

# NPM

Spain's National Preventive  
Mechanism against Torture

Meeting with the SPT  
(United Nations Subcommittee on Prevention of Torture)  
European Regional Team

Geneva, February 2016



SPANISH OMBUDSMAN



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# Summary

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## I. STRUCTURE

### 1. The National Preventive Mechanism unit (NPM):

The NPM unit plays a preventative role differing from the reactive role carried out by the rest of the Ombudsman units.

The NPM unit is composed of:

- 1 Unit chief.
- 5 Technical staff.
- 2 Administrative personnel.
- 2 Coordinators (Chief of the Area of Security and Justice and Chief of the Area of Migration and Equality).
- Specialized technical staff from other areas of the Ombudsman Institution that may play a role in the visits.
- External technical personnel (psychiatrists, psychologists, forensic doctors...).

### 2. The Advisory Council:

It is the coordinating technical and legal body of the NPM.

The Advisory Council meets twice a year.

Tasks:

- a) propose visits;
- b) make proposals for improving the methodology of visits and follow-up visits;
- c) compile reports concerning legislation;
- d) propose training programs and seminars on prevention of torture;
- e) follow-up on NPM and SPT reports.

**Composition (11 members)**

- a) Headed by the Ombudsman
- b) The 2 deputies of the Ombudsman
- c) 1 member appointed on a proposal by the General Council of Spanish Lawyers
- d) 1 member nominated by the Spanish Medical Colleges Organization
- e) 1 member nominated by the General Council of the Official Psychologists Associations
- f) 5 members appointed among candidates submitted through an open call for nominations, in personal capacity or in representation of a civil society organization or association. Spanish SPT member, Emilio Ginés, is one of them.

**3. Budget**

Amounts to 744,402.19 euros. Detailed in **Annex 1**.

## II. COMPETENCIES

### 1. Regulatory reforms proposed:

#### 1.1. **Amend article 174 of the Criminal Code, to adapt the definition of the crime of torture to meet the provisions of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, regarding:**

- a) Capacity to prosecute not merely civil servants but people who work in the center.
- b) That the punishment is in accordance with paragraph 2 of article 4 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

#### ***Article 4***

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. **Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.**

- c) Obligation of the State Party to establish punishments appropriate to the degree of severity of the offense.

**1.2. Amend article 520 of Criminal Procedure Law (rights of detainees), to:**

- a) Reduce the 8-hour time limit in which the right to legal assistance must be effective **(Accepted)**.
- b) Enable the detainee to be interviewed confidentially with his or her lawyer **(Accepted)**.
- c) Include detainee's right to request habeas corpus **(Accepted)**.
- d) Provide information regarding rights **(Accepted)**.

**1.3. Amend incommunicado detention:**

- a) Prohibit its application to minors **(Accepted for minors under 16)**.
- b) Allow detainees to be interviewed, in private, with their lawyers **(According to the case. Accepted)**.
- c) Continually record images and sound **(Gradually accepted. Systems are being installed)**.
- d) Daily supervision of the incommunicado detainee by forensic doctors **(Accepted)**.
- e) Assign an independent doctor for an independent examination **(No answer yet)**.
- f) Communicate the detention to the detainee's family **(According to the case. Accepted)**.

These Recommendations have been introduced in the Organic Law 13/2015 October 5th, Criminal Procedure Act Modification.

**1.4. Full regulation of involuntary civilian admissions to healthcare facilities.**

## 2. Unannounced visits to facilities of deprivation of liberty

- a) To any center, including privately owned ones (for example, healthcare establishments).
- b) Carry out personal interviews (civil servants, employees or persons deprived of liberty).
- c) Study of cases and documentation.

Visits to facilities can include any technical means of support (for example, any means of transportation).

Since the beginning of its mandate, the NPM has visited 543 places of deprivation of liberty, detailed in **Annex 2**.



### III.- METHODOLOGY

#### 1. Tasks

1. Carry out unannounced visits to places of deprivation of liberty.
  - Compile reports on the visits.
  - Send Recommendations to authorities.
  
2. Maintain dialogue with the Public Administration for the execution of its Recommendations.
  - Formulate proposals for regulatory reforms.
  - Supervise the execution of Recommendations.
  - Compile an Annual Report.
  - Maintain contact with other NPM and SPT to exchange experiences and reinforce effectiveness.
  - Maintain contact with Civil Society.

#### 2. Phases

##### 2.1. Preparatory Phase

###### **Selection criteria for facilities to be visited.**

- a) Time passed since the last visit.
- b) Recently introduced regulatory amendments.
- c) Following up the results.
- d) News in media outlets.
- e) Information from civil society organizations.
- f) Supervision of all national territory.

In order to prepare the visit a dossier is compiled including information on the type of center, the activity, organizational structure and regulations.

## **2.2. The visit**

### **Criteria for compiling the team:**

- a) Objective of the visit.
- b) Knowledge on the establishment and its problems.
- c) Size of the establishment and number of detained persons.
- d) Commission of external technical experts (doctors, psychiatrists, psychologists, etc.).
- e) Participation of members of the NPM Advisory Council and Regional Autonomous Commissioners.

The NPM interviews the manager of the center to learn about the situation of those deprived of liberty, as well as to inform the manager about the actions that will be carried out and to request all documentation that will be examined.

In addition, a visit is carried out in the facilities of the center that can last for several hours or days. Staff examines cells or rooms, sitting rooms, hallways, nursing facilities, kitchen, offices for officials, health facilities, toilets, sports and leisure facilities, workshops, etc., as well as all documentation in the center and security and video surveillance systems.

Persons deprived of liberty and the center's personnel can have confidential interviews with the NPM. At the end of the visit, the manager is informed of good practices and deficiencies detected.

## **2.3. Results of the visit**

Once the visit is concluded, the Resolutions and Conclusions addressed to the authorities are recorded.

## **2.4. Publication**

All activity is reported in the published annual reports and on the Ombudsman webpage. The webpage publishes the facilities visited, the composition of the team, the methodology as well as conclusions, Resolutions sent to the authorities and responses received. The webpage offers geographical and chronological information regarding all facilities visited.

The annual report details the conclusions of each visit and adds photographs of the centers visited.

#### IV. THE NPM IN 2015

##### 1. Visits by the NPM to centers of deprivation of liberty;

In 2015, 62 visits have been carried out to places of deprivation of liberty. Ombudsman has participated in 7 visits.

Members of the NPM Advisory Council have participated in 11 visits and members of the Regional Autonomous Parliamentary Commissioners have participated in 8.

Details regarding these visits can be found in **Annex 3**.

External technical personnel, experts in medicine, forensic medicine, psychiatry and psychology have participated in 17 visits. They visited:

- a) 5 Juvenile Centers for the Fulfillment of Judicial Measures
- b) 9 Penitentiary Centers
- c) 2 Healthcare Centers and
- d) 1 Immigrant Detention Center

34 visits were follow-up visits in order to verify compliance with the recommendations made.

10 visits were made to penitentiary centers, in order to obtain information regarding the implementation of mechanical restraints, with the aim to carry out a study regarding this issue.

## 2. Resolutions and ex officio investigations during 2015:

The following **Resolutions** have been put forth:

- a) 58 Recommendations
- b) 224 Suggestions
- c) 2 Reminders of Legal Duties

106 **ex officio cases** have been initiated

## 3. Institutional Activities, training and outreach (These activities are detailed in Annex 4)

In 2015 the NPM has participated in several forums, those to highlight are:

- a) Seminars of the 30th Anniversary of the United Nations Convention against Torture carried out by the General Council of Spanish Lawyers (January 10th 2015);
- b) The 1st Training on Immigrant Detention Centers organized by the National Police Force's Central Unit on Expulsions and Repatriation (April 15th 2015);
- c) "ENO (European Network of Ombudsman) investigators' meeting on forced returns";
- d) Colloquium "Monitoring repatriation flights" of the "10th National Seminar of the European Network of Ombudsman", organized by the Polish Ombudsman and the European Ombudsman;
- e) "IOI Workshop for NPM Implementing a Preventive Mandate", organized by the Ombudsman of Latvia and the International Ombudsman Institution (June 17th – 19th 2015);
- f) Conference given by the Academy of Civil Guard officers in San Lorenzo del Escorial, on the role of the NPM (February 18th 2015).

The NPM Unit has collaborated with National Preventive Mechanisms against Torture (NPM) and human rights institutions in other countries, holding working meetings to explain the methodology of the Spanish NPM and its practices during visits to places of deprivation of liberty, such as

- a) with the Moroccan Inter-ministerial Delegation on Human Rights;
- b) with NPM representatives from Paraguay;
- c) with technical staff from the Mozambique Ombudsman;
- d) with a delegation from the Ombudsman of the Czech Republic;
- e) with the Human Rights Commission of the Philippines.

Lastly, Technical Chief and NPM coordinators have participated in Ankara on the European Union Project “Support to Establishment of Ombudsman Institution in Turkey” (June 2014 – March 2016).

## ANNEXES

### ANNEX 1: NPM budget 2015

<b>BUDGET</b>	
Personnel expenses	538,393.14 €
General expenses, installations, material, supplies	134,232.31 €
Travel expenses	31,596.26 €
Payment for external technical personnel	37,905.67€
Advisory Council meeting expenses	2,274.81 €
<b>TOTAL</b>	<b>744,402.19 €</b>

**ANNEX 2: 543 Places of deprivation of liberty visited by NPM (2010-2015)**

Places	Number of visit
Prison cells in court building	38
Municipal Health Centers	1
Immigrant Detention Centers	31
Centers for initial care and detention of foreigners	3
Centers for the protection of minors	1
Juvenile offender facilities	39
Penitentiary centers	65
Healthcare centers	9
Regional Autonomous police stations	30
Local police stations	33
National Police Force's police stations and other facilities for short-term custody	135
Headquarters and other places for short-term custody of the Spanish Civil Guard	103
Military disciplinary establishments	8
Military penitentiary establishments	2
Psychiatric penitentiary hospitals	2



<b>Places</b>	<b>Number of visit</b>
Waiting area for persons denied asylum and asylum seekers at border posts	7
Immigrant transport operations (FRONTEX)	12
Prisoner transport operations	1
Nation Police Force unit ascribed to a regional autonomous community	1
Hospitalized custody units	20
Vehicles for driving prisoners and detainees	2
<b>Total</b>	<b>543</b>

**ANNEX 3: Visits to highlight (2015)**

<b>Date</b>	<b>Visits in which the Ombudsman has participated</b>
January 2 <sup>nd</sup> 2015	Immigrant Detention Center of Algeciras
February 11 <sup>th</sup> and 12 <sup>th</sup> 2015	Juvenile offender facilities "Es Pinaret" (Palma de Mallorca)
April 16 <sup>th</sup> 2015	Provincial Police Station of Malaga
April 24 <sup>th</sup> 2015	National Police Force facilities at the Adolfo Suarez Airport Madrid-Barajas and supervision until the finalization of boarding of foreign nationals in custody of the National Police Force officers in charge of the repatriation operation organized by Spain in coordination with FRONTEX with final destination to Islamabad (Pakistan)
April 24 <sup>th</sup> 2015	Waiting area for asylum seekers and those denied asylum in Terminal T1 of Adolfo Suárez Airport Madrid-Barajas
July 14 <sup>th</sup> 2015	Penitentiary center "El Dueso", Santoña (Cantabria)
July 16 <sup>th</sup> 2015	Juvenile offender facilities "Bahía de Cádiz" (Female), Puerto de Santa Maria (Cádiz)

Date	Visits in which the NPM Advisory Council has participated
February 11 <sup>th</sup> and 12 <sup>th</sup> 2015	Juvenile Center for the Fulfillment of Judicial Measures "Es Pinaret" (Palma de Mallorca)
May 12 <sup>th</sup> 2015	Local police of Lleida
May 12 <sup>th</sup> 2015	Police station of the Catalan Regional Autonomous Police Force "Mossos d'Esquadra" of Lleida
May 27 <sup>th</sup> and 28 <sup>th</sup> 2015	Penitentiary Center Madrid VI Aranjuez (Madrid)
June 1 <sup>st</sup> 2015	National Police Force Police Station in Albacete
June 1 <sup>st</sup> 2015	Civil Guard of Albacete
June 2 <sup>nd</sup> 2015	National Police Force Police Station in Cuenca
June 2 <sup>nd</sup> 2015	Civil Guard of Cuenca
June 2 <sup>nd</sup> 2015	Hospitalized Custody Units of Cuenca
June 30 <sup>th</sup> , July 1 <sup>st</sup> and 2 <sup>nd</sup> 2015	Mixed Residence "Pumarín", Gijón (Asturias)
November 16 <sup>th</sup> to 18 <sup>th</sup> 2015	Penitentiary Center Las Palmas II

Date	Visits in which members of the Regional Autonomous Parliamentary Commissioners participated
April 13 <sup>th</sup> and 14 <sup>th</sup> 2015	Penitentiary Center of "Brians 1" (Barcelona)
July 6 <sup>th</sup> 2015	Local Police of Calatayud (Zaragoza)
July 7 <sup>th</sup> 2015	Civil Guard of Almunia de Doña Godina (Zaragoza)
October 1 <sup>st</sup> 2015	Civil Guard of Soria
October 1 <sup>st</sup> 2015	Provincial Police Station of the National Police Force of Soria
October 5 <sup>th</sup> 2015	Police headquarters of Western Andalusia (Sevilla)
October 5 <sup>th</sup> 2015	Civil Guard Command of Sevilla
October 27 <sup>th</sup> and 28 <sup>th</sup> 2015	Penitentiary Center of Pamplona

**ANNEX 4: Institutional activities, training and outreach**

Date	Visit
January 20 <sup>th</sup> 2015	Meeting with the penitentiary commission of the Distinguished Madrid Bar Association
January 20 <sup>th</sup> 2015	Meeting with Julián Ríos Martín, member of the NPM Advisory Council, to provide information regarding the study being carried out on mechanical restraints in penitentiary centers
January 29 <sup>th</sup> 2015	Participation by the Technical Chief of the Area of Security and Justice of the Ombudsman and the NPM coordinator, in the Seminars of the 30 <sup>th</sup> Anniversary of the United Nations Convention against Torture carried out by the General Council of Spanish Lawyers
February 18 <sup>th</sup> 2015	Participation by the Technical Chief of the Area of Security and Justice of Spanish Ombudsman and NPM coordinator in a Conference given by the Academy of Civil Guard officers in San Lorenzo del Escorial, on the role of the NPM
March 2 <sup>nd</sup> 2015	Selection process of psychologists and doctors to form a panel of technical external consultants to participate in multidisciplinary visits carried out by the NPM
March 5 <sup>th</sup> 2015	Decision on the call for applicants for the selection of a Technical Professional specialized in the competencies attributed to the Institution in its capacity as the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
March 24 <sup>th</sup> 2015	Seminar with Spanish representatives in treaty bodies of the United Nations on the participation of the National Human Rights Institutions regarding the work of the Human Rights Council and the convenience of knowing and using the Resolutions of the Human Rights Council, the General Comments of the treaty bodies, reports by specialized mechanisms and other non regulatory texts

Date	Visit
April 15 <sup>th</sup> 2015	Participation by the Technical Chief of the Area of Migration and Equality of Spanish Ombudsman and NPM coordinator in the 1 <sup>st</sup> Training on Immigrant Detention Centers organized by the National Police Force's Central Unit on Expulsions and Repatriation, Madrid
April 16 <sup>th</sup> 2015	Meeting of NPM technical personnel with a Moroccan Inter-ministerial Human Rights Delegation
April 28 <sup>th</sup> 2015	Participation of the Ombudsman and the Technical Chief of the Area of Migration and Equality of Spanish Ombudsman and NPM coordinator in the Colloquium "Monitoring repatriation flights" of the "10th National Seminar of the European Network of Ombudsman", organized by the Polish Ombudsman y the European Ombudsman (Warsaw, Poland)
May 12 <sup>th</sup> to 14 <sup>th</sup> 2015	The Technical Chief of the NPM participated in Ankara on the European Union Project "Support to Establishment of Ombudsman Institution in Turkey"
May 27 <sup>th</sup> 2015	Interview with NPM technical staff and members of the International Legal Department of the Complutense University of Madrid in the framework of the investigation "Prison Litigation Network"
June 8 <sup>th</sup> 2015	Meeting with the Ombudsman's Cabinet Chief and the NPM Technical Chief with representatives of the NPM of Paraguay
June 9 <sup>th</sup> 2015	The Ombudsman presented the NPM 2014 Annual Report to the Parliament's Mixed Commission on Relations with the Ombudsman
June 16 <sup>th</sup> 2015	Submission of the NPM 2014 Annual Report to the SPT (Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)
June 17 <sup>th</sup> to 19 <sup>th</sup>	Participation of the NPM Technical Chief and a technical professional in the "IOI Workshop for NPM Implementing a Preventive Mandate", organized by the Ombudsman of Latvia and the International Ombudsman Institution, in Riga, Latvia
June 19 <sup>th</sup> 2015	Working visit of technical staff from the Mozambique Ombudsman, Madrid
June 24 <sup>th</sup> 2015	Biannual meeting with the NPM Advisory Council

Date	Visit
June 29 <sup>th</sup> to 30 <sup>th</sup> and July 1 <sup>st</sup> 2015	Meetings with members of the Union of Officers of the Civil Guard, the Spanish Commission for Refugee Aid ("Comisión española de ayuda al refugiado"), Association Pro Human Rights of Spain ("Asociación Pro Derechos Humanos de España"), General Council of Spanish Lawyers, Unified Association of the Civil Guard ("Asociación Unificada de la Guardia Civil") and the Spanish Committee on Representatives of Persons with Disabilities ("Comité Español de Representantes de Personas con Discapacidad"), in order to disseminate the NPM 2014 Annual Report
August 26 <sup>th</sup> and 28 <sup>th</sup> 2015	Visit by the Technical Chief of the Area of Migration and Equality of Spanish Ombudsman to facilities of the Directorate General of the Police and the Directorate General of the Civil Guard of Algeciras and Tarifa (Cádiz)
October 5 <sup>th</sup> and 6 <sup>th</sup> 2015	Reception of members of a delegation from the Ombudsman of the Czech Republic for the presentation of the Spanish NPM under the Project "Together for a Good Administration", and a visit to the "San Juan de Dios" Center in Ciempozuelos (Madrid)
October 14 <sup>th</sup> 2015	Participation of the Ombudsman's Cabinet Chief and the Technical Chief of the Area of Migration and Equality in the meeting held in the Ombudsman Institution, Madrid, "ENO (European Network of Ombudsman) investigators' meeting on forced returns", in which repatriation flights, among other issues, were addressed
October 19 <sup>th</sup> to 23 <sup>rd</sup> 2015	Visit of members of the delegation from the Commission of Human Rights of the Philippines and members of the Spanish Agency for International Cooperation for Development ("Agencia Española de Cooperación Internacional para el Desarrollo"), under the framework of the AECID program - Commission of Human Rights of the Philippines - CHR: "Institutional strengthening of the Filipino Commission on Human Rights 2011-2015" ("Fortalecimiento Institucional de la Comisión de Derechos Humanos de Filipinas 2011-2015"), with visits to the Penitentiary Center Madrid VI, in Aranjuez, and to the Juvenile offender facilities "Teresa de Calcuta" in Brea de Tajo (Madrid)



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