2011, it should be noted that the communal areas in all of them

have fire extinguishers, hoses, standalone fire-fighting equipment and evacuation

plans. As for smoke alarms, the only prison without this system is the prison in

Castellón de la Plana (Castellón). As regards measures of this nature inside the

cells, Albolote prison (Granada) is the only one of those visited that has a me-

chanical door-opening system. Regarding smoke alarms inside the cells, the only

prisons with this arrangement are Albolote (Granada), the men's prison in Barcelona, Castellón de la Plana, the Incarcerated Mothers' Unit in Seville and eight cells in each one of the modules at the Fontcalent Psychiatric Prison Hospital (Alicante), whereby it would be convenient for all the others to be fitted with this measure. All the facilities organise staff training programmes, but only the prisons in Alcalá de Guadaíra (Seville) and Figueres (Girona) provide this type of training for inmates. Staying on this matter, during the visit to Melilla prison, the inspectors were told that the fire practices contained in the emergency plan never receive any cooperation from outside teams, the fire brigade, medical teams, civil

# During the inspection visit to CP Albolote (Granada) information was gathered on the fire that occurred in module 4 on 13 March 2011

defence, etc. Nevertheless, the deputy director for safety and security at the Fontcalent Psychiatric Prison Hospital reported that plans were afoot for an evacuation practice to be supervised by Civil Defence and the Fire Brigade.

Among the inspection visits scheduled in 2011, Albolote prison (Granada) was chosen, among other specific reasons for the visit, to gather information on the fire that occurred on 13 March 2011 in module 4 and verify the current state of that module. At the start of the inspection, the prison director was asked to produce the reports drawn up by the sub-directorate for safety and security and by the fire brigade's surveyors in Granada, in which the fire was described as "very serious". According to the information gathered, the fire started in the cleaning cupboard on the first floor in module 4, where there were several blankets and a few mattresses. The fire spread to both the first and second floors in that module, as the smoke rose up to this latter floor through a steel grille in the ceiling. The storage cupboard was completely gutted, although the rest of the module was in a suitable condition and operating normally, although many of the cells had had to be repainted, with some still requiring the repair of damp patches and painting in some cases. Some of the inmates interviewed reported that their clothes had been completely ruined by the smoke. Fortunately, according to the management report, there were no injuries thanks to the diligent action of several officers on duty in the module, with the exception of one of those officers, who after rescuing several inmates from their cells at the last moment had to be taken to the prison infirmary and, subsequently, to hospital, where he was admitted. The aforementioned reports suggest that one of the module's inmates started the fire, although there is no clear proof, as none of the other inmates is willing to publically accuse him. The report drawn up by the management indicates that at its meeting held on 24 March, the Processing Board (Junta de Tratamiento) reached the decision to request the transfer of the inmate in question to another prison in order to avoid any confrontation with the other inmates, as no other line of action was possible because, as already mentioned, there was no solid proof of his guilt. Regarding the recording of this incident, according to the information provided by the control tower, the alarm was raised when the officer in the tower saw smoke coming out of the window. It should be noted that there are no images of the door of the cleaning cupboard where the fire occurred. This means that viewing the video footage does not therefore lead to any conclusions regarding the incident. On the other hand, the management's own report indicates that "the officer in the tower was unable to use the yard's cameras to monitor the incident because he has no control over them, as the systems are out of order and cannot be replaced because they are obsolete and no spare parts are available". Regarding the safety and security conditions at the prison, on 23 March the fire brigade conducted a technical inspection of the premises, and subsequently drafted a report for the sub-directorate for safety and security listing the deficiencies that needed to be corrected in order to avoid the possibility of fire, facilitate the possible action of

the fire brigade and guarantee personal safety for both inmates and officers alike, such as removing certain large flower pots to allow the passage of fire engines or the non-use of masks with filters, as they may be counterproductive because they do not filter the smoke "and create a false sense of security with unforeseeable or unwanted results". In addition, the management report states that the officers did not make proper use of the hose to stop the smoke entering the gallery. The management therefore considers that the necessary training of the officers is required accordingly. Furthermore, the management report states the need to improve the fire detection systems and review the emergency plans. As an example of the deficiencies identified, the report refers to the control tower's inability to communicate with the outside to call the fire brigade, the incident room, management, etc., which explains why the prison supervisors were "completely unaware of the seriousness of the situation", as stated in the actual report, and the prison's management did not put in an appearance. In response, the SGIP has reported that it has corrected more than 83% of the points that required resolving according to the fire brigade's report, and that the project for fire detection and extinction is pending its budgetary allocation. A subsequent inspection will verify whether all the shortcomings detected have indeed been put right.



The state of the cleaning cupboard in module 4 at CP Albolote (Granada)

photo 85

Finally, at the Fontcalent Psychiatric Prison Hospital (Alicante), the inspectors noted that some of the doors on the cells in the severe cases ward have been replaced, as requested by this Office, in order to avoid their warping in the event of fire, which can make them difficult to open, as has already occurred on In response to the Ombudsman's request, some of the doors on the cells in the severe cases ward have been replaced some occasions, when the inmates managed to elude the search the officers conducted to confiscate any lighters they found. It was also noted that the firefighting systems are very complete in the infirmary department, as is the signage for emergency situations. Nevertheless, the communal areas in the modules are equipped with just a hose, and the guard post in each one has an extinguisher and standalone equipment. The inspectors noted that the hose in men's Module I has no protection whatsoever, with the safety problems this may entail, and that one of the smoke alarms in one of the cells in the severe cases ward was out of order, which was reported to those responsible for its immediate repair or replacement.



Hose without protection in the Fontcalent Psychiatric Prison Hospital (Alicante)

Answers provided by the SGIP to the conclusions formulated in 2010 **160.** The following tables contain the answers provided by the Office of the Secretary General for Prisons to the conclusions formulated following the inspection visits made to prisons in 2010. The information provided will be verified in the follow-up visits made to these facilities over the coming years.

	CCTV and security		
Prison	Conclusion	Response	
All	A recommendation has been submitted to the SGIP whereby, according to the criteria set out in paragraphs 334 and 477 in the 2010 Annual Report, CCTV cameras will be used throughout the premises housing people deprived of their liberty, with the exception of sleeping quarters and bathrooms.	The SGIP has reported that following a study of the cost involved in the coverage requested by this Office, it cannot be considered because of the lack of budgetary allocation, within the framework of overall priorities of the prison authorities.	
All	A recommendation has been submitted to the SGIP to cater for a possible evacuation of inmates in the event of an emergency, whereby a mechanical door-opening system is installed in prison cells, to be operated by the officers as and when necessary.	"Non-standard" type prisons have mechanical opening and closing of doors. In "standard" type prisons, the motors are fitted with a mechanical clutch for use when there is a power failure or in an emergency. In addition, the mounting of three-way valves on the doors in those prisons without them will be carried out as and when the budget permits.	
Madrid II	There is a need to introduce an evacuation plan and signage for fire-fighting equipment, evacuation routes and emergency exits.	The Ombudsman's criterion has been accepted and, therefore, this deficiency has been resolved by an outside firm, supervised by labour risk technicians at the SGIP.	
Martutene (Gipuzkoa)	All the cells are to be fitted with acoustic systems for calling the officers.	The Ombudsman's criterion has been accepted, and will be applied as and when the budget permits.	
	Action protocols		
Prison	Conclusion	Response	
All	Communications between non-national inmates and their consular service are to use any means that provide verifiable proof they have taken place.	The Ombudsman's criterion has been accepted.	
All	It has been noted that the medical reports issued due to the injures the inmates may have are very brief, and a recommendation has been submitted to the SGIP whereby injury reports are to be drawn up rigorously with a view to properly complying with the Istanbul Protocol, in accordance with the provisions of paragraph 357 in the 2010 Annual Report.	The recommendation is accepted and, therefore, instructions have been issued calling on medical staff to rigorously complete all the sections of the existing form for reporting cases of injuries, and subsequently, the latest reports on injuries have been reviewed to ensure these instructions are being duly upheld, with no incidents arising.	
Madrid V	Need for an interpretation service to assist with the medical care and any other type of service for those non-national inmates who do not speak Spanish.	The services are currently being used of an independent professional Arab translator. Nevertheless, due to budgetary constraints there are no plans to hire translators in other languages.	

# Table 36. Follow-ups to inspection visits in 2010

Action protocols				
Prison	Conclusion	Response		
Madrid V	Some officers stated they did not keep a written record of superficial searches, contrary to the provisions of article 68.5 of the Prison Regulations and paragraph 354 in the 2010 Annual Report.	The Ombudsman's criterion has been accepted and, therefore, all the officers have been called upon to comply strictly with the protocol on searches, frisking and questioning.		
Madrid V	Some female inmates said they had been subject to strip searches without being provided with a dressing gown to cover themselves, contrary to the provisions of article 68.3 of the Prison Regulations and paragraph 354 in the 2010 Annual Report.	The Ombudsman's criterion has been accepted and, therefore, all the officers have been called upon to comply strictly with the protocol on strip searches.		
	Medical care			
Prison	Conclusion	Response		
Madrid II	It has been deemed convenient to re- instate the remote medical care service.	Remote medical care, in cooperation with the Príncipe de Asturias Hospital in Alcalá de Henares, is currently being used, and talks are under way to re-introduce and, as appropriate, extend dermatology appointments through this same channel.		
Madrid II	It has been deemed convenient to re- instate the remote medical care service and the Free of Drugs Programme formerly provided by the Red Cross.	Talks have been held to introduce a similar programme run by another organisation.		
Madrid II	There are not enough places in the infirmary.	The Ombudsman's criterion has been accepted and, therefore, the possibility is being studied of constructing a dedicated infirmary building.		
Madrid V	There is a need to equip the infirmary with a modern echograph and for a new x-ray machine in the dental surgery.	The Ombudsman's criterion has been accepted, and the x-ray machine has been replaced, with renewal of the echograph equipment as and when the budget permits.		
Madrid V	It has been suggested that a replacement should be found to cover the absence of one of the prison's dentists and that there should be more psychiatrists and psychologists given the size of the prison's population.	The suggestion is accepted as regards the dentist. What's more, the staff currently has one doctor specialising in psychiatry and seven psychologists.		
Martutene (Gipuzkoa)	There are not enough places in the infirmary.	The Ombudsman's criterion has been accepted and, therefore, the possibility of enlarging the facility is being studied.		
Martutene (Gipuzkoa)	Both the number of medical staff and the frequency of psychiatric care are deemed to be insufficient.	The Ombudsman's criterion has been accepted, with it agreed there are insufficient medical personnel. There is one vacancy that is expected to be filled in a forthcoming call. In addition, a psychiatrist has been hired to visit the prison once a week.		

Medical care				
Prison	Conclusion	Response		
Nanclares de la Oca (Araba/Álava)	More medical staff are required, increasing the frequency of psychiatric and psychological care.	The number of psychologists has been increased with regard to the Prison Jobs List. Psychiatric care has been referred to the Basque Health Service, with emergency cases attended by Santiago Hospital in Vitoria, with a weekly surgery at the prison.		
	Education, workshops and employ	ment		
Prison	Conclusion	Response		
Madrid V	Greater diversification is required in the occupational and training workshops, with a suitable provision of materials for them.	The Ombudsman's criterion is shared, but it is not currently feasible for budgetary reasons.		
Madrid V	Some female inmates stated they could not enrol to study secondary education.	The existing problem was resolved shortly after the inspection, by placing the female inmates in the students' module.		
	IT management			
Prison	Conclusion	Response		
All	Progress should be made toward the electronic processing of all procedures and paperwork involving inmates.	Regarding judicial, penal and prison documents, the electronic processing of the procedures and paperwork of inmates has been fully implemented through the Prison Software Application (SIP). However, the network allowing inmates to conduct their business has not been implemented because of its high cost.		
All	A recommendation has been submitted to the SGIP to compile statistics on the disciplinary measures applied to inmates, according to paragraph 356 in the 2010 Annual Report.	These statistics can be obtained through the Prison Software Application (SIP), which means the management team at each prison can conduct a pertinent analysis.		
	Ease of access to the facility			
Conclusion	Prison	Response		
Madrid II	The precarious state of the access road to the prison makes it dangerous for pedestrians to walk along.	A petition has been submitted to the SGIP for the resolution of this problem, which has been accepted, and the necessary talks have been held with the competent authorities.		
Madrid V	Talks need to be held to ensure there is a more frequent daily bus service to the facility to avoid visitors having to walk the 1,500 metres to the prison entrance.	The SGIP has relayed this need to the Regional Transport Board of the Community of Madrid.		

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	Infrastructures	
Prison	Conclusion	Response
Basauri (Bizkaia)	The facilities are precarious and obsolete.	The Ombudsman's criterion has been accepted and, therefore, the following have either been refurbished or built: the open section, the respect module, the day room in the general department and services, the lawyers' interview rooms, three new gyms, the general workshop, a new office building and a building for judicial purposes.
Basauri (Bizkaia)	The yard has no sheltered area, so it cannot be used when the weather is bad.	The Ombudsman's criterion has been accepted, although the alteration work is subject to the availability of budgetary funds.
Madrid II	Note was made of temperature deficiencies at the prison. The temperature in the facility should range between 18°C and 25°C.	The Ombudsman's criterion has been accepted and, therefore, the deficiencies have been corrected throughout the entire prison, except in the pharmacy and in the nursing station for preventive inmates.
Madrid II	Note was taken of damp and the damage it has caused in different parts of the prison.	The Ombudsman's criterion has been accepted and, therefore, the terraces have been waterproofed.
Madrid II	The cells are too small (8.75 m <sup>2</sup> for two inmates).	The Ombudsman's criterion has been accepted and, therefore, a study is being made of the possibility of fully refurbishing the toilets to give the inmates more room to move inside the cells.
Madrid II	Deficiencies were noted in the ventilation and lighting in the multipurpose rooms and libraries in the modules.	The Ombudsman's criterion has been accepted and, therefore, as a provisional measure, small apertures have been made in the walls giving onto the corridors, and a study is being made of the feasibility of enlarging the windows.
Madrid II	There are not enough showers in the two modules.	The Ombudsman's criterion has been accepted and, therefore, a study is being made of the possibility of providing more, with decommissioning of some of the cells in the shower area.
Madrid II	The cell doors have spy-holes that may pose a threat to officers when they look inside.	The Ombudsman's criterion has been accepted and, therefore, a feasibility study is being conducted on their replacement.
Madrid II	The officers' facilities within the modules do not receive natural light and they are too small, and there is not even a computer for them to work with.	The Ombudsman's criterion has been accepted and, therefore, the artificial lighting has been changed, improving the lighting conditions. In addition, the prison is currently being furnished with computer equipment and a new network.

Infrastructures				
Prison	Conclusion	Response		
Madrid V	Deficiencies were detected in theThis has been repairtemperature in the new office building. Therecommended temptemperature in the facility should rangecannot be guaranteebetween 18°C and 25°C.entire prison.			
Madrid V	It was noted that the PA system in some of the modules was very loud and of very poor quality. The Ombudsman's criterion has been accepted and, therefore, instructions have been issued to reduce the volume whenever possible.			
Madrid V	Deficient state of the medical surgeries in the modules.	A structural problem, there is no space to enlarge them. Nevertheless, attempts will be made to resolve the deficiencies in lighting and ventilation.		
Martutene (Gipuzkoa)	The facilities are obsolete, being in a precarious condition, with signs of some overcrowding, so it is considered that a new prison should be built.	A new prison, CP Norte 2, in the town of Zubieta (Gipuzkoa), is scheduled to open in 2012.		
Nanclares de la Oca (Araba/Álava)	Structural problems were detected, the facilities were in poor condition and the prison is overcrowded.	These deficiencies have been overcome following the opening of the new prison CP Araba in 2011.		

# III.1.2. Alcalá de Henares Military Prison (Madrid)

**161.** As already noted in the 2010 Annual Report, Spain has only one military prison, located in Alcalá de Henares (Madrid), which was inspected in 2010. Although this facility has not been visited during the period covered by this report, there has been a follow-up of the measures taken, as appropriate, to correct the shortcomings that were reported to the Ministry of Defence.

**162.** Thus, regarding the necessary regulation of military prisons mentioned in paragraph 366 in the 2010 Annual Report, the Under-Secretary for Defence has reported that the working party nominated to study the lack of regulatory development of Royal Decree 1396/1992, of 29 November, approving the Regulations on Military Prisons (REPM), has drawn up three provisions that have been submitted to the General Legal Department at the Ministry of Defence so that, prior to the legislative regulation stage, it can rule upon their content and on their legal status.

**163.** Likewise, paragraph 368 in the 2010 Annual Report highlighted the need for major refurbishment to be made to this prison in order to bring it in line with more modern building criteria. Nevertheless, the Under-Secretary for Defence has informed this Office that current budgetary constraints mean it will be difficult to undertake all the projects foreseen in the report on the establishment's

In 2011, the measures adopted to correct the shortcomings have been verified

The Under-Secretary for Defence has reported that three provisions have been drawn up to develop the REPM, with their ruling pending

Work has begun on refurbishing a cell according to the protocols for preventing suicides requirements (ADME). Notwithstanding the above, and given its priority nature, it has been reported that work has begun to refurbish a cell according to the protocols for preventing suicides, as called for in paragraph 375.

# III.2. Centres for young offenders

**164.** Article 7 of Public General Act 5/2000, of 12 January, regulating the criminal liability of juveniles (LORPM), lays down the measures the courts are to impose upon minors, which are as follows, ordered according to the restriction of rights involved: a) custody in a closed regime; b) custody in a semi-open regime; c) custody in an open regime; d) therapeutic custody in a closed, semi-open or open regime; e) outpatient treatment; f) attendance of a day centre; g) weekend detention; h) probation; i) restraining order on approaching or communicating with the victim or the victim's relatives or other people specified by the judge; j) coexistence with another person, family or educational group; k) community service; l) attendance of socio-educational schemes; m) warning; n) confiscation of the driving licence for motorbikes and cars, or the right to obtain it, or of registered licences for hunting or the ownership of any kind of arms, and o) full disenfranchisement.

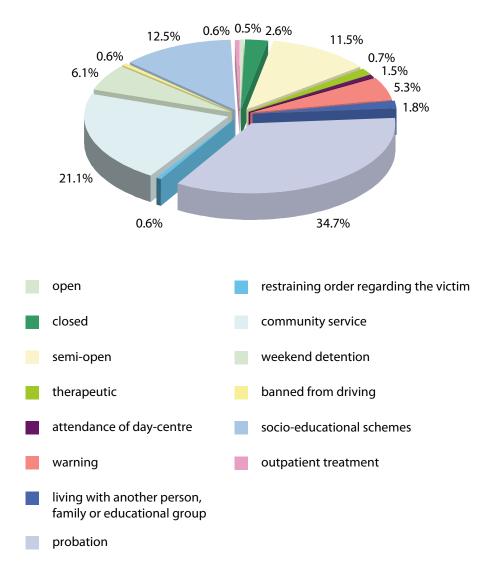
According to a report drafted by Spain's National Statistics Office (INE) published in September 2011, 18,238 juveniles were convicted of criminal offences in 2011, which in turn meant a 3.8% increase over the prior year. Judges therefore adopted 25,087 legal measures under the auspices of the LORPM, recording a year-on-year increase of 3.0%. The measures most frequently adopted were probation (34.7%), community service (21.1%) and socio-educational tasks (12.5%). Regarding the offender's nationality, it was noted that in relative terms, the measure of custody in a closed regime is more often applied to non-national juveniles (6.0% of the total) than to Spanish juveniles (1.4%). The same occurs for the measure of custody in a semi-open regime (14.6% in the case of non-national juveniles and 10.5% for Spanish juveniles).

There follows a series of tables, compiled according to the nationwide data published by the INE and referring to 2010, the latest statistical figures published prior to the close of this report. The tables contain solely the different regimes of custodial measures, as although they account for only 16.1% of the total number of measures imposed by the juvenile courts, they involve restricting the right to liberty, which is a preferential area of study for the Ombudsman's duty as NPM. Nevertheless, the first graph presents the statistics for all the measures applied in 2010.

Article 7 of the LORPM lays down the measures the courts are to impose upon juveniles

18,238 juveniles were convicted of criminal offences in 2011. Judges therefore adopted 25,087 legal measures under the auspices of the LORPM

The Ombudsman, as NPM, is concerned mainly with assessing the measures involving the restriction of the right to liberty



# Graphic 6. Type of legal measures applied to juveniles in 2010

Source: own work based on data provided by the INE.

# Table 37. Legal measures adopted by type and sex in 2010

	Open custody	Semi-open custody	Closed custody	Therapeutic, custody in closed, semi-open and open regime
Males	101	2,611	602	332
Females	12	273	41	43
Total	113	2,884	643	375

Source: own work based on data provided by the INE.

	Open custody	Semi-open custody	Closed custody	Therapeutic custody in closed, semi-open and open regime
Nationals	84	1,968	266	282
Non-nationals	29	916	377	93
Total	113	2,884	643	375

### Table 38. Legal measures adopted by type and nationality in 2010

Source: own work based on data provided by the INE.

# Table 39. Legal measures adopted by type according to autonomous communities and cities in 2010

Autonomous Communities/Cities	Open custody	Semi-open custody	Closed custody	Therapeutic custody in closed, semi-open, and open regime
Andalusia	4	593	60	73
Aragon	0	49	14	22
Principality of Asturias	0	70	5	3
Balearic Isles	4	128	7	2
Canary Islands	0	80	8	32
Cantabria	1	27	5	9
Castilla-La Mancha	28	120	14	19
Castilla y Leon	9	76	9	12
Catalonia	1	278	322	37
Ceuta	0	21	17	0
Community of Valencia	4	583	54	72
Extremadura	0	33	6	6
Galicia	12	127	10	14
La Rioja	0	27	1	2
Community of Madrid	4	272	61	44
Melilla	0	14	0	4
Murcia	38	214	35	3
Navarre	0	41	1	2
Basque Country	8	131	14	19
Total	113	2,884	643	375

Source: own work based on data provided by the INE.

Data on alleged mistreatment by officers or staff at the centres **165.** According to the information provided by the regional government departments with powers in matters of legal reform, the accusations or complaints these authorities have received for malpractices or alleged cases of torture, mistreatment or cruel and humiliating treatment by officers or staff at centres for young offenders of juveniles detained in them in 2011 are as follows.



Autonomous Community	Accusations/Complaints	Total
	CM La Marchenilla: 1 accusation against the centre's coordinator and monitor-educators. 2 complaints to the Ombudsman for Children in Andalusia regarding the medical care services and the technical, psychological and social services team.	
Andalusia	CM Sierra Morena: 1 complaint to the Ombudsman for Children in Andalusia for the restraint applied to a juvenile.	6
	CM Las Lagunillas: 1 accusation before the Juvenile Court in Jaén lodged by a minor being forced to eat and sleep on the floor.	
	Centro Las Lagunillas: 1 complaint before the Government Delegation in Andalusia filed by a minor for not receiving a medical check-up after being injured by the use of restraining measures.	
Aragon	No accusations.	0
Principality of Asturias	Sograndio Youth Home: no accusations.	0
Canary Islands	No accusations.	0
Cantabria	No accusations.	0
Castilla-La Mancha	No accusations.	0
Castilla y León	1 accusation at CM Zambrana against security staff for aggression (Proceedings in the Court of First Instance No. 2 in Valladolid).	1
Catalonia	Disciplinary proceedings against a monitor- educator at Can Llupià for the improper treatment of a juvenile inmate. Employee subject to repeated accusations.	1
	In 2010, three minors at CM Els Tillers presented a complaint for improper treatment by a monitor- educator, who finally adopted a change in attitude.	
Extremadura	CM Vicente Marcelo Nessi: 2 accusations: one against a security guard, of which no information is available on its outcome although the security firm issued him with a written warning for a minor misdemeanour.	2
Galicia	No accusations.	0
Balearic Isles	No accusations.	0

# Table 40. Accusations and complaints in 2011 for mistreatment ormalpractice in centres for young offenders

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Autonomous Community	Accusations/Complaints	Total
Community of Madrid	CM El Laurel: 1 accusation (Prior Proceedings ID4/2011 related to the report by the Ombudsman for Children of the C. of Madrid, action 0505/11, of 30 March 2011 instigated by a minor's mother). The proceedings were closed when no violation of the minor's rights was observed	1
Region of Murcia	No accusations.	0
Navarre	No accusations.	0
Basque Country	CM Ibaiondo: 1 accusation against a security guard. Notification was sent to the Juvenile Court that ordered the custodial measure and the Head Prosecutor in Gipuzkoa who initiated Investigative Proceedings under no. 121/11, and dated 13 September 2011 the proceedings were shelved when no proof was forthcoming on the perpetration of any offence. CM Uribarri: Laccusation against the coordinator of the	2
2	1 accusation against the coordinator of the education unit for sexual harassment. The juvenile was transferred to another centre as a preventive measure. Notification was sent to the Juvenile Court that ordered the custodial measure and the Head Prosecutor in Araba/Álava, but at the time of writing there is no information on the state of the legal proceedings, or whether indeed any have been initiated.	
La Rioja	CM Virgen de Valvanera: No accusations.	0
Community of Valencia	No accusations.	0
Autonomous City of Ceuta	CM Punta Blanca: 1 accusation against a reformatory guard /orderly. Legal proceedings have been initiated by the Court of First Instance no. 3 in Ceuta, and at the time of writing no decision has been reached.	1
Autonomous City of Melilla	No accusations.	0

Eight centres for young offenders were inspected in 2011, with three of them being visited twice **166.** Inspection visits were made in 2011 to eight centres for young offenders in the autonomous communities of Andalusia, Castilla-La Mancha, Catalonia, Canary Islands, Madrid and the Community of Valencia, and in the Autonomous City of Melilla, three of which were inspected twice, specifically CM Albaidel in Albacete, CM El Molino in Almería and CM Pi Gros in Castellón de la Plana, with the inspections being conducted by multidisciplinary teams and with certain specific and conditioned objectives, both because of the new make-up of the inspecting team, and because of the assessment made following a study of the results forthcoming in, as appropriate, the first inspection made.

All the inspections were conducted without prior warning, with the exception of the one made to the Renasco centre for young offenders in Madrid, which involved three members of the Ombudsman's office accompanied by two advisers to the Ombudsman of Peru, within the framework of a joint scheme between the two institutions, so prior notice was submitted to the Agency of the Community of Madrid for the Re-education and Reinsertion of Young Offenders.





**167.** The centres inspected are publically owned in all cases, but not so their management, which is assumed in some cases by the corresponding authorities in each autonomous community, such as CM Montilivi in Girona, which is run by the Direcció General de Ejecució Penal a la Comunidad y de Justicia Juvenil (Directorate General for Criminal Proceedings and Juvenile Justice), of the Justice Department of the regional government, the Generalitat of Catalonia, and CM Renasco in Madrid, run by Agency of the Community of Madrid for the Reeducation and Reinsertion of Young Offenders. Other centres are managed by non-profit foundations, such as CM El Molino in Almería, run by ADIS Meridianos, and CMs Baluarte-San Pedro Alto in Melilla, Las Laguinillas in Jaén, and Pi Gros in Castelló/Castellón, which are run by the Diagrama Foundation. Finally, CM Valle Tabares in Tenerife is run by the Ideo Fundación Canaria de Juventud, which is a public foundation set up by the Government of the Canary Islands.

Although the centres inspected are publically owned, six of them are under private management

Prior warning was given of the inspection visit to CM

Renasco in Madrid, as a

foreign delegation was

involved

### Ratio between the number of places and occupancy

**168.** The number of places in each centre and the occupancy on the inspection days are listed in the following table:

# Table 41. Places and occupancy in the centres for young offenders inspected

Centres visited	No. places	Occupancy
Albaidel in Albacete	31	21*
Baluarte San Pedro Alto in Melilla	20	12
El Molino in Almería	70	61**
Las Lagunillas in Jaén	48	37
Montilivi in Girona	36	35
Pi Gros in Castellón/Castellón	47***	49****
Renasco in Madrid	23	20
Valle Tabares in Santa Cruz de Tenerife	150	92

Source: own work based on data provided by the centres.

\* This is the occupancy figure for the second visit; at the time of the first visit 23 places were occupied.

\*\* This is the occupancy figure for the second visit; at the time of the first visit 49 places were occupied

\*\*\* CM Pi Gros has 54 places, but the agreement with the Administration caters for 47 places.

\*\*\*\* This is the occupancy figure for the second visit; at the time of the first visit 47 places were occupied.

169. Since the Ombudsman published, in September 2002, its Informe sobre el primer año de vigencia de la ley reguladora de la responsabilidad penal de los menores (Report on the first year of enforcement of the law governing the criminal liability of juveniles), it has been proposing that each autonomous community, according to its needs, should have a suitable number of centres to avoid juveniles with ties to a city being forced to serve their custodial measure far away from it, whereby the juveniles can serve their custodial sentence in centres close to their homes. During the visit to CM El Molino in Almería, the inspectors' attention was drawn to the high number of juveniles from other provinces, noting that only 35% of the juvenile inmates at the centre actually lived in Almería, with the consequent drawback this might entail for the minors' family relationships. At CM Pi Gros in Castelló/Castellón, 50% of the inmates were wards of the juvenile courts of Castellón, with the remainder being wards of other provinces in the autonomous community or even of other communities, such as two juveniles who were wards of the courts of Ciudad Real and Tarragona. Regarding this issue, the management affirmed that the families of almost all the minors in custody lived in the province of Castelló/Castellón or in places in other provinces that bordered on this province, including those cases of juveniles who were wards of the courts of Ciudad Real and Tarragona, as although the minors had committed the offence in those provinces, their families were living in the province of Castelló/Castellón.

All the CMs revealed deficiencies in their CCTV and videoconferencing systems **170.** All the centres inspected in 2011 reveal a series of common shortcomings, such as those affecting the CCTV and recording systems, the lack of videoconferencing systems for communicating with the juvenile courts and prosecutors, the almost complete non-existence of the legal aid given to the juveniles by court-appointed soli-

Minors should serve their custodial measure in centres close to their homes citors during the time they are in custody at the centre and the absence of any notification to the minors and their legal counsels of any disciplinary measures applied.

**171.** Although the centres are fitted with CCTV systems, none of them fully complies with the criterion repeatedly mentioned in paragraphs 236, 395 and 477 in the 2010 Annual Report, not even those centres in which a CCTV system has recently been installed, such as CM El Molino in Almería or CM Renasco in Madrid. The extension of the field of coverage was a need that had been requested in some cases by the staff at the centre, such as CM Las Lagunillas in Jaén, where the personnel interviewed stated that the CCTV coverage should include the dining rooms and classrooms. The shortcomings detected in the CCTV coverage allows some abuse in certain cases, such as at CM Albaidel in Albacete, where the inspectors noted that two of the visitors' rooms are fitted with CCTV cameras that allow viewing the visit, which may give rise to a breach of a minor's personal and family privacy. Regarding these cameras, one of the inmates stated that he would rather his family did not visit him for this reason ("They don't have to put up with this. I have to grin and bear it, but they don't. Besides, it's like reminding them all the time I'm a prisoner..., they end up feeling bad, and I feel worse...").



**172.** Furthermore, all the CMs inspected are devoid of the protocols regarding the study of the conditions under which the recordings are made, the time they are kept, the security protocols for ensuring the recordings are safeguarded, the means for informing those deprived of their liberty that the recordings have been made and the authority before whom they may exercise the rights laid down in legislation on data protection. These procedural protocols should include the obligation to extract and keep those images that cover any incident that occurs involving someone in custody, without waiting for a formal request to be made accordingly, as per the provisions of paragraph 477 in the 2010 Annual Report. Likewise, it would be advisable for the recording to include audio. Generally speaking, the juveniles are in favour of the installation of CCTV systems, as they

The protocols for making the recordings should include the requirement to extract and keep the sound and images that might reflect any incident that may occur involving a minor in custody

the CCTV system, but this should not involve a breach of the minors' personal privacy

There should be an increase in the field of coverage of

CCTV monitors at CM Albaidel in Albacete see them as a way of protecting themselves: "It's good because they are all over the place and that means they can't do anything to you".

**173.** There is a complete absence of videoconferencing systems in the centres inspected, although the general view among the management of the CMs is favourable towards these means of remote communication, as they avoid the need for transfers and the transport of juveniles and they facilitate contacts between the courts and prosecutors and the juveniles under their tutelage for the purpose of judicial formalities. The Ombudsman has an empirical understanding of the use of videoconferencing through the recommendations it has made accordingly and which have been applied, for example, at CM Vicente Marcelo Nessi in Badajoz, which was inspected in 2010. It has also been verified, during the visit to Pi Gros in Castellón de la Plana, that in order to avoid the transfer of juveniles to the courts in other provinces, use is being made of the videoconference system installed in the Senior Court in Castellón, although this does require the minors to be transferred within the city.

**174.** The legal counsel provided to the juveniles during their time in custody by the court-appointed solicitors is either minimal or non-existent, as they are not visited at the centre and it is difficult for them request, as appropriate, any modification of the measure imposed in response to the progress the minor is making. This opinion is informed not only by the coincidence between the statements made accordingly by the centres' management and the juveniles interviewed, such as at Albaidel, El Molino, Las Lagunillas, Pi Gros or Renasco, but also by the examination of documents. It has therefore been verified by checking the visitors' book for 2011 at CM Pi Gros that between 1 January and 30 November only four juveniles received a visit from their court-appointed solicitor. The electronic record kept of solicitors' visits that is held at CM Albaidel in Albacete revealed that in 2011 only three juveniles were visited by their solicitors, with two of these being privately appointed, and it was not known in the third case whether the solicitor had been appointed by the court because the minor had left the centre months earlier and the management had no recollection of this. The visitors' book for 2010 at CM Renasco in Madrid recorded just one visit by a solicitor, on 1 July.

**175.** The solicitors' lack of involvement in the monitoring of the detained juveniles' progress may explain why they are not informed of the disciplinary measures imposed upon the minors in disciplinary proceedings, although this does not in any way detract from the responsibility of the centre's management in this matter. Indeed, the non-existence of this notification applies across the board and an examination of the disciplinary records at the centres inspected has confirmed this. It is paradoxical that in some centres, such as Albaidel in Albacete, all the decisions on the imposition of a disciplinary measure expressly state that an appeal may be lodged before the juvenile courts by the juveniles or by their legal counsel, verbally or in writing, within a period of 24 hours as of the notification. It is noted in the proceedings that the ruling is never reported or notified to the solicitor, which makes it difficult for them to appeal against the decision if they are unaware of its existence. Accordingly, the Ombudsman considers that when-

The installation of a videoconferencing system in the CMs would facilitate contact with the courts

There is a general lack of legal counsel provided by court-appointed solicitors during the time juveniles are serving their custodial measure

With a view to ensuring a minor's greater interest, their right to a defence and to receive legal counsel, the Ombudsman considers that whenever a disciplinary measure is applied, a copy of the proceedings is always to be sent to the minor's solicitor. There appears to be a need to proceed to the amendment of section two of article 76 of Royal Decree 1774/2004, of 30 July

ever a disciplinary measure is applied, a copy of the proceedings is to be sent to the juvenile's solicitor, as indicated in paragraph 409 in the 2010 Annual Report. It should be noted that section one of article 76 of Royal Decree 1774/2004, of 30 July, which approves the regulations for Public General Act 5/2000, of 12 January, regulating the criminal liability of juveniles, lays down that the notification of the decision on the disciplinary measure is to be made on the same day or within a maximum period of 24 hours following its adoption, being read out in full to the juvenile involved and with delivery of a copy to them. On the other hand, section two of the same article lays down that notification is to be made to the prosecutor's office and, as appropriate, to the minor's solicitor. The Ombudsman considers that the phrase "as appropriate", which appears in the second section, may be the reason that the centres for young offenders interpret this as meaning there is never a case in which there is an obligation to notify the disciplinary measure to the juvenile's solicitor, whereby the criterion of not notifying the decision arising from disciplinary proceedings to the minor's solicitor is applied on a general basis at the CMs inspected. With a view to ensuring a minor's greater interest, their right to a defence and to receive legal counsel, which may advise in favour of appealing against the measure before the juvenile courts in order to obtain effective legal tutelage, there appears to be a need to proceed to the amendment of section two of the aforesaid article 76 of Royal Decree 1774/2004, of 30 July.

**176.** The protocol for admitting a juvenile to a centre involves a common procedure, generally speaking, as the juveniles have a personal search made of their clothing and possessions, they are informed in writing and explained verbally, in an understandable manner, of their rights and obligations, the rules governing the internal regime, the detention system, and the means for lodging requests, complaints or appeals. Nevertheless, as noted at the CMs Albaidel in Albacete, El Molino in Almería and Pi Gros de Castellón de la Plana, they are not informed of their right to instigate proceedings of habeas corpus, as contained in paragraph 476 of the 2010 Annual Report for all those situations of deprivation of liberty. Likewise, CMs Albaidel and El Molino do not have printed information sheets on the minors' rights and obligations in different languages. In the former case, juveniles of Moroccan and Romanian nationality stated that the information was neither clear nor easy to understand and that it was not available in their languages. This information is not even provided in those languages most commonly spoken by the non-national minors at the centre, although this is not the case at CM Pi Gros, which does provide this information in several languages.

**177.** It was noted that all the centres for young offenders inspected have a log book, which is used to register the following details for each juvenile: identity, date and time of admission, transfers and releases, reasons for the admission, legal authority ordering it, and solicitor's details. It was also noted that a personal file was kept on each minor. No record whatsoever is kept of these files at the centres, as they are sent to the corresponding government department once the minors have completed their measure and been released, pursuant to article 12.6

Generally speaking, the admissions protocol involves a common procedure

All the centres visited have a log book and a personal file on each juvenile in custody of the regulations of Public General Act 5/2000, on the criminal liability of juveniles, except in the case of CM Pi Gros in Castelló/Castellón, whose director stated that, following a decision by the government department, the personal files are kept at the centre when the juvenile is released, as the centre is considered to be a public institution and can be used for storing the files. At CM El Molino, it was noted in certain cases that the names recorded on the juveniles' files were not spelt correctly or were incomplete (e.g., missing the surname), so greater care needs to be taken for the correct recording of the juveniles' details.

**178.** It was noted at all the centres visited that once a juvenile's admission had followed the due process, this is reported to the juvenile courts, the prosecutor's office and the corresponding authority in the autonomous community, the juvenile's legal guardians or the person they nominate accordingly at the time of their admission (if the authorities are unaware of who they are) and, as appropriate, consular officials.

179. Pursuant to the provisions of article 32 of Royal Decree 1744/2004, of 30 July, approving the regulations for the LORPM, all juveniles, upon their admission to a centre, are subject to a medical check-up within 24 hours and receive the necessary technical support for their induction. All this is recorded in the minor's file. During the inspection visit to CM Pi Gros, an adviser to the Ombudsman was present during the medical check-up involving a juvenile who had been admitted barely half an hour earlier. The check-up basically involved a clinical examination that measured weight, height and blood pressure, listening to the chest, examination of the ears and mouth and feeling the abdomen, as well as a series of questions about their medical record, operations, allergies, vaccinations, consumption of alcohol or drugs, etc. Finally, the minor was informed that within a period of two or three days they would undergo a blood and urine test. Although CM Albaidel reported that, within 24 hours of admission, the juveniles were given a medical check-up, during the inspection it was noted that there was a minor in the observation facility who, four days after being admitted, had not been given a medical check-up, with this anomaly being explained by the fact it had coincided with a weekend.

Elsewhere, it was noted at CM El Molino in Almería that a juvenile's file does not contain a record of when the medical check-up and the interview with the psychologist are held, with this information having to be found by consulting the records kept by the medical staff and the diary of the technical personnel to verify whether they have been carried out. Regarding the technical support for the minors when they are admitted to a centre, it was noted at CM Albaidel in Albacete that both the interview the psychologist conducts with the juveniles upon their admittance and the report she issues are dated a long time after the date of admission, after the minors have been through the observation period and been assigned their normal accommodation. It therefore seems that the juveniles do not receive technical support once the induction period has passed, and the con-

The admission is reported to the juvenile's legal representatives and to the authorities involved

In the 24 hours immediately following their admission, the juveniles undergo a compulsory medical checkup and receive the necessary technical support for their induction

A highlight is the involvement and commitment of psychologists at CM Pi Gross in Castelló/Castellón to understand and support the juveniles' adjustment to the centre tent and assessment of the psychologist's report, issued in due course, do not serve as a guide for management when they decide upon the accommodation unit in which they are to be housed. By contrast, at CM Pi Gros, almost all the juveniles (92%) affirm they have received psychological support at least once during their time at the centre. The majority rate it as very good (54%) or good (28%). Special note should be taken of the involvement and commitment shown by the psychologists to understand and support the juveniles' adjustment to the centre. This is made manifest by the significant amount of time (4 hours) they dedicate to getting to know the minor upon admission, as well as the thoroughness of the details in the reports they regularly draw up on the minor's progress. A further highlight, what's more, is the initiative of introducing psycho-educational support activities, such as the Jabato Programme involving a group work methodology for fostering the development of social conflicts and conflict resolution.

180. Normally, upon admission to a centre, juveniles are housed in an observation facility and then subsequently assigned to an accommodation unit. Nevertheless, at CM Las Lagunillas in Jaén, the inspectors found the admissions facility was closed, so new admissions are housed in one of the development units. Likewise, CM Renasco in Madrid does not have a unit exclusively for new admissions, as when the juveniles are admitted to the centre to serve a confirmed measure, those responsible have normally already received information on them and can therefore decide upon the unit that is to house them until the definitive assignment of the group, which occurs after two or three days. Only in very specific cases, involving custody as a preventive measure, when there is no prior information available on the juveniles, they might be housed for the first few days in the solitary confinement room, which is separate from the three accommodation units. In turn, CM Pi Gros in Castellón de la Plana has an observation facility, in which, according to the director, new admissions may remain for up to a month at the longest. During the inspection it was noted that the daily operation of that observation unit is the same as all the other accommodation units, albeit without some of the privileges granted to the juveniles in the latter, such as having a television or videogames console inside their rooms. In the case of CM El Molino in Almeria, the juveniles are housed in the admissions facility, where they are automatically applied a very strict regime and where they may remain for up to twenty days without any contact with the rest of the centre, until they are assigned an accommodation unit. Although it has recently been painted, the admissions facility at this centre has all the appearance of a prison and is very limited in terms of comfort, with very sparse furnishings. Furthermore, there is very little space.

Note has been taken of widely varying situations as regards the housing of juveniles inside the observation or admissions facility when they arrive at the centre and until they are assigned to an accommodation unit



A juvenile's room in the admissions unit at CM El Molino in Almería

During the inspection of CM Albaidel in Albacete, it was noted that contrary to the information provided, there was a juvenile who had spent more than three days in the admissions

facility

A juvenile's room in the admissions unit at CM Albaidel in Albacete At CM Albaidel in Albacete, juveniles are first admitted to the observation or admissions facility where, this Office was informed, they usually stay for up to three days, with no contact with the rest of the centre, until they are assigned to an accommodation unit. However, during the inspection it was noted there was a juvenile who had been in the facility for more than three days. The justification given to explain why the average time for staying in the admissions facility had been exceeded was that the admission had coincided with a weekend, which does not happen very often. Furthermore, note was taken of the difficulties juveniles have to communicate while they are in the observation or admissions facility in the event of any mishap, as it has a telephone that can only receive calls and a bell, but no intercom.

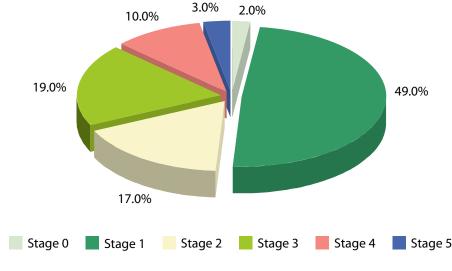


During the interviews held with the juveniles at CM Albaidel in Albacete and CM El Molino in Almería, note was taken of their confusion and anxiety at such a restrictive housing arrangement. Some of them stated that the initial adjustment was very hard, remembering it as the most difficult moment: "When I came here"; "when I arrived at the centre"; "my admission to the centre", or "my first days, they don't explain anything to you, and they punish you for something you didn't even know about". In response to the circumstances described, it is considered there is a need to review the admission protocols followed in each one, as it is questionable how much educational value there is for a newly admitted juvenile to undergo a measure that involves being isolated in solitary confinement for several days in the admissions facility, in an unwelcoming atmosphere and under very strict conditions. It seems more appropriate to assess the juveniles on the same morning they are admitted, take them on a guided tour of the facilities and provide them with written information on their rights and duties. In the event they arrive at the weekend, they should be assigned to an accommodation unit, by default, where they are with other juveniles and with the monitor-educators on duty, who can help them to settle in, and then re-allocate them to one of the units on a definitive basis on the next working day.

**181.** Each centre organises an educational project for their care of the juveniles, according to the principle set forth in article 6, section d), of the regulations. Generally speaking, the juvenile's conduct, assessed daily and weekly, enables them to improve their conditions in the educational process, being granted the privileges and rights associated with each level, and they can also be demoted. In the case of CM El Molino, the different stages in the educational programme are as follows: Stage 0 (Observation) – which involves newly admitted juveniles, as well as those minors/juveniles that have been demoted for educational reasons, Stage 1 (Development), Stage 2 (Assessment), Stage 3 (Consolidation), Stage 4 (Finalist) and Stage 5 (Autonomy). At the time of the inspection, the juveniles were distributed among the different stages according to the following table.

The Ombudsman considers there is a need to review the admission protocols, as it is questionable how much educational value there is for a newly admitted juvenile to undergo a measure that involves their complete isolation for several days in the admissions facility

The centres organise an educational care project arranged by stages, with daily and weekly assessment of the juvenile's conduct





The system of progress proposed at CM El Molino in Almería, together with the strict regulation of everyday life, might generate feelings of lasting frustration among a large part of the juveniles

The "Paquetes de refuerzo" included in the Educational Project at Pi Gros help to motivate the juveniles and encourage them to accept responsibilities

The Ombudsman considers that the constant and permanent supervision of all the conversations between the juveniles and the ban on discussing certain topics constitute an arbitrary application of the rules on observing the juveniles

According to the director, the high number of juveniles in Stage 0 was due to recent arrivals. Nevertheless, it was verified that the number of juveniles who had been admitted more than two months before the inspection visit and were still in Stage 0 accounted for almost 25% of the inmates at the centre, which raises doubt about the means used to achieve the planned goals set for this stage. Furthermore, an examination of the juveniles' files revealed that it was not uncommon for them to be demoted to Stage 0 from a higher stage. The system of progress proposed by the methodology, together with the strict regulation of everyday life, might generate feelings of lasting frustration among a large part of the juveniles, as they are set goals that may be excessive for their level of self-control and maturity. What's more, as the system of stages has a bearing on the juveniles' right to outside leave - only as of Stage 3, the juveniles, following a prior assessment by the Socio-educational Committee, may begin to enjoy leave and outings -, the aforesaid methodology effectively converts the custodial sentence in a semi-open or open regime decreed by the judge into a closed regime. In fact, at the time of the inspection, although 55 juveniles were in a semi-open regime (over 90%), only four juveniles were eligible for activities in outside facilities.

At CM Pi Gros in Castellón de la Plana, the use of the so-called "Paquetes de refuerzo" (Booster packages) in the Centre's Educational Project is one of the reasons there is only a very limited application of the disciplinary regime. The director explained that the "Paquetes de refuerzo" consist of individual rewards that a juvenile may obtain in response to their adjustment to the centre and to the achievement of the goals set for them in their Individual Care Programme. This helps to motivate the juveniles and contributes to the acquisition of responsibilities that are rewarded with positive credits, which are used to obtain the privileges that are displayed on the notice boards in the various accommodation units that make up the centre. Besides fostering good habits among the juveniles while they are at the centre, this arrangement helps them to keep up these habits once they are on the outside. Regarding this project, one of the juveniles, during the private and confidential interview conducted with him, affirmed: "When I went home on leave, my grandma and mum said: "This isn't the same boy, they've changed him", referring to the fact he did not have to be told to make his bed or lay the table at lunchtime, as he was used to doing this in the centre, and so he had no problems doing the same thing at home".

**182.** During the inspection of CM Pi Gros in Castelló/Castellón, it was noted that the juveniles had been imposed a restriction on communicating with each other. When asked about this, the centre's management explained that this restriction involved a ban on the juveniles discussing certain topics, with the presence of an educator during all the conversations to ensure the ban is upheld. This restriction goes against the principles informing the rules of procedure for the measures. The regulations of Public General Act 5/2000, of 12 January, governing the criminal liability of juveniles, in sections b) and i) of article 6 lays down, among others, respect for the free development of the juvenile's personality and the confidentiality, due

reserve and absence of unnecessary interference in the private lives of either the juveniles or their families in the actions they carry out; and article 7 of the aforesaid regulations stipulates that during the application of the measures the juveniles are to enjoy the universal rights and freedoms recognised by the Spanish Constitution, the international treaties Spain has ratified and all other current legislation, with the exception of those that are specifically restricted by law, the text of the conviction or the purpose of the measure imposed. Said restriction is in breach of section 2.h) of article 56 of Public General Act 5/2000, which recognises the juvenile inmates' "right to communicate freely with their parents, legal counsel, relatives and other people... pursuant to this law and its secondary legislation".

Neither Public General Act 5/2000 nor its regulations provide for any ban or restriction on the topics to be discussed in the juveniles' conversations, so not allowing a series of topics to be part of the juveniles' conversations, as well as requiring conversations to be held in the presence of an educator, constitute an unnecessary interference in the juveniles' freedom of speech. The aforesaid practice is also a case of undue rigour in the application of the rules, prohibited in section 2.a) of article 56 of Public General Act 5/2000. Consequently, the regional government has been informed that the constant and permanent supervision of all the conversations between all the juveniles in a centre, and the ban on discussing certain topics, as it is applied on a general basis to each and every one of the juvenile inmates, constitutes the application with arbitrary rigour of the rules on the observation of the juveniles, thereby violating one of their legally recognised rights. It is therefore imperative to adopt the necessary measures to end this practice. Otherwise, such arbitrariness would not exist, if there were indications or proof to consider that the relationship between certain juveniles may be harmful for any one of them, and a reasoned decision could then be taken to supervise their conversations and content. Following the adoption of a precautionary agreement by the director, notification is to be made to the juvenile courts pursuant to article 40.7 of the regulations of Public General Act 5/2000, of 12 January, governing the criminal liability of juveniles.

**183.** Both article 59 of the LORPM and article 54 of its regulations permit centres to conduct searches of people, clothing, property and accommodation, whereby the Ombudsman, within the framework of its remit, seeks to avoid any interferences or actions that are in breach of the right to personal privacy of those people deprived of their liberty. Such is the case of juveniles subject to custodial measures, to whom personal searches, given their age, may be more distressing. It should therefore be stressed that, in most cases and according to the specific idiosyncrasies of each centre inspected, the procedure for conducting personal searchers on juveniles does not comply strictly with legal and statutory provisions, and neither are these strictly upheld. Regarding the searches of a juvenile's person, clothing and property, article 54.6 of the regulations stipulates that "a written report is be drawn up, which is to specify any strip searches made…", and that this report is to be signed by the staff at the centre who have conducted the search and sent to the director and to the juvenile courts.

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This measure is justified solely when there are signs to suggest that the relationship between certain juveniles may be harmful, whereupon a reasoned decision may be taken to supervise their conversations and content, and following the adoption of a precautionary agreement by the director, notification is to be made to the juvenile courts

At most of the CMs inspected, the procedure for conducting personal searchers on juveniles does not comply strictly with legal and statutory provisions The directors at CM Montilivi in Girona and CM Renasco in Madrid stated that no record is kept of any frisking and this measure is not reported to any authority. At CM Pi Gros in Castellón de la Plana the juveniles drew up a series of proposals for improving the situation

The Ombudsman considers that when a juvenile is required to remove all their clothing, even when allowed to keep their underwear on and they are provided with towels or dressing gowns as a way of maintaining their privacy, the search should still be considered "full body" Nevertheless, at CM Montilivi in Girona and CM Renasco in Madrid, the directors stated that no record is kept of any frisking made of the juveniles and this measure is not reported to any authority. At CM Pi Gros in Castelló/Castellón, the juveniles drew up a series of proposals to improve the search/frisking protocol, with the following requests: a) they should not be asked to remove their clothing b) searches should be discriminatory and conducted solely on those occasions in which there is a clear suspicion, and should not involve everyone in the module, and c) the searches are to be conducted by a single member of staff and not by several, with some just watching. Furthermore, they expressed in these words the following opinions on the searches and frisking: "They shouldn't do it"; "pass through the metal detector"; "they should walk us through the metal detector and they shouldn't make us take our clothes off"; "they should only search us with the security gate and with the hand-held metal detector"; "they shouldn't make you take your clothes off"; "they shouldn't throw your clothes around"; "it makes me angry because if we're confined inside the centre I don't see the point in searching us"; "you should only be searched by one security guard and not by several". The director affirmed that the searches of rooms and frisking at the centre are conducted only in exceptional circumstances related to security reasons. Random searches are therefore made at night of communal areas and rooms if there is any suspicion that justifies them. The director states: "The main reason is security. For example, if a biro is missing from a classroom, a search is conducted of the module that night and no one goes to bed until the biro appears". At this centre, the inspectors witnessed only the search of a juvenile coming in from outside. The security staff offered him a dressing gown and asked him to undress and hand over his clothing item by item. When he was completely naked (but wearing the dressing gown) he was made to crouch down several times, but the security staff did not physically touch the juvenile.

Regarding the matter of strip searches, the Ombudsman considers that in any case, when a juvenile is required to remove all their clothing, even though they are allowed to keep wearing their underwear and are provided with towels or dressing gowns as a way of maintaining their privacy, the search should still be considered "full body". If these searches are conducted without seeking the prior permission of the centre's director, no prior urgent notification is made to the duty judge at the juvenile court explaining the reasons that recommend said search, they are not conducted in the presence of an educator and the outcome is not reported to the legal authority or their applications and results are not recorded on any document whatsoever, then they are to be considered in breach of applicable legislation. Thus, during the visit to CM Albaidel in Albacete, the inspectors saw how the juveniles are searched when they are first admitted to the centre. Specifically, it was observed that the search was conducted by three members of the centre's security staff, who took the juvenile to one of the visitors' rooms, telling him to stand in one of the corners in the room, out of the range of vision of the CCTV camera to avoid the search being recorded. The juvenile was told to remove his clothing, starting

with the items covering his torso, then his trousers and shoes, with the juvenile finally being left standing in his underwear. This procedure was the reason for a complaint by some of the juveniles interviewed, who stated that they are generally given a towel to cover themselves, although this is not always the case. At no time during the search was there an educator present, as the people present in the visitors' room were the juvenile, three security guards and an advisor to the Ombudsman, as an observer. According to a statement made by the management, the performance of searches of this kind is standard practice at the centre when new admissions arrive and whenever a juvenile returns from leave or an outing. On this matter, some of the juveniles said that a full strip search had been conducted on three juveniles at the same time, upon their return from an outside visit. Finally, it should be noted that at CM El Molino (Almería), the forms specify "fullbody strip search: no", even when such searches are indeed carried out, because the juvenile is provided with a dressing gown and in the director's words: "the juvenile is never left completely naked".

Around half of the juveniles at the centres inspected considered that the searches are unpleasant but necessary. For example, a juvenile at CM Albaidel in Albacete admitted that "they are to stop other juveniles hiding matches or lighters and setting fire to their rooms. They are necessary for overall safety and security". In turn, between 10% and 20%, depending on the centre, considered the searches and frisking to be humiliating. Among the proposals for improving the search and frisking protocol, the juveniles interviewed at several centres requested: "That they should give us something to cover ourselves with during the search and they shouldn't be so unpleasant"; "I don't mind giving them my clothes but they don't need to touch me. I don't like it when they touch me, I'm not going to stick anything inside my body! The security guards are the ones who conduct the searches and I don't like that"; "whenever they search me they always take all my clothes off. They should only do that to people they suspect "; "they could frisk me and do the searches separately, their colleagues don't need to know what I have or haven't got (that situation has caused me quite a few problems)"; "They shouldn't do it"; "pass through the metal detector"; "they should walk us through the metal detector and they shouldn't make us take our clothes off"; "they should only search us with the security gate and with the hand-held metal detector"; "they shouldn't make you take your clothes off"; "they shouldn't throw your clothes around"; "it makes me angry because if we're confined inside the centre I don't see the point in searching us"; "you should only be searched by one security guard and not by several".

184. The searching of clothes, property and accommodation at most of the centres visited is conducted randomly, whenever there has been a theft or when there are suspicions that one of the juveniles is in possession of banned items or substances. Article 54 of the regulations states that a written report is to be kept of all searches and sent to the centre's director and to the juvenile courts. However, this statutory requirement was not observed during the inspection to CM Albaidel in Albacete, where the inspectors were present during the searching of rooms in one Around half of the juveniles staying at the centres inspected considered that the searches are unpleasant but necessary

CM Albaidel in Albacete has sent the Ombudsman a document called "Procedure to be followed when searching juveniles". Its application will correct the deficiencies identified during the NPM's inspection

of the accommodation units as the smoke alarm had been triggered the previous night. It should be noted that in addition to searching the room, a full-body search was made of the juvenile occupying it, as described in the preceding paragraph. On the other hand, the clothing the juveniles have in their room is messed up during the search and left untidily on the bed, which is also a reason for complaint by the juveniles at all the centres inspected. The inspectors were told that these searches of the rooms and of the juvenile do not require the director's express permission and the courts are not informed, unless the search produces a positive result, which contravenes all the provisions made for searches of this nature. Following this inspection, the centre approved and submitted to this Office a document called "Procedure to be followed when searching juveniles", which is consistent with the provisions laid down in the regulations, with its application correcting the shortcoming identified at the centre.

**185.** The limitation of rights arising from the application of the disciplinary regime has meant the inspection visits have involved a profound quantitative and qualitative analysis of the same at each centre. Each centre for young offenders has a log book for the application of that regime, which means an initial quantitative assessment can be made at the start of an inspection, with a selection also made of those specific files to be analysed and the juveniles to be interviewed. The centres visited have a log book that contains all the disciplinary measures imposed, with the exception of CM El Molino in Almería, where no such book exists and the application of the disciplinary regime could be supervised by checking each one of the disciplinary files. It is therefore essential to keep a written record of the disciplinary measures imposed upon each juvenile in this centre, with a view to facilitating their supervision by the agencies with powers in this matter.

**186.** It should be noted, regarding the disciplinary files examined at all the centres, that they do not exceed the set deadlines for their processing and resolution, and that all the mandatory documents and processes are upheld. Indeed, all the files contained the following documents: incident report, decision on the proceedings and nomination of an investigator (as appropriate, adoption of a precautionary measure), notification of the proceedings and precautionary measure to the juvenile courts and prosecutor's office and to the regional government authority, list of charges, notification to the juvenile of the list of charges, recommendation for resolution and notification to the juvenile of the recommendation, final resolution and notification of the resolution to the juvenile and submission of the resolution to the juvenile court's office and to the regional government authority.

**187.** It has been noted at some of the centres visited that unawareness of what conduct may be punished and the strict regulation of everyday life may make the care of the juveniles, which should be essentially educational in nature, excessively punitive, generating in them feelings of arbitrariness and defencelessness. It has thus been observed in certain centres that the same conduct or omissions may entail different disciplinary measures, often depending on the monitor-edu-

It is essential to have a log book for the disciplinary measures applied to each juvenile, with a view to facilitating their supervision by the agencies with powers in this matter

The disciplinary files examined at all the centres do not exceed the set deadlines for their processing and resolution

The same conduct may entail different disciplinary measures, depending on the monitor-educator in charge

cator who is in charge. For example, at CM El Molino, one minor stated: "Each educator has their own way of doing things, for example, one lets you have a second helping of the first course before you have the second, for example, another let's you go, let's you go and fetch a towel, they're little things, but you want to adapt to a series of rules but you can't because each educator does things their own way and it's confusing". The same juvenile stated: "Yesterday I was sitting in the yard, when you've been running for fifteen minutes you can play basketball if you like or you can sit down, well today I sat down and they've put me on report for sitting down, because that teacher wasn't there yesterday, there was another one, and each one has their own rules". In turn, at CM Albaidel in Albacete, the educational approach is based on the frequent use of a disciplinary system. During the interviews the centre's inmates said they felt the punishments depended on the educator and they can't see (from their perspective) an educational point to them. One of the juveniles stated: "The TAM (Juvenile care technicians) punish you as they like..., normally by separating you from the group. That's worse..., I've been there seven days ...pissing and eating there..., you're never allowed out..., there's no TV...It's relaxing for a day, but you're not relaxed after so many days". Another juvenile affirmed: "Well, it depends on the monitor-educators, some do nothing and others nick you and report you ...". It should be remembered accordingly that article 56 of the LORPM, which expressly states that juvenile detainees have "the right to..., or be subject to arbitrary or unnecessary treatment in the application of the rules".

**188.** At some of the centres visited, there were a worryingly high number of disciplinary proceedings under way. Thus, at CM El Molino in Almería, the documentation gathered during the inspection revealed there are, on average, 52 minor reports, 54 serious ones and 5 very serious ones every month (always bearing in mind that the figures vary quite considerably, being subject to numerous factors, and are given here purely for illustrative purposes); also of concern is the number of juveniles in this centre that have amassed an exceedingly high number of disciplinary reports. In particular, over the three weeks prior to the inspection some juveniles had accumulated 12, 10, 9, 7 and 6 disciplinary reports. The large number of disciplinary proceedings initiated against certain juveniles means the punishments start to add up, with it being noted that in some cases the accumulation of punishments involving a ban on taking part in leisure activities or being separated from the group had exceeded the limit of 15 days for the denial of the right to take part in the centre's recreational activities provided for in article 68.2 of Royal Decree 1774/2004, of 30 July. Such is the case of one juvenile, whose compliance sheet seems to suggest he has served his punishments without a break, and on one occasion served his disciplinary measures on an interrupted basis over 30 days in succession. The same concern is caused by the disciplinary files at CM Albaidel in Albacete, where it was noted that eleven juveniles accumulated around a hundred disciplinary measures involving their separation from the group, whereby it may be deduced there is a propensity to apply this

There were a worryingly high number of disciplinary proceedings under way at CM El Molino in Almería and CM Albaidel in Albacete disciplinary measure in detriment to the application of educational correctives or other kinds of disciplinary measures. Furthermore, it was noted that separation from the group as a precautionary measure had been applied to eight juveniles on 36 occasions. During the interviews held with several juveniles at this centre, they stated they had been separated from their group for periods of more than seven days in a row: "If you are put on report twice on the same day, they initiate two disciplinary proceedings against you and then add up the days. If it's a very serious offence they give you five days, and then if you have another serious one they give you three more days..., so on the same day you can be involved in as many as three proceedings. They sometimes give you a 15-day punishment and then cover it up by applying two different punishments... They make a note of that in your file... that I have been aggressive... and then the monitor went passed and I insulted here, and they write it all down..., and each time you answer back they open a report, and so they build up". This information was subsequently checked by studying the juveniles' files. It was indeed confirmed that one of the juveniles describing this situation had been in solitary confinement in his room for 25 days during his first month at the centre. He steadily accumulated one punishment after another, spending three out of every four days without having contact with other juveniles, with occasional visits (not daily) from the tutor and with visits from one of the centre's psychologists.

By contrast, following an examination of the data on the application of the disciplinary regime in 2011 at CM Pi Gros in Castellón de la Plana, it was noted that only a small number of disciplinary proceedings had been initiated for serious and very serious reports; that a significant number of minor reports (60 proceedings) had been resolved with the minimum punishment of a warning; and there were only a handful of proceedings (9) that had involved the application of the most severe punishment of separation from the group, but only for two days and being lifted on two occasions. Regarding these figures, the centre's director declared that, on the one hand, it was a place for juveniles who were not particularly conflictive and under a regime of semi-open custody and, on the other, he referred to the existence of the aforementioned booster packages, the "Paquetes de refuerzo", of the centre's Educational Project, which meant there was only a very limited application of the disciplinary regime. In addition, at CM Baluarte San Pedro Alto de Melilla, it was noted that, up until the time of the inspection, the maximum duration of the punishment imposed involving separation from the group had been two days.

**189.** Separating the juveniles from their group is applied both as a means of restraint and for the fulfilment of a precautionary measure or a punishment as agreed in the disciplinary proceedings. Regarding solitary confinement, rule 60.5 in the revised version of the European Prison Rules lays down that it may be ordered only in exceptional circumstances and for a specific period, which is to be as short as possible. In turn, the CPT has stated: "It is generally acknowledged that all forms of solitary confinement without appropriate mental and physical

At CM Pi Gros in Castellón de la Plana it was noted they had initiated a small number of disciplinary proceedings for serious and very serious reports

The CPT considers the application of solitary confinement may constitute a violation of article 3 (prohibition of torture) of the European Convention on Human Rights stimulation are likely, in the long term, to have damaging effects, resulting in deterioration of mental faculties and social abilities" (CPT Report to the Finnish Government on the visit to Finland carried out from 10 to 20 May 1992, Strasburg, France, 1 April 1993). Accordingly, depending on the specific circumstances in each case, and the conditions and length of the detention, the European Court of Human Rights, the former Human Rights Committee and the CPT consider that the application of solitary confinement may constitute a violation of article 3 of the European Convention on Human Rights.

Separation from the group is undertaken in the juvenile's own room or in dedicated rooms, whenever the centres have them, except at CM Las Lagunillas in Jaén; although it should be noted that the two isolation rooms at CM Pi Gros in Castelló/Castellón have not been used for a long time, as the inspectors confirmed during their visit to this centre. At CM El Molino in Almería, separation from the group can be served either in the juvenile's own room or in the dedicated rooms in the observation unit, although neither the disciplinary proceedings nor the documents examined at the centre provide any record of where the punishment of separation from the group has been served, but it would be convenient if they did.



All the centres inspected have dedicated rooms for isolation from the group

Solitary confinement cell in the observation unit at CM El Molino in Almería

<sup>2</sup>hoto 90



Solitary confinement cell at CM Montilivi in Girona

Generally speaking, the rooms for separation from the group can be considered adequate. A negative highlight is the room referred to as the "Tarambuco" at CM Albaidel in Albacete Generally speaking, the rooms for separation from the group at these centres can be considered adequate, although a negative opinion should be noted for the isolation room at CM Albaidel in Albacete. Although the inspectors were told at the centre that the isolation measure is served in the juvenile's own room, it was noted that this centre has a dedicated room for the solitary confinement of juveniles, which is referred to by both the juveniles and the staff at the centre as the "Tarambuco" (a padded cell). No assessment could be made of the number of punishments involving separation from the group that are served in that room because the computer register of disciplinary proceedings does not have that figure. Nevertheless, it may be deduced that in most of the cases in which, in view of the state of aggressiveness or violence affecting the juvenile, the decision to isolate them from the group is taken as a precautionary measure, it is served in that room. The "Tarambuco" is in a semi-concealed location off a locker room. It receives natural lighting through a skylight in the ceiling, which is also fitted with a fluorescent light; it has no outside ventilation and the door is made of steel with a hatch that remains closed, all of which creates a greater feeling of claustrophobia. Although it contains a toilet and washbasin, there is no running water; beside the door into the room there is a note telling the guards there is a stopcock for the mains water supply to the toilet and washbasin, which is to be kept closed, so if the juvenile wishes to make use of these facilities they must call for it to be opened. Given that the room does not have an intercom or a bell for calling, and that the guards do not have a station beside the room, the juveniles have to attract attention by banging on the door, but there is no guarantee they will be heard in the event of an emergency. In addition to the bed, the room is furnished with a fitted table and stool, whose corners and edges could be used by the juveniles for self-harm, especially when considering that the room is used for isolating juveniles who are very upset or in a violent mood.



The "Tarambuco" at CM Albaidel in Albacete

*Skylight in the "Tarambuco" at CM Albaidel in Albacete* 

40% of the juveniles interviewed at this centre stated they had at some time been in the "Tarambuco": "I was in the tarambuco. I was going to have a fight with another inmate and I was completely out of it. (...) they threw me onto the ground and handcuffed me and then took me off to the tarambuco". "I think it was late..., there was no light there at all..., I didn't know what time it was...; I guess I must have been there for around three hours..., then the TAM (Juvenile care technician) appeared and took me upstairs, he talked to me, he calmed me down and asked me to explain what had happened"; "I was still in B, there was this kid and we began to insult a kid... Then the monitors appeared, and they told us they were putting us on report..., so I just lost it and began to throw punches... and the guards came and took me off to the tarambuco...; when I found myself locked up

40% of the juveniles interviewed at CM Albaidel in Albacete said they had been in the "Tarambuco" on at least one occasion

photo 93

I began to hit out. I don't know why I lose it like that... You feel cut off from all the others, there's nothing there, there's a window in the ceiling. Are you frightened? You feel angry... No one comes to tell you why you are there. The psychologists are only around in the morning. They didn't give me any medication to calm me down. They gave me two tablets to relax me and focus my mind [Lorazepan]. They turn the light on or off whenever they like. I didn't notice when they turned it off. When they put me in there they turned the light on". It should be noted that during the individual interviews, the juveniles stated they had been in that solitary confinement room for "two and three days": "You come out and you feel bad, worse than when you went in, you say stupid things and like me who kicked a bench, so back in I went... and so on...". In addition, they said they had been in there "23 out of the 24 hours in the day" and they had been frightened ("the cold, you're in there on your own..., you start crying, you're very frightened...").

Although the solitary confinement measures in this room are applied only very occasionally, it is clear that this facility does not serve any restraining purpose, as the juvenile is alone and incommunicado in a room with features that make it easy for self-harm (corners on a square table, washbasin). Moreover, the room is used for episodes of emotional disorder that are considered acts of violence requiring the presence of security and not as a problem requiring medical care. On the other hand, there is no individual treatment in the application of the measure that considers the juvenile's level of emotional development and psychological state prior to their confinement in the room. The application of this measure is especially worrying when the juvenile has a lower level of emotional maturity than that corresponding to his actual age and does not have the necessary resources to calm down through self-reflection and self-gratification. The confined space does not have a self-regulating effect, but instead the feelings of loneliness, anguish and isolation are heightened. Sensory deprivation through the lack of visual stimuli, the poor lighting, the cold and the absence of referents mean the juvenile responds in a disoriented and anxious manner. Accordingly, the regional minister for Health and Social Affairs in the regional government of Castilla-La Mancha has been informed of the assessment the Ombudsman has made of this facility, in accordance with the international doctrine referred to at the beginning of this paragraph. The Ombudsman's criterion is that the punishment or provisional measure of separation from the group should be served in the juvenile's own room and, in any case, if the centre has dedicated rooms for this purpose, these are to have similar characteristics to all the other rooms accommodating juveniles.

**190.** Article 82 of the regulations of the Public General Act governing the criminal liability of juveniles provides for the reduction, suspension and lifting of punishments. On those occasions in which the director of CM Pi Gros in Castellón de la Plana agrees to lift the punishment involving separation from the group before it has been fully served, it should be noted that although the electronic record of disciplinary proceedings at that centre contains the observation "punishment not completed", it does not show whether the corresponding disci-

The competent authority has been informed that solitary confinement in the "Tarambuco" may be an offence involving illtreatment or torture (art. 3 ECHR)

Article 82 of the regulations of the Public General Act governing the criminal liability of juveniles provides for the reduction, suspension and lifting of punishments plinary proceedings contain an order issued by the director to that effect, as the examination of several disciplinary proceedings has revealed they all contain the daily report made by the psychologists throughout the duration of the punishment of separation from the group. Nevertheless, in those proceedings in which it had been agreed to lift the punishment, as there is no record of the director's order and the proceedings do not contain the psychologists' reports corresponding to the days after the punishment has been lifted, this may lead to the interpretation, in the examination of those proceedings, that a psychologist had not visited the juvenile over those days and had not issued the corresponding report.

**191.** Article 66.4 of the regulation stipulates that during the serving of a punishment involving separation from the group, a doctor or psychologist is to visit the juvenile on a daily basis and issue a report on their state of physical or mental health. Nevertheless, it was noted at CM Albaidel in Albacete that there were no reports by psychologists in the disciplinary proceedings. At the interview held with them, they stated that during the serving of these punishments, they visited the juveniles every day and issued the corresponding report. Following this up, only a small number of reports were found, as it was difficult to locate them as they had not been filed in the corresponding disciplinary records. At CM El Molino in Almería, too, no record is kept in the juvenile's file or in the disciplinary proceedings of the psychologist's visit to the juvenile during the time they are separated from the group, and in order to verify whether it has taken place, one has to refer to the log of meetings that, for organisational purposes, is kept by the technical staff.

**192.** It has been noted that restraining methods are used at the centres for young offenders in accordance with the provisions of article 55 of the regulations of Public General Act 5/2000. It is standard practice at all the centres, as reported by their respective management teams that, depending on the incident, the situation of resistance or violent behaviour to be controlled, a resort is made, in proportion to the circumstance, to personal physical restraint, physical securing and provisional solitary confinement, provided that initial attempts at persuasion have not been successful. The use of physical restraint and separation from the group have a dual purpose: on the one hand, to protect the juveniles from acts of violence against their own persons or against all the other people present and, on the other, as a way of dealing with active or passive resistance to the instructions given by the centre's staff in the legitimate pursuit of their duties. The former case caters for those situations when a juvenile is out of control, as a result of severe and continuous anxiety attacks. In the second case, the measure could involve a punishment for unruly behaviour, which would be contrary to the provisions of section three of article 5 of the regulations. During the interviews held with the juveniles at CM El Molino in Almería, it was noted that both situations may lead to the same outcomes, which is reflected in the juveniles' mindset, as they understand that in severe cases of distress, the help they can expect from the adults responsible for them is a punishment measure: "One day a fellow inmate had an

A doctor or psychologist is to visit the juvenile isolated from the group on a daily basis and issue a report on their physical condition

Restraining methods are used according to the provisions of article 55 of the regulations of PGA 5/2000 anxiety attack and the guards wouldn't open up for him"; "anxiety attacks, and all they do is call the guards to restrain you and lock you up"; "a fellow here has a nervous complaint and the monitor-educators, tutors, etc., don't do anything to help him. They haul him straight off to observation".

A state of heightened anxiety crops up often in the juveniles' statements as a matter of concern and distress. The inspectors noted that at least two of the juveniles interviewed had self-inflicted injuries on their arms, affirming that they cause them at times of distress and that when they bleed and the monitor-educators notice this, they take them to solitary confinement in the observation unit. It would therefore be convenient to have different areas and protocols for those circumstances that require punishment and those others requiring medical, psychological or educational care.

An examination of the disciplinary proceedings at CM Albaidel in Albacete revealed the use of shackles and the juvenile's removal to the solitary confinement room, as recorded in an urgent message sent to the juvenile court in Guadalajara. This juvenile was rushed by ambulance to the University Hospital in Albacete to be examined by medical staff, but it should be stressed that the file does not contain any medical report whatsoever regarding the injuries the juvenile may have suffered nor, as appropriate, the treatment prescribed. At CM Pi Gros in Castellón de la Plana, the inspectors were informed that the use of these means, on the spur of the moment, is difficult to foresee, so there is no prior authorisation from the director. Nevertheless this Office was informed that whenever they are used, notification is always made to the director and to the juvenile courts, to the prosecutor's office and to the public agency because disciplinary proceedings are initiated, which was confirmed in the documents inspected. The interviews held with the juveniles at CM Pi Gros did not provide any consistent information on the use of shackles and physical restraints. Based on the juvenile's testimonies, the restraints involve security personnel: "Shackles? Never on me". "You're held by two security guards, they lay you face down on the bed and one pulls your arms back behind you and another bends your legs up over your bum and they keep you like that for as long as it takes for you to calm down...You shout, and you struggle until you're out of breath and you suffocate and you have to stop...". "The educator watches but she doesn't say anything. She's the coordinator. The educator says: "It's your own fault". "It's as if she wasn't your tutor. Sometimes she says: "You're going to bite the bullet ...". That was a day when I was really pissed off and I caused a lot of trouble... The truth is that if you listen to them and obey, you're okay..., but if you go an inch too far...". "They've told us loads of times that if we cause any problems, they'll put the shackles on us and restrain us, but they never have. They've just warned us". "If anyone does get shackled, we're certainly not going to find out about it ... How am I going to tell anyone that I've been shackled? That's unthinkable. If anyone tells you that shackles aren't used here it's because they want to make a good impression on you, because no one knows anything about anyone... You can't say that nobody has been locked up or that nothing has happened to them because you

It would be convenient to have different areas and protocols for the circumstances that require punishment and those that require another type of care

The Ombudsman is investigating the accusations made by juveniles regarding physical restraint and the use of shackles Long-term deprivation of liberty

simply don't know what happens to other people and even less so in a case like this". "The better you behave, the better off you'll be". The statistics kept at CM El Molino in Almería reveal that while physical restraint and devices (shackles) are used only on an exceptional basis - on average, twice a month in the former case and once a month in the latter case -, solitary confinement and isolation from the group are often used as means of restraint, at an average of 11 and 9 times per month, respectively. On this matter, it should be noted that some of the juveniles stated that when they are in solitary confinement they are sometimes handcuffed to the window for several hours. One juvenile stated that when he refused to allow them to search his room and resisted being thrown onto the floor, a security guard grabbed him round the neck - "I couldn't breathe"-, while another put his knee into his back and held his hands behind his back; "they pulled my trousers and pants off and made me crouch down several times". He said that the entire process was observed by a coordinator and a tutor, and that he spent an hour handcuffed until they removed the handcuffs and he put his pants on. These circumstances have been reported to the Ombudsman's Security and Justice Department, where the corresponding investigation is under way.

193. Regarding the juvenile's schooling and training, article 25 of Royal Decree 1774/2004, of 30 July, stipulates that those juveniles in a semi-open regime "shall undertake on the outside one or more training, educational, employment or leisure activities". Nonetheless, this article states that the individualised programme for the implementation of the measure may "establish a flexible regime that shall provide the public agency with a margin of decision for its specific application", and that "depending on the juvenile's personal progress, the public agency may increase or decrease the activities outside or their timetable, in all cases within the margin established in the programme itself". Accordingly, the rules and regulations at CM El Molino in Almería allow only those juveniles in stage 3 and above to make outings outside: they are first allowed out for recreational activities and to see their families, and then subsequently they may pursue training activities at outside facilities. This means that, in practice, although at the time of the inspection the immense majority of the juveniles were in a semi-open regime (55 out of 60), given that the bulk of them were at a stage lower than the one permitting trips outside only four juveniles at the centre pursued activities at outside facilities: two juveniles (one of them under an open regime) daily attended a PCPI (Initial Professional Training Programme), another had a job placement, and one was involved in voluntary work. The interviews held with the juveniles at CM Pi Gros in Castelló/Castellón revealed that the centre's educational programme received a mixed response (albeit positive overall), probably because of the juveniles' different levels of schooling. The juveniles stated the following in their own words: "When you're in class, you're not allowed to move. If someone comes in you're not allowed to turn round to see who it is. That's a "v" (referring to an educational admonishment)... You've always got to be looking towards the front ... Or if your pen falls onto the floor, or a piece of paper, and you pick it up without The public agency may increase or decrease the activities outside, including schooling and training activities, within the margins established in the individualised programme for the measure's implementation asking for permission from the educator in the classroom when he walks past you, that is an "admonishment".



Classroom at CM Pi Gros in Castellón de la Plana

<sup>2</sup>hoto 94



Library at CM Renasco in Madrid

When serving their punishment involving isolation, juveniles should attend compulsory schooling Another matter is the juvenile's schooling during the time they are separated from the group. At CM Albaidel in Albacete, the inspectors were informed that those juveniles isolated from the group cannot attend classes in compulsory education, although an educator usually monitors their studies. The juvenile's answers on this subject coincided. For example, one stated: "You waste your time in the room... You don't go to school...", and another said: "I've read the rules and they say that minors have to go to school, and here you can't go to school. I'm not allowed any physical or visual contact with any other kid. After seven days it's as if you have to start all over again...". The denial of the right and obligation to go to school contravenes the provisions of article 66.3 of Royal Decree 1774/2004, of 30 July, especially considering the high number of punishments involving separation from the group applied to juveniles at this centre.

### Long-term deprivation of liberty



Classroom at CM Albaidel in Albacete

On the other hand, at CM El Molino in Almería, the juveniles housed in the observation unit attend class together inside that facility, regardless of their level of schooling and the length of time they are confined there. On the first inspection visit to this centre, the inspectors noted that some of the non-national juvenile inmates did not have any papers, which meant they could not go to school and take part in socio-employment insertion activities or of any other type, with this circumstance being reported to the Ombudsman's Migration and Equal Treatment unit, which initiated the corresponding investigation with Andalusia's Department for Quality and Social Welfare, which reported that the necessary procedures were under way to document those unaccompanied minors housed at the centre, with this being confirmed during the second inspection visit.

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**194.** The centres also hold training and employment schemes, which require an adequate budgetary allocation. During the visit to CM Montilivi in Girona, the inspectors noted, following the statements made by certain juveniles and monitors, the shortage of material in the juveniles' occupational workshops: garden-

The juveniles in the observation unit at CM El Molino attend classes in that same facility, all together regardless of their level of schooling

Classroom in the observation unit at CM El Molino in Almería

The training and employment schemes require an adequate budgetary allocation ing, painting, metalwork, etc., which means that some of the activities in these programmes can be held properly.

Metal workshop at CM Montilivi in Girona





Kitchen workshop at El Molino in Almería

Medical care has been the subject of complaint on several visits **195.** Medical care has also been the subject of complaint by the juveniles during some of the inspection visits. At CM "El Molino" (Almería), the juveniles' grievances about their healthcare focused on the lack of interest of the professional staff: "They don't take any notice of me"; "they help you even less when you actually need it"; "they don't show much interest in you"; "you come along and they don't say anything to you and they don't prescribe you anything. They say it's nothing serious. They scalded my back with boiling water; you could see the raw flesh and the doctor told me to cure it with water: "go and splash water onto it and it'll soon get better" "She doesn't know anything!"; "they call you whenever they like"; "she takes no notice of you and doesn't even know how to

do her job properly". An interview was held with the centre's doctor at CM Albaidel in Albacete, and he said that he didn't know the facilities or what the rooms were like, and was unaware there was a room for solitary confinement. Considering that the doctor's surgery is at the entrance to the centre and that he began working some months ago, it appears to suggest that the medical appointments involve little or no interaction and perhaps not a great deal of empathy or communication with the juveniles. Furthermore, although the doctor stated that in the time he had been there he had not witnessed any cases of withdrawal symptoms or intoxication due to drug consumption, a documentary analysis of the files revealed the opposite. Finally the doctor could not remember how many of the juveniles were receiving mental health care, although he thought there were only a few ("two or three at the most") and said that they did not fall within his remit, as the mental health centre prescribed the medication they had to take, and he understood that it was their area of responsibility. In view of this, there is a need to review the protocol of the medical care the centre applies.



At CM Pi Gros in Castellón de la Plana, the privacy of the doctor/patient relationship is not guaranteed at the centre, with situations arising in which the juveniles' right to personal privacy and confidentiality in health matters may be considered infringed, given that the clinical records are available to all the staff, not just the medical personnel. A reiterated ruling of Spain's Constitutional Court states that the personal and family privacy laid down in article 18 of the Constitution involves a fundamental right that is strictly linked to an individual's own personality, which implies the existence of a personal and confidential domain as regards the action and knowledge of other people. Articles 7 and 19 of Act 41/2002, of 14 November lay down the basic regulations on the autonomy of patients and on rights and obligations in matters of clinical information and documentation, recognising every person's right to respect for the confidential nature of data referring to their health, and that no one may access Infirmary at CM Albaidel in Albacete

The Ombudsman has called upon the Community of Valencia to reinforce the measures that guarantee and ensure the right to privacy and confidentiality of all the clinical records and information related to the healthcare provided for juvenile inmates, and to review the access to and safeguarding of medical records

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them without prior authorisation under the auspices of the law, as well as the need to implement an active and diligent mechanism to safeguard their clinical history. The confidentiality of the doctor/patient relationship at the centre and the juveniles' pathologies, as well as the protocols for safeguarding their clinical records, is subject to serious shortcomings and deficiencies. In fact, the disclosure among the entire staff of the medical complaint a juvenile may be suffering from is a clear violation of their right to personal privacy, and in the case of HIV/AIDS, a breach of the special confidentiality of the clinical data on a patient suffering from that illness, given the stigma that surrounds HIV/AIDS and the greater possibility of being exposed to discrimination. Consequently, given the deficient protocol for the safeguarding of clinical files stored in the centre's medical facility, where they appear to be available to anyone, the authorities in the autonomous government have been requested to issue the appropriate instructions so that those centres for young offenders in that autonomous community will step up the measures to guarantee and ensure the right to privacy as a fundamental right and the confidentiality of all the information related to the healthcare provided for the juvenile inmates, reviewing the arrangements for safeguarding the juveniles' medical records and the access staff at the centre have to them.

CM Molino in Almería has several specialist protocols for medical care As an example of good practice, it should be noted that at the time of the inspection, CM El Molino in Almería was putting the final touches to the drafting of several protocols on the procedures to be followed in the cases of pregnant minors, infectious-contagious diseases, self-harm tendencies, death and medical emergencies.

Samples of the food served are to be kept during the legally specified time in order to detect possible causes of food poisoning **196.** The inspectors visiting CM Albaidel in Albacete and CM Renasco in Madrid noted that the kitchens do not retain samples of the meals provided at the centre for a minimum number of days. This oversight appears to be the exception, as all the other centres visited keep samples of the menus, which are stored for the legally specified time for the detection of possible causes of food-poisoning. In other matters, the juveniles at CM Albaidel complained that the food is sometimes served cold – it is prepared at another centre and delivered in thermal trolleys. Nevertheless, it was noted that there are microwaves in the dining rooms, which the juveniles may use to warm up their food, and this was, in fact, what they did during the inspection. Likewise, the juveniles complained that the tap water is too hard and they could not drink it, which was confirmed by the director.

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# Long-term deprivation of liberty

outside, reducing by the utmost the negative effects custody may have for the juveniles and their families, favouring social ties and contact with relatives and friends. During the interviews, the juveniles often expressed their frustration and distress at being separated from their families and friends. At El Molino, some juveniles stated: "I don't see them very often, I'm not from Almería"; "little time for calls and visits. A lot of stupid rules in both cases. A lot of control"; "they should let us see more of our families"; "visits last for an hour and a half and that's very little"; "we should have the right to make more calls and receive visits behind closed doors"; "that hour and a half I spend with my family is the highlight of the whole week"; "the visits are very short". At Albaidel, when asked about their most difficult times spent at the centre, they answered: "Having your loved ones a long way away"; "being far from the family"; "being locked up and not with the family". At El Molino, the juvenile court is informed of the award, terms, duration and dates of any leave enjoyed, but not of any possible denials, contrary to the provisions of section 6 of article 45 of Royal Decree 1774/2004, of 30 July. In spite of this, mention should be made of the centre's good practice noted at the time of the inspection, whereby it was drawing up a briefing document for fami-

lies regarding the centre's rules on visits, telephone conversations, etc.

197. Pursuant to article 55 of the LORPM, life at the centre should mirror life

Food samples at CM Montilivi in Girona

Contact with family and friends should be favoured





Visitors' room at CM Las Lagunillas in Jaén

> Proper staff training is essential at centres for young offenders

The presence of an adult figure to mentor and guide the juveniles throughout the process is of enormous importance to successfully overcome the situation of deprivation of liberty and the experiences that led them to offend **198.** Proper staff training at centres for young offenders is essential for the achievement of the goals of reinserting and re-socialising the juveniles. At Montilivi in Girona, the inspectors noted a shortage of monitor-educators with specialist training in the care of juveniles in centres designed for serving judicial measures, which could be addressed by the Direcció General de Ejecució Penal a la Comunidad y de Justicia Juvenil (Directorate General for Criminal Proceedings and Juvenile Justice), of the regional government, the Generalitat of Catalonia. Likewise, an examination of staff qualifications at CM El Molino in Almería revealed the diversity of training among the educational team, some of whom were not qualified in the field of social work, psychology or teaching, or did not have any kind of degree.

**199.** The availability and willingness of an adult figure who shows real interest in the juveniles, mentoring and guiding each one throughout the process, is of enormous importance when striving to overcome the difficult experience of being deprived of one's liberty and those more than likely experiences of disadvantage that lead them to offend in the first place. This was expressed by many of the juveniles at CM Pi Gros in Castellón de la Plana, with 70% of them stating they feel they can trust in an adult at the centre: "She's really nice"; "she's a very pleasant person, very affectionate and she really understands me"; "he's pleasant, affectionate, honest, respectful"; "the tutor is kind and understanding and the educator is a darling, I love her to bits"; "she helps me over the bad times and to mend my ways so that I won't be sent back here again"; "she cares for me and I love her lots"; "she knows how to listen and she gives me the right advice"; "the ability to listen"; "he listens a lot and understands me, he also criticises all the other monitor-educators"; "he's someone who listens to you and pays attention to what you have to say"; "he really does listen to me"; "she listens to me". However, during the interviews held with the juveniles at CM El Molino in Almería, many of the juveniles said they did not know who their assigned tutor or educator was, and also stated that they found it extremely difficult to attract the attention of the adults

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looking after them, feeling largely ignored and little understood: "Nobody comes to talk to us. No one listens to you here"; "they can't relate to us"; "it depends on the educator"; "they listen, but they don't take any notice"; "nobody listens to you, only one or two of the monitor-educators and on occasions"; "they couldn't give a damn. They finish their 'work' and then off they go home"; "they only listen when they see we're in quite a bad way. There are not many that help us"; "they pretend to listen to you, but then they couldn't care less and don't do anything for you". What's more, a large number of juveniles said they did not know who their tutor was, and those that did said they hardly had anything to do with them: "I haven't got a tutor"; "I don't know who my tutor is"; "I don't know the director and we still haven't got a tutor"; "I don't know who the tutor is"; "I can't go and talk to her (the tutor)"; "I don't know who my tutor is"; "I con't go and talk to her (the tutor)"; "I don't know who my tutor is"; "I don't know who me tutor"; "I don't know who the tutor is"; "I don't know who my t

**200.** Although escapes are rare at centres for young offenders, it is not unusual for a juvenile to fail to return to the centre after enjoying leave or an unaccompanied outing. These juveniles normally end up going back to the centre, either because they return voluntarily or they are returned by the family or police officers. For example, at CM Albaidel in Albacete, there were five cases of non-returns in 2011, of whom one was still at large at the time of the inspection; of the remaining four, two returned to the centre voluntarily and two were returned by the state security forces.

201. Regarding the infrastructure of the centres inspected, the Baluarte San Pedro Alto centre for young offenders in Melilla, which was visited in May 2011, merits a special mention because of the unsuitability of its facilities, which had already been highlighted by the Ombudsman, following the inspections made in 2004 and 2007. During the 2011 visit, the inspectors detected, among other shortcomings, the absence of alarm buttons, hoses and portable fire-fighting equipment in the general areas. There is a clear lack of space in the communal day areas, which means that two rooms have to be used for multiple purposes, doubling up as classrooms and dining rooms, as well as being used for the pursuit of recreational activities. Moreover, the facilities in the accommodation units are in a poor state, given the age of the building, so the inmates' rooms have neither heating nor air conditioning. In spite of the limited space available to them, it was noted that the juveniles have sports and leisure activities, with no complaints forthcoming in recent years regarding either the treatment the juveniles receive or the conditions at the centre. In spite of the deficiencies detected, no recommendation or suggestion whatsoever was made, as the inspectors were informed of the provisional nature of the centre's facilities and its imminent relocation to a newly built facility, whereby the Ombudsman has asked to be informed of the dates of the opening and commissioning of the new centre for young offenders in Melilla, so it can then proceed to conduct a new inspection when it is up and working.

#### Escapes are rare

The Ombudsman has drawn attention on several occasions over the past years to the unsuitability of the facilities at CM Baluarte San Pedro Alto in Melilla



Dormitory at CM Baluarte San Pedro Alto in Melilla



Window at CM Baluarte San Pedro Alto in Melilla



Photo 104

### Long-term deprivation of liberty



Recreation room at CM Montilivi in Girona

The observation and admissions units at El Molino in Almeria have a prison appearance and are not at all comfortable

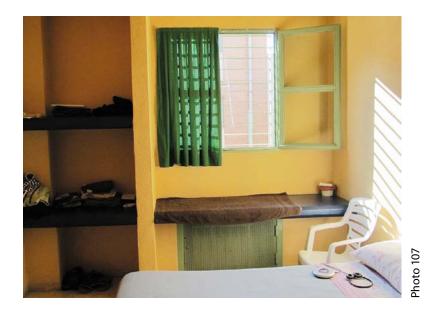
At El Molino in Almería, the juveniles' observation and admissions units, despite having been painted recently, have a prison appearance and are not at all comfortable, being very sparsely furnished considering that the juveniles can spend up to twenty days in admissions and even more in observation. On this matter, the centre's director reported that the option was available of relocating the boys' observation unit to another unit with more adequate living conditions. Finally, the inspectors noted deficiencies in the temperature at CM Montilivi in Girona, CM Pi Gros in Castellón de la Plana and CM Renasco in Madrid.



*Observation unit at CM El Molino in Almería* 

<sup>o</sup>hoto 106

Deficiencies have been detected in the juveniles' rooms that may compromise their safety **202.** Deficiencies have been detected in the juveniles' rooms that may compromise their safety, such as the horizontal bars on the windows in the rooms at CM Pi Gros, which may pose a potential risk as they may be used by the juveniles to injure themselves, according to the criteria expressed in paragraphs 47 and 208 in the 2010 Annual Report. Likewise, the observation or admissions unit at CM Albaidel has a telephone with a long lead that could be used for self-harm by the juveniles who are held in that room unaccompanied.



Window with bars in a bedroom at CM Pi Gros in Castellón de la Plana

Special note was taken of the absence of a system for mechanically opening the doors and the lack of an acoustic call system in the juveniles' rooms Other deficiencies detected accordingly are the absence of a system for mechanically opening the doors and the lack of an acoustic call system in the rooms. Neither El Molino in Almería nor Pi Gros in Castellón de la Plana has a mechanical door-opening system in the rooms for allowing the quick and immediate evacuation of the rooms in emergency situations, which would be desirable, as stated in paragraph 397 in the 2010 Annual Report. There are no acoustic call systems in the rooms at CM El Molino or in the rooms of the so-called "hogar de retroceso" (withdrawal unit) at Las Lagunillas in Jaén, which are necessary to ensure communication with the monitor-educators or guards when a situation arises that requires their immediate attention, according to the criterion contained in paragraph 396 in the 2010 Annual Report. Most of the juveniles at this latter centre said they were concerned about the sense of insecurity they feel at being locked in without being able to raise the alarm quickly whenever the need arises, and they also complained about the delays in opening the doors when this was requested: "They take a long time to open our doors and as there isn't a bell, we have to bang on the door, but if we don't bang loud enough they don't come and if we bang too hard they put us on report"; "you've no choice, you have to break your knuckles to get them to open the door so you can go to the toilet"; "we wear the door down with our knocking but they don't open and then we wet ourselves", etc. By contrast, at CM Pi Gros the juveniles' rooms are fitted inside with an acoustic call system that enables them to communicate with the guards or monitor-educators on duty, above all at night, and during the visit the inspectors

noted that the system was working properly. Likewise, at CM Albaidel the inspectors checked the proper working of the acoustic call buttons fitted inside the rooms in units A and B, which are connected to the office of the educator on night duty, which is located between these two units. At this centre, given that the previous inspection had revealed the centralised mechanical door-opening system was not operating correctly, tests were held during the second visit in the rooms in units A and B, with the result being that the system worked properly in all of them. Nevertheless, some of the juveniles stated in the interview: "If you call they take over an hour to come up and see what the matter is" and "nobody answers the bells".



Acoustic call system in the bedrooms at CM Renasco in Madrid

**203.** When juveniles are transferred by the state security forces, the Ombudsman's criterion, expressed in paragraph 412 in the 2010 Annual Report, is that the officers should not wear their official uniform and the vehicle used should be unmarked - and for reasons of consistency on this matter the juveniles should not be shackled -, in order to carry out the process "respecting the dignity, safety and privacy of the juveniles", pursuant to the provisions of article 35.5 of Royal Decree 1774/2004, of 30 July. According to the information provided at CM El Molino (Almería), in certain cases the transfer of juveniles, undertaken by the national police force attached to the autonomous community of Andalusia, is effected by uniformed officers, in vehicles with official markings and with the juveniles in shackles, which has sometimes meant that certain agencies or administrations are reluctant to attend to the juveniles. During the visit to CM Pi Gros in Castelló/Castellón, the inspectors saw how two plain clothes officers arrived in an unmarked police car to transfer, at the centre's request, a juvenile to a dentist's appointment, whereas an hour earlier, a juvenile had been admitted who was handcuffed and transferred in an official car with markings by two uniformed officers of the national police force attached to the regional government, the Generalitat, of Valencia. On this matter, CM Montilivi in Girona informed the inspectors that whenever there is a need to transfer a juvenile who is under a

The officers of the state security forces responsible for transferring the juveniles should not wear their official uniform and the vehicle used should be unmarked

closed regime, use is made of the Catalan autonomous police force (Mossos d'Esquadra), both for those instances when a juvenile is transferred to appear before the courts and when taken to medical centres, and as a rule, the transfers involve a vehicle with official markings and uniformed officers, with the exception being, the director said, of a juvenile being accompanied to a relative's funeral. However, the juveniles at CM Baluarte San Pedro Alto in Melilla, CM Las Lagunillas in Jaén and CM Renasco in Madrid are transferred in unmarked vehicles and by plain clothes officers of the state security forces.

**204.** The Ombudsman considers that centres for young offenders should be strict about the recording and filing of the complaints and requests the juveniles make, thereby providing information on how the juveniles feel about their time at the centre and allowing the proper auditing of the manner in which the centre processes and responds to these initiatives of the inmates. During the visits, the inspectors received extremely contradictory information, with some centres claiming they had never received a complaint, while others had received hundreds of them. Indeed, the director of CM El Molino in Almería stated that the juveniles may submit requests and complaints to the coordinators or to management through a deposit box located in each unit, although he informed that to date no "formal" complaint had been received. However, at CM Las Lagunillas in Jaén, the inspectors were told that 268 complaints from the juveniles had been processed in 2010.



Stricter control is required over the processing and filing of the complaints and petitions made by the juveniles

Complaints box at CM Las Lagunillas in Jaén

Furthermore, CM Albaidel in Albacete does not have a complaints book because, this Office was informed, the previous director's criteria was that the juveniles should address their complaints, requests or suggestions verbally and that no record whatsoever was kept of them, although the new director has decided that requests, complaints or suggestions are to be submitted in writing on a standard form, and the same process was to be used for arranging an interview with him. Given that the director had taken up office only two days before, he had not received any such forms and there was no indication of how they were to be filed or what response they would receive from the management. Although CM Renasco in Madrid does not have a complaints book for the juveniles, they may submit complaints verbally or in writing, in a sealed or unsealed envelope, and present them to the director. CM Pi Gros in Castellón de la Plana has a requests and complaints book, which is used to record all those made by the juveniles. Complaints and requests are to be submitted in writing, and for these purposes the dossier of documents handed to the juveniles when they are admitted to the centre includes two request forms and two complaint forms. In 2011, the requests and complaints book contained 246 entries, practically all of which referred to requests (extension and change of leave, request for outings) and one complaint, number 38/2011, on staff supervision regarding the strictness in the award of credits. Over half the juveniles (70%) at the centre affirmed they were familiar with the process for submitting a complaint to the director, but only 10% say they have made a complaint during their time at the centre. They do not think there is much point in making a complaint because no one is going to take any notice of them: "Because the director goes and doesn't say anything to them, it doesn't serve any purpose";" if something's unfair, and you say you want to complain they don't let you have a complaints form"; "it's a waste of time, you see they're always right and you never are, and whenever you complain there's a punishment"; "because they'll probably just ignore it"; "because I ask for the form and they refuse to give it to me"; "no, because if it's about the educator, they stick up for each other"; "I haven't needed a form or I've been afraid they'll reject it. Sometimes, if you want to report a complaint, the monitor-educators cover up for each other and won't give you the form"; "because then they have it in for you"; "no, there are times when you ask for a form to make a complaint and they don't even give it to you"; "because whenever you give the reason they always tell you that it's not a valid reason"; "yes, I asked for the form, but they wouldn't give it to me"; "because that complaint first has to go through the

**205.** Finally, it should be noted that the agency ADIS Meridianos, which runs CM El Molino in Almería, conducts a satisfaction survey among the juvenile inmates at its centres, as well as among their families and the public administrations responsible for the programmes they undertake. In addition, the centre undertakes three kinds of audits: internal audits, independent audits conducted by a contracted consultancy firm and, finally, the independent audits conducted by the Spanish Association for Standardisation and Certification (AENOR). In

monitor-educators and if they think it shouldn't be made, it's not made".

CM Albaidel in Albacete does not have a complaints book; at CM Renasco in Madrid, complaints may be made verbally or in writing, in a sealed or unsealed envelope and addressed to the director; at CM Pi Gros in Castellón de la Plana there is a book for requests and complaints, which records all those made by the juveniles

El Molino in Almería conducts a satisfaction survey among the juvenile inmates, as well as among their families and the public administrations responsible for the programmes they undertake turn, CM Pi Gros in Castellón de la Plana was certified according to the ISO 9001:2000 international standard in July 2008, following the implementation of a system of processes that were approved by an independent audit conducted to appraise said system. The inspectors were told that the centre's process-based management is a great help to its management, as it enables a control to be made of all everyday activities and the identification of those responsible for each one of them, constantly providing information on how the management is performing, singling out those actions that do not have satisfactory outcomes, enabling their correction and the adoption of measures to modify them.

The autonomous communities' responses to the conclusions formulated in 2010 **206.** The following tables contain the responses provided by the competent autonomities in the autonomous communities to the conclusions formulated following the inspections made in 2010. The information provided has been verified in the follow-up visits made to the corresponding centre.

## Table 42. Follow-ups to inspection visits in 2010

CCTV system: installation, extension, modernisation, etc				
Centre for young offenders	Competent authority	Paragraph 2010 Annual Report	Response	
El Pinar II in Madrid	Agency for the Re-education and Reinsertion of Young 47 Offenders in Madrid		The two cameras that were not working have been repaired; the VHS recording system has been replaced by a digital one; and the presence of recording cameras has been notified both verbally and on signage.	
Els Reiets in Alicante	Department of Justice and Social Welfare in the Community of Valencia	477	The NPM's criterion in §477 is not accepted.	
Es Pinaret in Majorca			The NPM's criterion in §477 is not accepted.	
La Jara in Alcalá de Guadaíra (Seville)	i listice of the Regional		The NPM's criterion in §477 is accepted and the CCTV will be installed when the funds become available	
Maliaño in Santander	General Secretariat of the FirstMinister's Office and Justice in477the Government of Cantabria		The NPM's criterion in \$477 is not accepted.	
Punta Blanca in Ceuta			The NPM's criterion in §477 is accepted and a CCTV system has been installed.	

Psychiatric and psychological care				
Centre for young offenders	Competent authority	Paragraph 2010 Annual Report	Response	
Es Pinaret in Majorca	Department of Health, Family and Social Welfare of the Government of the Balearic Isles	399	Accepted. The technical teams have been restructured to optimise resources in the psychological/psychiatric care provided for those juveniles that require it.	
Punta Blanca in Ceuta	and Inventies of Centra 399 prevention of suicides, and the		Accepted. A protocol has been drawn up for the prevention of suicides, and the centre has hired a new psychologist, bringing the total to two.	

Evacuation plan				
Centre for young offenders Competent authority 201		Paragraph 2010 Annual Report	Response	
Punta Blanca in Ceuta	Department of Youth, Sports and Juveniles of Ceuta	397	Accepted. A self-protection plan has been drafted at CM Punta Blanca by the Occupational Risk Prevention Department in the Autonomous City of Ceuta.	

Mechanical door-opening				
Centre for young offenders	Competent authority	Paragraph 2010 Annual report	Response	
El Pinar II in Madrid	Agency for the Re-educationand Reinsertion of Young397Offenders in Madrid		Beside current financial-budgetary considerations, after assessing the pros and cons, it is not going to be implemented although it is not ruled out in the future.	
Els Reiets in Alicante	Department of Justice and Social Welfare in the Community of Valencia	Consideration will be given to the possibili 397 of installing a mechanical door-opening system.		
Es Pinaret in Majorca	et in and Social Welfare of the Balearic Open immediately		Not accepted, but as the whole facility is on the ground floor, the windows in the rooms, toilets and day rooms have been altered to open immediately in the event of an emergency evacuation.	
La Jara in Alcalá de Guadaíra (Seville)	Department of Governance and Justice of the Regional 397 Government of Andalusia		Account has been taken of the installation of a mechanical opening system in the forthcoming work to be carried out at the centre.	
Maliaño in Santander	General Secretariat of the First Minister's Office and Justice In the Government of Cantabria	397	Accepted and will be implemented as soon as budgetary considerations permit.	
Punta Blanca in Ceuta	Department of Youth, Sports and Juveniles of Ceuta	397	Accepted and a quote for its installation has been requested from several companies.	
Vicente Marcelo Nessi in Badajoz	Marcelo Inclusion Childhood and 307 system (automatic and		The possibility of installing a combined system (automatic and manual) will be considered in the design of the new centre planned.	

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Acoustic call system in rooms				
Centre for young offenders	Competent authority	Paragraph 2010 Annual Report	Response	
La Jara in Alcalá de Guadaíra (Seville)	i lustice of the Regional		It will be taken into consideration in the next alterations made at the centre.	
Punta Blanca in Ceuta	ca in Department of Youth, Sports and Juveniles of Ceuta 396		Accepted and the acoustic buzzers have been replaced by the latest generation intercoms.	

Increase in places at the centres				
Centre for young offenders	Paragraph Competent authority 2010 Annual report		Response	
Es Pinaret in Majorca	Department of Health, Family and Social Welfare of the Government of the Balearic Isles	389	Accepted and the increase in places will be considered as soon as the funds become available.	

Staff and personnel				
Centre for young offenders	Paragraph Competent authority 2010 Annua Report		Response	
El Pinar II in Madrid	Agency for the Re-education and Reinsertion of Young Offenders in Madrid	477	As the change in management company has involved the subrogation of the previous staff, the staff changes have been minimal and the continuity of the care is guaranteed by the Departments of Coordination of Centres and the Inspection of Centres and Programmes, and the Department of Research, Programmes and Training.	
Es Pinaret in Majorca	Department of Health, Family and Social Welfare of the Government of the Balearic Isles	389	Accepted. The finishing touches are being put to the drafting of the list of jobs, pending approval by the works committee and subsequently by the Board of the S'Estel Foundation.	

# Situations of deprivation of liberty

IV. Special-purpose places of deprivation of liberty §207-§216

- IV.1. Secure hospital units §207-§213
- IV.2. Means of transport for the transfer of persons in custody §214-§215
- IV.3. Procedures for deporting foreign nationals §216

# IV.1. Secure hospital units

**207.** In 2011, inspectors visited four secure hospital units (UCH) attached to the SGIP, located in the following hospitals: Complejo Hospitalario Universitario in Albacete, Hospital General in Castellón, Hospital Virgen de la Luz in Cuenca and Hospital Infanta Elena in Huelva. As noted in paragraph 414 in the 2010 Annual Report, these units are located in hospitals within the public health network and they accommodate inmates from prisons who require medical care and hospital treatment.

In 2011, visits were made to four secure hospital units (UCH) attached to the SGIP





**208.** The inspections conducted in 2011 have continued to reveal that the general state of maintenance and repair of these UCH is acceptable, and the people admitted to them receive the same care as any other patient at the hospital. Nevertheless, it was noted that the UCH at the Complejo Universitario in Albacete did not have hot water in the washbasins and showers in the rooms. The SGIP has reported that instructions have been given to remedy this situation. On the other hand, during the visits to the UCH in this same facility and in Cuenca, the inspectors noted that the clothes and belongings of the patients admitted there were kept in a bag on the floor in the corridor, with no cupboard space available for storing this property, and the SGIP has not replied on this matter. Finally, as

The general state of maintenance and repair is acceptable and the people admitted to them receive the same care as any other patient at the hospital

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regards the deficiencies observed in the UCH at the Hospital Clínico in Valladolid, as mentioned in paragraph 417 in the 2010 Annual Report, the complete refurbishment of these facilities still remains pending. Nevertheless, the SGIP has reported that the shortcomings brought to its attention are to be addressed.

### Cell in the UCH in Huelva



<sup>2</sup>hoto 111



The SGIP has reported that, for budgetary reasons, CCTV systems cannot be installed

Cell in the UCH in Cuenca

**209.** Regarding the CCTV system in the UCHs, in October 2011, the Ombudsman submitted a recommendation to the SGIP whereby, in accordance with the criterion established in paragraphs 420 and 477 in the 2010 Annual Report, these technical measures are to be deployed in all those facilities housing people de-

prived of their liberty, with the exception of bedrooms and bathrooms. The SGIP has reported that, following a study of the cost the installation would entail, it is not possible to undertake it due to budgetary constraints, within the framework of priorities of the prison administration as a whole.

**210.** The deficiency highlighted in paragraph 423 in the 2010 Annual Report regarding the lack of female police officers has still been apparent in all the inspections made in 2011 to the UCH. The Directorate General for the Police (DGP) has reported that in those cases of duty rotas that do not have permanent female personnel for this type of service, female officers are seconded on a temporary or occasional basis from other units. Nonetheless, it also reports that those duty rotas will fulfil the request made by this Office when filling the vacancies that become available in future recruitment drives.

**211.** As with other places of short-term deprivation of liberty, it has been noted during some of the inspections that officers of the national police force (CNP) did not wear their badge number in a visible place, contrary to the provisions of Instruction 13/2007, of the Secretary of State for Security, regarding the use of personal identification numbers on the uniforms worn by the national security forces, and this deficiency should be corrected immediately, as specified in this report.

**212.** In addition, it has been noted in certain cases that custodial guards do not always check that the cutlery provided to the inmates at meal times is made of plastic, and that exactly the same number of items are handed out and then collected at meals, which is necessary for security reasons and to avoid instances of self-harm. The DGP has reported that it has issued the necessary instructions to the heads of the custodial services to carry out this control.

**213.** Finally, it should be noted that of the four UCHs inspected, only one actually contained any patients, namely, the UCH in Castelló/Castellón, in which there were five people on the day of the visit. When these people were interviewed, they said they were being properly treated and, regarding the treatment they received at the prison, none of them had any complaints whatsoever.

# IV.2. Means of transport for the transfer of persons in custody

**214.** During the visit made to the national police force's Central Registry of Detainees in Madrid, the inspectors held numerous interviews with the persons detained on the premises, in which the latter were asked about their transfers from the various police stations to the Registry. These transfers were made in the CNP's vans (Ford Transit or Citroën Jumper). During these transfers, detainees are handcuffed together in pairs with no passive safety systems (safety belts), which means a detainee is liable to be thrown about whenever the van breaks suddenly or goes round a sharp bend. Accordingly, the inspectors heard several statements alluding to the fact the transfer involves detainees falling over and The DGP has reported that female police officers will gradually be included in these units

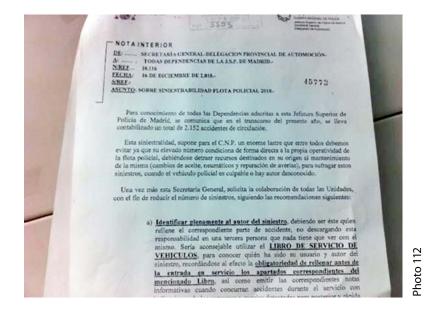
CNP officers should wear their badge number in a visible place

The DGP has reported that it has issued instructions for a control to be made of the cutlery handed out to inmates

The patients in the UCH in Castelló/Castellón said they were being properly treated

The Ombudsman has informed the DGP that the deficiencies noted in the passive safety systems could constitute illtreatment of the detainees and jeopardise their physical integrity receiving impacts as a result of sitting on a bench shackled to another detainee and with no points of support or safety belts. One of the persons detained said they had bruises on their ribcage, base of the spine and left leg due to a violent fall on a sharp bend during the transfer, and it was indeed noted that the person moved with difficulty and the marks of the impacts could be seen.

This shortcoming in terms of passive safety has been reported to the DGP, as it may constitute ill-treatment of detainees and clearly jeopardise their physical integrity, especially when considering that the detainees are handcuffed together in pairs during transfers, although at the time of writing of this report no response has been forthcoming from the Ministry of the Interior. Testifying to all this is the press release issued on 16 December 2010 by the DGP's General Secretariat– Provincial Delegation for Automotion, reporting that over the course of the year the police vehicles of all the facilities attached to Police Headquarters in Madrid had been involved in 2,152 road accidents.



**215.** The transfer of inmates between the Spanish mainland and the Canary Islands. During the visit to Tenerife II prison, the inspection team inquired about the transfer of prisoners from the mainland to the islands, and the inmates interviewed told them how hard the conditions were, thereby confirming the information provided to the Ombudsman by other inmates during the visit made to the prison in Las Palmas the previous week. Specifically, and regarding the transfers made by plane, they stated that although none of them had actually been transferred in that way, they did know about it, saying that inmates had to keep their heads down throughout the entire journey and keep hold of the seat belt, which was attached to the seat. They also referred to transfers by ship, both to the mainland and from one island to another, stating that inmates were kept in the hold, where it was very cold and there was a strong smell of gasoil and the very loud noise of engines. Three recently admitted inmates were identified with a view to verifying the aforementioned accusations regarding the transfers by ship and by

At the time of writing of this report, no response has been forthcoming from the Ministry of the Interior on this matter

Internal note on the accident rate of the fleet of police vehicles

The NPM interviewed several inmates who had been transferred from the Spanish mainland to Tenerife, with a view to finding out about the conditions under which the prisoners are transferred between the mainland and the Canary Islands

plane, and an interview was conducted with them. They stated that they had arrived at the prison on 22 June. Asked about their transfer, they said they had left Puerto III prison (one of them had been transferred there from another prison in Castilla y León, specifically for this journey) in a Civil Guard minibus, and had been taken to Jerez airport. During the transfer, which lasted half an hour, their wrists were bound until the foot of the plane. They were made to board the plane one by one. It was a small twin-engine aircraft, and once they were seated the safety belt was fastened over their arms, so they could not move them. In spite of this, the wrist ties were kept on. The civil guards told them: "No pissing, don't ask for water and there's no talking". The inmates also said: "If anyone raises their head or asks for something they are hit, although no batons were used". The plane transferred eight inmates and 20 civil guards, who were strategically positioned throughout the aircraft. The flight, from Jerez airport to Los Rodeos airport in Northern Tenerife, lasted 4 hours and 25 minutes. Regarding the transfers by ship from Cadiz to Tenerife, they said the journey took three days (two nights) although there are transfers that can last up to ten days, because they go from one island to another. The inmates travel in two compartments in the hold (which they refer to as "cages"), and whenever a woman is being transferred, the men are all put inside one. These compartments do not have windows (they are fitted with extractor fans that do not work), but there are toilets inside.

Regarding the conditions under which these transfers are made, in a brief prepared by its Security and Justice Department, the Ombudsman asked the SES for information on the following points: "1. If the wrist ties are susceptible to involuntarily tightening or, on the other hand, they permanently apply the same pressure as when they are first attached. 2. If the doctor accompanying the inmates during the flight at any time checked the pressure applied by the wrist ties mentioned in the preceding paragraph. 3. If the guards wore balaclavas during the flight. 4. If the guards told the inmates not to look them in the face. 5. Finally, if the ban on eating and drinking lasts throughout the entire transfer or only on the flight." The SES has provided the following answers: "1. ...the wrist ties are for a single use only, as they are considered more hygienic and safer than metal shackles. Under no circumstances do they become tighter by themselves, permanently applying the same pressure as when they are first attached. 2. ... it is not known whether the doctor supervises the pressure applied by said wrist ties. However, there is no record that any one of the inmates being transferred on the flight asked any one of the guards to receive medical care from the aforementioned doctor for this reason. 3. ... the personnel standing in the aisle beside the inmates do wear balaclavas during the flight, and furthermore these are regulatory dress items for the guards, as their use is deemed to be essential for reasons of hygiene due to physical contact and to ensure the unit's personal safety. 4. .., under no circumstances are such instructions issued, although one of the orders given to the guards is not to talk to the prisoners. 5. ... no food is provided for either the prisoners or the members of their escort during the flight". This investigation is currently ongoing.

At the time of writing of this report there is an ongoing investigation involving the Ombudsman and the SES regarding the conditions of the transfers between mainland Spain and the Canary Islands According to data provided by the DGP, the deportation of foreign nationals recorded a total of eight incidents: three of them of a medical nature, two involving damages, two due to resistance and one instance of confusion in the delivery of the migrants' luggage

# IV.3. Procedures for deporting foreign nationals

216. Finally, note should be taken of the deportations made in 2011 by the UCER, attached to the CNP's border police, the Comisaría General de Extranjería y Fronteras, following the protocols already described in paragraphs 441 to 456 in the 2010 Annual Report. According to data provided by the DGP, these flights recorded a total of eight incidents: three of them of a medical nature, two involving damages, two due to resistance and one instance of confusion in the delivery of the migrants' luggage. Regarding the incidents of a medical nature, after being attended to by the medical services involved in the operation, it was decided that one of the non-nationals should not board the plane, as he was limping on his right leg, and the other two were admitted to hospital because they had ingested toxic products. Regarding the incidents involving damages, one of the non-nationals damaged the aircraft by hitting one of the windows inside with his elbow, and another broke the window on the police vehicle whilst he was in custody. In both cases, once they had been attended to by the medical services involved in the operation and it was confirmed they had not been injured, it was decided they could board the plane. As reported by the DGP, the two incidents involving resistance were resolved using the minimum amount of force required for them to board the plane. Finally, regarding the incident with the luggage, the airline arranging the flight was contacted and it corrected the mistake it had made in the delivery of the luggage. The total number of persons repatriated on these flights is shown in the following tables.

# Table 43. Procedures for deporting foreign nationals undertaken in 2011by the border police of the Comisaría General de Extranjería yFronteras

Flight	Country of nationality	From	То	No. repatriated
1	Nigoria	Madrid	Lagaa	22
1	Nigeria	Barcelona	Lagos	23
2	Ecuador	- Madrid -	Quito	49
2 —	Colombia	- Madrid -	Bogotá	59
2	NT: ·	Madrid	Lagos	39
3	Nigeria	Malaga		21
4	Senegal	Madrid	Dakar	43
		Madrid	Accra	28
5	Ghana	Malaga		20
	NT: ·	Madrid	т	26
6	Nigeria	Malaga	Lagos	16
		Madrid	D 1	6
-	Mali	Malaga	Bamako	20
7 —	0 1	Madrid		38
	Senegal —	Malaga	Dakar	6

# Special-purpose places of deprivation of liberty

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Flight	Country of nationality	From	То	No. repatriated
8 —	Sanagal	Madrid	– Dakar	15
	Senegal	Malaga	– Dakar	7
	Chang	Madrid	A	4
	Ghana	Malaga	– Accra	18
9	Cameroon	Madrid	Douala	5
10	Cameroon	Madrid Douala		5
11	Cameroon	Madrid Douala		5
12	Cameroon	Madrid Douala		5
12	Nigeria	Madrid	Lagos	20
13 —	Cameroon	Malaga	Douala	5
	Ecuador		Guayaquil	44
14 —	Colombia	– Madrid	Bogotá	60
		Madrid	D 1	7
15	Mali	Malaga	– Bamako	22
	Cameroon	Madrid	Douala	5
16	Gambia	Madrid	Banjul	19
17	Senegal	Madrid	Dakar	39
		Madrid		16
18	Senegal	Malaga	- Dakar	18
		Madrid		26
19	Nigeria —	Malaga	– Lagos	26
	Senegal		Dakar	46
20 —	Cameroon	– Madrid	Douala	5
	Gambia		Banjul	25
21 —	Cameroon	– Madrid	Douala	5
		Madrid		16
22	Nigeria	Malaga	– Lagos	14
23	Nigeria	Madrid	Lagos	31
		Madrid		8
24	Mali	Malaga	– Bamako	31
	Senegal	Madrid	Dakar	14
25	Nigeria	Madrid	Lagos	40
26	Mauritania	Las Palmas de Gran Canaria	Nouakchott	15
	0 1	Madrid		21
	Senegal —	Malaga	– Dakar	2
27 —		Madrid	- ·	19
	Mali	Malaga	– Bamako	17
	Nigeria	-	Lagos	8
28 —	Cameroon Madrid		Douala	5
	Total Flights: 28		Total number repa	triated: 1,109

Source: own work based on data provided by the DGP.

Organised by Spain					
Country of nationality	From	То	No. repatriated		
Georgia	Madrid	Tbilisi	8		
Ukraine	Madrid	Kiev	27		
Ukraine	Madrid	Kiev	15		
Georgia		Tbilisi	18		
Ukraine	Madrid	Kiev	14		
Georgia		Tbilisi	11		
Pakistan	Madrid	Islamabad	29		
Colombia	Madrid	Bogotá	66		
Dominican Republic		Santo Domingo	23		
Total Flights: 6		Total number repatriated: 211			

# Table 44. Joint flights organised by Frontex in 2011

Organised by third countries					
Country of nationality	From	То	No. repatriated		
Nigeria	Madrid	Lagos	2		
Nigeria	Madrid	Lagos	22		
Nigeria	Madrid	Lagos	24		
Nigeria	Madrid	Lagos	12		
Nigeria	Madrid	Lagos	24		
Nigeria	Madrid	Lagos	2		
Nigeria	Madrid	Lagos	14		
Nigeria	Madrid	Lagos	10		
Total Flights: 8		Total number	Total number repatriated: 110		

Source: own work based on data provided by the DGP.

Institutional training and dissemination activities §217-§224

**217.** Along the lines laid down in article 23 of the OPCAT, the NPM held several interviews with a view to reporting and amply disclosing its annual information corresponding to 2010. Accordingly, immediately after its publication, a customised presentation was made on 21 and 22 July designed for both the authorities and representatives of civil society. Specifically, invitations were extended to 50 agencies and administrations, with bilateral meetings being attended by the SGIP's Director General for Territorial Coordination and Open Environment (Ministry of the Interior); the Director General for the Administration of Security of the Generalitat of Catalonia; the executive member responsible for relations with the Ombudsman in the General Council of the Judiciary, and various delegates from civil society, such as the Coordinator for the Prevention of Torture, the Spanish Society for International Human Rights Law (AEDIDH), the neighbourhood coordinator Coordinadora de Barrios, and labour organisations such as CSIF, Comisiones Obreras-Instituciones Penitenciarias, UGT-Prisiones and the Unified Association of Civil Guards (AUGC).

The meetings were used to explain the content of the 2010 report and a preview was given of the NPM's business for 2011.

218. Insofar as training activities are concerned, there has been continued hands-on involvement in the "European NPM Project" organised and funded by the Council of Europe in cooperation with the European Commission, and which is referred to in paragraphs 458 and 461 of the NPM's 2010 Annual Report. This is a clear commitment to this international organisation, with the purpose being to reinforce the prevention of torture and ill-treatment nationally in those countries that are members of the Council, signatories of the OPCAT and with a designated NPM. This has therefore led to the implementation of an active NPM network, with the sharing of experiences and information in a series of regular meetings that provide an excellent opportunity for direct contact with members of the SPT, the CPT and the leading NGOs in this field, as in the case of the APT, as well as with individual experts with experience in the prevention of torture. Specifically, the Spanish NPM has taken part in the following workshops: "Security and dignity in places of deprivation of liberty", held in Paris (France) on 14 and 15 March 2011; "Collecting and checking information during an NPM visit", held in Tallinn (Estonia) on 15 and 16 June 2011 and "Roles and competences for doctors associated with the European NPMs", held in Warsaw (Poland) on 14 and 15 December 2011. Furthermore, this Office took part in a meeting organised within the framework of the same project on "Monitoring flight deportations", held in London (United Kingdom) on 11 and 12 July 2011 for NPMs from countries in similar circumstances, such as Spain, France, Switzerland, the United Kingdom and Germany.

These workshops have discussed both purely methodological matters and background issues, constituting an essential asset for the Ombudsman's work in its facet as NPM. Along the lines laid down in article 23 of the OPCAT, the NPM held several bilateral meetings, to which it invited more than 50 agencies and administrations with a view to reporting and disclosing the content of the 2010 Annual Report

In 2011, there has been continued hands-on involvement in the "European NPM Project" organised and funded by the Council of Europe in cooperation with the European Commission The NPM Project's workshops are an essential asset

> Training symposium on the interviews conducted with those persons deprived of their liberty

> One of the main lines of work within the context of the twinning" agreement between the Ombudsman of Macedonia, France's Défenseur des Droits and the Ombudsman of Spain, has been the reinforcement of the skills of the staff employed by the Macedonian NPM

Cooperation with other NPMs is essential for drafting uniform reports that contain unified working standards

Participation of the acting Ombudswoman in the round table on Serbia's new NPM **219.** Continuing in the field of training, the NPM organised a symposium designed to analyse the conditions under which the interviews of persons deprived of their liberty are to be held. Over the course of two days (17 and 18 November 2011) psychiatrists and psychologists of recognised prestige held a workshop at this Office for honing these kinds of skills among all the NPM's members.

**220.** At the beginning of 2011, the Ombudsman of the Former Yugoslav Republic of Macedonia, France's Défenseur des Droits and Spain's Ombudsman subscribed a twinning agreement with a view to supporting and reinforcing the structure of the Macedonian Ombudsman. The project's costs are met in full by the European Commission, and the entire process of drafting and implementing the project is undertaken according to the specific rules and regulations of this EU institution. One of the main lines of work within the framework of that project involves reinforcing the skills of the staff employed by the Macedonian NPM, which as in Spain's case is the Ombudsman's responsibility. On this point, a field trip was made to Spain in 2011 by the heads of the Macedonian NPM in order to gain a first-hand understanding of the operations of the Spanish NPM. The delegates even took part in the visit made to the CNP police station in the district of Chamberí in Madrid, and they also undertook specific in situ training activities, which besides including an interesting exchange of experiences has involved joint visits to places of deprivation of liberty in Macedonia (Gazi Baba police station in Skopje; Kavadarci police station).

In the specific case of the NPM, and given its link with the SPT, training and cooperation with other NPMs is essential for achieving the target of drafting uniform reports that contain unified working standards that thereby lead to an improvement in conditions for those persons deprived of their liberty in all OPCAT signatory countries. Thanks to this experience in the Former Yugoslav Republic of Macedonia, it may be affirmed that the Spanish NPM is a benchmark not only in this country but also in all the countries in the region.

**221.** Indeed, the acting Ombudswoman was invited by the Government of Serbia (Ministry of Human Rights and Minorities, Public Administrations and Local Government) to take part in a round table whose remit was to discuss "The creation of the working conditions of the new NPM and challenges for future cooperation" in this country, a task that in 2011 was assigned to the Ombudsman.

**222.** Within this same framework of cooperation, two advisers from the Ombudsman, members of the NPM, were invited by the Peruvian Ombudsman, within the framework of a scheme financed by the Spanish Agency for International Development Cooperation (AECID) to attend a busy institutional agenda in this Andean country with a view to the implementation of its NPM, a task that it appears will shortly be vested in the Ombudsman. Over the course of three days, from 31 August to 2 September, the Spanish delegates appeared before the Justice Committee of the Peruvian Congress, they were received by the Deputy Minister for Justice, and by delegates from the Ministry of Foreign Affairs, and

also held interviews with the media and with different delegates from civil society, such as the National Coordinator for Human Rights (CNDDHH).

This same scheme organised by the AECID catered for a five-day visit to Spain (from 26 June to 2 July 2011) by two members of the Peruvian Ombudsman's office, who in addition to gaining first-hand experience of the workings of the Spanish NPM, taking part in two separate visits to the prison in Aranjuez and to the Renasco centre for young offenders in the Community of Madrid, held meetings with a parole judge, prison authorities and several NGOs.

**223.** Regarding institutional matters, it is worth mentioning the meeting held on 10 June 2011 with the head of the CPT's delegation (Mr. Mauro Palma), who made an official visit to Spain from 30 May to 13 June within the framework of its regular supervision of our country. At the meeting, the Spanish NPM was informed of the activities undertaken by the CPT during its visit, with a preliminary description of the points that international organisation considers should be subject to close supervision by the national mechanism. These activities will be covered in more detail in the official report the CPT will issue in due course, and which the NPM trusts will be published in Spain very shortly. The Ombudsman considers that a good channel for dialogue and cooperation has been opened with this international organisation, which is the one, furthermore, with the greatest experience in the prevention of torture.

**224.** This Office took part in the APPT Global Forum on the OPCAT, held in Geneva on 9 and 10 November 2011. The aims of this forum, organised under the heading "Preventing Torture, Upholding Dignity: from Pledges to Actions", include assessing the progress, results and impact of the Optional Protocol system, five years after the treaty's entry into force; identifying challenges, gaps and ways forward in OPCAT implementation; mobilising, via the OPCAT, a range of potential actors on torture prevention and, finally, reviewing the roles of the SPT and NPMs to reinforce its impact. The Forum convened for the first time all the states that are part of the OPCAT, the NPMs and the SPT.

Several days of work meetings with members of Peru's Ombudsman for learning about the workings of the Spanish NPM

Meeting held with the head of the CPT's delegation, which addressed the points that international organisation considers should be subject to close supervision by the NPM

Participation in the APPT Global Forum on the OPCAT

General conclusions §225-§230

**225.** The annual report corresponding to the Ombudsman's operations as NPM in 2011 has sought to present myriad considerations that enable numerous conclusions to be reached regarding the situation of deprivation of liberty, whether involving the types of places of deprivation of liberty, specific aspects of such deprivation or concrete places. The indices on subjects and place names that close the report provide easy access to the considerations and conclusions of greatest interest, and they are therefore a good way of approaching the report's content; the photographs of places and the verbatim testimonies of the people deprived of their liberty both constitute data of great relevance – objective and subjective, respectively – for this purpose.

The Spanish NPM's first report, corresponding to the activities pursued in 2010, contains a final chapter called "General conclusions" that, as stated in paragraph 465 therein, "provides a series of conclusions of a mainstream nature focusing on a preventive approach to torture and other ill-treatment, which in Spain is the specific remit of the Ombudsman as NPM. The aim accordingly is to drive the necessary changes of both a regulatory and operational nature to restrict, and ideally banish, any potential cases of torture or ill-treatment". It seems expedient that this second annual report issued by the NPM should also provide mainstream conclusions on aspects referring to the deprivation of liberty that require special attention from the authorities and which should be explicitly highlighted precisely because of their mainstream nature and general interest.

The Oxford English Dictionary defines "mainstream" as "the prevailing direction of opinion, fashion, society, etc." In the metaphorical sense the term is used here, this chapter refers to the conclusions common to all deprivation of liberty, as well as to others that respond to more restrictive criteria, following the core remit expressed in the NPM's first report, namely, to foster legislative and operational changes to prevent torture and mistreatment.

**226.** The conclusions expounded in the following paragraphs serve to supplement the proposals of a general nature contained in paragraphs 464 to 482 in the 2010 Annual Report, which are reiterated in those aspects that have yet to be addressed. Given the importance these have within the field of the prevention of torture and mistreatment, special mention needs to be made expressly of the conclusions referring to the amendments of Spain's Criminal Code and the Criminal Procedure Act (LECrim) – with the ramifications this will have on incommunicado detention –, a more resolute approach to the investigation of cases of alleged ill-treatment or torture, and CCTV systems, among others.

Regarding the amendment of the LECrim, the Ministry of Justice has set up a new working party, whereby this would be the right moment to address the positions stated accordingly in the 2010 Annual Report, particularly as regards incommunicado detention, a concept that needs to be reviewed in order to increase the guarantees for detainees. Likewise, inclusion should be made in the list of rights in article 520 of a detainee's right to request habeas corpus when legally The annual report presents myriad considerations that enable numerous conclusions to be reached

As in the 2010 Annual Report, mainstream conclusions are presented that require special attention from the authorities

A core remit is pursued, with a view to fostering regulatory and operational changes

Reiteration is made of the conclusions contained in the 2010 Annual Report that have not been addressed

It is the right moment for the working party that is studying the amendment of the LECrim to consider the Ombudsman's positions included in the 2010 Annual Report and, especially, regarding detention in solitary confinement

Any accusation of illtreatment or torture should be systematically and thoroughly investigated through to its ultimate consequences

> CCTV systems should be supplemented by audio recordings

All medical reports describing the injuries a detainee attributes to an assault are to be fully filled in with greater detail

It is vital for police officers and prison guards to wear their badge number in a visible manner

Concern about the deficiencies detected at the facilities visited that may entitled to do so, and the information regarding their rights should be provided in plain language that can be understood by a person who is not familiar with legal jargon. On the other hand, section 4 of said article should be amended in order to reduce the maximum period of eight hours within which the right to receive legal counsel should be fulfilled, as well as section 6, to include the possibility that a detainee should be able to hold a confidential interview with their solicitor, in accordance with international standards (paragraph 41 of the CPT's 12th General Report [CPT/Inf (2002) 15]).

Elsewhere, the prevention of torture and ill-treatment requires the full involvement of converging actions: the investigation of these crimes by the police and security forces, the protection of victims provided by the state prosecutor's office, and the sentencing of the perpetrators by the courts within the performance of their legal duties, whereby any accusation of ill-treatment or torture will be systematically and thoroughly investigated through to its ultimate consequences. Accordingly, a review should be made on the policy of pardons for those convicted of ill-treatment or torture, given the sense of impunity it may generate.

Finally, as regards CCTV systems, despite the progress noted at some of the facilities visited and in the responses provided by the different administrations with powers in these matters, this Office's criterion expressed in paragraph 477 in the 2010 Annual report needs to be reiterated, whereby these systems should be supplemented by audio recordings in those facilities where this is possible and, under all circumstances, whenever there is a case of solitary confinement.

**227.** During the visits made in 2011, the inspectors have reached certain general conclusions regarding short, medium and long-term deprivations of liberty. Thus, special mention should be made, given its particular significance of, among others, the conclusion that in those cases in which injuries are treated that the detainee claims have been caused by an assault, the medical reports are to be completed in detail, with greater accuracy in the description of the injuries, as this is the only way their cause can subsequently be established with any degree of certainty; including the documentation of injuries by means of appropriate photos, as specified in the "Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", commonly known as the Istanbul Protocol.

Furthermore, to facilitate the investigation of the alleged perpetration of ill-treatment, it is vital for the authorities responsible to require police officers and prison guards to wear their badge number in a visible manner when they are on duty, with a view to guaranteeing every citizen's right to identify them at any time and without having to actively request them to do so; and, in the case of failure to comply with this duty, to adopt suitable disciplinary measures.

The Ombudsman continues to be concerned about the existence of certain deficiencies in the facilities visited that may affect the physical integrity or even threaten the lives of persons deprived of their liberty, such as the presence of vertical and horizontal bards on doors and windows, which might facilitate selfharm and/or suicide. Furthermore, it would be advisable to implement a suicide prevention programme at those facilities without one and provide greater psychiatric and psychological care, especially in cases of medium and long-term deprivations of liberty.

Finally, it has been noted that over-crowding, albeit to different degrees, affects all forms of deprivation of liberty, being of particular concern in the majority of detention centres (CIEs) and prisons (CPs), as well as at certain facilities run by the police and security forces. Likewise, deficiencies have also been noted in the fire-fighting equipment at certain facilities, as well as the fact that many of them do not have evacuation plans, which should be remedied.

**228.** Regarding the general conclusions on the short-term deprivation of liberty, the inspection visits made in 2011 have revealed a deficiency in terms of the supervision of the manner in which the detainees' stay is arranged, as at many of the facilities the custodial officers are not always close to the cells where there are persons in custody, a situation that is made especially worse in those facilities that do not even have an acoustic call system inside the cells. In other matters, it appears to be common practice not to allow officers to enter the cell area bearing arms, with there being a gun cabinet at the entrance to the same. Regarding detainees' right to honour and personal image, in those cases in which the building's structure so permits, attempts should be made to ensure their transfer to the cells is undertaken without passing through communal areas designed for attending to the public at large. It has again been noted that, at most of the facilities, there is no separation between criminal detainees and those related to the Foreign Nationals Act [Ley de Extranjería]. It is the opinion of this Office that whenever these two types of detainees coincide in facilities for the deprivation of liberty, the necessary measures should be adopted for their accommodation in separate cells. Finally, with a view to the proper auditing of a case of detention and the person's rights during the same, it is essential to keep a complete police file for each individual, regardless of the method involved, of all the incidents that may occur in a detainee's chain of custody, from their arrest through to their release or appearance before the courts.

**229.** Regarding medium-term places of deprivation of liberty – CIEs and EDMs –, it has been noted that their regulation has certain shortcomings. Thus, regarding CIEs, at the time of writing approval is pending of the rules regulating the detention system for foreign nationals. Likewise, the study and analysis of the rules applicable to EDMs have revealed that these does not cater for the development and regulation of matters of importance. The Ombudsman's criterion is therefore to call for their drafting and the necessary amendments, respectively.

Furthermore, the EDMs require a body to coordinate all these establishments, whereby rules and procedures are issued for general application to all of them, there is a fair distribution of technical, material and human resources, with no

compromise the inmates' integrity

Over-crowding affects all forms of deprivation of liberty

Regarding the short-term deprivation of liberty, it is concluded that the supervision of the manner in which the detainees' stay is arranged is deficient; their transfer to the cell area should be undertaken with due respect for their honour and personal image; accommodation in separate cells for criminal detainees and those related to the Foreign Nationals Act; no access to this area by officers bearing arms and proper completion of a police file for each individual in the chain of custody

Undertake the statutory regulation of CIEs and EDMs in order to fill existing legal loopholes

Need to create a body that coordinates all the EDMs

substantial differences in the conditions for the serving and regime of arrests for a serious misdemeanour.

Regarding CIEs, the Ombudsman has been insisting for some years on the need to define a management model in which the police are responsible for security matters and all other duties are undertaken by specialist staff, with this criterion being publically embraced by the Ministry of the Interior and currently pending implementation. In addition, the Ombudsman has reminded the DGP of its legal duties to provide the CIEs with social workers and intercultural mediators, pursuant to the provisions of article 60.2 of Public General Act 4/2000, of 11 January, regulating the rights and liberties of foreign nationals in Spain and their integration into society. It has also been noted that CIEs detain foreign nationals who, following their release from prison, are pending expulsion from Spain, alongside foreign nationals who have been detained and admitted to these centres purely for being in the country without papers, and the mixing of criminal offenders and administrative offenders should not be permitted. Consequently, there should be a prior filter upon a foreign national's admission to a CIE, and instructions should be issued accordingly as a reminder that the typical punishment for someone who does not have their papers in order is a fine and not expulsion. In other matters, the practice of calling and identifying inmates by a number should be avoided out of respect for their dignity as human beings, which should be a basic ethical precept for the management staff and officers at CIEs. Likewise, inmates should be given sufficient prior notice of the moment when they are to be expelled from Spain to enable them to gather up their belongings, notify their friends and relatives, and see to any paperwork that may be required. Finally, given that the shortage of medical staff for significant periods of time, at night and at weekends, may jeopardise the inmates' health, medical care should be provided on a permanent basis.

**230.** Among the visits made in 2011 to places of long-term deprivation of liberty, differentiation should be made between the inspections conducted to prisons and those involving centres for young offenders.

Regarding prisons, the Ombudsman's criterion on the investigations undertaken by the prison authorities in the event of an accusation of mistreatment of an inmate is that the initial inquiries should be performed by the Prison Inspection, as this avoids possible allegations of lack of objectiveness when the investigation is conducted by the actual authorities in the prisons where the accusations have been made. Elsewhere, note has been taken of the serious problem and serious consequences for inmates' health when they miss medical appointments that cannot be held in the medical modules in the facilities themselves, due to the non-appearance of the officers responsible for the inmates' custody and transfer from the prison to the medical centre involved because of a lack of staff, whereby it is essential to draw up a series of protocols between the SGIP and the respective departments with powers in health matters in the autonomous communities

Regarding CIEs, the police should be responsible solely for security duties; the Ombudsman has issued a reminder of the legal requirements whereby these facilities are to be provided with social workers and intercultural mediators; there should be a prior filter upon a foreign national's admission to a CIE; inmates should be identified by their name and surname; inmates should be given sufficient prior notice of their expulsion; medical care should be constant

Regarding CPs, the initial inquiries into accusations of alleged mistreatment should be undertaken by the Prison Inspection; the use of videoconferencing and remote medical care systems; greater use of videoconferencing with the courts; the implementation of the PAIEM is a priority; there is a need to review the legal-criminal treatment of the mentally ill, and permanent medical monitoring should be made of inmates in solitary

with a view to facilitating the arrangement of certain medical appointments through videoconferencing and remote medical care systems. Furthermore, greater use should be made of videoconferencing systems to permit communication between the prisons and the courts, thereby avoiding the unnecessary displacement and transfer of inmates. Given the significant number of people detained in prisons with psychiatric complaints of greater or lesser importance and who consequently require specific care, the comprehensive implementation of the Framework Programme for the Integrated Care of the Mentally Ill (PAIEM) is deemed to be a priority, including integral therapeutic processes that contain psychoeducational interventions and seeking greater coordination between the medical services and all the other component services of the multidisciplinary team. In the specific case of psychiatric prison hospitals, this Office considers there is a need to regulate the response to behaviour that disturbs the centre's normal operations, to avoid situations of arbitrariness and defencelessness, as well as review the legal-criminal treatment of the mentally ill, who are deprived of their liberty for long periods of time for no therapeutic reason, as the logic of reoffending and the accumulation of convictions should not apply to the mentally ill. Regarding the application of coercive measures, the Ombudsman understands there is a need for regular medical monitoring of the state of inmates subject to the precautionary measure of solitary confinement in order to decide upon the length of time the measure should be applied, with this monitoring being permanent in the event of the application of physical restraint. The aim should be for all prisons to provide activities, occupational workshops, courses, etc., and thereby eliminate long periods of inactivity during the day, as well as resolve the shortage of manufacturing workshops, as only a minority of inmates have a paid job. Finally, the accesses to prisons should be improved, as most of them are located in places that are far away from cities, which makes access difficult for those visitors the inmates may receive and for their own authorised leave.

The supervision and inspection of the centres for young offenders this Office undertook in 2011 have revealed a series of shortcomings that have been noted for some time now and impact upon the recognised rights of the juvenile inmates. Firstly, given that contrary to the provisions of one of the principles of Public General Act 5/2000, of 12 January, regulating the criminal liability of juveniles, many minors are required to serve the measure imposed at centres that are far from the cities where they have their homes or roots, the Ombudsman has been proposing that each autonomous community, according to its needs, should have a sufficient number of centres to avoid this circumstance. Furthermore, of some concern is the little or no legal counsel that court-appointed solicitors provide for the juveniles during the time they are serving the custodial sentence imposed, as well as the general lack of notification made to the former of the punishment applied to the juveniles in disciplinary proceedings. It has been noted that, almost across the board, juveniles that have recently been admitted spend several days isolated in the admissions unit, in an unwelcoming atmosphere under a very reconfinement when physical restraint is used; provide occupational and manufacturing workshops; improve communications between prisons and nearby cities

In order to avoid transfers to other regions, the autonomous communities should have a sufficient number of centres for young offenders; a cause of some concern is the little or no legal counsel that courtappointed solicitors provide during the juveniles' time in custody and the lack of notification of the punishments imposed; a review is required of the protocols for new admissions: personal searches should

strictly comply with the law; the treatment should be fundamentally educational in nature; the punishment of separation from the group should be served in the juvenile's own room or in a dedicated room of similar characteristics, and under no circumstances should it contravene the juvenile's right to education; the authorities should have sufficient information to monitor the reinsertion of juvenile inmates strictive regime, which appears to serve an intimidatory purpose, whereby there is deemed to be a need to review the protocols for new admissions so that the juveniles can be assessed on the same morning they arrive, be taken on a guided tour of the facilities and receive written information on their rights and duties. Regarding the internal regime at the centres, it has been noted that in most cases and according to the idiosyncrasies of each centre visited, the procedure for the personal searching of the juveniles is not strictly compliant with legal and regulatory provisions and neither are these fully upheld. In addition, the juveniles' lack of awareness regarding punishable actions and the strict regulation of everyday life may mean that the dealings with the juveniles, which should be fundamentally educational in nature, have an excessively punitive slant, generating in them feelings of arbitrariness and defencelessness. Accordingly, of some concern at the centres visited was the high number of disciplinary proceedings under way, giving rise to some cases in which the juveniles accumulated punishments and exceeded the limits specified in the regulations. Regarding separation from the group, this Office understands that said punishment or provisional measure should be served in the juvenile's own room and, moreover, if the centre has dedicated rooms for this purpose, they should be of similar characteristics to all the other rooms accommodating the minors, and the serving of this measure should not breach the juvenile's right and obligation to attend compulsory schooling. Finally, a study should be made of the manner in which the competent authorities can receive sufficient information to monitor the ability the centres have to reinsert young offenders into society, given that at present the supervision and monitoring of re-offending juveniles are withdrawn when they come of legal age.

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