

# NPM 2015

Spain's National Preventive  
Mechanism against Torture



SPANISH OMBUDSMAN



# Spain's National Preventive Mechanism against Torture

Annual Report 2015

Madrid, 2016

The following annexes are attached to this report, in electronic format:

- I. List of external experts who participated in the visits made by the NPM
- II. Conclusions of the visits made
  - II.1 Short-term deprivation of liberty
  - II.2 Medium-term deprivation of liberty
  - II.3 Long-term deprivation of liberty
  - II.4 Special purpose deprivation of liberty facilities
- III. Follow-up to the conclusions of visits made in previous years
  - III.1 Short-term deprivation of liberty
  - III.2 Medium-term deprivation of liberty
  - III.3 Long-term deprivation of liberty
- IV. Broadening the statistical data on deprivation of liberty
  - IV.1 Statistical data on short-term deprivation of liberty
  - IV.2 Statistical data on medium-term deprivation of liberty
  - IV.3 Statistical data on long-term deprivation of liberty
  - IV.4 Statistical data on foreign national deportation operations

Both the report and its annexes may be consulted at [www.defensordelpueblo.es](http://www.defensordelpueblo.es)

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Paseo Eduardo Dato, 31 - 28010 Madrid  
[www.defensordelpueblo.es](http://www.defensordelpueblo.es)

Legal deposit: M-36396-2016  
ISSN: 2254-3937

Editing and printing:  
Imprenta Nacional de la Agencia Estatal Boletín Oficial del Estado  
Avda. de Manoteras, 54. 28050 Madrid

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## Presentation

International legislation and European rights place a special focus on the processes and conditions under which a person may be deprived of their liberty. Compliance with this legislation is one of the significant differences between those states in which the rule of law prevails and others in which this is not the case.

The responsibility of the Defensor del Pueblo (Spanish Ombudsman) in relation to Spain's National Preventive Mechanism against Torture and other cruel, inhuman or degrading treatment or punishment involves exercising constant vigilance over all aspects and circumstances which affect people deprived of their liberty. The places where their day-to-day life takes place and unfolds, their health-care, communication with legal representatives, opportunities for training and work, family relationships, as well as the treatment of staff and those who work in facilities for deprivation of liberty, must all be carefully observed as a matter of the utmost importance.

Throughout 2015 there were 62 visits made to deprivation of liberty facilities (National Police Force stations, Guardia Civil (Civil Guard) barracks, local police stations and those of the police of the autonomous governments, courthouse jail cells, detention centres and centres for asylum seekers at border controls, foreign national detainment centres, Prison Facilities, military prison establishments, Young Offender Institutions, social-health centres, foreign national transfer operations and hospital custody units) in order to assess the aforementioned aspects and conditions, and to provide appropriate recommendations to the administrations concerned in cases where the need for improvement has been identified, where unacceptable practices should be avoided or, conversely, to highlight the revisions and changes carried out as a result of previous recommendations. The majority of these unannounced visits were carried out over a number of days. It should be recognised that a cooperative attitude on the part of the staff who provide services in these facilities was encountered at all the sites visited.

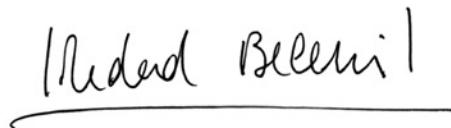
In accordance with current legislation, the Ombudsman has an Advisory Council made up of eight recognised spokespeople on the defence of Human Rights or in fields related to the treatment of people deprived of liberty for whatever reason.

In addition, the employees of the Ombudsman who carry out preventive work are assisted by external experts nominated by the Professional Colleges of Physicians and Psychologists. We offer our special thanks to all of them for the work and analysis carried out, which entails collaboration with highly qualified people.

It is worth noting that the aim of offering maximum transparency and outlining the work of the Ombudsman has been implemented via the institution's webpage under the heading *Prevención de la Tortura* (Prevention of Torture), where information can be found about the facilities and places visited and the observations made.

In February this year (2016) a preview of this report was presented to the Subcommittee for the Prevention of Torture and other cruel, inhuman or degrading treatment or punishment (SPT) of the United Nations in Geneva, informing this body that the number of visits carried out throughout 2016 would be increased, and showing all the information contained on the website about the visits made and decisions taken as a result.

Madrid, june 2016

A handwritten signature in black ink, appearing to read "Soledad Becerril", is written over a horizontal line.

Soledad Becerril  
DEFENSORA DEL PUEBLO  
[SPANISH OMBUDSMAN]

[https://www.defensoradelpueblo.es/mnp/defensor\\_mnp/](https://www.defensoradelpueblo.es/mnp/defensor_mnp/)

## ACRONYMS AND ABBREVIATIONS USED

<b>AENA</b>	Aeropuertos Españoles y Navegación Aérea (Spanish Airports and Air Navigation)
<b>AOM</b>	Association of Ombudsmen of the Mediterranean
<b>APDH</b>	Asociación Pro Derechos Humanos de España (Pro-Human Rights Association of Spain)
<b>AUGC</b>	Asociación Unificada de Guardias Civiles (Unified Association of the Civil Guard)
<b>CA</b>	Comunidad autónoma (Autonomous Community)
<b>CAT</b>	Committee Against Torture
<b>CCAA</b>	Comunidades autónomas (Autonomous Communities)
<b>CE</b>	Constitución española (Spanish Constitution)
<b>CEAR</b>	Comisión Española de Ayuda al Refugiado (Spanish Committee for Refugee Aid)
<b>CGEF</b>	Comisaría General de Extranjería y Fronteras (General Headquarters for Immigration and Border Control)
<b>CIE</b>	Centro de internamiento de extranjeros (Foreign National Detention Centre)
<b>CMI</b>	Centros para menores infractores (Young Offender Institutions)
<b>CNP</b>	Cuerpo Nacional de Policía (National Police Force)
<b>CP</b>	Centro penitenciario (Prison Facility)
<b>CPT</b>	European Committee for the Prevention of Torture (Council of Europe)
<b>CRPD</b>	International Convention on the Rights of Persons with Disabilities
<b>DGGC</b>	Dirección General de la Guardia Civil (Directorate-General of the Civil Guard)
<b>DGP</b>	Dirección General de la Policía (Directorate-General of Police)
<b>DUE</b>	Diplomado Universitario en Enfermería (Holder of a University Diploma in Nursing)
<b>EDM</b>	Establecimiento disciplinario militar (Military Disciplinary Establishment)
<b>EU</b>	European Union
<b>FIES</b>	Fichero de Internos de Especial Seguimiento (File of Inmates subject to Special Monitoring)
<b>FJ</b>	Fundamento Jurídico (Legal Grounds)
<b>FRONTEX</b>	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
<b>GC</b>	Guardia Civil (Civil Guard)
<b>HPP</b>	Hospital psiquiátrico penitenciario (Prison Psychiatric Hospital)
<b>INE</b>	Instituto Nacional de Estadística (National Statistics Institute)
<b>M</b>	Men

<b>NGO</b>	Non-Governmental Organisation
<b>NPM</b>	National Preventive Mechanism against Torture and other cruel, inhuman or degrading treatment or punishment
<b>OM</b>	Orden Ministerial (Ministerial Order)
<b>OPCAT</b>	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
<b>PAIEM</b>	Programa Marco de Atención Integral a Enfermos Mentales (Framework plan for integrated care for persons with mental illness)
<b>PIDCP</b>	Pacto Internacional de Derechos Civiles y Políticos (International Covenant on Civil and Political Rights—ICCPR)
<b>PIEM</b>	Programa Individualizado de Ejecución de Medida de Internamiento (Personal Program for Implementation of Detention Measure)
<b>PPS</b>	Programa de Prevención de Suicidio (Suicide Prevention Programme)
<b>RP</b>	Reglamento Penitenciario (Prison Regulation)
<b>SES</b>	Secretaría de Estado de Seguridad, Ministerio del Interior (Secretary of State for Security, Ministry of the Interior)
<b>SGIP</b>	Secretaría General de Instituciones Penitenciarias (Secretary-General of Prison Institutions)
<b>SPT</b>	Subcomité para la Prevención de la Tortura y otros Tratos Crueles, Inhumanos y Degradantes (Subcommittee for the Prevention of Torture and other Cruel, Inhuman and Degrading Treatment)
<b>STC</b>	Sentencia Tribunal Constitucional (Ruling of the Constitutional Court)
<b>T1</b>	Terminal 1, Adolfo Suárez Madrid-Barajas Airport
<b>T4</b>	Terminal 4, Adolfo Suárez Madrid-Barajas Airport
<b>UCER</b>	Unidad Central de Expulsiones y Repatriaciones—CNP (Central Unit for Deportation and Repatriation—CNP)
<b>UCH</b>	Unidad de Custodia Hospitalaria (Hospital Custody Unit)
<b>UHPP-C</b>	Unidad de Hospitalización Psiquiátrica Penitenciaria de Cataluña (Prison Psychiatric Hospitalisation Unit of Catalonia)
<b>URPP</b>	Unidad de Rehabilitación Psiquiátrica Penitenciaria (Prison Psychiatric Rehabilitation Unit)
<b>UN</b>	United Nations
<b>UNO</b>	United Nations Organisation
<b>W</b>	Women

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## Introduction

This report sets out the activities of the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (NPM) during 2015. It should be noted that through Organic Law 1/2009 of November 3rd, which introduces a sole final provision on the Ombudsman under Organic Law, this institution was designated as the NPM and assumed this role from November 5th 2009 in accordance with the provisions of the **Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**, established in New York on December 18th 2002.

Since then, **6 annual reports** have been published (the present report included) which compile the annual activities of the Ombudsman in its role as the NPM, as well as a **monographic report** entitled study of ***Injury reports on people deprived of their liberty*** (2014). For the purposes of continuing with monographic research, in 2015 a study was carried out into the use of mechanical restraints in Prison Facilities, which included information requests made to the relevant administrations as well as visits which included a particular focus on this matter. Said study, carried out in collaboration with an external expert, psychiatrist and under the guidance of the Advisory Council, will be published during 2016.

The 2014 Annual Report, which included a compendium of the ***Minimum criteria in deprivation of liberty***, was lodged in the Register of the Spanish Parliament on May 25th 2015. **On June 9th 2015 the Ombudsman appeared before the Spanish Parliament's** Joint Committee on Relations with the Ombudsman in order to present the aforementioned report, which was subsequently published on the Ombudsman's website. The referral of this Annual Report to the Subcommittee for the Prevention of Torture (SPT) took place on June 16th 2015 in accordance with the obligations set out under OPCAT.

**62 visits** were carried out throughout 2015 and are detailed in this report.

The main **objective of these visits** is to detect possible shortcomings which could facilitate torture or ill treatment or hinder the investigation and sanction of such acts. In addition, the treatment and conditions experienced by people deprived of liberty are examined, and checks are made on whether or not their basic rights are protected. To that effect, the visits include confidential individual interviews which are a prime source of information about the reality of liberty deprivation. Interviews are also conducted with the management and staff of the facility. The facilities are inspected, records and documentation are examined, the video surveillance system is assessed, etc. Furthermore, specific questions are reviewed in the event that any incorrect information is suspected or brought to light.

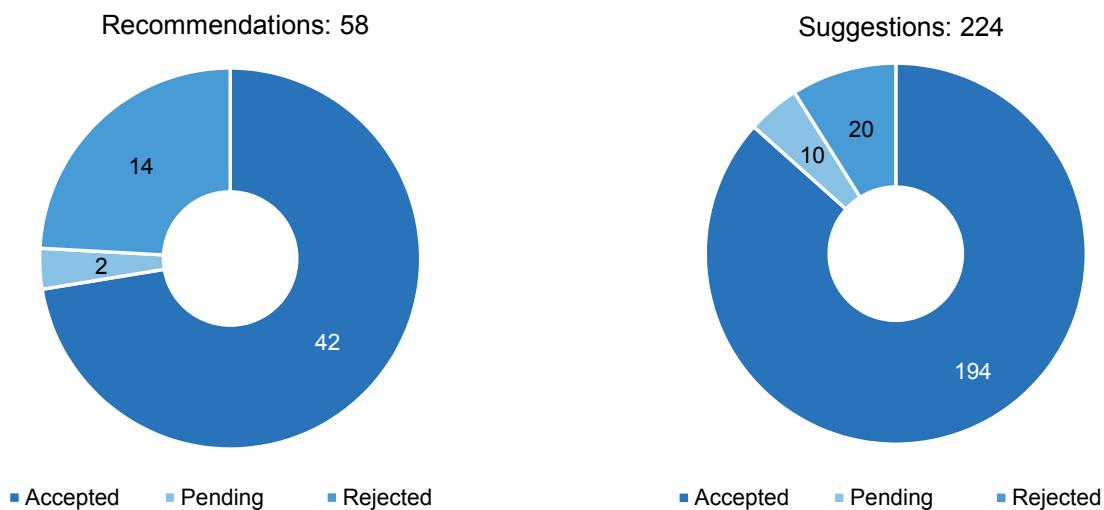
Following the visits, the NPM prepares an internal report and sends its conclusions to the relevant administrations so that they may be taken into consideration and the necessary improvements made. With regard to facilities for medium and long-term deprivation of liberty, said conclusions are also referred to the Public Prosecutor for their information. When deemed necessary, whether due to the importance of the matter at hand, in relation to conclusions reached previously, due to lack of acceptance of the conclusions or for other reasons, **Recommendations, Suggestions or Reminders of Legal Duties** are put together, exercising the Ombuds-

man's prerogatives granted under the law. Through these, the NPM aims to adequately prevent torture and ill treatment under all circumstances.

**During 2015 the NPM produced 58 Recommendations, 224 Suggestions and 2 Reminders of legal duties.** The responses to the Recommendations and Suggestions are reflected in the charts below:

**Chart 1**

**Recommendations and Suggestions**



By virtue of the reform of the Criminal Procedure Act by Organic Law 13/2015 of October 5th, **the following NPM Recommendations have been accepted and entered into force:**

- To reduce the maximum period of 8 hours so that rights of detainees to legal counsel is effective.
- To provide detainees with greater information about their rights.
- To inform detainees of their right to request a writ of *habeas corpus*.
- To prohibit the use of incommunicado detention for children under 16 years.
- To allow persons held under incommunicado detention to meet in private with their lawyer (each case is decided on its own merits, whereas before it was prohibited in all cases).
- Daily supervision by forensic doctors of persons detained incommunicado.
- To notify the detention to the family of the person held under incommunicado detention (each case is decided on its own merits, whereas before it was prohibited in all cases).

During the visits, in the event of becoming aware of any **specific case of torture or ill treatment**, the NPM transfers the case to the corresponding department of the Ombudsman in order that they initiate the appropriate action, invoking the powers conferred on the Ombudsman by legislation. Section V provides a summary of the complaints of ill treatment processed by the different departments of the Ombudsman in 2015.

In addition, the **annexes to this report** include the conclusions reached for all visits made during 2015, as well as the follow-up to visits made in previous years and other relevant information.

The **new Ombudsman website**, constructed during 2015, includes a specific section on **Prevention of torture**, in which the following may be consulted: annual reports, the monthly activity of the NPM, solutions put

forward to the authorities following each visit, and a geolocation map of all the visits carried out by the NPM (the conclusions, Recommendations and Suggestions referred to the competent authorities can be consulted by clicking on a specific facility, as well as information as to whether or not these have been accepted). See <https://www.defensordelpueblo.es/mnp/actividad/>. Through the website the Ombudsman aims to inform people about the **activity of the NPM with total transparency** and to increase awareness of the work carried out.

The NPM has an **Advisory Council** which acts as a *technical and legal cooperation body*, in compliance with the provisions of Organic Law 1/2009. Two years following its establishment, during the meeting held in June 2015, the Advisory Council was partially renewed through a draw, in accordance with the provisions of articles 19 and 20 of the Organisational and Operational Regulation governing the Ombudsman. Those spokespeople who stood down (continuing in their posts until the new spokespeople were appointed) were: Vicenta Esteve, Javier de Lucas, Fernando Mariño and Yolanda Román.

The public process of **appointing new spokespeople** was announced through the Resolution of the Ombudsman of October 28th 2015 (Official State Bulletin (BOE), October 30th 2015). In accordance with the report by the Coordination and Internal Governance Committee, and through the Resolution of the Ombudsman of December 1st 2015 (BOE December 4th 2015), the following Advisory Council Spokespeople were appointed: **Vicenta Esteve Biot**, proposed once again by the General Council of the Official Colleges of Psychologists in Spain, **María José García-Galán San Miguel, Jesús López-Medel Báscones** and **Lorenzo Martín-Retortillo Baquer**.

**The current composition of the Advisory Council, presided over by the Ombudsman, Soledad Becerril Bustamante, is therefore as follows:**

- Francisco M. Fernández Marugán, first deputy to the Ombudsman (ex officio member of the Council);
- Concepció Ferrer i Casals, second deputy to the Ombudsman (ex officio member of the Council);
- Milagros Fuentes González, practising lawyer and patron of the Foundation of the Spanish Bar Association (end of tenure: 2017);
- Berta M.<sup>a</sup> Uriel Latorre, Doctor of Medicine and Head of the Preventive Medicine Service of the University Hospital Complex of Ourense, appointed by proposal of the General Council of the Official Colleges of Physicians in Spain (end of tenure: 2017);
- Vicenta Esteve Biot, clinical psychologist and secretary of the Official College of Psychologists of Valencia, appointed by proposal of the General Council of the Official Colleges of Psychologists in Spain (end of tenure: 2019);
- M.<sup>a</sup> José García-Galán San Miguel, magistrate and member of the Committee for the Prevention of Torture (CPT) of the European Council (end of tenure: 2019);
- Emilio Ginés Santidrián, practising lawyer and member of the UN Subcommittee for the Prevention of Torture (end of tenure: 2017);
- Jesús López-Medel Báscones, State Attorney and Professor of Administrative Law at the University of Cantabria (end of tenure: 2019);
- Lorenzo Martín-Retortillo Baquer, Emeritus Professor of Administrative Law at the Complutense University of Madrid and specialist in jurisprudence for the European Court of Human Rights (end of tenure: 2019);
- Julián Carlos Ríos Martín, Ordinary Professor of Criminal Law at the Comillas Pontifical University and lawyer specialising in Prison Law (end of tenure: 2017).

The **work of the Advisory Council**, which meets at least twice a year, involves proposing visits to deprivation of liberty facilities, making suggestions for improving the visitation methodology, carrying out reports in relation to legislation, proposing training programmes and seminars about the prevention of torture, conducting follow-up work to the NPM and SPT reports and any other matters which it deems appropriate. In addition, the spokespeople of the Advisory Council are invited to form part of the teams which visit the different deprivation of liberty facilities, as well as to understand first-hand the work carried out by the NPM unit. In 2015, **the spokespeople of the Advisory Council took part in 11 visits**.

In 2015, **two meetings of the Advisory Council** were held. The first took place on June 24th and the second on December 18th. Those meetings made the Advisory Council aware of the work of the NPM, and the spokespeople brought forward proposals about facilities to visit and matters to explore during the visits to be carried out during the first half of 2016.

The NPM wishes to express its **thanks to Javier de Lucas, Fernando Mariño and Yolanda Román** for their collaboration and guidance on the work of this unit, both for providing their trained knowledge in diverse scientific disciplines during the visits they participated in, as well as for their proposals and comments throughout their two years as members of the Advisory Council.

With regard to the composition of the NPM Unit, economic measures have been taken for the purposes of **increasing staffing levels**. Towards the end of 2014, an open call was made for the selection of an expert specialising in the competences granted to this institution in its role as National Preventive Mechanism against Torture and other cruel, inhuman or degrading treatment or punishment (BOE, December 15th 2014), which ended with an expert being contracted.

Currently, the NPM Unit is made up of one manager, five experts and two administrators. Another two coordinators take part in this work as experts responsible for Security, Justice, Migrations and Equality of Treatment, and this Unit also receives the support of the institution's experts (members of other fields related to this matter) in order to implement the visits.

Furthermore, the NPM continues to collaborate with qualified and trained professionals in areas such as medicine, psychiatry or psychology for their assistance and cooperation as external experts. For the purposes of increasing the membership of the panel of external expert advisers who routinely collaborate with the NPM, a call was made aimed at the presidents of the General Council of the Official Colleges of Physicians in Spain and the General Council of the Official Colleges of Psychologists in Spain, so that they may disseminate the call amongst their colleagues. Numerous CVs were received from interested professionals, some of which were selected to broaden the membership of the panel of external experts which participates in visits. The NPM wishes to express its thanks to all those candidates who sent their CVs for their interest and willingness to collaborate with this institution.

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Visits made  
§1 - §4

1. During 2015, **62 visits** were made to deprivation of liberty facilities. Of said visits, **17 involved the participation of external experts** in medicine, forensic medicine, psychiatry and psychology ('multidisciplinary visits'), and **34** were **follow-up visits** for the purposes of checking if the competent administration had incorporated the suggested changes or recommendations made by the NPM since its last visit, as well as to detect new shortcomings.

**The Ombudsman herself** took part in 7 visits. The spokespeople of the NPM Advisory Council took part in 11 visits, and 8 visits involved the participation of members of the **Regional Ombudsman Offices** (Andalusia, Catalonia, Aragon, Valencia, Castile and León and Navarre). Three of the visits took place in the company of foreign delegations. Specifically, two with the Philippine Commission on Human Rights and one with the NPM of the Czech Republic.

All visits were **unannounced**, with the exception of the three visits involving foreign delegations, and the foreign national deportation operations which included the flight, for reasons of security demanded by the airport authorities.

2. All resolutions brought forward and conclusions reached following each visit can be consulted in Annex II of this report.

In addition, Annex III compiles the follow-up made to the conclusions of visits carried out in previous years, for those matters to which the competent administrations had not provided an answer.

This report will make mention of the most important matters observed in the visits made during 2015, referring to the paragraphs which correspond to the *Minimum criteria in deprivation of liberty* in the 2014 Annual Report and in other Annual Reports of the NPM. The paragraphs corresponding to the aforementioned minimum criteria are highlighted in the margins, according to the 2014 Annual Report as well as paragraphs in previous years' reports which refer to these same matters.

3. The distribution of visits is detailed in the table and the map on the following pages:

**Table 1**  
Types of deprivation of liberty facilities visited

TYPES OF DEPRIVATION OF LIBERTY FACILITIES VISITED	
PLACES	NUMBER OF VISITS
Police stations and other short-term custody facilities of the National Police Force	13
Barracks and other short-term custody facilities of the Civil Guard	12
Local police stations	4
Stations of the Autonomous Police	2
Courthouse jail cells	1
Detention centres and centres for asylum seekers at border controls	1
Centres for the Detention of Foreign Nationals (CIE)	4
Prison facilities	10
Military Prison Facilities	1
Young Offender Institutions	7
Socio-health facilities	2
Foreign national transfer operations (FRONTEX)	4
Hospital Custody Units	1
<b>TOTAL</b>	<b>62</b>

Chart 2

Situation on the map of the visits made



■ Police stations and other short-term custody facilities of the National Police Force .....	13
■ Barracks and other short-term custody facilities of the Civil Guard .....	12
■ Local police stations .....	4
■ Stations of the Autonomous Police .....	2
■ Courthouse jail cells .....	1
■ Detention centres and centres for asylum seekers at border controls .....	1
■ Centres for the Detention of Foreign Nationals (CIE) .....	4
■ Prison facilities .....	10
■ Military Prison Facilities .....	1
■ Young Offender Institutions .....	7
■ Socio-health facilities .....	2
■ Foreign national transfer operations (FRONTEX) .....	4
■ Hospital Custody Units .....	1
TOTAL .....	62

4. The **list of visits** by place, as well as whether they were multidisciplinary or follow-up visits, and whether they took place accompanied by spokespeople from the Advisory Council, by members of the Regional Ombudsman Offices or by foreign delegations, are outlined in the following tables:

**Table 2**  
Headquarters and Stations of the National Police Force

HEADQUARTERS		
NUMERICAL ORDER	PLACE	PROVINCE
1	Police Headquarters for Melilla *	Melilla
2	Police Headquarters for Western Andalusia ****	Seville
STATIONS		
NUMERICAL ORDER	PLACE	PROVINCE
3	Local Police Station * ***	Albacete
4	Local Police Station * ***	Cuenca
5	Local Police Station *	Málaga
6	Local Police Station *	Segovia
7	Local Police Station ****	Soria
8	Valladolid Delicias Police Station *	Valladolid
9	Alcalá de Henares Police Station	Madrid
10	Calatayud Police Station	Zaragoza
11	Xátiva Police Station	Valencia
12	Redondela Police Station	Pontevedra
13	Madrid-Tetuán Police Station	Madrid

\* Follow-up visit

\*\*\* Advisory Council

\*\*\*\* Regional Commissioner

**Table 3**  
Civil Guard command headquarters and barracks

COMMAND HEADQUARTERS		
NUMERICAL ORDER	PLACE	PROVINCE
<b>14</b>	Albacete * ***	Albacete
<b>15</b>	Cuenca * ***	Cuenca
<b>16</b>	Málaga *	Málaga
<b>17</b>	Melilla *	Melilla
<b>18</b>	Segovia *	Segovia
<b>19</b>	Valladolid *	Valladolid
<b>20</b>	Seville* ****	Sevilla
<b>21</b>	Soria ****	Soria
BARRACKS		
NUMERICAL ORDER	PLACE	PROVINCE
<b>22</b>	Las Rozas *	Madrid
<b>23</b>	Almunia de Doña Godina ****	Zaragoza
<b>24</b>	Xátiva	Valencia
<b>25</b>	Vigo	Pontevedra

\* Follow-up visit  
 \*\*\* Advisory Council  
 \*\*\*\* Regional Commissioner

**Table 4**  
Local police stations

NUMERICAL ORDER	PLACE	PROVINCE
<b>26</b>	Fuengirola *	Málaga
<b>27</b>	Lleida ***	Lleida
<b>28</b>	Calatayud	Zaragoza
<b>29</b>	Xátiva	Valencia

\* Follow-up visit  
 \*\*\* Advisory Council

**Table 5**  
Stations of the Autonomous Police

NUMERICAL ORDER	PLACE	PROVINCE
<b>POLICE STATION OF THE MOSSOS D'ESQUADRA (CATALAN POLICE)</b>		
<b>30</b>	Lleida * ***	Lleida
<b>POLICE STATION OF THE ERTZAINTZA (BASQUE POLICE)</b>		
<b>31</b>	Vitoria/Gasteiz *	Álava/Araba

\* Follow-up visit

\*\*\* Advisory Council

**Table 6**  
Courthouse jail cells

NUMERICAL ORDER	PLACE	PROVINCE
<b>32</b>	Melilla *	Melilla

\* Follow-up visit

**Table 7**  
Detention centres and centres for asylum seekers at border controls

NUMERICAL ORDER	PLACE	PROVINCE
<b>33</b>	Madrid *	Madrid

\* Follow-up visit (visited on two occasions during 2015 on 24/04 and 28/05)

**Table 8**  
Centres for the Detention of Foreign Nationals (CIE)

NUMERICAL ORDER	NAME	PLACE	PROVINCE
<b>34</b>	Algeciras *	Algeciras	Cádiz
<b>35</b>	Tarifa * **	Tarifa	Cádiz
<b>36</b>	Algeciras *	Algeciras	Cádiz
<b>37</b>	Tarifa *	Tarifa	Cádiz

\* Follow-up visit

\*\* Multidisciplinary visit

**Table 9**  
Prison facilities

NUMERICAL ORDER	NAME	PLACE	PROVINCE
<b>38</b>	Madrid VI ** ***	Aranjuez	Madrid
<b>39</b>	Ávila **	Brieva	Ávila
<b>40</b>	Brians I ** ****	Sant Esteve Sesrovires	Barcelona
<b>41</b>	Brians II **	Sant Esteve Sesrovires	Barcelona
<b>42</b>	Madrid V * **	Soto del Real	Madrid
<b>43</b>	Sevilla II * **	Sevilla	Seville
<b>44</b>	El Dueso**	Santoña	Cantabria
<b>45</b>	Las Palmas II ** ***	San Bartolomé de Tirajana	Las Palmas
<b>46</b>	Madrid VI * *****	Aranjuez	Madrid
<b>47</b>	Pamplona ** ****	Pamplona	Navarre

- \* Follow-up visit
- \*\* Multidisciplinary visit
- \*\*\* Advisory Council
- \*\*\*\* Regional Commissioner
- \*\*\*\*\* Foreign delegation

**Table 10**  
Military Prison Facilities

NUMERICAL ORDER	PLACE	PROVINCE
<b>48</b>	Alcalá de Henares *	Madrid

- \* Follow-up visit

**Table 11**  
**Young Offender Institutions**

NUMERICAL ORDER	NAME	PLACE	PROVINCE
<b>49</b>	Es Pinaret * *** ****	Palma de Mallorca	Balearic Islands
<b>50</b>	Sograndio *	Gijón	Asturias
<b>51</b>	Bahía de Cádiz (female)	Puerto de Santa María	Cádiz
<b>52</b>	Las Moreras **	Murcia	Murcia
<b>53</b>	Teresa de Calcuta * ** *****	Brea del Tajo	Madrid
<b>54</b>	Virgen de Valvanera **	Logroño	La Rioja
<b>55</b>	Marcelo Nessi * **	Badajoz	Badajoz

\* Follow-up visit

\*\* Multidisciplinary visit

\*\*\* Advisory Council

\*\*\*\*\* Foreign delegation

**Table 12**  
**Residential facilities which provide health, social or rehabilitation services**

NUMERICAL ORDER	NAME	PLACE	PROVINCE
<b>56</b>	Gijón Mixed Residence *** ****	Gijón	Asturias
<b>57</b>	San Juan de Dios Centre * *** *****	Ciempozuelos	Madrid

\* Follow-up visit

\*\* Multidisciplinary visit

\*\*\* Advisory Council

\*\*\*\*\* Foreign delegation

**Table 13**  
**Foreign national deportation operations**

NUMERICAL ORDER	PLACE	PROVINCE
<b>58</b>	Repatriation operations organised by Spain (FRONTEX flight) from Adolfo Suárez Madrid-Barajas Airport to Bogotá (Colombia) and Santo Domingo (Dominican Republic)	Madrid
<b>59</b>	Repatriation operations organised by Holland (FRONTEX flight) from Adolfo Suárez Madrid-Barajas airport to Nigeria	Madrid
<b>60</b>	National Police Force (Spanish acronym CNP) facilities in Adolfo Suárez Madrid-Barajas airport, and supervision until completion of boarding of foreign nationals in custody, carried out by CNP workers in charge of repatriation operations organised by Spain in coordination with FRONTEX, bound for Pakistan	Madrid
<b>61</b>	Repatriation operations organised by Spain (FRONTEX flight) from Adolfo Suárez Madrid-Barajas airport to Albania and Georgia	Madrid

**Table 14**  
**Hospital Custody Units**

NUMERICAL ORDER	NAME	PLACE	PROVINCE
<b>62</b>	Virgen de la Luz Cuenca Hospital Custody Unit * ***	Cuenca	Cuenca

\* Follow-up visit

\*\*\* Advisory Councilir

## I.1

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### Short-term deprivation of liberty § 5 - § 22

5. During 2015, 34 short-term deprivation of liberty facilities were visited. Specifically, 13 police stations and short-term custody facilities of the National Police Force, 12 Civil Guard posts, 4 Local Police stations, 2 stations of the Autonomous Police [Mossos d'Esquadra (Catalan police) in Lleida and Ertzaintza (Basque police) in Vitoria-Gasteiz], one Hospital Custody Unit (Cuenca), one visit to a courthouse jail facility (Melilla) and one visit to the asylum and return facility for Terminals 1 and 4 of Adolfo Suárez Madrid-Barajas Airport. 7 of the 34 visits involved the participation of members of the Advisory Council and 5 involved the participation of regional commissioners.

*Visits made*

6. Although the duration of liberty deprivation in these types of facilities is short (roughly 24h on average), their compliance with the established requirements must be guaranteed in order that persons deprived of liberty who are held there are treated properly and held under appropriate conditions.

**7. The changes introduced by regulatory instruments approved during 2015 which affect legal safeguards in relation to detainees, as well as the conditions of their detention, should be highlighted.**

*Regulatory changes*

**Organic Law 13/2015 of October 5th**, modifying the Criminal Procedure Act to strengthen legal safeguards and regulate technological methods of investigation, includes significant advances which affect relevant matters, such as:

- The obligation to inform the detained person in writing of the recognised facts, the reasons for detention and their rights.
- Recognition of the right to access the necessary channels of action in order to refute the legality of the detention.
- The right to communicate by telephone with a person of their choosing, and to be visited by and communicate with the consular authorities of their country.
- The right to be informed of the maximum legal period of detention and the possibility of requesting a writ of habeas corpus.
- Referring detained minors to the children's departments of the State Attorney's office.

*Criminal Procedure Act (LEC)*

- Reduction of the minimum period during which the lawyer must arrive (from eight to three hours).
- New faculties assigned to the lawyer.

**These modifications bring together some of the Recommendations put forward by the NPM over recent years.**

*Regulation of the Secretary of State for Security*

In addition, one Order and two Instructions from the Secretary of State for Security (Spanish acronym SES) have been approved which directly affect the conditions under which detentions unfold. Specifically:

- Order INT/2573/2015 of November 30th, which determines the technical specifications that must be met by vehicles intended to be used for transporting detainees, prisoners and convicts;
- Instruction 11/2015 from the Secretary of State for Security which approves the *Technical Instruction for the design and construction of detention areas*;
- Instruction 12/2015 from the Secretary of State for Security which approves the *Behavioural protocol for areas where detainees are held in custody by the state law enforcement organisations* (hereafter ISES 12/2015).

These instruments constitute important advances in relation to conditions and the rights of detainees, and accept a number of important Recommendations and Suggestions put forward by the NPM. However, given that they entered into force during the final quarter of last year, their practical application could not be evaluated during 2015 and will be subject to detailed analysis in the next annual report.

**8.** The **main conclusions** drawn from the visits made during 2015 to short-term deprivation of liberty facilities are indicated below.

**9.** In general terms, the **detainees interviewed during visits made by the NPM** during the reference period (in those cases where there were detainees in the facilities) referred to having received proper treatment by the custody officers and having been informed of their rights. They also stated that the officers respond quickly to their calls and usually respond quickly to bathroom requests.

*Complaints made by detainees*

However, the NPM managed to collect testimonies from detainees who stated their discontent with respect to certain matters. The main **complaints made by detainees** referred to the state of the facilities (broken toilets, uncleanliness, lack of natural light) or lack of information regarding when they will be brought before a magistrate. To give examples of some specific complaints, in the Tetuán Police Station (Madrid) a detainee stated that they had had to ask the cleaning lady to notify the officers that they needed to use the bathroom, because the officers had not responded to their call. In the Police Headquarters for Western Andalusia (Seville), a detainee complained about the tightness of their shackles during transportation. In the Civil Guard Command Headquarters in Melilla, a detainee stated their distress at not having received their medication (insulin and

antidiabetics), since the officers refused to administer it without a medical prescription. The detainee was transferred to hospital, subsequently being returned to their cell with the medical report and the pharmacological guidelines to be followed.

**10.** One of the most frequent shortcomings in these types of facilities is having an **incomplete Record and Custody Book**, specifically with regard to the dates of custody. In many of the facilities visited (example cases are the National Police Force Stations in Valladolid, Alcalá de Henares (Madrid), Calatayud (Zaragoza), Cuenca, Málaga and Melilla, or the Civil Guard (Spanish acronym GC) Command Headquarters in Albacete, Segovia, Soria, Xátiva (Valencia), Las Rozas-Majadahonda (Madrid), etc.) not all the events which take place with regard to detainees are noted in the custody pages of the Book (such as frisks carried out, visits with the lawyer, food offered, etc.). The purpose of the custody record is to know at any time who is guarding the detainee, everything that the detainee has done and the procedures which have been followed throughout the process of deprivation of liberty. It is therefore essential that the Book is duly completed. The Suggestions put together for better completing the Register and Custody Books have been accepted and, as such, ISES 12/2015 insists on this matter by making reference to Instruction 12/2009 of the Secretary of State for Security, which regulates the *Detainee Record and Custody Book*.

*Incomplete Record Book  
§85-86 AR 2014*

CÁDENA DE CUSTODIA E INCIDENCIAS		
Fecha	Hora	Notas
2015-01-20	10:00	Entrada en custodia
2015-01-20	10:30	Salida
2015-01-20	11:00	Custodia
2015-01-20	12:00	Comida
2015-01-20	13:00	Custodia
2015-01-20	14:00	Relieve
2015-01-20	15:00	Relieve
2015-01-20	16:00	Relieve
2015-01-20	17:00	Relieve
2015-01-20	18:00	Relieve
2015-01-20	19:00	Relieve
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2015-01-21	06:00	Relieve
2015-01-21	07:00	Relieve
2015-01-21	08:00	Relieve
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2015-01-29	12:00	Relieve
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2015-01-31	17:00	Relieve
2015-01-31	18:00	Relieve
2015-01-31	19:00	Relieve
2015-01-31	20:00	Relieve
2015-01-31	21:00	Relieve
2015-01-31	22:00	Relieve
2015-01-31	23:00	Relieve

Incomplete custody sheets (not all meals have been noted, for example)

**11.** In general terms, with regard to the facilities visited, up to the end of 2015 an appropriate application of the provisions and legal safeguards brought together in article 520 of the current Criminal Procedure Act was observed, with detainees almost always being informed, in writing, of their rights. However, the NPM has continued to recommend that detainees be specifically informed in writing of their right to request a writ of **habeas corpus**. Although in some facilities, such as the CNP Station in Calatayud (Zaragoza) or the Police Headquarters for Western Andalusia

either. The application of the new content of the revised Criminal Procedure Act will have to be assessed.

*Video surveillance*  
§477 AR 2010  
§79 AR 2014

12. The presence of **video surveillance** systems in these facilities and their proper use must continue to be insisted upon. Although the gradual increase in the installation of these types of systems has been observed in deprivation of liberty facilities, there are still shortcomings with regard to their use and operation.



Albacete CNP Station. The video surveillance covers the garage entrance and hall of the cell area but not the interior of the cells

Therefore, with the exception of facilities run by the CNP in Valladolid (Delicias) and Calatayud (Zaragoza), the Police Station of the Catalan Police in Lleida or the GC Command Headquarters in Segovia, in the majority of facilities visited in 2015 **the video surveillance cameras do not cover the entire area** where detainees are held, either because they only cover the interior of the cells but not walkways or communal areas, or vice versa. In addition, in a number of the facilities visited (CNP Stations in Albacete, Cuenca, Segovia and Melilla, and CG Command Headquarters in Seville), there were no video surveillance monitors in the cell control zone.

13. Likewise, in many of the facilities visited, and GC facilities especially, the video surveillance systems **do not allow recording** of images, which hinders proper internal or legal investigation in the event of any accident which requires image extraction in order clarify the facts. In this respect, the Administration has announced that, following the Recommendations of this institution, it is planned that all video surveillance systems in both Directorate-General of Police (Spanish acronym DGP) and GC facilities will allow image recording and that these images will be stored for a reasonable period of time.

*Recording of images*  
§477 AR 2010  
§79 AR 2014

14. In some of the facilities visited (GC in Albacete, Sevilla, Xátiva, Las Rozas-Majadahonda, Málaga and Vigo, police stations in Xátiva and local police in Calatayud and Xátiva) **there is no constant presence of custody officers in the cell area**. This could pose a risk in the event of a situation which requires the immediate support of the officers, even though the detainees have call systems, which would be especially serious in cases where there is no video surveillance in the cell area or in the interior of the cells. This is the case, for example, in the GC Command Headquarters in Rozas-Majadahonda, where there is no visual control of the cell area, since the cells are not equipped with cameras and the officers are usually on a different floor.

*Constant presence of officers  
in the cell zone*  
§84 AR 2014

15. During the examination of documentation it was determined that, in the majority of the facilities visited, when the health services provide medical assistance to a detainee, **a photocopy of the physician's report is attached to the police documentation**, which details the medical history of the detainee including information of a personal nature which affects their right to privacy. As has been stated in previous reports, the NPM understands that the medical reports must only be submitted to the interested party and that, where appropriate, the treatment to be administered and the possible measures to be taken in the case of infectious diseases must be recorded on a separate sheet. All of the Suggestions issued to the Administration in relation to this point have been accepted.

*Medical reports*  
§77 AR 2014

16. The Recommendations put together by this institution as a result of the study of *Injury reports on people deprived of their liberty* in 2014 should also be recalled. Said Recommendations insist that, where injuries are detected during a medical visit, **the injury report must also be submitted directly to the interested party, to the magistrate's court and, where appropriate, to the court which controls the deprivation of liberty**. It may only be handed to persons who guard the detainee in a sealed, stamped envelope which is appropriately addressed to the judicial authority, unless: it is duly authorised that obtaining the information is necessary for the prevention of a real and serious public security risk or for the control of criminal offences, and is absolutely necessary for the purposes of a specific investigation; there is a specific massive data request which is not supported by that mentioned above; the request is carried out with due motivation, confirming its relevance to the assumptions that have been set forth; and that in compliance with article 22.4 of

*Injury reports*  
§22 AR 2012  
§77 AR 2014

Organic Law 15/1999 of December 13th on the protection of personal data (LOPD), the information will be voided *when it is no longer necessary for the inquiries which motivated its storage.*

*Installations*  
§82 AR 2014

17. Although in the majority of facilities visited it was observed that the existing **materials and items** in the cells cannot, in principle, be used by detainees to **self-harm or attempt suicide**, in some facilities visited, such as the CNP Station in Calatayud and the GC Command Headquarters in Majadahonda-Las Rozas, the design and materials of the cells or doors continue to pose a risk to the physical integrity of the detainees.



Doors in the Police Station in Calatayud (Zaragoza), with iron bars and plates that could be used to self-harm

*Service weapon*  
§92 AR 2014

18. In the visit made to the jail cells of the Courthouse in Melilla, it was observed that the officers wore their **service weapon with the magazine fitted** when in the cell area. Although in the majority of facilities visited it was observed that the officers do not carry their service weapon within this area or do so without the magazine, this point must continue to be insisted upon in order to strengthen the security of the detainees and that of the officers themselves. In this regard, we reiterate the recommendation made in previous reports that all facilities be fitted with gun racks, as is the case in the Municipal Police facilities in Lleida, for example.



Gun rack within the guard room of the Lleida Municipal Police

**19.** It is often the case that detainees are led towards the cells through the main door or across communal areas of the facility, even, on occasion, in facilities which allow for different access routes. This may result in encounters with members of the public who attend these facilities to deal with paperwork (such as in the CNP Station in Cuenca or the GC Posts in Valladolid, Vigo and Albacete). This presents risks from a security point of view and because of the exposure of the detainee who, although deprived of their liberty, nonetheless retains the fundamental rights of dignity and of their own image. The Recommendations put together around this matter have been gathered in ISES 11/2015 (point 6.2) and it is hoped that they will be applied to the construction work and alterations made to detention centres which are carried out from this point on.

*Access to cells  
§80 AR 2014*



Only entrance to the GC Command Headquarters in Albacete

*Other issues which may be improved*[§83 AR 2014](#)[§90 AR 2014](#)[§96 AR 2014](#)*Modes of transport*[§433, 434 AR 2010](#)[§264 AR 2013](#)

**20.** There are other significant matters which continue to leave room for improvement in the facilities visited, such as the duty for custody officers to be properly identified, that the blankets provided to detainees be for single use only and that the toilets be made of tamper-proof material.

**21.** Finally, with regard to **modes of transport for the transfer of persons in custody**, the Directorate-General of the Civil Guard (Spanish acronym DGGC) reported in 2015 that, following the Recommendation made by this institution, there are 12 vehicles equipped with video surveillance systems and that it is installing systems in another 31, also pointing out that all vehicles of this type which are acquired in the future will be equipped with this system and with seatbelts.

**Summary of the main elements subject to analysis in visits to short-term deprivation of liberty facilities**

**22.** The following is a summary table of the main elements requiring improvement in visits made to short-term deprivation of liberty facilities.

**Table 15**  
National Police Force

	Madrid-Tetuán District	Valladolid-Delicias District	Vigo - Redondela	Alcalá de Henares - Madrid	Calatayud - Zaragoza	Xátiva - Valencia	Albacete	Cuenca	Málaga	Soria	Segovia	Seville	Melilla
Healthcare: medical reports in sealed envelopes		X			X		X			X	X		
Information about their right to <i>habeas corpus</i>	X			X			X						
Access: direct transfer to cells								X		X			
Toilets: porcelain fittings		X				X							
Cells: risk to physical integrity					X								
Single-use blankets		X					X						
Record Books: Record and Custody Book-Summary pages		X	X	X	X	X					X		
Record and Custody Book: properly completed	X	X	X	X	X	X	X	X	X	X	X		X
Security: officers in the cell area						X							
Gun rack					X			X			X		
Personnel: identification		X							X		X		
Security: Video surveillance - coverage	X		X	X		X	X	X	X	X	X		X
Security: Video surveillance - recording of images										X			

\* The X signifies shortcomings observed during the visits

**Table 16**  
Civil Guard

	Cuenca	Albacete	Málaga	Melilla	Segovia	Seville	Soria	Valladolid	Vigo	Almunia de Doña Godina (Zaragoza )	Xátiva - Valencia	Las Rozas - Majadahonda Madrid
Healthcare: medical reports in sealed envelopes	X	X			X		X	X		X	X	X
Information about their right to <i>habeas corpus</i>	X	X				X	X	X				
Access: direct transfer to cells	X							X	X	X		X
Toilets: tamper-proof fittings								X				
Cells: risk to physical integrity												X
Single-use blankets	X	X			X					X		
Record Books: Record and Custody Book-Summary pages	X		X		X					X	X	
Record and Custody Book: properly completed	X	X	X		X		X	X	X		X	X
Security: officers in the cell area		X	X			X			X		X	X
Gun rack	X	X									X	X
Personnel: - identification		X					X	X		X		X
Security: video surveillance - coverage			X	X			X	X	X		X	X
Security: video surveillance - recording of images	X	X			X	X		X		X		

\* The X signifies shortcomings observed during the visits

**Table 17**  
Autonomous Police

	Catalan Police, Lleida	Basque Police, Vitoria
Toilets: toilet within the cell	X	
Toilets: squatting toilets	X	
Toilets: porcelain fittings		X
Cells: tiled benches		X
Cells: doors with openings on the lower half	X	
Linen: sleeping mats		X
Personal belongings of persons deprived of liberty: heat-sealable bags		X
Security: video surveillance - coverage		X

\* The X signifies shortcomings observed during the visits

**Table 18**  
**Local Police**

	Lleida Municipal Police Station	Local Police in Calatayud (Zaragoza)	Local Police in Fuengirola (Málaga)	Local Police in Xàtiva (Valencia)
Healthcare: injury reports without medical history		X		
Legal compliance: legal assistance, immediacy of request	X			
Information about their right to <i>habeas corpus</i>		X		
Legal compliance: written printed material regarding rights				X
Access: direct transfer to cells		X		X
Toilets: Toilet within the cell	X			
Cells: temperature		X		
Single-use blankets	X	X		X
Record and Custody Book: properly completed				X
Record Books: electronic register of detainees		X		
Officers in the cell area		X		X
Personnel: identification		X		X
Personal belongings of persons deprived of liberty: heat-sealable bags		X		X
Personal belongings of persons deprived of liberty: lockers				X
Personal searches and frisks: comprehensive	X			
Security: video surveillance - coverage	X	X		X
Security: video surveillance - storage of recordings	X			
Security: video surveillance - audio recording			X	

\* The X signifies shortcomings observed during the visits

**Table 19**  
Courts

	Melilla Courthouse
Access: direct transfer to cells	X
Cells: dimensions	X
Cells: risk to physical integrity - iron bars	X
Cells: overcrowding	X
Personnel: firearms inside the building	X
Personnel: identification	X
Security: video surveillance - coverage	X

\* The X signifies shortcomings observed during the visits

## I.2

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Medium-term deprivation of liberty  
§23 - §40

## I.2.1. Foreign National Detention Centres

23. During 2015 there were **2 follow-up visits** made to the Foreign National Detention Centre (Spanish acronym CIE) in Algeciras (Cádiz) and 2 follow-up visits were also made to the annex facility in Tarifa (Cádiz), of which one visit was multidisciplinary. This multidisciplinary visit to the facilities in Tarifa concludes this type of visit with regard to all CIE.

*4 CIE follow-up visits*

24. The facilities in Tarifa were established as an annex to the CIE in Algeciras in order to relieve pressure on its capacity. However, in practice they function completely independently, especially given that the Algeciras CIE is currently in partial operation, whilst **the facilities in Tarifa are more fully occupied and have better conditions**. As a result, the DGP has been notified that the legal authorisation to run a facility with these characteristics should be granted, which has been rejected.

*Tarifa as annex to Algeciras CIE*

25. Confidential **interviews** were conducted with various inmates during the visits. The visit to the Algeciras CIE focussed on the review of information on the international protection provided to the inmates, and on checking if the inmates were aware of this information. The Tarifa visit investigated the conduct of the custody officers, incidents within the CIE, personal searches, healthcare, external contact, material conditions, food, leisure and other matters. In general, the inmates - who in this case were in the peculiar situation of having arrived at the facility just after entering the country - expressed satisfaction with the treatment received and the conditions in the centre, except with regard to the cold and, in some cases, the food. One of them had submitted a complaint about the disappearance of the money they were carrying on their arrival. The director of the centre confirmed that this matter was under investigation.

*Interviews*

26. With regard to **improvements** made since previous visits and since the approval of the Regulation on the operation and internal governance of CIE, in Tarifa it was verified that the inmates are informed in writing of the possibility of requesting a writ of *habeas corpus*, that pamphlets and information about international protection is provided in various languages, that methods have been adopted for the security of the inmates (fire-fighting equipment, audio call systems), that benches have been installed in the

*Improvements since previous visits*

courtyards and that the inmates are guaranteed access to their personal belongings at any time.



Information posters about international protection in the Tarifa CIE (Cádiz)



Courtyard in the Tarifa CIE

*Social and cultural services  
§120 AR 2014*

27. Article 15 of the Regulation on the operation and internal governance of CIE plans for the provision of **social and cultural services**. During the visits it was verified that these services were not up and running in the Algeciras and Tarifa centres, although they collaborate with volunteers from the CARDIJN Association, a non-profit organisation. In the case of the Algeciras CIE, the absence of social workers is especially serious with regard to women, given they represent a significant percentage of potential victims of human trafficking, or due to their needs for international protection. The Administration has reported that social and cultural services are provided in CIE in Madrid and Barcelona through the Red Cross, with plans to expand service provision to the remaining CIE throughout 2016.



CARDIJN Association premises in the Tarifa CIE

**28.** With regard to the possibility of visits to centres by **organisations set up to defend immigrants or persons in need of international protection**, methods of facilitating said access had yet to be established in the facilities in Tarifa at the time of the visit, apart from access by the aforementioned CARDIJN Association.

*NGO access*

**29.** The **legal counsel services** - provided for in the aforementioned article 15 - need to be extended to the inmates of the Algeciras CIE and its annex in Tarifa, for the purposes of providing them with information about the possibility of requesting international protection and so that they may bring forward their personal cases. This observation has been accepted by the Administration, which is going to form a collaborative agreement with the Cádiz Bar Association.

*Legal counsel*

**30.** **Psychological and psychiatric care is still not being provided** in the CIE visited. The provision of these services is advisable from the NPM's point of view, given the sensitive circumstances of the people detained in these centres. However, the Administration considers it sufficient that the inmates requiring these services be referred to the psychiatric unit of the relevant medical centre.

*Psychological and psychiatric care  
§99 AR 2014*

**31.** In the Tarifa CIE **there is no permanent medical and Holder of a University Diploma in Nursing (Spanish acronym DUE) presence**, which would be necessary in order to guarantee the continuous provision of medical and nursing care and to enable initial medical examinations to be carried out as early as possible. The Administration considers the medical appointments themselves to be adequate and that, beyond said appointments, the inmate is transferred to the closest public health centre.

*Permanent presence  
of doctor and DUE  
§101 AR 2014*

**32.** With regard to the facilities in Tarifa, it was concluded that they should adopt measures which guarantee the inmates' **right to privacy** during medical appointments, such as closing the door during the appointment and not having a member of the National Police Force present except in cases where this is duly justified. The DGP has accepted the NPM criteria and has issued guidelines.

*Right to privacy during  
consultations  
§104 AR 2014*

*Guaranteeing communication*  
§105 AR 2014

33. Following the visits to Algeciras and Tarifa, the NPM has had to insist on the need to guarantee that **language** does not present an obstacle to fluent communication between the health services and those inmates requiring medical attention. The DGP has reported that it has a national interpretation service contracted through a private company.

*Suicide prevention*  
§106 AR 2014

34. The CIE medical services in Tarifa were not aware of Instruction 2/2014 of the General Headquarters for Immigration and Border Control on **suicide prevention**. As such, it has been reiterated to the DGP that this Instruction must be disseminated throughout all CIE.

*Injury reports*  
§71 AR 2014 and study of Injury reports on people deprived of their liberty

35. Following the visit to Tarifa, the NPM emphasised to the DGP the importance of adopting a **standard injury report form** in accordance with the Ombudsman's Recommendations in its study of *Injury reports on people deprived of their liberty*, and that all medical attention provided in this regard be communicated to the Magistrate's Court without going through Centre Management controls. The DGP has stated that the standard injury report form has been issued for that purpose to those responsible for healthcare.

*Medical records*  
§102 and 103 AR 2014

36. **Shortcomings were observed in the inmates' medical records.** These must be adapted as far as possible to the model specified in Act 41/2002 of November 14th, which regulates Patient Autonomy and Rights and Duties in relation to clinical information and documentation. It should be clearly identified when the initial medical examination is carried out, and details should be included about analyses aimed at detecting the consumption of toxic substances or the presence of infectious diseases as early as possible. An electronic standard medical history form should be introduced with appropriate guarantees around access and identification of persons making entries. The Administration has accepted these conclusions and has issued appropriate guidelines to ensure they are complied with.

*Video surveillance*  
§477 AR 2010  
§117 AR 2014

37. The **video surveillance** system in the Tarifa annex facility covers the hallways, TV room and the reception area of the entrance unit, but does not cover other communal spaces such as outdoor areas. It therefore does not meet the NPM criteria of covering all spaces within the centre with the exception of toilets and cells. In addition, the images captured by some of the cameras in the Tarifa facility are poor quality. The DGP has agreed to repair the video surveillance system.

*Sports and leisure equipment*  
§128 AR 2014

38. Both CIE had a **shortage of sports and leisure equipment**. This should be renewed periodically since it deteriorates rapidly due to heavy use. The DGP has acknowledged this shortcoming and has taken the necessary measures to replenish the equipment, taking budgetary considerations into account.

*External communication*  
§126 and 127 AR 2014

39. Regarding **external communication by inmates**, the Tarifa facilities still do not allow the use of mobile phones, contrary to NPM criteria. In the case of inmates lacking the economic resources to use the payphones in the centres, they are allowed to make one national phone call to inform their relatives or next of kin of their situation. However, international calls

are not permitted, meaning that some inmates cannot communicate with their relatives in their country of origin, which is especially important where their case results in them being deported.

40. The close proximity of the Tarifa facilities to the sea results in **dampness and cold temperatures** in winter. A Suggestion was put forward for the installation of a heating system. This has been accepted and is pending allocation of budget. It has also been pointed out that some walls are deteriorating due to damp, although the Administration has indicated that, following various architectural assessments, it is not viable to repair them. It would also be advisable to replace some of the furniture which is in poor condition. This Suggestion has been accepted.

#### *Installations in Tarifa*



Location of the Tarifa CIE on Isla de las Palomas

In the Algeciras CIE **the area** intended as a female recreation room was not fit for purpose. At the time of the visit it had only one chair and two floor mats for the 13 female inmates. Furthermore, the female courtyard did not meet the minimum requirements of such a space, even though this has been insisted upon by the NPM since 2012.

#### *Installations in Algeciras*



Courtyard allocated for female use in the Algeciras CIE (Cádiz)

## I.3

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Long-term deprivation of liberty  
§41 - §106

### I.3.1. Prison facilities

41. In 2015 there were **10 visits to 9 Prison Facilities (Spanish acronym CP)**, of which 6 were connected with a study being carried out by the NPM into mechanical restraints used in the following Prison Facilities: Sevilla II, Brians I and II (Barcelona), Madrid V-Soto del Real, Madrid VI-Aranjuez and Brieva (Ávila). The remaining visits were to the following CP: El Dueso (Cantabria), Pamplona (Navarre) and Las Palmas II. There was also a follow-up visit to the Madrid VI-Aranjuez CP which formed part of a fact-finding visit by the Philippine Commission on Human Rights, the only visit which was not unannounced since it involved the participation of a foreign delegation. External experts participated in all visits with the sole exception of the follow-up visit. In addition, two of the visits involved the participation of members of the Advisory Council (Madrid VI-Aranjuez and Las Palmas II), and in another two (Brians I and Pamplona) the visits involved regional commissioners (experts from, respectively, the Ombudsman offices in Catalonia and Navarre). Finally, it should be noted that following the meeting held with the president of the Subcommittee for Prison Law of the Spanish Bar Association, during visits to CP carried out during 2015 contact has been maintained with the persons in charge of the Prison Legal Advisory Services for the purposes of gathering information in that regard.

*10 visits to 9 CP*



Views from the El Dueso CP (Cantabria)

*Testimonies of ill treatment  
§150 and 151 AR 2014*

42. The main concern of the NPM in its visits to CP is the **testimony of inmates who state having suffered ill treatment**. When these types of complaints are received, approval is sought from the persons affected to initiate the corresponding investigation by the Security and Justice Department of the Ombudsman which, where appropriate, begins proceedings with the Administration in order to clarify the facts. This was the case with regard to the follow-up visit to the Madrid VI-Aranjuez CP, where an incident was brought to light which occurred that same morning. According to reports, an inmate had attempted to bite a member of staff and was mechanically restrained due to their state of agitation. The person involved was an inmate who was affected by a spinal injury and who had already been interviewed by the NPM during previous visit to this CP. That interview led to an ex officio file being opened due to the shortcomings observed in relation to the cleanliness of the cell in which the inmate was subjected to solitary confinement. Having been moved to the solitary confinement wing, the representatives of the Ombudsman conducted an interview with the inmate. According to the inmate's testimony, he was subjected to various assaults whilst already handcuffed and restrained, and during his transfer to the solitary confinement wing he had also been struck. Following the interview, the records of the monitoring of the mechanical restraining of the inmate were requested, as well as any recordings which existed of the restraining. The camera in the mechanical restraint cell was not equipped with a recording system, but it was possible to access images of the transfer of the inmate from his unit of origin to the solitary confinement wing. After the visit, the Security and Justice Department of this institution began proceedings with the Secretary-General of Prison Institutions (Spanish acronym SGIP) directed towards determining the origin, development and consequences of the facts, in particular with respect to the ill treatment that the detainee stated having undergone. The SGIP responded with a different version of events, communicating that the corresponding Prison Security Tribunal as well as the Magistrate's Court had become aware of these. The proceedings initiated by the Ombudsman are currently on hold, since Pre-trial Investigation Court No.2 in Aranjuez is hearing investigative proceedings into the facts, following the complaints lodged both by the inmate as well as by various workers who were injured as a result of the incident.

When inmates do not wish to report incidents, the NPM proceedings focus on urging the prison authorities to immediately initiate the necessary proceedings to clarify the facts, even when there is no formal complaint but where there are indications that an act of this nature may have been committed. This should be effected primarily by the establishment itself and later by the specialist units of the central prison services.

*Visits to Sevilla II and Brians I CP*

This was the case for the visits to the **Sevilla II and Brians I CP**, where a selection of inmates subjected to methods of restraint, and who alluded to having suffered ill treatment when said methods were used, were interviewed confidentially. During the examination of documentation in the Sevilla II CP, injury reports were also found which, in the section relating to inmates' allegations, affirmed that they had been assaulted by members of

staff. Despite this there were no proceedings by the prison institution to verify the truthfulness of these allegations. This was confirmed by the Management of the facility, which limits itself to sending the injury reports to the judicial authority. **A Suggestion was brought forward, and has been accepted, that the SGIP perform a thorough investigation** into the Sevilla II CP. In addition, another Suggestion was put forward that this facility puts together a comprehensive action plan for the purposes of reducing the number of incidents and the present level of conflict, and that staff are encouraged to take part in courses covering peaceful conflict resolution, crisis intervention, and verbal and non-verbal techniques for avoiding potential aggressive incidents without having to use methods of restraint.

**43.** Furthermore, in visits made during 2015 the NPM has continued to insist on the following which are **fundamental guarantees of inmates' rights**: the availability of a legal advisory service during their stay in prison; the extraction and storage of images captured by the video surveillance systems in the event of incidents; providing inmates with the evidence and requests for evidence in disciplinary reports; listening to inmates in an atmosphere which promotes trust; staff training on peaceful conflict resolution.

**44.** The SGIP has accepted the Recommendation to establish a book for registering complaints, reports or judicial proceedings in relation to inappropriate actions or ill treatment by prison staff, for the purposes of the follow-up and supervision of these by CP management, without prejudice to the forwarding of proceedings to Prison Inspection so that they may carry out their own specialised and effective investigation.

**45.** The NPM continues to insist during its visits on the importance of **video surveillance systems** in all communal areas and 'critical' zones, such as mechanical restraint cells, in order to prevent torture and ill treatment. In the El Dueso CP, it was verified during the review of reports that video surveillance recordings are played back during the processing of disciplinary reports, which is very positive.

*Fundamental guarantees  
§150-152 AR 2014*

*Record of complaints, reports  
and legal procedures in relation  
to ill treatment  
§153 AR 2014*

*Video surveillance  
§150, 162 and 216 AR 2014*



Images obtained by the video surveillance system in the Brian I CP (Barcelona)

*Protection of inmates who report ill treatment*

46. During interviews with some inmates during the visit to the Brieva CP, it was observed how complaints of ill treatment, abuse or inappropriate practices can lead to secondary victimisation. With regard to reports by inmates of sexual abuse by prison workers at the facility (which are currently before the courts), it was observed during the visit that, in spite of the support the inmates confirmed having received from the management team, the whistleblowing inmates had suffered consequences to the extent that they regretted having reported the incident in the first place. For that reason, it is deemed necessary to remind the Administration of the importance of **allocating maximum priority to the protection of inmates who report ill treatment, abuse or inappropriate practices**, and of adopting the necessary measures to avoid possible retaliation.

*Inquests into deaths  
§150 AR 2014*

47. In the visit to the Brians I CP, a Suggestion was put forward concluding that the **internal investigation procedure used in the event of the death of an inmate requires improvement**, since neither the facts prior to death nor previous psychological or psychiatric reports (*a psychological autopsy*) are gathered, and that questioning should take place in an environment which facilitates trust in this process. This mechanism would not substitute judicial enquiries but would complement them.

*Methods of restraint, rules and restrictions, and disciplinary regime  
§164, 185 and 187 AR 2014*

48. **The use of restraining methods, rules and restrictions and the disciplinary regime** continue to receive special attention during visits. Shortcomings have been detected in some cases, such as lack of communication to the SGIP of the use of temporary solitary confinement, the incorrect registering of the use of restraining methods, excessive duration of rules and restrictions or medical staff being unaware in advance of the use of solitary confinement (El Dueso, Pamplona and Las Palmas II CP). However, the main conclusions regarding the use of mechanical restraints will be compiled in a separate study into the use of mechanical restraints in Prison Facilities.

*Radiography and searches  
§191-196 AR 2014*

49. In the visit to the Las Palmas II CP the **high number of radiology examinations and searches performed on inmates**, with few positive results, stood out. The NPM's views on radiology examinations as a medical control measure, used when inmates are suspected of hiding narcotic substances inside their body, have been forwarded to the SGIP and explained in reports. The SGIP has passed this institution a copy of the study entitled *Use of radiology examinations for non-medical reasons in Prison Institutions* as well as an informed consent form, both prepared by the General Sub-directorate for Prison Healthcare Coordination, which compile the NPM criteria. **The preparation of a protocol for the use of radiology examinations** as a control measure, based on the aforementioned report, is pending.

*Self-harm  
§167 AR 2014*

50. **Self-harm** occasionally takes place as an expression of uncontrollable anguish that does not receive proper medical or psychiatric treatment (triggered by the admission of a relative to hospital, relationship breakdown, refusal of permission, etc.). In other cases, it is a way of expressing demands to the institution related to rights (healthcare, visits and contact with family, changes to the unit where they are being held or of cellmates,

or others). However, the management in charge of the Sevilla II CP had not prepared nor put in place any special programme nor specific measures to reduce the number of self-harm incidents, considering these to be ‘attention-seeking’ or ‘manipulative’ behaviours attributed to psychopathic, antisocial or manipulative tendencies, to which they apply restrictive measures. The NPM in contrast considers that, in the event of self-harm incidents carried out as a way of expressing demands to the prison administration, it is necessary to find ways in which these demands can be expressed through normal channels and can receive a reasonable or justified response. In addition, dedicated psychological programmes could be carried out specific to the management of anguish and impulsiveness and which encourage alternative behaviours, and at least one or two isolation rooms could be made available which are free from self-harm risks. As a result, a **Suggestion was made to the Sevilla II CP that it review the treatment of self-harm** such that the focus is more respectful of inmates’ rights.

**51. Some of the CP visited did not have permanently available healthcare**, thus not guaranteeing immediate healthcare provision in the event that this is necessary for medical reasons or during the use of restraining methods. Suggestions in that regard have therefore been made to the Brieva, El Dueso and Pamplona CP.

*Healthcare  
§201 AR 2014*



View from a cell of the courtyard from a unit in the Brieva CP (Ávila)

**52. The provision of psychological and psychiatric care** to a group with a high prevalence of these types of disorders remains a matter of concern for the NPM. In spite of this there have been no advances in this regard. The SGIP considers that the current level of psychologist provision in CP is sufficient, contrary to the NPM criteria of setting up a psychology clinic with an appropriate number of staff in order to provide this service without adversely affecting the remaining functions performed by these personnel.

*Psychological and psychiatric care  
§207 AR 2014*

The development of the *Framework plan for integrated care for persons with mental illness* (Spanish acronym PAIEM) should be highlighted, even though in some visits the NPM had to insist on the need to drive this programme forward and encourage the participation of the different professionals within the facility (Las Palmas II and Pamplona CP).

In the visit to the Brians I CP in Catalonia, a significant group of inmates with borderline personality disorders was identified. This group was not treated by the facility's mental health services, although there were plans under way for the creation of a unit for the treatment of inmates with *borderline personality disorder*, which would be very positive.

*Injury reports*  
§155 -157 AR 2014 and study  
of Injury reports on people  
deprived of their liberty (2014)

**53.** There are still **improvements needed to the completion of injury reports**, particularly the fact that the SGIP's standard injury report form does not meet the requirements highlighted in the study of *Injury reports on people deprived of their liberty* produced by this institution. However, the inclusion of photographs in some of the documentation sent to the courthouse by the Sevilla II CP can be highlighted as good practice.

*Personnel*  
§154 AR 2014

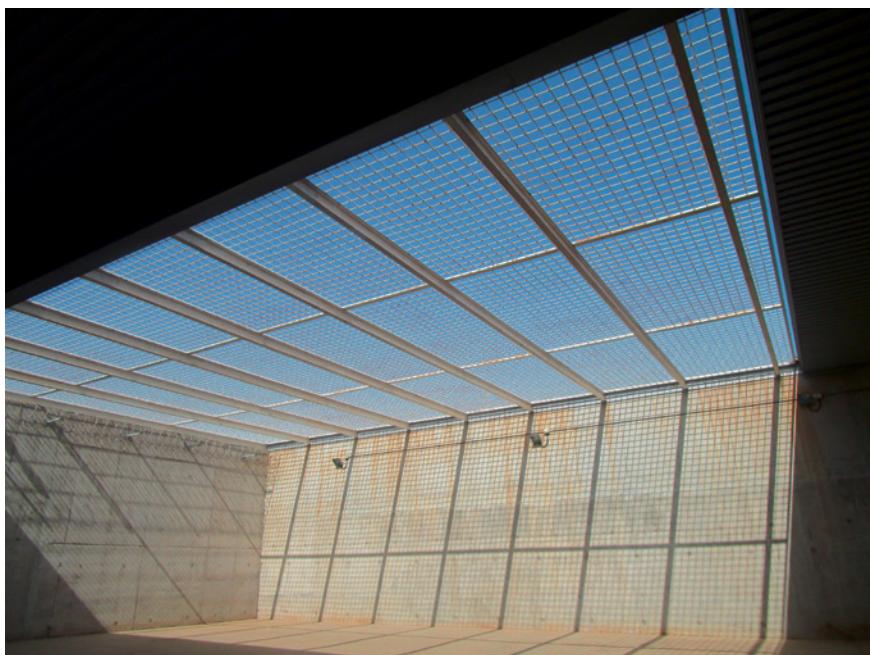
**54.** **There are still unfilled posts** in CP facilities due to budgetary restrictions. This could have significant consequences, such as greater difficulties in guaranteeing security (El Dueso CP), restrictions on day-to-day life in the units (Madrid VI-Aranjuez CP), workshops not in operation (Madrid VI-Aranjuez and Pamplona) or closed units (Pamplona), as well as placing greater strain on personnel due to workload and pressure, which affects the rights of inmates as well as of the staff who have to provide services in Prison Facilities.

*Employee identification*  
§158 AR 2014

**55.** **Some staff members did not carry their mandatory identification**, and the duty to have this visible must be insisted upon. However, in various Prison Facilities it was observed that staff are reluctant to carry their badge due to the possibility of losing it, since it includes their photograph along with the SGIP emblem. The NPM has therefore suggested the possibility of using a silkscreen printing process on uniforms, which avoids the possible harm caused by the loss of identification whilst staff are permanently identified by an employee number (Pamplona, Las Palmas II). The SGIP has responded that said possibility is under investigation and is dependent upon the procurement of new uniforms.

*Installations*  
§223 AR 2014

**56.** **Shortcomings in installations** have continued to be identified, such as lack of privacy in toilets (Madrid VI-Aranjuez, El Dueso), solitary confinement courtyards covered with wire mesh (Madrid VI-Aranjuez, Las Palmas II) and limited space in the women's unit in El Dueso.



Solitary confinement courtyard in the Las Palmas II CP

In contrast, the facilities in the recently built Pamplona CP, as well as in El Dueso, stand out positively. Their male units are excellent in terms of location and outdoor space, and despite the age of the installations they are very well looked after.



Courtyard in the El Dueso CP (Cantabria)

57. In the two visits to the Madrid VI-Aranjuez CP, special attention was given to the **family and mother and baby units**. Various aspects were observed which should be improved, such as the architectural adaptation of the unit to the needs of children, providing enough and appropriate staff, greater flexibility and the presence of a gynaecologist to attend to pregnant women and mothers, amongst other issues.

*Family and mother  
and baby units*



Mother and baby unit in the Madrid VI-Aranjuez CP

### I.3.2. Military prison facilities

58. After the visit made to the **Alcalá de Henares Military Prison Facility (Madrid)** in 2010, the NPM returned to this facility in 2015. **4 suggestions were put forward** as a result of said visit, which are highlighted below and **have been accepted**.

*Suggestions accepted  
by Military CP*



Entrance to the Alcalá de Henares (Madrid) Military Prison Facility

59. Royal Decree 1396/1992 of November 20th, which approves the **Regulation governing Military Prison Facilities, has not been the object of the developments** planned by the Ministry of Defence. The lack of specific and updated regulatory development compels the application of regulation produced by the Secretary-General of Prison Institutions which, although supplementary, is not fully adapted to the characteristics of a military prison establishment. The Undersecretary of Defence accepted the Suggestion and reported that a new suite of regulation for military Prison Facilities is under development.

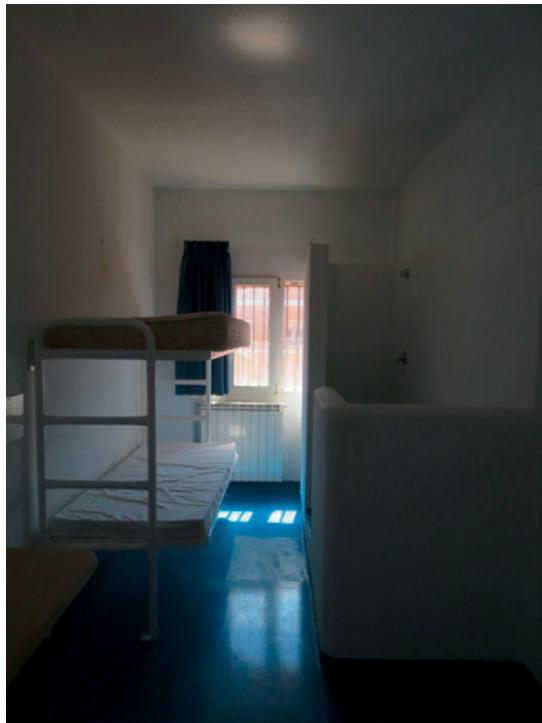
*Regulation governing Military  
Prison Establishments  
§366 AR 2010*

60. Although during this visit it was verified that some improvements to **installations** had been made, **the programme of improvements** planned by the Ministry of Defence for the facility **had not been fully taken forward**, despite the expected timeframe having passed. A Suggestion was therefore put forward. The Undersecretary of Defence reported that the Annual Infrastructure Programme anticipated the necessary and priority repairs.

*Installations  
§368 AR 2010*

61. Although one of the **cells had been adapted to the suicide prevention protocol**, there were objects in the cell which could be used by someone who had decided to end their life by securing a rope or other object which enabled suspension of the body and hanging. The Suggestion to rectify these shortcomings has been accepted, which in this case means that the inmates are accompanied by specially trained support inmates.

*Suicide prevention protocol  
§82 and 208 AR 2014*



Cell adapted to the Suicide Prevention Programme (Spanish acronym PPS)

*Complaints record book  
§153 AR 2014*

**62.** A Suggestion was also put forward that the facility establish a **record book for complaints** made by inmates. The Suggestion has been accepted, such that requests and complaints made by inmates are recorded and the responses made are notified in writing to the relevant parties, setting out the appeals made, the timeframe for filing them and the bodies they must be presented to.

*Good practice  
§63 and 212 AR 2014*

**63.** Examples of **good practice** are, among others, the repair of some of the video cameras such that all of them can now record images, the state of the facilities and good provision of leisure material both for the inmates as well as for minors who may be living with their mothers in the Centre.

### I.3.3. Young Offender Institutions

**64. Visits were made to 7 Young Offender Institutions (Spanish acronym CMI) in 2015:** Bahía de Cádiz (Cádiz), Es Pinaret (Mallorca), Las Moreras (Murcia), Marcelo Nessi (Badajoz), Sograndio (Asturias), Teresa de Calcuta (Madrid) and Virgen de Valvanera (La Rioja). 4 of these visits were follow-ups to visits made in previous years: Es Pinaret, Marcelo Nessi, Sograndio and Teresa de Calcuta. All were multidisciplinary visits, except those to Bahía de Cádiz and Sograndio. The visit to the Es Pinaret CMI was attended by members of the Advisory Council, and the visit to the Teresa de Calcuta CMI was conducted as part of a study visit by the Philippine Commission on Human Rights, and was the only visit which was not unannounced due to the involvement of a foreign delegation.

*Visits to 7 CMI in 2015*

**65. The ownership and management of the facilities visited was as follows:**

*Different ownership and management of the facilities*

**Table 20**  
**Visits to CMI**

	OWNERSHIP	MANAGEMENT
Bahía de Cádiz CMI	Association for the care of people with special social and educational needs (AFANAS El Puerto y Bahía)	AFANAS El Puerto y Bahía, in accordance with a contract with the Justice and Interior Department of the Government of Andalusia
Es Pinaret CMI	Public (Family and Social Services Department of the Government of the Balearic Islands)	S'Estel Social and Educational Institute
Las Moreras CMI	Public (Family and Equality of Opportunities Department of the Murcia Region)	Diagrama Foundation
Marcelo Nessi CMI	Public (Health and Social Policy Department of the Government of Extremadura)	Public (Health and Social Policy Department of the Government of Extremadura)
Sograndio CMI	Public (Ministry of the Presidency of the Principality of Asturias)	Public (Ministry of the Presidency of the Principality of Asturias)
Teresa de Calcuta (CMI)	Partnership Agreement made in 2005 between the Government Agency of the Autonomous Community of Madrid for the Rehabilitation and Re-integration of Young Offenders and the Association for the Management of Social Integration (GINSO)	GINSO Association
Virgen de Valvanera CMI	Public (Department of Social, Family, Equality and Justice Policy of the Government of La Rioja)	Diagrama Foundation / Psychosocial Intervention

**66. During visits to the facilities in Andalusia (Bahía de Cádiz CMI), the Balearic Islands (Es Pinaret CMI) and La Rioja (Virgen de Valvanera CMI), it was verified in said autonomous communities that the **existing CMI capacity is insufficient**, meaning that some minors have to be detained in facilities far from their family's place of residence. Overcrowding was observed in the Es Pinaret CMI, with 63 minors held there on the day of the**

*Insufficient capacity  
§243 AR 2014*

visit despite the facility having a capacity of 46. The competent Departments in Andalusia and the Balearic Islands have reported an increase in the capacity of the respective centres.



Visit to the Bahía de Cádiz CMI (Cádiz)

*Majority of minors satisfied with the treatment received*

*Complaints and requests  
§244 AR 2014*

*Information provided on entry and habeas corpus  
§245 and 246 AR 2014*

*Legal counsel  
§247 AR 2014*

*Records of disciplinary reports and restraint measures  
§250 and 254 AR 2014*

67. Of the interviews conducted with individual inmates it was concluded, in general, that **the majority of them felt properly treated** and supported by their educators, especially with respect to the assessment of minors in the Es Pinaret, Las Moreras and Virgen de Valvanera CMI.

68. Some of the centres visited did not have an electronic register of **complaints and requests**, or did not provide minors in the facility with a copy of the complaint or request (Bahía de Cádiz, Marcelo Nessi, Sograndio and Virgen de Valvanera CMI).

69. The **information** provided to minors upon their entry to the facilities must be improved (Marcelo Nessi and Sograndio CMI), including the possibility of filing for **habeas corpus** (Bahía de Cádiz, Es Pinaret and Marcelo Ness CMI). In contrast, the information provided in both respects in the Valvanera CMI should be highlighted. In the majority of cases, the conclusions brought forward have been accepted and the necessary measures implemented.

70. **Court-appointed lawyers still do not visit minors** during the length of their detainment, which should be rectified (Bahía de Cádiz, Es Pinaret, Las Moreras and Sograndio CMI). The competent administrations have referred this matter to the corresponding bar associations.

71. In general, the facilities have **electronic records of reports of discipline and restraint measures** containing all the relevant information. This facilitates the supervision and statistical observation required to study the use of these measures.

72. The **implementation of the disciplinary regime** is examined during visits. As a result, various suggestions were put forward to the competent administrations (these had still not been responded to at the date of finalising this report), such that the successive use of more than one group-separation measure should not exceed the maximum period of 7 days and, where exceeded, that the inmate should be able to leave the room for a minimum period of 12 hours. In addition, inmates who have been separated from the group should have access to two hours of outdoor time to be arranged flexibly (Marcelo Nessi and Sograndio CMI). The Suggestions have been accepted.

*Implementation of  
disciplinary regime  
§249, 252 and 253 AR 2014*

In the Las Moreras CMI it was observed that the results of disciplinary proceedings due to serious or very serious incidents, through which the group-separation measure is imposed, are **not communicated to the lawyers** acting on behalf of detained minors. The conclusion has been accepted and measures taken as a result.



Library in the Las Moreras CMI (Murcia)

73. Various **shortcomings** have been picked up **in the use of restraint measures**. In the Las Moreras CMI the temporary isolation of a minor is not considered a restraint method. A Suggestion was therefore put forward which has been accepted. In the Virgen de Valvanera CMI temporary isolation is not recorded as such, justified by the decision to initiate the disciplinary report in which provisional separation is agreed *a posteriori*. This way of proceeding means that the use of temporary isolation as a restraint measure does not require authorisation by the director or immediate communication in the case of emergency, nor communication to the juvenile court judge of the adoption and termination of the measure, nor of the motives and reasons for keeping a minor in isolation. In the Sograndio CMI, restraint measures are carried out by security personnel in the absence of an educator. The competent administrations have accepted the NPM criteria.

*Shortcomings in the use of  
restraint measures  
§153 AR 2012  
§254 AR 2014*

*Unnecessary use of restraint measures in the Marcelo Nessi CMI §252 and 262 AR 2014*

74. Significant shortcomings were observed in particular during the visit to the Marcelo Nessi CMI. Whilst playing back footage of the use of restraining measures (physical and mechanical restraint, use of rubber baton and provisional isolation) on two inmates, **unnecessary use of the baton** was observed. This was brought to the attention of the Public Prosecutor, and a Suggestion was brought forward to the Department of Health and Social Policy of the Government of Extremadura that they communicate the necessary instructions to security personnel to ensure that the use of force in conflict management is rational and proportionate, avoiding use of the baton except in exceptional cases of extreme aggression. The Suggestion has been accepted.

Furthermore, following this visit it was necessary to remind the facility that all methods of restraint used on inmates must be communicated to the juvenile court judge and public prosecutor, and that whilst a group separation measure is in force, or in the case of temporary isolation of more than one day, minors must have access to a minimum of two hours of outdoor time, with any refusal of this access documented with the signature of the inmate.

*Security guards*

75. In the Marcelo Nessi CMI, the NPM observed that the **security guards** had a certain power and authority over the staff. As a result, the Administration was reminded that the Regulation of Organic Law 5/2000 on the Criminal Liability of Minors, approved by Royal Decree 1774/2004 of July 30th, establishes that surveillance and security within the facilities is the responsibility of the staff members, without prejudice to the fact that the corresponding public entity may require the services of specialist personnel with regard to security and support for the actions of said staff members.

In contrast, the assessment of minors by the security personnel at the Las Moreras CMI stood out positively. In addition, it was observed that they do not wear security uniforms (favouring a more educational and less aggressive environment), that they facilitated the tasks carried out by educators and that they minimised the need for high impact interventions.



Soldering workshop and kitchen in the Virgen de Valvanera CMI (La Rioja)

**76.** The **searching and frisking** of minors are also relevant matters during visits. Robes must be used, and searches must be considered as full body searches when the minors have to remove all their clothes (Bahía de Cádiz, Es Pinaret and Marcelo Nessi CMI). Searches should be performed by personnel of the same sex as the minor (Marcelo Nessi CMI) and they should not be carried out routinely on all inmates upon their return from temporary release or a visit. Rather, each case should be assessed on its own merits and the basis for searches must be recorded in writing, with their application and results communicated to the judge and public prosecutor (Marcelo Nessi and Teresa de Calcuta CMI). In the Bahía de Cádiz CMI 5 minors stated that, upon their admittance to the centre and on return from temporary leave, strip-searches were carried out and they were made to do 'squats'. Although no documentation could be found regarding prior authorisation by the Management for their use, nor around the communication of their use to the Court and the Public Prosecutor, nor to the General Directorate of Juvenile Justice and Cooperation, the overlap in the version of the minors would suggest that full body searches were carried out without prior authorisation and without their use being documented. This should be rectified. The Justice and Interior Department of the Government of Andalusia has accepted the Suggestion and, as a result, has organised instructive meetings in the facility in order to remind personnel of how to proceed with strip-searches in accordance with the criteria of this institution.

*Searches and frisks*  
§256 and 257 AR 2014

**77.** The **healthcare** provided to minors is, in general, appropriate. However, in the Virgen de Valvanera CMI it was observed that the doctor for the facility does not attend with the frequency stipulated and that requests for medical attention are not recorded, including the case of a minor who had requested a medical examination 15 days prior, and 2 days prior had reiterated their condition having worsened. On the date of the visit they had not been examined. The Department of Social, Family, Equality and Justice Policy of the Government of La Rioja has reported having boosted the healthcare provided in the facility. In the Es Pinaret CMI the need to contract at least one nursing professional should be assessed. This has been accepted by the competent administration.

*Healthcare*  
§268 AR 2014

**78.** Act 41/2002, of November 14th, regulating patient autonomy and rights and obligations in relation to clinical information and documentation, considers the freedom of all sick persons to choose whether or not to take medication, and establishes consent by representation when a patient younger than 16 years and not emancipated '*is neither intellectually nor emotionally capable of understanding the scope of the intervention*'. To that effect, forms should be introduced (in those facilities where they do not already exist) in which the minor may sign a **renunciation of taking medication** under their own authority, a Suggestion which has been accepted by the Government of the Balearic Islands.

*Declining to take medication*



Bedroom in the Teresa de Calcuta CMI (Madrid)

*Injury reports*

§271 AR 2014 and study of

Injury reports on people

deprived of their liberty (2014)

*Psychological and*

*psychiatric care*

§268 AR 2014

*Therapeutic detention*

§269 AR 2014

*Personnel*

§272 and 273 AR 2014

**79.** Neither the existing **injury report** forms in the majority of facilities visited nor their referral to the judicial authority meet the Recommendations of the Ombudsman. The administrations concerned have accepted the criteria of this institution and adopted the relevant measures. The Sograndio CMI stands out as an exemplar of good practice in this regard.

**80.** In both the Pinaret and Las Moreras CMI it was concluded that the level of **psychological and psychiatric intervention** should be boosted. In some of the interviews with minors in the latter facility they recalled having traumatic backgrounds, a fact which did not seem to be being addressed through psychotherapy beyond behavioural management. This must be rectified. The criteria of this institution have been accepted in both cases.

**81.** The Bahía de Cádiz, Es Pinaret and Las Moreras CMI lacked a **specific programme for minors under therapeutic detention**. Such a programme would enable greater detection of and better specialist care for psychopathological disorders in a more regulated way, along with development of individual and group psychotherapies. The competent departments have accepted this conclusion. The implementation of the therapeutic model used in the Marcelo Nesi CMI should be highlighted.

**82.** **The lack of, or changes to, personnel** have a direct impact on the care given to minors. In the visit to the Es Pinaret CMI it was observed that there were no educators in some of the residences, and minors were found alone in their room with the door shut. The Department of Family and Social Services of the Government of the Balearic Islands has reported a planned increase in staff which enables an appropriate ratio of service users to employees. In the Sograndio CMI, changes in staff allocations as well as sick leave gave rise to repeated changes to mentors, with one minor having up to 5 mentors. In the Virgen de Valvanera CMI there is no mentor figure and each educator rotates around the residences. This

means that the minors in the facility do not have a contact person day-to-day, neither is there tutoring nor regulated spaces where educators can make personalised interventions. The competent administrations in Asturias and La Rioja have accepted the conclusions put forward.

83. The Virgen de Valvanera CMI does not guarantee the right to receive compulsory education. Rather, **educational provision** to minors is maintained by the good faith and efforts of the educators, some of whom are qualified teachers, since there are no teachers from the education service allocated to the facility nor who travel there to provide compulsory education to detained minors. The Department of Social, Family, Equality and Justice Policy of the Government of La Rioja has argued that the ratio of minors necessary for a teacher to attend the facility has not been reached.

*Education*  
§275 AR 2014

84. Suggestions were put forward, and have been accepted, after confirming that **transfers of minors outside of the centre** are not always carried out by plainclothes law enforcement organisations and in vehicles without official markings (Las Moreras, Marcelo Nessi and Sograndio).

*Civilian transfers*  
§261 AR 2014

85. An intervention protocol in relation to distressed young detainees should be developed which establishes how to carry out **transfers of distressed and/or anxious inmates** (Es Pinaret CMI). The Family and Social Services Department of the Government of the Balearic Islands has accepted the conclusion, establishing protocols to that effect.

*Transfer of distressed inmates*

86. The **video surveillance systems** in some centres do not meet the NPM criteria that they should cover all communal spaces as well as rooms used for solitary confinement or isolation from the group (Las Moreras and Virgen de Valvanera). The conclusion has been accepted in both cases, with the installation of video surveillance systems pending. During the follow-up visit to the Sograndio CMI, however, it was verified that cameras had been installed within the rooms used for group separation. This enables the control and permanent monitoring of the wellbeing of inmates during temporary solitary confinement and group separation, and the constant watching over of their security, as well as being able to later monitor how these situations progressed and over what period of time.

*Video surveillance system*  
§477 AR 2010  
§258 AR 2014

87. Finally, some **installations** in the facilities visited should be improved, particularly with regard to matters of security. These include intercoms or light/audio call systems within rooms, and the mechanical opening of doors. These conclusions have generally been accepted. In the Es Pinaret CMI some repairs must be carried out and the solitary confinement unit should be completely overhauled (the rooms lack ventilation, there is neither recreation room nor office where security guards or educators can base themselves, and the rooms do not have buzzers). The Administration on the Balearic Islands has accepted the conclusions brought forward, with the necessary refurbishment works being planned.

*Installations*  
§283 AR 2014



Bedroom and bathroom in the solitary confinement wing of the Es Pinaret CMI (Balearic Islands)

### I.3.4. Residential facilities which provide health, social or rehabilitation services

88. The public or private residential facilities which provide health, social or rehabilitation services are also a focus of attention for the NPM. These facilities provide services to groups (the elderly, chronically ill people and people with physical, mental, sensory or learning disabilities) amongst which there may be persons committed to the facility against their will.

89. Organic Law 8/2015 of July 22nd, on modification of the infancy and adolescence protection framework, amended the first Additional Provision of the Civil Procedure Act for the purposes of bringing article 763, which regulates involuntary committal on the grounds of mental disorder, under organic law, after part of said article was declared unconstitutional by Constitutional Court Ruling 132/2010 of December 2nd for not meeting the characteristics of organic law.

Despite this reform, **there is still no comprehensive regulation** which provides a sufficient guarantee of the fundamental rights of people detained in mental health facilities, whether within health or social care facilities, and which regulates the temporary restrictions used to protect their life, their health or their physical integrity. For that reason, during 2015 the NPM continued to urge the Executive to push forward legislative reform which regulates detentions carried out under the Civil Procedure Act (LEC) and which adapts regulation to the UN Convention on the Rights of Persons with Disabilities of December 13th 2006. The NPM also reminded the Executive of the Observations of the UN Committee on the Rights of Persons with Disabilities in its initial report from Spain (CRPD/C/ESP/1). The above would avoid the current situation whereby the administrations, as well as judges and public prosecutors, apply different criteria to involuntary committal.

Although the Administration has accepted this Recommendation and intends to examine said regulation, it has pointed out that, currently (the time of finalising this report), this is not possible, given that it has less involvement in the management of the ordinary course of business of public affairs.

90. Until such time as the required regulation is produced, the NPM criteria with respect to **older people** admitted to residential facilities continues to be the set of safeguards, and is the procedure currently compiled in article 763 of the Civil Procedure Act on committal on the grounds of mental disorder, which extends to adults when they are unable to give their consent freely.

91. In 2015 the NPM made two multidisciplinary visits to residential facilities which provide health, social or rehabilitation services: the Pumarín Mixed Residence (Gijón) and the San Juan de Dios Centre in Ciempozuelos (Madrid).

*Art. 763 LEC  
§312 and ss AR 2014*

*No regulation exists  
§312 AR 2014*

*Adult criteria  
§313 AR 2014*

*Visits in 2015*

*Pumarín Mixed Residence  
(Gijón)*

The **Pumarín Mixed Residence** is a gerontology centre under public ownership with capacity for 587 people. It operates under the authority of the Principality of Asturias and is managed by the Autonomous Body for Residential Establishments in Asturias (ERA). It offers comprehensive care to older people, whether they are there on a permanent residential basis, temporarily or using it as a day centre.



Pumarín Mixed Residence building (Gijón)

*San Juan de Dios Centre,  
Ciempozuelos (Madrid)*

The **San Juan de Dios Centre in Ciempozuelos (Madrid)** is a care and social health centre for patients with mental health problems, with a total of 1,167 beds spread across 15 care units which make up four distinct departments: mental health (short, medium and long stay), mental disabilities, elderly mental health and somatic care. The centre had been visited the previous year, meaning that this visit concentrated mainly on two units which had not been thoroughly investigated during the first. Specifically, Unit 5B (people with disabilities and behavioural disorders, known as 'dual limitation') and the URECO (Behavioural Rehabilitation Unit). The decision to admit a patient to the URECO, where the maximum length of stay is 12 months, is taken by a committee of professionals from the centre itself, whilst admission to Unit 5B, where there is no established maximum length of stay, is determined by the diagnosis and the branch of the Department of Social Affairs in Madrid, which funds these places.

*Dignified treatment  
§328 AR 2014*

92. Save for some exceptions which will be outlined further on, the facilities visited **generally meet the accepted national and international standards** for the application of the regulations relevant to these types of establishments. There were no significant shortcomings detected to suggest that the conditions exist for the inhumane or degrading treatment of the persons detained in the facilities visited. However, the NPM warned of various shortcomings which would need to be rectified in accordance with the criteria of this institution, which are as follows:

93. In the review of cases of **residents committed under judicial authority** carried out in the Pumarín Mixed Residence, the cases of two residents were examined in which, following their admission on the basis of previous precautionary measures, there was no record in the documentation examined of new judicial instructions ordering the respective detainments, nor the subsequent supervision of these, according to the provisions of article 763.4 of the Civil Procedure Act. In addition, some relevant documents were missing from some reports, such as judicial authorisation for the detainment. As a result, this situation was referred to the Public Prosecutor which, after carrying out the relevant investigations, confirmed the legality of said detainments, even though the facility did not hold the documentation.

In the San Juan de Dios Centre it was confirmed that the majority of residents had been admitted based on judicial authorisation, and that **mandatory reports** were regularly sent to the competent judges highlighting the need, where appropriate, to continue the detainment.

94. The majority of residents interviewed in this centre were incapacitated, making the **guardian** (usually a family member) a **key figure** who must watch over the safeguarding of their rights. The testimonies of residents revealed that it was difficult for this role to be exercised actively on some occasions (due to the geographical distance between the guardian (whether institutional or family) and the dependant). Because of this, the residents stated feeling defenceless and complained that it was not possible to change their guardian. It would therefore be advisable to **regularly review the allocation of guardians** and to assess whether the guardians are effectively carrying out their duties, and whether family members cannot or do not wish to carry out this function. Other systems of guardianship could be examined and, where appropriate, the possibility of requesting a change of guardian could be facilitated for those patients who wish it (which would be assessed case by case) or a possible 'ex officio' review.

Effective intervention by the **Madrid Agency of Adult Guardianship** in relation to the residents under its guardianship is fundamental in guaranteeing their rights as well as in evaluating if there have been advances in the rehabilitation processes.

95. The **use of restraints in these facilities** was examined during the visits. In the Pumarín Mixed Residence the percentage of people with some type of restraint is high in relation to the profile of the residents. It was therefore suggested to the facility that they launch initiatives aimed at reducing the use of restraints. This Suggestion has been rejected by the Administration. Although the use of restraints is recorded in other documents (medical instructions, treatment forms or nursing instructions), there is no specific register of nursing and auxiliary actions with respect to these restraining measures. It should also be added that although there are protocols for mechanical restraint in the event of distress, the personnel interviewed were unaware of their content, nor did they know where to find these protocols. This was also the case with the suicide protocol.

*Inmates under judicial power*  
§315 AR 2014

*Regular reports*  
§322 AR 2014

*Guardianship of residents*

*Mechanical restraints*  
§338, 340, 341, 342 AR 2014

In the San Juan de Dios Centre there is a **mechanical restraint protocol** which recommends the use of alternative immobilisation measures (verbal control, medication, solitary confinement, etc.). However, despite the existence of a policy of dignified and respectful treatment which attempts to minimise the use of mechanical restraints, it was deduced from the interviews conducted with the residents that all of them had been restrained on at least one occasion. Some stated having suffered what they consider to be abusive practices: '*Being tied to a chair in a hallway*'; '*I was tied on top of the bed for two days*'; '*Sometimes they restrain you because you fight with someone, they tie you up and lock the door and you spend 3 or 4 days sleeping*'.

In the case of the Ciempozuelos facility, the NPM also highlighted that although the procedure for mechanical restraint must always be managed and, where possible, applied by medical personnel, the occasional assistance of auxiliary security personnel where there is a need for applying restraints should be assessed.



Mechanical restraints in the San Juan de Dios Centre in Ciempozuelos (Madrid)

#### *Locking of rooms*

96. In the Pumarín Mixed Residence it was established that **bedrooms** are often **locked as a preventive measure** to avoid escapes or, in some cases, violent outbreaks by some residents. This could be dangerous given that there is no video surveillance in the bedrooms, meaning that a person in care could find themselves in an emergency situation which goes undetected. Neither is there a solitary confinement room, despite the personnel interviewed confirming that, on occasion, it was decided to lock very distressed residents in their bedrooms, which are not adapted for such situations.

#### *Support systems §339 AR 2014*

97. From the interviews conducted with the residents of Ciempozuelos it was established that they usually view admission to the **solitary confinement area** of Unit 10A (the 'observation area', also known as the 'fish bowl' by the patients) as a punishment, without distinguishing between whether it was ordered for therapeutic reasons or due to a breach of the rules. An assessment should be made of mechanisms for engaging and providing

information to patients for the purposes of restating the therapeutic, rather than punitive, character of all restrictive measures (participation in activities, clothing, smoking bans, etc.) and, in particular, the use of the solitary confinement area.

98. In the analysis of the documentation in this facility and in relation to the patient reports which were looked at, and especially in the URECO, it was observed that they lacked a **Personal Care Plan** or, in the few which had one, the plan only dealt with the initial evaluation and had not been reviewed in years. This implies that the ability of the patients to be reintegrated into the community is not reassessed. This is the main complaint by patients, who feel that they will remain in the facility for life. To that effect, it was suggested that a proper and effective re-evaluation of patients is carried out regularly, and that each patient has a personal rehabilitation plan. It would be beneficial to include those patients, as far as possible, in decision making and planning with respect to their treatment, both in terms of medication and rehabilitation as well as measures for improving their physical health.

99. In the Pumarín Mixed Residence it was observed that the **care profile** takes precedence **over the rehabilitation profile** amongst staff, with a greater number of staff with care functions (auxiliaries) than experts capable of designing **personal care plans**. It was therefore recommended that the presence of expert professionals (psychologists, occupational therapists or coaches) is strengthened for the purposes of designing said personal care plans and carrying out a greater number of activities. It was also pointed out that it would be advisable for the facility to be attended by a psychiatrist, or that coordination is improved with the mental health units concerned, in order to rectify the inconsistencies observed in the monitoring of patients' psychiatric illnesses.

100. It was also noted that this centre is not adapted to provide proper care to the **new profiles of residents** being admitted (people under 65 years old, some with personality disorders associated with alcohol consumption and estranged from their families). It was therefore suggested, among other things, that professionals with training in the management of both this profile of residents and of communal living be integrated.

101. The Ciempozuelos facility had **patients who had come from the Prison Psychiatric Hospitals in Fontcalent (Alicante) and Seville**, which meets the criteria followed by this institution to refer people with mental illness to psychiatric facilities under the authority of the health networks in their community of origin.

102. In this centre, the examination of medical records and the interviews with residents conducted by external experts revealed that most patients received excessive medication. The NPM pointed out that it would be advisable to conduct a study into the possible reduction of **psychotropic drug prescriptions**, in accordance with the principle of strict modification of their use for the therapeutic needs of patients, which would have a positive effect on the reduction of secondary effects (endocrine disorders, cog-

*Personalised care plan*

*§332 AR 2014*

*Personal profile*

*§330, 332, 337 AR 2014*

*Profiles of new residents*

*§331 AR 2014*

*Transfers to facilities within the same community*

*§227 AR 2014*

*Medication*

*§337 AR 2014*

nitive deterioration, weight gain, etc.). Although in the Pumarín Mixed Residence a careful use of general medication was confirmed, a **high use of anti-depressive** and anxiolytic medication was observed in almost all of the medical records looked at.

*Care*

103. It was also proposed that the residence give greater attention to the **care of residents**, particularly around maintaining the mobility or intellectual capacity of persons in care, boosting their access to the garden when possible and preventing them from remaining constantly in their bedrooms.

*Community reintegration  
§336 AR 2014*

104. In the San Juan de Dios Centre, given that in Unit 5B (dual limitation) there is no maximum length of stay, it would be advisable to regularly review long-term admissions, seeking systems for partial admissions, testing and others, which enable an assessment to be made of the possible **community reintegration** of the patient when this becomes clinically acceptable, in accordance with the Principles of the United Nations for the protection of persons with mental illness and the improvement of mental health care of December 19th 1991.

*More normalised communal living between both sexes*

105. According to the opinion of the external experts, it may be beneficial for patients in this centre to maintain **more normalised communal living between both sexes** (with possible risk situations being avoided). This would result in better emotional development, in accordance with the aforementioned UN Principles for the protection of persons with mental illness and the improvement of mental health care of December 19th 1991 (Principle 13).

*Installations*

106. In the San Juan de Dios Centre in Ciempozuelos, the installations are generally suitable and in good condition.



Bedroom and dining room (next page) in the San Juan de Dios Centre in Ciempozuelos (Madrid)



The **construction of the Pumarín Residence building** does not meet with current security standards since, for example, the handrails in the inner courtyards lack any type of protection to prevent falls, and the stops on the windows can be removed easily. Attempts have been made to rectify some of these faults by installing moveable gates at stairway access points, among other things. However, these do not appear to be effective.



Moveable gates and handrails without protection in the Pumarín Residence (Gijón)

## I.4

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### Special purpose methods of deprivation of liberty §107 - §141

## I.4.1. Foreign national deportation operations

107. In 2015, 4 deportation operations financed by FRONTEX were supervised. In three cases, the operations were organised by Spain through the Central Unit for Deportation and Repatriation (Spanish acronym UCER) of the General Headquarters for Immigration and Border Control (Spanish acronym CGEF), bound for the following places: Bogotá (Colombia) and Santo Domingo (Dominican Republic) on January 28th; Islamabad (Pakistan) on April 15th; and Tirana (Albania) and Tbilisi (Georgia) on April 24th. The fourth operation, bound for Lagos (Nigeria) on July 23rd, was organised by Holland and involved the participation of Spain. In three operations the supervision included the flights up until arriving at the destination, whilst in the operation bound for Pakistan the visit concentrated on the reception of the foreign citizens, transfer to the aircraft and boarding.

*4 supervised deportation operations*



NPM supervision of a deportation operation

*Investigation by the European Ombudsman*

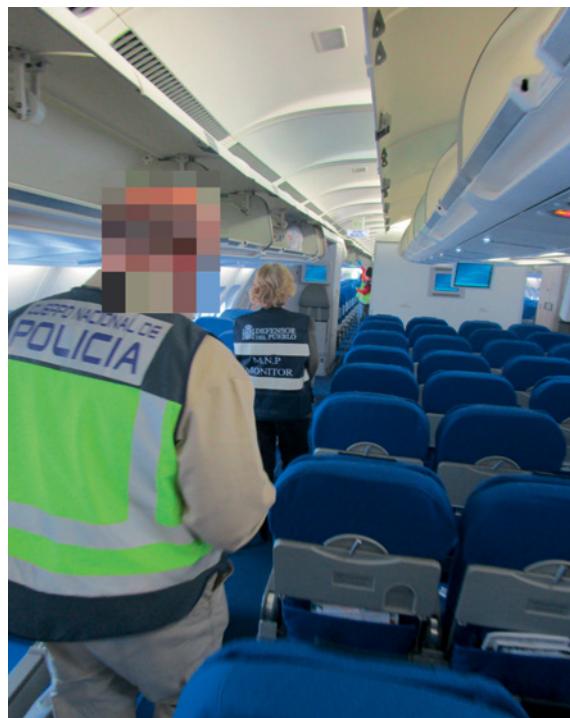
*FRONTEX Code of Conduct*

*Interviews*

**108.** In February 2015 this institution issued a memo to the **European Ombudsman** which reported the conclusions of the inspections within the scope of the work that the Ombudsman carries out with FRONTEX, in relation to improving the procedures and safeguards around persons who are deported and in order to guarantee that human rights are not violated during forced deportations (European Ombudsman Investigation No. OI/9/2014/MHZ).

**109.** The **FRONTEX Code of Conduct** constitutes a minimum set of standards, those being the FRONTEX standards for the protection of the fundamental rights of persons who are deported. These standards are inferior in some respects to those maintained by this institution and those of the CPT, which makes specific reference to this matter in its 13th General Report [CPT/Inf (2003) 35].

**110.** During visits, **confidential interviews** are conducted with some of the people who are going to be deported. During these interviews, the interviewees are asked if they have been able to notify their families of the deportation, and about the treatment received by the custody officers, the transfer from the different points of origin (CIE, Prison Facilities, police facilities), their state of health, etc. They are also informed of the possibility of accessing this institution, as well as consular offices, once in their own country, and that should they wish to lodge a complaint they can do so through the Ombudsman's website.



NPM supervision of a deportation operation

*Notification of the deportation  
§115 AR 2014*

**111.** The majority of foreign nationals complained about **having been given little warning** of the decision to deport them and having had problems communicating it to their family in their country of origin or collecting their belongings. The NPM has urged that inmates must receive sufficient advance warning of when the deportation is going to take place.

112. No violent situations were observed during the operations which were supervised. However, during the course of one of the operations, a foreign national stated having suffered **ill treatment** at the moment in which they were going to be driven from the Madrid CIE to the CNP vehicle which transferred them to the airport. This complaint was reported to the Department of Migrations and Equality of Treatment of this institution, which initiated an ex officio proceeding with the DGP. Said proceeding is accounted for in the section of this report entitled *Processing by the Ombudsman of complaints of ill treatment*.

*Testimony of ill treatment*

113. The **Recommendation** put forward by this institution to carry out a **medical examination (fit to travel)** in all cases prior to boarding, in order to confirm that the foreign national is in a fit state to travel, **has been rejected**. The DGP stated that this examination is performed on foreign nationals upon their exit from the CIE. It has been verified that this does not happen in all cases, nor is it performed systematically on those inmates coming from prison or police facilities. This situation is not compensated for by the fact that a doctor and a registered nurse are present during the operation. FRONTEX has requested information in this regard from the member states, given that this is a matter of national jurisdiction.

*Prior medical examination  
§351 AR 2014*

114. The NPM criteria that a **medical examination** should be performed **in the event of a failed deportation** has been accepted. In that regard, article 38 of Royal Decree 162/2014 of March 14th, which approves the Regulation on the operation and internal governance of Foreign National Detention Centres, provides for the performance of a medical examination following re-entry into the CIE in the event of a failed deportation.

*Failed deportation  
§352 AR 2014*

115. The DGP has accepted the Recommendation put forward that all flights organised by Spain, and which may be carrying persons being deported who speak neither Spanish nor English, should **always include an interpreter as part of the operation**, with a long term objective that interpreters be provided ex officio by the administration. Up until that point the DGP arranged with consular representatives for the provision of people to accompany their countrymen during the journeys.

*Interpreter  
§354 AR 2014*

116. With respect to the provision of a **defibrillator and a refrigerator for storing medication** on the aircraft, it has been reported that the defibrillator is available in the UCER facilities but not on the plane due to incompatibility with air regulation, since it could interfere with the aircraft's electronic equipment. Instructions have also been issued so that a refrigerator is available for temporary use by the medical services if necessary. FRONTEX plans to establish a list of medication and equipment which should be available to the doctors present on board the flights.

*Defibrillator and refrigerator  
for medication  
§356 AR 2014*

117. Upon the insistence of the NPM, the DGP is examining the viability of implementing a **record book for the use of restraint measures** on persons being deported, as well as their design and characteristics. FRONTEX has accepted the Recommendation of the European Ombudsman to document the methods of restraint authorised during joint flights, as well as to provide a guide to their use.

*Record of use of  
restraint measures  
§358 AR 2014*

*Video recording*  
§359 AR 2014

118. A Recommendation has been put forward that the necessary measures be adopted to enable **video recording during the course of the deportation operations** organised by Spain. The DGP recognises that video recording may be a useful instrument for documenting incidents which arise during operations, but argues that this matter should be subject to the agreement of FRONTEX and the other participating member states. FRONTEX has raised the following issues: the legal framework of some states, the security of the officers and crew members, data protection, storage of recordings, the dignity of the foreign nationals being deported, the reluctance of airlines and airport authorities, and even the hostile atmosphere that video recording could cause. It is therefore unlikely that video recording of deportation operations will be set in motion in the short term.



Supervision of repatriation operations

*Complaints mechanism*  
§361 AR 2014

119. The Recommendation to establish a **mechanism for filing complaints** during operations, which would be available to the persons who are going to be deported, has been rejected. The Administration considers it sufficient that legal counsel is guaranteed throughout the deportation process, as well as that foreign nationals are informed upon their request of the possibility of filing complaints in the diplomatic or consular offices in Spain or abroad. FRONTEX agrees that a complaints form should be established for foreign nationals who are deported. This matter will therefore be investigated.

*Officer identification badge*  
§362 and 363 AR 2014

120. Following the Recommendation put forward by the Ombudsman, in 2015 it was verified that bodyguards now wear high visibility vests with the Spanish emblem and their identification badge. However, during some operations it was observed that **some agents do not wear their badge** with their personal identification number. The NPM has therefore highlighted the benefit of silk screen printing the number of each agent onto their vest, a proposal which has been accepted and is pending allocation of budget.

*Training of officers*

121. The complexity of foreign national deportation operations highlights the **importance of using highly qualified officers** in order to guarantee

a high level of experience and professionalism. To that effect, the NPM has advised the DGP to improve the training of security staff and the level of English of the officers, which has been accepted. FRONTEX will place more emphasis on the human rights training delivered to operations managers, particularly in relation to persons with disabilities, women and children.

**122.** The NPM notified the DGP of the benefits of establishing a **psychosocial service annexed to the units responsible for deportation procedures**, following the good practice used by some countries and which the CPT refers to in paragraph 41 of its 13th General Report. These units are staffed by psychologists and social workers whose role is to prepare the detainees for their deportation. The Administration had accepted this criterion and has reported that said service is provided in CIE in Madrid and Barcelona through the Red Cross, with plans to expand psychosocial provision to the remaining CIE throughout 2016.

*Psychosocial services  
§364 AR 2014*

**123.** The NPM criteria that **UCER airport facilities** should have enough chairs for all repatriates, and a specific space for carrying out frisks in a place which is out of sight of the remaining people, has been accepted.

*Airport installations*

## I.4.2. Asylum and return facilities

*Previous visits*  
§73 and ss AR 2010  
§245 and ss AR 2013

124. In 2015 a visit was made to the asylum and return facilities for Terminals 1 and 4 (satellite) of Adolfo Suárez Madrid-Barajas Airport. During the visit, carried out over two phases (April 24th and May 28th), the Ombudsman herself participated together with three experts from the institution.

125. The main objective of this follow-up visit was to inspect the installations and check if the shortcomings detected during **previous visits** (2010 and 2013) had been rectified.

126. In these facilities, which are managed by the CNP, foreign citizens are held who have requested asylum at border controls (Terminal 4S) or who have not been allowed to enter Spain due to not meeting the legally established requirements. The length of stay in these facilities depends on the frequency of the flights of those airlines with which they have travelled to Spain and which are responsible for their return (people refused admittance) or the length of time taken to examine their request (asylum seekers).



Inspection of the detention room in Terminal 1

*Refurbishment works*  
§79 AR 2010  
§251 AR 2013  
§378, 379 AR 2014

127. There is still no guarantee of access for detained persons to areas with natural light and ventilation, as had been requested following the visit carried out in 2013. The necessary works to **locate the existing facilities in T1, both for people who have requested asylum as well as for those who are going to remain in the T4S facilities for more than 72 hours while their rejection is resolved**, have not been carried out.

*Unpleasant smells in the bathroom*

128. Nor had the necessary measures been taken to deal with the **unpleasant smells coming from one of the bathrooms** in the T1 detention facility.

*Registering solitary confinement*  
§254 AR 2013  
§381 AR 2014

129. The asylum and return facilities still do not have a **record book** for noting incidences of **separation or solitary confinement**, as had been suggested following the 2013 visit. This Suggestion has been accepted.

130. The DGP was once again reminded that **extensions to the detention period granted by the judicial authority** for those persons who remain in the facilities for more than 72 hours pending their rejection should always be noted in the **record book**, in accordance with the provisions in article 60 of Organic Law 4/2000. This Suggestion has also been accepted by the DGP.

*Recording extensions to  
detainment  
§381 AR 2014*

131. The **video surveillance** cameras should cover the entire facility, including isolation rooms.

*Video surveillance  
§477 AR 2010  
§380 AR 2014*

132. None of the rooms have change machines so that detainees may acquire food or drinks from the **vending machines**. In addition, in the Terminal 1 facility there is no food vending machine, which should be rectified. It has also been suggested that the phone cards from the vending machines could be available at market prices. These Suggestions have been accepted by the DGP.

*Vending machines*

133. **Offices** have been set up **for confidential interviews** with asylum seekers and possible victims of trafficking, following the Recommendations of this institution.

*Interview rooms*



Officer in the Terminal 4S asylum facility

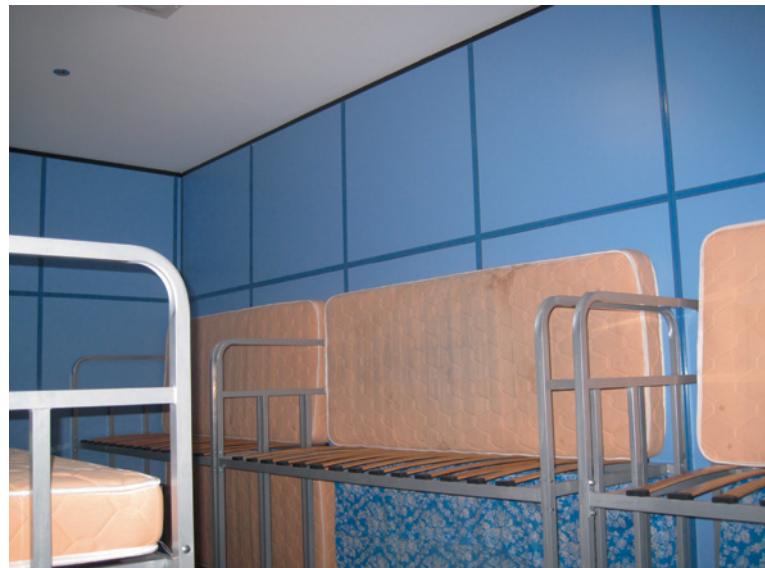
134. It has also been recommended that **communication with the Red Cross** be improved so that this organisation is made aware of known cases of trafficking, and so that its members can inform the persons affected of the procedures that they are going to carry out. This Suggestion has also been accepted by the DGP.

*Communication with  
the Red Cross*

135. Finally, the DGP was urged to **investigate the behaviour of security officers** who provide services in these facilities **as well as their treatment of detainees**. According to the detainees interviewed, the night prior to the visit an officer had not allowed a family travelling together to sleep in the same room, separating the mother from the rest of the family. It was confirmed, from conversations with the rest of the staff in the facilities, that it was not the first time that a security officer had displayed improper be-

*Treatment of detainees*

haviour towards detainees. Following the insufficient response from the Administration on this matter, a Suggestion was put forward, and accepted by the DGP, that instructions be issued in order to guarantee that families travelling together can spend the night in the same bedroom.



Bedrooms in Terminal 4S

### I.4.3. Hospital Custody Units

136. In 2015 a visit was made to the Hospital Custody Unit (hereafter UCH) of the Virgen de la Luz Hospital in Cuenca, which is under the authority of the Secretary-General of Prison Institutions (SGIP). It deals with prisoners who have been admitted for hospital treatment, but is also used by the Regional Police Headquarters in Cuenca when a detainee requires hospital care. The hospital building is run by the Castilla-La Mancha Health Service (SESCAM), with the CNP only exercising functions relating to the custody of persons admitted.

The length of stay in these custody facilities depends on the type of medical care required. This applies both to CP prisoners in Cuenca as well as to people who have been detained by CNP officers.

137. This was a **follow-up visit**. The first visit was made on March 29th 2011. During this time the facilities have not changed, nor have they been modified or refurbished. It is a closed unit on the 5th floor of the Hospital, with an office for the staff who guard the detainees or prisoners which provides access to the hallway that links with the 2 existing rooms/cells. At the time of the visit there were no inmates or detainees.



Cell in the UCH in Cuenca

138. The facilities are still not equipped with a **video surveillance** and recording system. In view of the conclusion put forward by this institution in that respect, and following the previous visit, the SGIP responded by indicating that the rectification of these shortcomings depends on availability of budget. Following the visit in 2015 and new communication around this matter, the response from the SGIP has been the same.

139. As was the case in 2011, and despite the conclusion put forward at that time by the NPM, there is still no **cupboard for the storage of the patient's belongings and clothing**. When detainees or prisoners are ad-

*Visit to the Virgen de la Luz  
Hospital UCH in Cuenca*

*Follow-up to the visit  
made in 2011  
§207 and ss AR 2011*

*Video surveillance  
§477 AR 2010  
§209 AR 2011  
§79 AR 2014*

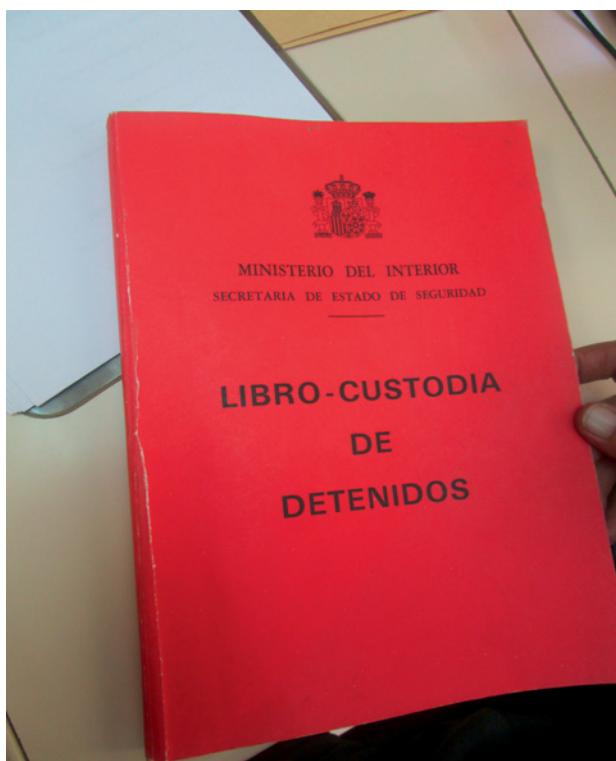
*Cupboard for storing belongings  
§208 AR 2011*

mitted, they are dressed in the robe and pyjamas provided by the hospital and their belongings and clothes are stored in a bag which is left on the floor in the hallway. The conclusions on matter have been reiterated to the SGIP, the resolution of which is still pending allocation of budget.

**140.** In one of the bathrooms **the smell from the sewage system or drain given off by the toilet** made it impossible to remain there. The smell drifted into the room if the door remained open. A Suggestion was put forward to the Health and Social Affairs Department of Castilla-La Mancha that this situation be rectified. The Suggestion was accepted and, according to reports from said Department, instructions have been issued to resolve the matter.

*Custody Book  
§85 AR 2014*

**141.** The Custody Unit has a Book for registering the entry and exit of the patients, called the **Detainee Custody Book**, which is used for detainees and prisoners who are admitted. This Book is kept in the Regional Police Headquarters when there is nobody admitted to the UCH. From the examination of the Book, it was verified that from May to December 31st 2014 there were 12 patient admissions, and from January 1st 2015 until the day of the visit (June 2nd 2015) there were 4 patient admissions.



Detainee Custody Book

## II

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Recommendations made by the NPM in 2015 and  
follow-up to the Recommendations made in 2014

## II.1. Amendment to article 174 of the Criminal Code

Table 21

RECOMMENDATION MADE TO THE MINISTRY OF JUSTICE	STATUS
<p><b>Recommendation of February 25th 2015.</b></p> <p>To amend article 174 of the Criminal Code to include, within the subjective scope of the crime of torture, '<i>any other person in the discharge of public functions</i>' other than the authorities and employees, and to clarify that torture is carried out with the aim '<i>of intimidating or coercing that person or others</i>', as well as to ensure that the expected punishment accords with paragraph 2 of article 4 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which establishes the duty on the States to penalise all acts of torture with appropriate punishments that take into account their seriousness.</p>	REJECTED

## II.2 Study of *Injury reports on people deprived of their liberty*

Table 22

RECOMMENDATION MADE TO THE SECRETARY OF STATE FOR SECURITY	STATUS
<p><b>Recommendation of June 4th 2014.</b></p> <ol style="list-style-type: none"> <li>1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i>.</li> <li>2. To issue appropriate instructions to all public medical services.</li> </ol>	PENDING ADDITIONAL REPORT
RECOMMENDATION MADE TO THE NATIONAL HEALTHCARE MANAGEMENT INSTITUTE	STATUS
<p><b>Recommendation of June 4th 2014.</b></p> <ol style="list-style-type: none"> <li>1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i>.</li> <li>2. To issue appropriate instructions to all public medical services.</li> </ol>	PARTIALLY ACCEPTED PENDING ADDITIONAL REPORT

RECOMMENDATION MADE TO THE MINISTRY OF THE PRESIDENCY OF THE PRINCIPALITY OF ASTURIAS	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED
RECOMMENDATION MADE TO THE PRESIDENCY, JUSTICE AND EQUALITY MINISTRIES OF THE CANARY ISLANDS	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED
RECOMMENDATION MADE TO THE PRESIDENCY AND JUSTICE MINISTRIES OF THE GOVERNMENT OF CANTABRIA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED
RECOMMENDATION MADE TO THE PRESIDENCY AND PUBLIC ADMINISTRATIONS MINISTRIES OF THE GOVERNMENT OF CASTILLA-LA MANCHA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	PENDING
RECOMMENDATION MADE TO THE MINISTRY OF THE PRESIDENCY OF THE GOVERNMENT OF CASTILLE AND LEÓN	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	PARTIALLY ACCEPTED PENDING ADDITIONAL REPORT
RECOMMENDATION MADE TO THE DEPARTMENT OF JUSTICE OF THE GOVERNMENT OF CATALONIA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	PARTIALLY ACCEPTED PENDING ADDITIONAL REPORT
RECOMMENDATION MADE TO THE DEPARTMENT OF HEALTH, CONSUMER AFFAIRS AND MINORS OF THE AUTONOMOUS CITY OF CEUTA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED

RECOMMENDATION MADE TO THE DEPARTMENT OF HEALTH AND SOCIAL POLICY OF THE GOVERNMENT OF EXTREMADURA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED
RECOMMENDATION MADE TO THE PRESIDENCY, PUBLIC ADMINISTRATIONS AND JUSTICE MINISTRIES OF THE GOVERNMENT OF GALICIA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED
RECOMMENDATION MADE TO THE PRESIDENCY AND JUSTICE MINISTRIES AND THE OFFICE OF THE SPOKESPERSON OF THE COMMUNITY OF MADRID	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED PENDING ADDITIONAL REPORT
RECOMMENDATION MADE TO THE MINISTRY OF THE PRESIDENCY OF THE MURCIA REGION	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	ACCEPTED
RECOMMENDATION MADE TO THE PUBLIC ADMINISTRATION AND JUSTICE DEPARTMENTS OF THE BASQUE GOVERNMENT	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	PENDING
RECOMMENDATION MADE TO THE DEPARTMENT OF UNIVERSAL HEALTHCARE AND PUBLIC HEALTH OF THE COMMUNITY OF VALENCIA	STATUS
<b>Recommendation of June 4th 2014.</b> 1. To establish, within the scope of its powers, a standard injury report form containing the minimum data compiled in section 5.4 of the study of <i>Injury reports on people deprived of their liberty</i> . 2. To issue appropriate instructions to all public medical services.	PENDING

## II.3. National Police Force Stations

Table 23

RECOMMENDATION MADE TO THE SECRETARY OF STATE FOR SECURITY	STATUS
<p><b>Recommendation of December 28th 2015.</b></p> <p>To issue instructions so that, when there are persons detained in facilities run by state law enforcement organisations, regardless of whether said persons have been placed in a cell or not, the custody page of the Detainee Record and Custody Book is properly completed for the purposes of knowing, at any time, who is guarding the detainee and what procedures have been followed during the period of deprivation of liberty, in accordance with the criteria established in paragraph 85 of the NPM 2014 Annual Report.</p>	ACCEPTED

## II.4. Civil Guard facilities

Table 24

RECOMMENDATION MADE TO THE SECRETARY-GENERAL OF PRISON INSTITUTIONS	STATUS
<p><b>Recommendation of October 27th 2015.</b></p> <p>To adopt the appropriate measures so that the staff in Prison Facilities provide information to the officers responsible for guarding and transporting prisoners regarding their state of health, as well as a personal identification form for each prisoner with information, where appropriate, about the preventive health measures which should be followed, in accordance with the criteria compiled in paragraph 436 of the 2010 Annual Report.</p>	ACCEPTED
RECOMMENDATION MADE TO THE SECRETARY OF STATE FOR SECURITY	STATUS
<p><b>Recommendation of December 28th 2015.</b></p> <p>To issue instructions so that, when there are persons detained in facilities run by state law enforcement organisations, regardless of whether said persons have been placed in a cell or not, the custody page of the Detainee Record and Custody Book is properly completed for the purposes of knowing, at any time, who is guarding the detainee and what procedures have been followed during the period of deprivation of liberty, in accordance with the criteria established in paragraph 85 of the NPM 2014 Annual Report.</p>	ACCEPTED

## II.5. Implementation and control of the Prisoner and Detainee Record Book in judicial buildings

Table 25

RECOMMENDATIONS MADE TO THE DEPARTMENT OF JUSTICE AND OF THE INTERIOR OF THE GOVERNMENT OF ANDALUSIA	STATUS
<b>Recommendation of January 16th 2015.</b> 1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the 2011 <i>Annual report on Spain's National Preventive Mechanism against Torture</i> . 2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.	REJECTED
RECOMMENDATIONS MADE TO THE PRESIDENCY AND JUSTICE DEPARTMENTS OF THE GOVERNMENT OF ARAGON	STATUS
<b>Recommendation of January 16th 2015.</b> 1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the 2011 <i>Annual report on Spain's National Preventive Mechanism against Torture</i> . 2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.	ACCEPTED
RECOMMENDATIONS MADE TO THE MINISTRY OF THE PRESIDENCY OF THE PRINCIPALITY OF ASTURIAS	STATUS
<b>Recommendation of January 16th 2015.</b> 1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the 2011 <i>Annual report on Spain's National Preventive Mechanism against Torture</i> . 2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.	ACCEPTED
RECOMMENDATIONS MADE TO THE PRESIDENCY, JUSTICE AND EQUALITY MINISTRIES OF THE AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS	STATUS
<b>Recommendation of January 16th 2015.</b> 1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the 2011 <i>Annual report on Spain's National Preventive Mechanism against Torture</i> . 2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.	ACCEPTED

RECOMMENDATIONS MADE TO THE PRESIDENCY AND JUSTICE MINISTRIES OF THE GOVERNMENT OF CANTABRIA	STATUS
<p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	ACCEPTED
RECOMMENDATIONS MADE TO THE DEPARTMENT OF JUSTICE OF THE GOVERNMENT OF CATALONIA	STATUS
<p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	REJECTED
RECOMMENDATIONS MADE TO THE INTERIOR AND JUSTICE MINISTRIES OF THE GOVERNMENT OF VALENCIA	STATUS
<p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	ACCEPTED
RECOMMENDATIONS MADE TO THE PRESIDENCY, PUBLIC ADMINISTRATIONS AND JUSTICE MINISTRIES OF THE GOVERNMENT OF GALICIA	STATUS
<p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	ACCEPTED

RECOMMENDATIONS MADE TO THE PRESIDENCY AND JUSTICE MINISTRIES AND THE OFFICE OF THE SPOKESPERSON OF THE COMMUNITY OF MADRID	STATUS
<p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	REJECTED
<p><b>RECOMMENDATIONS MADE TO THE PRESIDENCY, JUSTICE AND INTERIOR DEPARTMENTS OF THE GOVERNMENT OF NAVARRE</b></p> <p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	ACCEPTED
<p><b>RECOMMENDATIONS MADE TO THE PUBLIC ADMINISTRATION AND JUSTICE DEPARTMENTS OF THE BASQUE GOVERNMENT</b></p> <p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	ACCEPTED
<p><b>RECOMMENDATIONS MADE TO THE PRESIDENCY AND JUSTICE MINISTRIES OF THE AUTONOMOUS COMMUNITY OF LA RIOJA</b></p> <p><b>Recommendation of January 16th 2015.</b></p> <p>1. That a Record Book is provided for recording the entry and exit of prisoners and detainees in judicial headquarters which are equipped with cells, in order to be able to know the number of people deprived of liberty who have passed through those facilities over a certain period of time, as well as how much time they have spent there, in accordance with the criteria compiled in paragraph 54 of the <i>2011 Annual report on Spain's National Preventive Mechanism against Torture</i>.</p> <p>2. That this Department issues the necessary instructions so that said Book is completed by the staff of that Administration, or by security guards where appropriate, under the supervision of the judicial clerks.</p>	ACCEPTED

## II.6 Initial care conditions for foreign nationals arriving undocumented into Spain

Table 26

RECOMMENDATIONS MADE TO THE DIRECTORATE-GENERAL OF POLICE	STATUS
<b>Recommendation of February 25th 2015.</b> To amend the existing response protocol in facilities for the initial care and detention of foreign nationals in Motril and Almería, prioritising the review and processing of deportation reports on pregnant mothers and minors, irrespective of their order of arrival.	ACCEPTED
<b>Recommendation of February 25th 2015.</b> To issue instructions to the police authorities responsible for the initial care and detention facilities in Motril and Almería that minors and pregnant women be allowed shower and be provided with the necessary bathroom facilities.	ACCEPTED
<b>Recommendation of February 25th 2015.</b> Regarding pregnant and women and minors who are intercepted whilst attempting to enter Spain undocumented, to issue instructions that alternative measures be used to detaining them in initial care and detention facilities in Motril and Almería (for example, accommodation in public social protection facilities or with entities such as the Red Cross), and that the option of resorting to deprivation of liberty be assessed only in exceptional cases where said priority measures cannot be used. In such cases, it must be shown that the less restrictive options are unenforceable and unsuitable and that deprivation of liberty is in the child's best interests.	ACCEPTED

## II.7. Foreign National Detention Centres

Table 27

RECOMMENDATIONS MADE TO THE DIRECTORATE-GENERAL OF POLICE	STATUS
<b>Recommendation of January 22nd 2015.</b> To translate the rights and duties compiled in articles 16 and 18 of Royal Decree 162/2014 of March 14th into various languages so that they can be provided to inmates upon their admittance to the various Foreign National Detention Centres.	ACCEPTED
<b>Recommendation of June 30th 2015.</b> To issue instructions so that the standard injury report forms which are used in the various CIE meet the Recommendations made by the Ombudsman in the Study of <i>Injury reports on people deprived of their liberty</i> .	ACCEPTED

## II.8. Prison facilities

Table 28

RECOMMENDATIONS MADE TO THE SECRETARY-GENERAL OF PRISON INSTITUTIONS	STATUS
<p><b>Recommendation of February 6th 2015.</b> To issue appropriate instructions that in each control carried out by security workers, heads of service and medical staff in all Prison Facilities on restraint measures involving approved straps, the specific state of the inmate and the need to continue with the measure or be recorded.</p>	REJECTED
<p><b>Recommendation of October 15th 2015.</b> To issue instructions that the recordings from the video surveillance systems in all Prison Facilities be provided ex officio in the processing of disciplinary reports, since these have an important role as evidence for clarifying actual events, in accordance with the criteria of this institution stated in paragraph 162 of the <i>Annual Report 2014 on Spain's National Preventive Mechanism against Torture</i>.</p>	PENDING
<p><b>Recommendation of October 15th 2015.</b> To produce, for all Prison Facilities, a medical response protocol which applies during the use of restraint measures or solitary confinement, which specifies when the initial medical examination of the inmates and subsequent follow-up should be carried out and what these should involve, as well as the content of the reports which should be prepared by medical staff, in line with the criteria of this institution stated in paragraph 187 of the <i>Annual Report 2014 on Spain's National Preventive Mechanism against Torture</i>.</p>	REJECTED
<p><b>Recommendation of October 15th 2015.</b> To prepare, for all Prison Facilities, an emergency healthcare protocol which guarantees that a written record is kept of requests for said care and of the procedure that should be followed, allowing flexibility with regard to the particular circumstances which demand urgent attention.</p>	REJECTED
<p><b>Recommendation of October 15th 2015.</b> To set guidelines on the medication which has to be dispensed in all Prison Facilities for observed direct treatment and to organise the service and necessary personnel in that regard, in order to prevent internal trafficking of medication and the accumulation of medicines by inmates, in accordance with paragraph 205 of the <i>Annual Report 2014 on Spain's National Preventive Mechanism against Torture</i>.</p>	REJECTED
<p><b>Recommendation of October 15th 2015.</b> To adopt the necessary measures, including staffing, so that proper psychological care can be provided to inmates, given the high prevalence of psychological and psychiatric disorders amongst the prison population, in accordance with that highlighted in paragraph 207 of the <i>Annual Report 2014 on Spain's National Preventive Mechanism against Torture</i>.</p>	REJECTED
<p><b>Recommendation of October 29th 2015.</b> To adopt the appropriate measures so that, in the event of incidents and disciplinary measures, the mental health situation and/or vulnerability of the inmate is taken into consideration during the processing of the case, and always before deciding on the possible punishment.</p>	PENDING

<b>Recommendation of November 6th 2015.</b> To set up a specific record book in all Prison Facilities which is used for recording all complaints and reports made by inmates, whether verbal or written, in relation to improper behaviour or ill treatment by prison workers so that these may be followed-up and supervised by the management of the facility, as indicated in paragraph 153 of the <i>Annual Report 2014 on Spain's National Preventive Mechanism against Torture</i> .	ACCEPTED
<b>RECOMMENDATION MADE TO THE DEPARTMENT OF JUSTICE OF THE GOVERNMENT OF CATALONIA</b>	<b>STATUS</b>
<b>Recommendation of February 11th 2015.</b> To issue appropriate instructions that in each control carried out by security workers, heads of service and medical staff in all Prison Facilities on restraint measures involving approved straps, the specific state of the inmate and the need to continue with the measure or not be recorded.	ACCEPTED

## II.9. Socio-health facilities

Table 29

<b>RECOMMENDATIONS MADE TO THE DEPARTMENT OF HEALTH, SOCIAL WELLBEING AND FAMILY OF THE GOVERNMENT OF ARAGON</b>	<b>STATUS</b>
<b>Recommendation of May 28th 2015.</b> To adopt criteria and issue orders so that, in general terms, the request to commit someone against their will must be processed through normal channels, prior to the committal itself, by those family members or guardians who are aware of the need for committal and the absence of autonomy of the person affected.	ACCEPTED
<b>Recommendation of May 28th 2015.</b> To adopt criteria and issue orders so that when there is notification of an emergency situation requiring immediate involuntary committal in a facility, whether voluntary or not, the requirements set out in article 763 of the Civil Procedure Act and developed by Constitutional Court Ruling 141/2012 of July 2nd must be complied with. In particular, that the committal shall only be justified in cases of serious mental disorder and under the conditions for an emergency situation or the immediate need for medical intervention, and that the committal is not only advisable but meets the requirements of need (that no alternative and less detrimental measure can be adopted) and proportionality (with regard to the expected aims).	ACCEPTED
<b>RECOMMENDATIONS MADE TO THE DEPARTMENT OF SOCIAL WELLBEING OF THE GOVERNMENT OF VALENCIA</b>	<b>STATUS</b>
<b>Recommendation of March 26th 2015.</b> To urge the residential facilities in that autonomous community that, in general terms, the request for involuntary committal must be processed through normal channels prior to the committal itself, with the emergency procedure reserved solely for cases where the ' <i>immediate use of the measure</i> ' is necessary.	ACCEPTED

<p><b>Recommendation of March 26th 2015.</b></p> <p>To urge the residential facilities in that autonomous community that, in cases where there is actual notification of an emergency situation requiring the immediate committal of someone in the facilities, the requirements set out in article 763 of the Civil Procedure Act and which have been developed by Constitutional Court Ruling (Spanish acronym STC) 141/2012, of July 2nd (hereafter STC 141/2012) must be met. Said requirements, which must be properly triggered, require that involuntary committal shall only be justified in cases of serious mental disorder and under the conditions for an emergency situation or the immediate need for medical intervention, and that the committal is not only advisable but meets the requirements of need (that no alternative and less detrimental measure can be adopted) and proportionality (with regard to the expected aims), in accordance with that established in Legal Grounds (Spanish acronym FJ) 5 a) of the aforementioned STC 141/2012.</p>	ACCEPTED
<p><b>Recommendation of March 26th 2015.</b></p> <p>To issue instructions to residential facilities in that autonomous community that notification of urgent involuntary committal to the competent judicial authority include, as a minimum, information on the following points:</p> <ul style="list-style-type: none"> <li>– Exact date and time of the committal</li> <li>– Circumstances around the committal</li> <li>– Medical report confirming the mental disorder that justifies immediate committal and that triggers the need and proportionality of the measure, and charting the development of their mental health state where appropriate.</li> <li>– Predicted duration of the measure.</li> </ul>	ACCEPTED
<p><b>Recommendation of March 26th 2015.</b></p> <p>To urge the residential facilities in that autonomous community that in cases where committal takes place voluntarily and the person affected subsequently states their change in opinion with respect to voluntary committal, at that exact time the requirements of article 763.1 of the Civil Procedure Act be invoked in order to be able to keep the committal in force, and that a 24hr period for communicating this to the judicial body (FJ 5 c) of STC 141/2012) shall begin. In addition, it would be advisable that said communication states the development of the mental state of the person affected since the time of their committal, and the reasons which triggered the change in the committal from voluntary to involuntary.</p>	ACCEPTED
<p><b>Recommendation of March 26th 2015.</b></p> <p>To urge the residential facilities in that autonomous community that the notification of urgent involuntary committal to the competent judicial authority must take place as soon as possible and, at the latest, within 24 hours of the committal taking place, in order that the mandatory approval of said measure be sought. Said time frame, as highlighted in FJ 5 c) of the aforementioned STC 141/2012, '<i>does not necessarily have to be used up on assumption, nor shall it be used up discretionally</i>'. Therefore, '<i>the communication to the court must be carried out by the director of the centre as soon as the diagnosis justifying the committal is available, without additional delay, and the 24hr period should be counted from the time at which the committal of the person affected within the facility against their will physically takes place</i>'.</p>	ACCEPTED
<p><b>Recommendation of March 26th 2015.</b></p> <p>To issue instructions to the residential facilities in that autonomous community so that, upon their committal and in order to guarantee that they are fully and effectively aware of their rights, the person affected (or their legal representatives) be informed verbally, and to extent that they are capable of understanding, of the reasons for the measure, and that they be provided with a document which includes the following information written in language adapted to their level of capacity:</p>	ACCEPTED

<p>– The date and time of the committal and of its notification to the judicial authority, informing the person affected that the facility is obliged to notify said authority of the committal as soon as possible and, where appropriate, within 24 hours, and that the necessary judicial approval must take place within a maximum period of 72 hours from the time at which the committal is notified to the court.</p> <p>– The cause of the committal and why it was brought about, indicating the need for and proportionality of the measure, as well as the criteria applied to the permanent review of their situation, without detriment to the therapeutic privilege of the medical staff.</p> <p>– Their rights under article 763 of the Civil Procedure Act (the right to representation and defence, the right to be heard before a judge, the right to request a hearing with another person whom they deem appropriate, the right to request the opinion of a physician of their choice, the right to appeal the decision of the court with respect to their committal, and the right to request a writ of <i>habeas corpus</i> on their own behalf or through their legal representative or relatives).</p> <p>Said document must be signed by the person affected by the measure, indicating that the information stated has been explained and properly understood, as well as by the professionals in the facility who have provided the information. The person affected must retain a copy of said document.</p>	
<p><b>Recommendation of March 26th 2015.</b></p> <p>To urge the residential facilities in that autonomous community that following the 72 hr period during which the judicial authority must decide, and provided that authorisation of the measure has not been given, there is no legal basis for keeping the person affected forcefully detained. Such a situation should be notified to the competent judicial authority, the Public Prosecutor and, where appropriate, their legal representative. In this situation, if the detainee states their wish to leave the facility they may do so after signing a voluntary discharge form.</p>	ACCEPTED
<p><b>Recommendation of March 26th 2015.</b></p> <p>To urge the residential facilities in that autonomous community that psychiatric reports be referred at least every 6 months to the competent judicial authority for their assessment of whether or not the committal should be continued. In addition, it should be remembered that in order to fully respect the safeguards around committed persons, said periodic medical reports should be detailed and kept up to date in line with that highlighted in paragraph 174 of the <i>Annual Report 2012 on Spain's National Preventive Mechanism against Torture</i>.</p>	ACCEPTED
<p><b>Recommendation of March 26th 2015.</b></p> <p>To issue instructions to the residential facilities in that autonomous community that injury report forms be established and adapted to the Recommendations of the Ombudsman reflected in the study of <i>Injury reports on people deprived of their liberty</i>, and which should be completed and referred to the competent judicial authority in accordance with said study.</p>	ACCEPTED
RECOMMENDATION MADE TO THE SECRETARY OF STATE FOR JUSTICE	STATUS
<p><b>Recommendation of March 26th 2015.</b></p> <p>To develop, as quickly as possible, a project under organic law which regulates the committals carried out under civil legislation.</p>	PARTIALLY ACCEPTED

## II.10. Foreign national deportation operations

Table 30

RECOMMENDATIONS MADE TO THE DIRECTORATE-GENERAL OF POLICE	STATUS
<p><b>Recommendation of July 22nd 2015.</b></p> <p>To issue the necessary instructions which ensure that a medical examination is always expressly performed on all foreign nationals who are going to be deported, in advance of their deportation, whether in the centres of origin (Foreign National Detention Centre or Prison Facility) or by the physician who accompanies the operation during the flight (in the case of police stations), in order to confirm that there is no basis for halting the deportation from a medical point of view ('fit to fly'), in accordance with article 7 of the FRONTEX Code of Conduct and paragraph 351 of the <i>Annual Report 2014 on Spain's National Preventive Mechanism against Torture</i> (hereafter the Annual Report 2014).</p>	REJECTED
<p><b>Recommendation of July 22nd 2015.</b></p> <p>To adopt the necessary measures to enable video recording during deportation operations organised by Spain, in accordance with paragraph 44 of the 13th General Report of the CPT, article 10.1 of the FRONTEX Code of Conduct and paragraph 359 of the 2014 Annual Report.</p>	REJECTED
<p><b>Recommendation of July 22nd 2015.</b></p> <p>To establish a mechanism for filing complaints during operations, for such cases where the persons who are going to be repatriated believe that their fundamental rights have been violated. Said persons should be issued with a certified copy of the filing of the complaint and also informed of the channels which exist for lodging a complaint through the Spanish Embassies following arrival at their destination, according to the provisions in paragraph 361 of the 2014 Annual Report.</p>	REJECTED
<p><b>Recommendation of July 22nd 2015.</b></p> <p>To adopt the necessary measures which ensure that an interpreter always forms part of the operations on all flights organised by Spain in which the persons who may be deported speak neither English nor Spanish, in accordance with that highlighted in article 11.2 of the FRONTEX Code of Conduct and paragraph 354 of the 2014 Annual Report.</p>	ACCEPTED NOT IMPLEMENTED

### III

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## Institutional training and dissemination activities §142 - §147

**142.** In accordance with that established in article 23 of OPCAT, the Annual Report 2014 **was registered in the Congress of Deputies** (May 25th 2015) **and sent to the United Nations Subcommittee for the Prevention of Torture**.

**143.** The Ombudsman appeared before the **Spanish Parliament's Joint Committee on Relations with the Ombudsman** on June 9th 2015 in order to present the 2014 report. The report was published on the Ombudsman's website on the same day she appeared before the Committee.

Representatives from civil society and professional associations were invited to disseminate the report, and from June 29th to July 1st 2015 meetings were held with members of the Spanish Bar Association, the Spanish Committee for Refugee Aid (Spanish acronym CEAR), the Pro-Human Rights Association of Spain (Spanish acronym APDH), the Spanish Committee of Representatives of People with Disabilities (Spanish acronym CERM), the Unified Association of the Civil Guard (Spanish acronym AUGC) and the Officers' Union of the Civil Guard.

**144.** The **new website of the Ombudsman**, which was constructed during 2015, includes a specific section for the NPM in which Annual Reports, the Recommendations, Suggestions and Reminders of legal duties put forward to the authorities following each visit, and the activity carried out by the NPM may be consulted. To maintain dialogue and collaboration with civil society, around twenty non-profit and non-governmental organisations were brought together for the presentation of the website.

**145.** With regard to the **dissemination and circulation** in 2015 of the competences, operation and performance of the NPM, experts from the unit have taken part in the following activities:

- Conferences organised around the 30th Anniversary of the United Nations Convention against Torture, held by the Spanish Bar Association.
- 1 course about Foreign National Detention Centres organised by the Central Unit for Deportation and Repatriation of the National Police Force.
- An *ENO (European Network of Ombudsmen) investigators' meeting on forced returns*, which covered repatriation flights and other matters.
- Colloquium on *Monitoring during repatriation flights* at the *10th National Seminar of the European Network of Ombudsmen* organised by the Polish and European Ombudsmen.
- *IOI Workshop for NPMs Implementing a Preventive Mandate*, organised by the Latvian Ombudsman and the International Ombudsman Institute (IOI).
- Conference given in the Officers' Academy of the Civil Guard in San Lorenzo del Escorial on the role of the NPM.

**146.** The NPM collaborates with **human rights organisations in other countries**, giving workshops on the Spanish NPM's mandate and the activity it develops. Professional meetings were held in 2015 with an Inter-Ministerial Delegation on Human Rights in Morocco, with representatives from the Paraguayan NPM, experts from the Provedor de Justiça (Ombudsman) of Mozambique, a delegation from the Ombudsman of the Czech Republic and with the Philippine Commission on Human Rights. The NPM also went to Ankara to take part in the project supporting the establishment of the Turkish Ombudsman.

**147.** Finally, whilst not directly related to the performance of the NPM, the actions taken by this institution with respect to **Spanish prisoners abroad** should be highlighted. According to data from the Ministry of Foreign Affairs and Cooperation, on December 30th 2014 there were 1,735 Spanish citizens serving sentences in foreign prisons. 4 out of 5 of these sentences are for crimes related to drug trafficking.

In 2015 the **study on *The situation of Spanish prisoners abroad*** was published. The study analysed 224 reports handled by the institution during the two previous years, corresponding to prisons in 27 countries. Said study put forward recommendations for improving the situation of the prisoners, such as setting up prison legal advisory and assistance services in the Ibero-American consulates, strengthening the human and material resources in consulates which provide assistance to a greater number of prisoners, improving the communication channels between relatives and consular authorities, establishing support mechanisms for Spanish citizens on parole or temporary release in a foreign country and who cannot leave that country due to pending criminal liabilities, and reducing the processing times for executing transfer proceedings once these have been approved.

In addition, as in previous years, **visits to foreign Prison Facilities** have been made on the back of business trips by NPM staff related to other matters: the Tires and Lisbon Prison Facilities in Portugal; the Picota de Bogotá and El Buen Pastor Prison Facilities in Colombia; the Da Capital Female Prison, the Sant'Ana Female Prison and the Cabo P. M. Marcelo Pires da Silva Prison Establishment in Brazil; the Ezeiza No.1 Federal Prison Complex and the Female Federal Detention Centre (U-31) in Argentina; and one Prison Facility in Albania.

## IV

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### Statistical data on deprivation of liberty §148 - §173

What follows is the most relevant statistical data collected by the Administration on deprivation of liberty in 2015. The electronic annexes which accompany this report also contain additional relevant information.

## IV.1. Short-term deprivation of liberty

148. During 2015 the total number of **detentions with committal to jail cells** carried out by the CNP, Civil Guard and autonomous police was **301,306** as reflected in the following table. This means that the **number of detentions continues on a downward trend**, from 335,571 in 2014 and 361,066 in 2013.

Table 31  
Detentions with committal to jail cells

POLICE FORCES	NUMBER OF DETENTIONS
National Police Force	192,896
Civil Guard	62,147
Basque Police	5,920
Catalan Police	39,130
Navarre Regional Police	1,204
Canary Islands Police	9
<b>TOTAL</b>	<b>301,306</b>

Source: Produced in-house using data provided by the various administrations

149. The DGP has reported that a total of **30,369 identifications** were carried out in 2015 (compared with 38,419 in 2014), in accordance with article 22 of Organic Law 1/1992 of February 22nd on the Protection of Citizen Security.

150. Annex IV.1 (electronic format) provides the following data:

- **Detentions with committal to jail cells** carried out by the CNP and the Civil Guard, broken down by autonomous communities/cities and provinces, and those carried out by the Autonomous Police forces in the territories under their jurisdiction.

- **Identifications** in accordance with Organic Laws 1/1992 and 4/2015 on the Protection of Citizen Security, carried out by the CNP in 2015, broken down by autonomous communities/cities and provinces.
- Information regarding **complaints about police conduct which may constitute suspected acts of torture, ill treatment or denial of detainees' rights** by CNP officers and the Civil Guard, compiled in the computer application specified in the National Plan for Human Rights of the Secretary of State for Security.
- **Complaints** of suspected malpractice or the suspected commission of torture, ill treatment or cruel or inhuman treatment inflicted by officers of the autonomous police on persons deprived of liberty in official facilities during 2015.
- **Activity recorded in the Security Support Centre**, which reports to the Independent Health Body of Madrid City Council.
- Attempts to **self-harm or deaths** of persons deprived of liberty in facilities run by the various police bodies.

**151.** Section I.1 reflects the **main conclusions of the visits made to short-term deprivation of liberty facilities in 2015**. In addition, **Annex II.1** (electronic format) details the conclusions and, where appropriate, examples of good practice which have been sent to the various administrations, with respect to **each one of the facilities** of this type visited this year.

## IV.2. Medium-term deprivation of liberty

### IV.2.1. Foreign National Detention Centres

**152.** According to data from the Ministry of the Interior, in 2015 there were a total of **16,851 undocumented arrivals into Spain via unauthorised border points** (arrivals on illegal vessels), which continues to rise with respect to the figures for 2014 (12,549) and 2013 (3,237).

**Table 32**  
Undocumented arrivals via unauthorised border points in 2015

UNDOCUMENTED ARRIVALS INTO SPAIN	
Peninsula	4,248
Ceuta	2,455
Melilla	9,169
Canary islands	955
Balearic islands	24
<b>TOTAL</b>	<b>16,851</b>

Source: Produced in-house from data provided by the DGP (General Headquarters for Immigration and Border Control)

**153.** According to the information provided by the Directorate-General of Police, during 2015 the number of **detentions with committal to jail cells** involving foreign nationals due to violation of Immigration Law was **36,327**, which continues to fall with respect to previous years: 42,245 in 2014 and 49,406 in 2013.

The breakdown of said detentions by autonomous communities/cities and provinces is provided in **Annex IV.2** (electronic format).

**154.** Of the total of 36,327 foreign nationals detained, **6,930 were committed to the various CIE** (7,340 in 2014), as shown in the following table:

**Table 33**  
Foreign nationals committed to CIE in 2015

CIE	NUMBER OF DETAINEES		
	MEN	WOMEN	TOTAL
Algeciras	2,114	189	2,303
Barcelona	738	0	738
Las Palmas	843	51	894
Madrid	1,342	127	1,469
Murcia	690	0	690
Tenerife	58	14	72
Valencia	690	74	764
<b>OVERALL TOTAL</b>	<b>6,475</b>	<b>455</b>	<b>6,930</b>

Source: Produced in-house from data provided by the DGP (General Headquarters for Immigration and Border Control)

**155.** **Of the 6,930 foreign nationals detained, 2,871 have been deported** as shown in the following table. This means that 41.43 % of foreign nationals detained during 2015 have been deported.

**Table 34**  
Deportation of foreign nationals detained during 2015

CIE	NUMBER OF DETAINEES	NUMBER OF DEPORTATIONS	PERCENTAGE
Algeciras	2,303	472	20.50
Barcelona	738	205	27.78
Las Palmas	894	25	2.80
Madrid	1,469	1,036	70.52
Murcia	690	648	93.91
Tenerife	72	64	88.89
Valencia	764	421	55.10
<b>TOTAL</b>	<b>6,930</b>	<b>2,871</b>	<b>41.43</b>

Source: Produced in-house from data provided by the DGP (General Headquarters for Immigration and Border Control)

**156.** **The breakdown of foreign nationals detained in each CIE** by nationality and sex is provided in **Annex IV.2** (electronic format).

**157.** During 2015 there were a total of **10,594 deportations of foreign nationals**, according to the data provided by the DGP.

**Table 35**

Number of deportations of foreign nationals in 2015, distinguishing between repatriations, non-qualified deportations and qualified deportations

DEPORTATIONS AND REPATRIATIONS	
Deportations carried out	6,869
Repatriations carried out*	3,725
<b>TOTAL</b>	<b>10,594</b>
Qualified deportations**	5,864

\* Deportation of persons who attempt to enter Spain via unauthorised border points.

\*\* "In 2009 the Minister of the Interior set up the Deportation of Foreign Criminals Squad of the National Police Force (BEDEX). Its purpose is the repatriation of foreign criminals with extensive court and prison records (see paragraph 59), linked with terrorism, organised gangs, gender-based violence or any other serious criminal act and who pose a threat to public security." Qualified deportations are included in the calculation of deportations and repatriations.

Source: Produced in-house from data provided by the DGP (General Headquarters for Immigration and Border Control)

**Table 36**

Number of repatriation and deportation cases initiated and resolved during 2015

INITIATED AND RESOLVED CASES AND REPATRIATIONS	
Cases initiated	30,614
Cases resolved	20,552
Repatriation orders*	10,289

\* There is no available data on repatriation cases initiated

Source: Produced in-house from data provided by the DGP (General Headquarters for Immigration and Border Control)

**158.** Section I.2.1 reflects the **main conclusions of the visits made to CIE in 2015**. In addition, Annex II.2.1 (electronic format) details the conclusions and, where appropriate, examples of good practice which have been sent to the various administrations, with respect to **each one of the facilities** of this type visited this year.

## IV.2.2. Military Disciplinary Establishments

**159.** According to the information provided by the Secretary of State for Defence, during 2015 the following arrests were made in the various **Military Disciplinary Establishments** (Spanish acronym EDM).

Table 37  
Arrests made in EDM during 2015

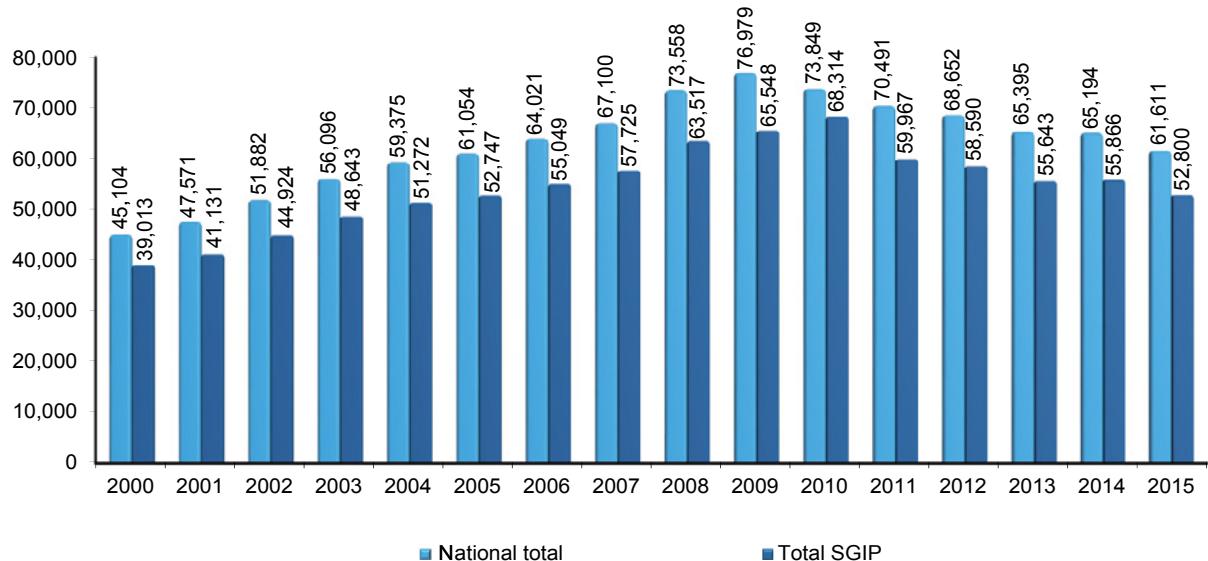
EDM RUN BY THE ARMY								EDM RUN BY THE AIR FORCE				EDM RUN BY THE NAVY			TOTAL		
CENTRAL EDM (COLMENAR VIEJO, MADRID)		CEUTA EDM		MELILLA EDM		TENERIFE EDM (SAN CRISTÓBAL DE LA LAGUNA, SANTA CRUZ DE TENERIFE)		LAS PALMAS EDM (LAS PALMAS DE GRAN CANARIA)		NORTHERN EDM (LEÓN)		LAS PALMAS EDM (LAS PALMAS DE GRAN CANARIA)		SOUTHERN EDM (SAN FERNANDO, CÁDIZ)			
M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W
18	-	32	-	19	1	4	-	4	-	17	-	-	-	7	1	101	2

## IV.3. Long-term deprivation of liberty

### IV.3.1. Prison facilities

160. During 2015 the size of the prison population continued to fall, compared with 2014 when this trend appeared to have halted. In 2015 the total number of prisoners was therefore similar to ten years ago in 2005. The following chart and table show the specific data.

Chart 3  
Evolution of the prison population in Spain



Source: Produced in-house from data provided by the SGIP

**Table 38**

Distribution of the prison population in the SGIP and in the Justice Department of the Government of Catalonia, broken down by sex and procedural-criminal situation

2015	SGIP			CATALONIA			TOTALS	
	Precautionary	Convicted	SGIP Total	Precautionary	Convicted	Total Catalonia	Total	%
<b>Men</b>	5,919	42,768	48,687	1,102	7,101	8,203	56,890	92.33
<b>Women</b>	553	3,560	4,113	97	511	608	4,721	7.66
<b>TOTAL</b>	<b>6,472</b>	<b>46,328</b>	<b>52,800</b>	<b>1,199</b>	<b>7,612</b>	<b>8,811</b>	<b>61,611</b>	<b>100</b>

Source: Produced in-house from data provided by the SGIP

**161.** The following table shows the distribution of the prison population according the security grading of the facility. The data is very similar to that from 2014.

**Table 39**

Distribution of the convicted prison population according to security grading in the SGIP in December 2015

GRADES	MEN	WOMEN	TOTAL
<b>First Grade</b>	972	82	1,054
<b>Second Grade</b>	37,049	2,656	39,705
<b>Third Grade</b>	7,163	968	8,131
<b>Without classification</b>	3,521	300	3,821
<b>Total</b>	<b>48,705</b>	<b>4,006</b>	<b>52,711</b>

Source: Produced in-house from data provided by the SGIP

**162.** The distribution of the prison population by autonomous communities, sex and procedural-criminal situation is provided in the following table.

Table 40

Prison population by autonomous communities, sex and procedural-criminal situation in 2015

AUTONOMOUS COMMUNITIES	PRECAUTIONARY		PRECAUTIONARY TOTAL	CONVICTED		CONVICTED TOTAL	OVERALL TOTAL
	MEN	WOMEN		MEN	WOMEN		
Andalusia	1,494	108	1,602	11,810	961	12,771	14,373
Aragon	162	15	177	1,732	91	1,823	2,000
Asturias	79	10	89	1,048	100	1,148	1,237
Balears	261	23	284	1,295	117	1,412	1,696
Autonomous City of Ceuta	67	3	70	112	8	120	190
Autonomous City of Melilla	61	0	61	194	6	200	261
Canary Islands	367	45	412	2,688	204	2,892	3,304
Cantabria	63	4	67	436	21	457	524
Castilla-La Mancha	185	7	192	1,569	27	1,596	1,788
Castile and León	247	29	276	3,793	273	4,066	4,342
Catalonia	1,102	97	1,199	7,101	511	7,612	8,811
Extremadura	98	8	106	933	54	987	1,093
Galicia	323	20	343	2,946	196	3,142	3,485
La Rioja	63	4	67	252	16	268	335
Madrid	1,328	193	1,521	6,014	718	6,732	8,253
Murcia	232	14	246	1,278	109	1,387	1,633
Navarre	39	3	42	245	22	267	309
Basque Country	115	4	119	1,025	129	1,154	1,273
Valencian	735	63	798	5,398	508	5,906	6,704
<b>TOTAL</b>	<b>7,021</b>	<b>650</b>	<b>7,671</b>	<b>49,869</b>	<b>4,071</b>	<b>53,940</b>	<b>61,611</b>

Source: Produced in-house from data provided by the SGIP

163. Annex IV.3.1 to this report (electronic format) shows the following data:

- **Prisoners detained in first grade** SGIP-run CP. Data is also included on the participation of first grade prisoners in the Closed Facility Programme during the fourth quarter of 2015 in SGIP-run CP.
- The number of prisoners with **security measures** in SGIP Prison Facilities to December 31st 2015.
- The number of prisoners participating in the **Framework plan for integrated care for persons with mental illness (PAIEM)** to December 31st 2015.
- Information regarding **sentences and proceedings related to ill treatment** by SGIP staff, initiated before 2015 and resolved during that year, and proceedings initiated during 2015.
- **Deaths of prisoners** during the year 2014 in CP run by the SGIP. Data on deaths during 2015 in CP run by the SGIP was not available on the date of preparing the report.
- **Missed medical appointments by prisoners due to lack of police resources for their transfer and custody** during 2015 in SGIP-run CP.

Information relative to CP facilities under the Justice Department of the Government of Catalonia had not been received at the time of finalising this report.

**164.** **Section I.3.1 reflects the main conclusions of the visits made to CP in 2015.** In addition, **Annex II.3.1** (electronic format) details the conclusions and, where appropriate, examples of good practice which have been sent to the SGIP and to the Justice Department of the Government of Catalonia, **with respect to each of the CP visited during 2015.**

### IV.3.2. Prison psychiatric hospitals

**165.** Data on prisoners detained in SGIP-run prison psychiatric hospitals during 2015 is compiled in the following table.

Table 41

Number of prisoners who, on December 31st 2015, were receiving care in prison psychiatric hospitals run by the SGIP

PRISON PSYCHIATRIC HOSPITALS	No.
Fontcalent-Alicante	292
Seville	165
<b>TOTAL</b>	<b>457</b>

Source: Produced in-house from data provided by the SGIP

### IV.3.3. Young Offender Institutions

**166.** According to a study prepared by the National Statistics Institute (Spanish acronym INE) published on September 24th 2015, a total of **15,048 final judgments** were recorded **during 2014** in the Register of Criminal Liability of Minors, representing a **2.1 % increase on the previous year**.

The rate of minors between 14 and 17 years old sentenced per 1,000 inhabitants in the same age range was 8.7 compared to the 8.6 recorded the previous year. Analysis of the **number of criminal offences committed by minors** (two out of three sentenced minors had committed one sole criminal offence and one out of three had committed more than one) and their type shows that **25,717** were recorded, which is 0.4 % less than the previous year. Broken down by sex, male minors committed 81.7 % of the criminal offences and females 18.3 %.

During 2014, judges adopted **24,496 measures**, representing a **3 % increase** with respect to the previous year. The most frequently adopted measures were probation (39.2 % of the total), community service (17.6 %) and committal to a semi-open facility (11.6 %).

With regard to the **nationality** of the offenders, foreign minors are committed more often to closed and semi-open facilities (4.6 % and 15.7 % of the total, respectively) than Spanish minors (1.7 % and 10.3 %). In contrast, measures involving socio-educational tasks and community service are imposed less frequently on foreign minors (8.6 % and 15.4 % of the total, respectively) compared to Spanish minors (11.6 % and 18.3 %).

**167.** The **capacity of each facility visited in 2015 and the number of places occupied** on the days of the visits are presented in the following table.

**Table 42**  
Capacity and occupancy of Young Offender Institutions visited

FACILITIES VISITED	CAPACITY	OCCUPANCY
Bahía de Cádiz Young Offender Institution (female) in El Puerto de Santa María (Cádiz)	45	36
Es Pinaret Socio-educational Facility in Es Pont d'Inca (Marratxi), Palma de Mallorca (Balearic Islands)	46	63
Las Moreras Educational Facility for the Enforcement of Court Orders in El Palmar (Murcia)	46	36
Sograndio Young Offender Institution in Oviedo (Asturias)	68	37
Teresa de Calcuta Young Offender Institution in Brea de Tajo (Madrid)	120	91
Vicente Marcelo Nessi Facility for the Enforcement of Court Orders in Badajoz (Extremadura)	40	36
Virgen Valvanera Educational Facility in Logroño (La Rioja)	21	16

Source: Produced in-house using data provided by the facilities

**168.** The **distribution of prisoners in the various facilities visited during 2015**, according to regime and the type of court ruling, is provided in the following table.

**Table 43**  
Bahía de Cádiz Young Offender Institution (female) in El Puerto de Santa María (Cádiz)

DETENTION REGIME	NUMBER OF MINORS
Closed regime	1
Semi-open regime	16
Non-custodial	1
Weekend detention	1
Closed therapeutic detention	6
Semi-open therapeutic detention	6
Semi-open detention	2
Semi-open therapeutic detention	2
COURT RULING	NUMBER OF MINORS
Final	31
Precautionary	4

**Table 44**  
**Es Pinaret Socio-educational Facility in Es Pont d'Inca (Marratxi),  
Palma de Mallorca (Balearic Islands)**

DETENTION REGIME	NUMBER OF MINORS
Closed regime	14
Semi-open regime	34
Therapeutic regime	13
Weekend detention	2
COURT RULING	NUMBER OF MINORS
Final	63
Precautionary	–

**Table 45**  
**Las Moreras Educational Facility for the Enforcement of Court Orders in  
El Palmar (Murcia)**

DETENTION REGIME	NUMBER OF MINORS
Closed regime	5
Semi-open regime	25
Non-custodial	2
Semi-open therapeutic detention	3
Weekend detention	2
Semi-open precautionary committal	3
COURT RULING	NUMBER OF MINORS
Final	37
Precautionary	3

**Table 46**  
**Sograndio Young Offender Institution in Oviedo (Asturias)**

DETENTION REGIME	NUMBER OF MINORS
Closed regime	4
Semi-open regime	24
Semi-open therapeutic detention	2
Weekend detention	–
Semi-open detention	1
COURT RULING	NUMBER OF MINORS
Final	30
Precautionary	1

**Table 47**  
Teresa de Calcuta Young Offender Institution in Brea de Tajo (Madrid)

DETENTION REGIME	NUMBER OF MINORS
Closed regime	47
Closed therapeutic regime	5
Semi-open regime	23
Non-custodial	4
Semi-open therapeutic regime	12
COURT RULING	NUMBER OF MINORS
Final	91
Precautionary	—

**Table 48**  
Vicente Marcelo Nessi Facility for the Enforcement of Court Orders in Badajoz (Extremadura)

DETENTION REGIME	NUMBER OF MINORS
Closed therapeutic regime	2
Semi-open regime	19
Semi-open therapeutic detention	8
Weekend detention	2
Semi-open precautionary committal	4
Semi-open precautionary therapeutic detention	1
COURT RULING	NUMBER OF MINORS
Final	31
Precautionary	5

**Table 49**  
Virgen Valvanera Educational Facility in Logroño (La Rioja)

DETENTION REGIME	NUMBER OF MINORS
Closed regime	9
Semi-open regime	4
Semi-open therapeutic detention	1
Closed precautionary committal	1
Semi-open precautionary committal	1
COURT RULING	NUMBER OF MINORS
Final	14
Precautionary	2

169. Annex IV.3.2 provides the following information:

- Complaints of suspected malpractice or the suspected commissioning of torture, ill treatment or infliction of cruel or inhuman treatment during 2015 in the various facilities, according to information provided by the different autonomous communities.
- Attempts to self-harm or deaths in facilities for minors.
- The following data broken down by autonomous communities: the total number of minors sentenced in 2015 for criminal offences; the number of young offenders residing in one autonomous community who have served or are serving a court order in another; the number of female detained minors who were accompanied by their children younger than 3 years old; the number of sentence violations which have occurred, differentiating escapes from detention centres from instances where the detainee did not return from temporary leave or release; the number of facilities for minors with health or behavioural disorders.

170. Section I.3.3 reflects the main conclusions of the visits made to CMI in 2015. In addition, Annex II.3.3 (electronic format) details the conclusions and, where appropriate, examples of good practice which have been sent to the various administrations, with respect to each one of the facilities of this type visited this year.

## IV.4. Special purpose deprivation of liberty facilities

### IV.4.1. Foreign national deportation operations

171. The Central Unit for Deportation and Repatriation (UCER), which reports to the CGEF, is responsible for implementing the repatriation of those foreign nationals whose deportation or repatriation case has been resolved by the competent authority

Table 50  
Foreign national deportation operations carried out during 2015

DEPORTATION OPERATIONS	2015	
	No. MOVEMENTS	No. REPATRIATES
Morocco via Ceuta	79	1,463
Morocco via Melilla	6	13
Repatriations to Algeria by boat	82	918
International flights	13	499
FRONTEX flights organised by Spain	5	160
FRONTEX flights organised by other countries	10	80
<b>TOTALS</b>	<b>195</b>	<b>3,133</b>

172. The tables in Annex IV.4 show the foreign national repatriation operations organised by FRONTEX and by the CGEF in 2015, according to data provided by the DGP.

173. Without prejudice to the foregoing, section I.4.1 presents the main conclusions reached in 2015. Annex II.4.2 (electronic format) details all the conclusions and examples of good practice which have been sent to the Administration, with regard to the supervision of these flights in 2015.

V

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Processing by the Ombudsman  
of complaints of ill treatment  
§174 - §196

**174.** The following presents a summary of the proceedings carried out by the Ombudsman, whether ex officio or as a result of a complaint by a citizen, which are related to the activity of the NPM, as well as the main conclusions of these. The more detailed content of said conclusions may be found in the *2015 Annual Report of the Spanish Ombudsman*.

**175.** 12 complaints were received in 2015 of suspected **ill treatment by police** and 45 for improper treatment.

Proceedings were initiated on various issues connected to possible ill treatment by officers of the state law enforcement organisations, which are set out further on.

**176.** Following the **suicide** of a detainee in the prison unit of the Sant Joan de Déu de Manresa Hospital, a Recommendation was put forward to the Government of Catalonia that it modify the criteria by which police staff who fail to comply with the operational guidelines set for the police by the Catalan Government, with regard to permanent visual contact with the detainee, are not held responsible. This Recommendation was partially accepted, such that the operational guidelines on the detention process will be reviewed in order to strengthen the security of detainees whilst they are under police custody.

A Recommendation was made to the Secretary of State for Security that Instruction 12/2007 be amended to introduce a section compiling the rules and guidelines that must be followed by members of the state law enforcement organisations charged with the custody of detainees, in order to **minimise the risks of suicidal behaviour**. This has been accepted and is reflected in SES Instruction 12/2015.

**177.** Various **complaints related to specific cases** of ill treatment were processed, of which the following stand out.

**178.** An investigation was carried out into a case of **assault by CNP officers in Móstoles** of a citizen for using their mobile device to record a dangerous manoeuvre made by a police vehicle involving said officers. Following their investigation, the Local Police Station in Móstoles concluded that the opening of a disciplinary action was not justified, as well as that the person affected had shown themselves to be very aggressive during the period of detention and that four officers were required in or-

*III treatment by police*  
§395 AR 2014

*Self-harm and suicides*  
§82 AR 2014

*CNP assault, Móstoles*

der to carry out the body search. This does not agree with the information extracted from the rest of the documentation, and as such the proceedings have remained open for the purposes of clarifying these details.

*CNP assault, Majadahonda*

**179.** Another citizen lodged a complaint of having been **assaulted by national police officers** when passing close to a brawl that happened during the celebration of the local fiestas in **Majadahonda (Madrid)**, causing various injuries which were noted in the medical report provided. The person affected also stated that they did not have the details of the officers who carried out the assault, since the officers did not provide their badge numbers when asked.

*Identification of officers  
§90 AR 2014*

**180.** Given the frequency with which citizens approach the Ombudsman about the difficulty in **identifying police officers** and the scarce number of sanction proceedings ordered for breach of the duty to carry their personal identification number, a Recommendation was made to the DGP that it amend the criteria which it follows for punishing these breaches, especially when the agents also fail to identify themselves upon the request of a citizen or where other circumstances take place which enable police conduct to be classed as serious. A Recommendation was also put forward to the DGCC that it adopt the appropriate measures in order to guarantee compliance with the provisions in Instruction 13/2007 of the Secretary of State for Security on this matter, including disciplinary measures. Both Recommendations have been accepted.

*CNP assault, El Tarajal (Ceuta)*

**181.** In another case, **a foreign national reported having been struck by various national police officers at the El Tarajal border (Ceuta)**. After carrying out the relevant procedures before the DGP and the SGIP, and establishing that Pre-trial Investigation Court No.4 in Ceuta was informed of the facts, the person affected was notified that this institution cannot interfere in judicial proceedings, nor review the decisions issued thereof.

*Improper treatment*

**182.** Complaints regarding the **improper treatment of citizens by officers** were also processed. The analysis of these cases of rough, improper or degrading treatment towards citizens reveals the resistance of the competent authorities, with regard to disciplinary matters, to carrying out confidential disclosures or to ordering sanction proceedings when citizens report police conduct which is liable to be sanctioned. The persons concerned are frequently referred to the use of the complaints and suggestions book in the absence of forms for reporting these offences. This runs contrary to the criteria of this institution, which urges citizens to direct complaints to the competent body in order to begin a disciplinary procedure, according to the procedure established in the Organic Law of the CNP's Disciplinary Regime. Based on this reasoning, a Recommendation has been made to the DGP that it issue appropriate instructions to ensure that sanction proceedings or confidential disclosures are initiated when a citizen reports this type of conduct.

183. Regarding **Prison Facilities (CP)**, 38 complaints were received of suspected ill treatment in prison during 2015.

*Prison facilities*

184. An inmate in the **A Lama Prison Facility (Pontevedra)**, who according to their statements needed crutches for moving around, made a complaint because they had been subjected to unwarranted physical force by officers after requesting a change of cell. According to their testimony, they were taken to the infirmary instead of to the solitary confinement wing due to the state they were in. In their complaint they stated their disagreement with the facts submitted by the service staff and also reported the absence of personal belongings. The Administration's report did not contain any reference to the events that had given rise to the incident (the prior request for a change of cell), nor to whether or not the person affected was taken to the infirmary, nor to the reported absence of personal belongings. Nor was it clarified if it was true that the person could not walk without crutches. Proceedings were initiated with the SGIP and the case is still being processed.

*Omission of information in reports Case in A Lama CP*

185. Another case was opened following a complaint of **suspected ill treatment in the Castellón II CP**. The person appearing stated that, following an argument amongst inmates, their relative detained in prison was taken from their cell to a ground floor room where two officers used unwarranted physical force. They were taken to the infirmary and during the transfer were threatened. An injury report was prepared, of which a copy was not provided to the detainee, and they were later driven to the isolation unit, where they remained until their transfer to the Alicante I CP for legal reasons. Although images were extracted and played back, the recording of the incident was not saved.

*Suspected ill treatment in Castellón II CP*

Another complaint was received regarding the request by a legal body with criminal jurisdiction for access to recordings from the **video surveillance system**, in relation to an incident which caused a person deprived of liberty to request legal protection. Said request by the legal body was not granted by the administration, which claims that the recording system in the facility stores recordings for a maximum of 20 days, after which time recordings are made over those already on the hard disk.

*Video surveillance  
§162 AR 2014*

In another case, an inmate stated their disagreement with the version of events provided by the prison administration after reporting having been struck, rather than having caused the injuries to themselves whilst restrained by handcuffs and held by an officer, as was claimed by the administration. The inmate requested that this be verified by way of recordings from the security cameras.

In light of all of the above, this institution has continued to insist upon all CP having proper video surveillance systems which provide sufficient coverage, and on their use as a complementary tool during court-ordered investigations into ill treatment or during disciplinary sanction proceedings against persons deprived of liberty. There should also be a procedure for recording, storing, extracting, keeping and submitting images, and the ex

*Video surveillance systems  
§63, 216 AR 2014*

officio administration should extract, keep and archive images of incidents in case they are required by the judicial or administrative authority.

186. Various cases were also opened into suspected ill treatment within the sphere of **immigration**.

*Repatriation operations  
§349 al 364 AR 2014*

187. As a result of the supervision of a **Madrid-Colombia-Santo Domingo foreign national repatriation flight** (January 28th to 30th 2015), an interview was held with a Colombian citizen from the Las Palmas and Madrid CIE who presented an injury to their right eyebrow and a blow to their right eye which they confirmed had bled. They said that the doctor on duty had only carried out a visual examination and that they were quickly taken to the vehicle assigned to the repatriation operation. The doctor and DUE who provided healthcare on board the repatriation flight stated, following examination, that despite the bruises suffered they were lucid and in a fit state to travel. The administration refuted this version of events and submitted the medical report prepared by the CIE medical staff, in which it was highlighted that the detainee had intentionally hurt himself, and that the injury did not require stitches nor posed any obstacle to travel.

*Incident on a repatriation flight  
to the Dominican Republic*

188. In another complaint, the person appearing requested that this institution intervene following the actions of the police during a repatriation flight involving a Dominican citizen. The events were gathered on video and put on the internet, which prompted the opening of a confidential investigation by the competent administrative body. The images showed a woman, presumably from the state law enforcement organisations, **repeatedly striking the citizen who was going to be repatriated**. Information was requested from the CGEF, which in turn pointed out that they had opened two investigations: one by Pre-trial Investigation Court No.39 in Madrid (Prior Proceedings 2750/2015) in order to clarify the police actions, and another by the CNP (under Confidential Disclosure) for the purposes of determining the possible disciplinary liabilities. In the absence of a judicial ruling the case is suspended.

*Escape of immigrants during  
their transfer*

189. A complaint was processed from an organisation who raised the situation of some **Algerian citizens** detained in the Murcia CIE who **presented haematomas, erosions and contusions** for which they were being treated. The facts had been related to the Magistrate Judge of the Murcia CIE, who had reported that all the injuries had received medical attention and that, in case of an inmate with a fracture in their legs, a transfer had been ordered to the Virgen de la Arrixaca Hospital in Murcia. The CGEF reported that when the transfer got under way of 16 Algerian immigrants (boat 18/15) and 24 people of Sub-Saharan origin (boat 19/15) in a DGP bus with police escort from the temporary-stay immigration units in Almería to the jail cells in the Regional Police Headquarters, an escape from the police bus took place. The Algerian immigrants assaulted various police officers and pulled down the upper emergency hatch of the vehicle before throwing it outside. **Eight of them escaped**. During the pursuit, six of them were caught and put up significant physical resistance to their detention. The minimum force necessary to be able to con-

tain them had to be applied. As a result, seven police officers and six detainees were injured. All were transferred to a medical facility and later detained and charged with assaulting an officer of the law, resistance and harm. They were committed to jail cells in the Regional Police Headquarters for Almeria, with the exception of one who had injured a foot when jumping from the bus and was admitted to the Secure Unit of the Torrecárdenas Hospital in Almeria and was awaiting surgery. As a result of these events, Proceedings number 10445/15 were heard by Pre-trial Investigation Court No.1 in Almeria, before which the detainees appeared. It was not possible to follow-up on the healthcare provided to the inmate who suffered the aforementioned injuries since they left the secure unit where they were committed, left the hospital of their own accord and have not been located.

190. This institution was also approached by an association reporting the case of a young detainee in the **Fuerte Purísima Residential Educational Facility for Minors**. This facility takes in unaccompanied young male foreign nationals aged between 12 and 18 years who have been neglected. According to the minor's statements, they were assaulted by two educators in the centre. Some volunteers from the association located the minor. He had haematomas and wounds and stated his wish to report the events. The following day, the minor notified these volunteers that the staff in the facility had not accompanied him to file their report, nor to the medical services. The volunteers therefore accompanied the minor to the emergency services, which issued the corresponding report, and also to the CNP Station to report the assault. The latter was not possible due to the absence of a translator and of a representative from the children's protection services. Having been unable to find an educator to accompany them, the minor tried again, unsuccessfully, to file their report. The minor was put off until the following day, which is when the officers indicated that the report could be made to the Civil Guard. An educator arrived and accompanied the minor to the facility without filing the report. In view of the fact that the minor found it possible to report the events, that same day the volunteers from the association filed a report to the Civil Guard.

Proceedings were begun before the Public Prosecutor, as a result of which the Prosecutor's Office for the Melilla Area reported that Proceedings had been initiated under No. 32/15 into reports made by two minors of ill treatment received by care workers in the La Purísima facility, and that the Department of Social Wellbeing and Health of the Autonomous City of Melilla had been requested to provide the identity of said care workers. This official request has been reiterated.

191. With regard to incidents in **Young Offender Institutions**, an ex officio proceeding was also initiated after this institution had access to a video that showed **two youths with their hands and feet bound**, one of whom was lying face down, sobbing and asking for water, in the Tierras de Oria Facility for Minors in Almeria. With ex officio proceedings under way with the Justice and Interior Departments of the Government of Andalusia,

*Injuries in the Fuerte Purísima Facility for Minors (Melilla)*

*Young Offender Institutions*

*Restraints in the Tierra de Oria Facility for Minors (Almería)  
§254 AR 2014*

it was communicated that staff of the Directorate-General of Justice and Cooperation had travelled to the centre to check, among other things, the response protocol for the use of restraint measures. Following visual inspections, and the statements made by members of the Civil Guard over the course of the legal proceedings initiated as a result of the images, four detentions were ordered (three security guards and one former inmate of the facility), with temporary release later granted, on account of the recording and dissemination of the video, according to the report by the Public Prosecutor.

*Death in the Es Pinaret facility  
(Balearic Islands)*  
§283, 284 AR 2014

192. Following the **death of a minor in the Es Pinaret facility** (Balearic Islands) due to a fire in his bedroom, proceedings were initiated with the Department of Social Services and Cooperation of the Autonomous Community of the Balearic Islands. The conclusions of the NPM following its visit in February 2015 had been directed to this Department months before. Information was requested from said Department on the results of the investigation into the causes of the fire, as well as from the internal investigation which had been carried out in the facility into whether or not the actions of the staff aligned with the response protocols for emergency situations.

193. Various proceedings were also begun in relation to residential facilities which provide health, social or rehabilitation services.

*Deaths of 8 residents in the  
Santa Fe facility (Zaragoza)*

194. A complaint was processed resulting from the **deaths of eight residents in the Santa Fe facility in Zaragoza in a fire** allegedly caused by a resident who would be incapable of doing so. Information was requested from the competent Department of the Government of Aragon and from the Local Council of Zaragoza about the inspections carried out in the residence, the fate of the other residents and the evacuation procedure followed. It was established that the residence did not meet the conditions around suitability and legality, but remained open because the public administrations involved had not taken the appropriate measures. This case is currently before the courts. Two Recommendations were made to the stated administrations in order that they intensify and improve the surveillance in these residences and that they apply appropriate sanctions where there are inconsistencies, which have been accepted by both administrations.

*Death in Ciempozuelos (Madrid)*  
§397 AR 2014

195. Follow-up was also continued regarding the case of the **death of an inmate at the hands of another in the Ciempozuelos Psychiatric Facility (Madrid)**, where the NPM carried out a follow-up visit in 2015.

*Use of restraints*  
§340, 341, 342 AR 2014

196. In May 2015 the proceedings initiated in 2014 with the Department of Health and Social Affairs of Castilla-La Mancha were concluded, with the Recommendation being accepted to regulate or, at least, create a protocol around the **use of restraints** and physical or pharmacological containment under the principles of last resort, periodic reviews, informed consent and medical prescriptions. This Administration also accepted the Recommendations about the need to create a **protocol for the supervision and investigation system** in relation to injuries with uncertain

*Investigation into injuries*

causes, and to issue the corresponding injury report in order to refer the facts to the judicial authority. These Recommendations were made as a result of the events which took place in the **Gregorio Marañón Residential Home for the Elderly in Ciudad Real**.



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