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Response of the Spanish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Spain

from 22 July to 1 August 2003

The Spanish Government has requested the publication of this response. The report of the CPT on its July/August 2003 visit to Spain is set out in document CPT/Inf (2007) 28. The appendices to the response will be published shortly.

Strasbourg, 10 July 2007

RESPONSE OF THE SPANISH GOVERNMENT TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) WITH RESPECT TO THE VISIT TO SPAIN CARRIED OUT FROM JULY 22 TO AUGUST 1 2003

I. INTRODUCTION

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter, CPT), has forwarded the report concerning the periodic visit made to Spain between July 22 and August 1 last year to the Spanish government. This is pursuant to the terms of article 10 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

In said report, the CPT makes suggestions and recommendations as a consequence of the information requested in the detention centres visited, and considers it necessary that this be forwarded to the Spanish government in order to comply with the standards set by the cited Committee.

In this respect, the Government gives thanks to and takes note of the recommendations received. These have been used, since the start of the different visits carried out by the Committee delegations, as a guide to introduce improvements, at both at regulatory and a practical level, so as to achieve strict compliance with the Convention.

We cannot overlook the fact that it has been the social conscience, and its revulsion of all classes of torture and mis-treatment, which has progressively led to a radical commitment in this country in defence of human rights and the prosecution of all violations of the same. This commitment has taken shape, both in terms of internal regulations and in compliance with the main international instruments for protecting the rights of individuals. In this respect, we place ourselves amongst the most advanced countries in the International Community in issues of the protection of rights and liberties.

In recent years, this form of protection has taken on an international protection due to the spectacular growth in the phenomenon of immigration, which has gone well beyond all forecasts. The main concern of the Spanish authorities in this area is the prevention and prosecution of all types of racist and xenophobic forms of expression, and the proper integration of foreigners into Spanish society. Legislation concerning aliens has been established along these lines, which recognises a range of rights and obligations to immigrant persons, even when they have irregular status. This has no comparison in the legal codes of our surrounding area, and has been accompanied by the form of instruction that the members of the Security Forces and Units receive regarding this phenomenon. The aim of this is to provide the proper form of treatment for people who come to this country illegally.

Likewise, the mass arrival of unaccompanied foreign minors to the shores of Spain has made it necessary to make a huge effort to guarantee their protection, both in terms of having the right infrastructures to welcome them, and in terms of their repatriation procedures.

On the other hand, also within the penitentiary field, the efforts made to guarantee the rights of the prison population have been re-doubled, improving their quality of life and committing many thousands of euros to the construction of new prison centres and to improving the existing centres.

Thus, it is in these and other fields, where the efforts of this country have been focused on achieving forms of practice and approving regulations that guarantee the fundamental rights of the diverse groups mentioned. It is not possible to achieve this if those people responsible for the isolated cases of torture or mis-treatment that may take place are not suitably hunted down and punished, as is effectively laid down by means of the corresponding disciplinary and criminal proceedings under the legal code.

In short, while the Committee cannot help holding the conviction that the necessary instruments have been provided in this country to guarantee the human rights of all individuals and the persecution of all outrageous actions against them, the Spanish government maintains an open and receptive attitude towards all of those initiatives aimed at improving the existing instruments.

In this respect, a response will be offered below to the different recommendations and suggestions made by the CPT. Firstly, a set of considerations of a general nature will be made, and then a specific analysis of these comments will be carried out. To this end, the structure of the report itself will be followed.

II. GENERAL CONSIDERATIONS

The Committee's Report focuses its recommendations around four large areas; the detention centres, prisons, psychiatric institutions and the youth detention centres visited. As far as these are concerned, a series of assessments and recommendations regarding the situations that are considered unsuitable are made.

This Report reiterates a declaration made in the previous report of November 9, 2001, according to which "the persistence of the accusations of mis-treatment (sometimes of a serious nature), of both ordinary criminal suspects and of people arrested for alleged terrorist activities caught the attention of the Committee, and leads to considerable concern".

The repetition of this critical statement is a reason for sorrow for the Spanish authorities, for those people who help with citizen protection, as well as for those people who protect the exercising of the basic rights of individuals. In this respect, it is necessary to state that the authorities concerned have not ceased in their activities of promoting the prevention of, instruction about and elimination, as applicable, of all violations of the fundamental rights of the citizens who are placed in custody or arrested by agents of the State.

On the contrary, as has been stated above and will be set out in detail later on, the carrying out of these activities has been strengthened. Alternatively, it is necessary to undertake the most objective approach possible towards the real existence of examples of mis-treatment, both in relation to ordinary suspected criminals and as regards those people arrested for alleged terrorist activities. For this purpose, it is appropriate to make reference to the necessary comparison with other data from the realm of the social and criminal reality in Spain.

In this respect, and as is well-known, we need to confirm that the confidential accusations of cases of mis-treatment do, in general, constitute the general working method of any ETA terrorist who, having been suitably indoctrinated, bears the markings of a "good" terrorist for the case in which he is arrested. One of the examples of this was the seizure by the Civil Guard of the "Araba command team" in 1998, which appears in the 4/1998 summary of the Magistrates´ Court no. 1 of the National Chamber

This manual has been attached to the charge filed by the Ministry of the Interior, concerning the statements made by Marcelo Otamendi, Ignacio Uría, Javier Alegría and Javier Oleaga as document no. 26, in which it was considered that these people had committed offences of damage and calumnies against the Civil Guard, false charges and the obstruction of justice. These, it was alleged, were all carried out for terrorist objectives and so as to collaborate with an armed band, and are the subject of judicial investigation by the Central Magistrates´ Court no.1 of the National Chamber in the Preliminary Hearings 86/03.

Another piece of data that is appropriate to take note of, when dealing with the reality of the situation, is the recording of 21 criminal proceedings set down by the Magistrates Courts of the Basque Country or of the National Chamber, concerning the last five years, dealing with charges of torture or mis-treatment of ETA terrorists arrested by members of the Civil Guard or the National Police force, which have ended in the filing or abeyance of the case.

In order to tackle the data above, we can also make a comparison with the fact that at the same time there has not been a binding judgment about tortures of mis-treatment brought against the members of the State Security Forces and Units.

And, dealing with the same issues, having reference to the protection of the physical and moral well-being of persons under arrest, it is important –without seeking to set out a complete classification of the laws – to draw attention to the parliamentary initiatives that have been introduced to develop the very extensive regulatory framework whose objective is caring for victims. Specifically, this includes, in recent procedural law, the mandatory written provision of rights to the offended individual who has suffered detriment by the Criminal Investigation Department. There is likewise the provision of information concerning the particular rights for persons under arrest given to people who have only been held for questioning, but have not been arrested (section 520, and section 771, 1st. and 2nd. Rules of the Criminal Procedure Act).

Without prejudice to the foregoing statement, and in contrast to the stated sorrow caused by the Committee's criticisms, the Spanish government congratulates itself on the fact that other aspects have been acknowledged that are worthy of being the subject of a positive assessment and which the Committee has observed in certain areas: the efforts deployed towards attaining the strictest degree of respect for the rights of all those people who have been deprived of their liberty.

- Hence, the CPT has been able to check the diligence with which an arrest is notified to a third person. This is because, as is featured in its report, the people interviewed who were in the custody of Officers of the Law, declared that they were satisfied with the speed with which third parties were informed of their situation of having been arrested.

- Another of the aspects that was positively assessed in general, is the exercising of the right of the people arrested to have access to medical care. This is without prejudice to specific aspects detected by the CPT that it considers need to be improved. These will be dealt with at a later stage.

- In the field of prison care, the CPT is aware of the progress made since the 1998 visit in balancing the number of prison places and the number of people who occupy them.

Effectively, within the context of a prison care policy that aspires to achieve the target of one inmate per prison space, investment is being made for the construction of new jail structures. This will make it possible to provide a total of 4,032 cells in 2005. These will be located at Puerto de Santa María (Cadiz), Morón de la Frontera (Seville), Albocasser (Castellon) and Estremera (Madrid).

In the same way, as the report states, the particular forms of carrying out the punishments laid down in the Royal Decree 190/1996, of February 9 have been put into practice. This Royal Decree passed the Prison Service Regulations into law, whose goals are the use of the extra-penitentiary resources existing in society, the protection and fostering of family values in the prison field and the achieving of the proper level of care for inmates.

- Likewise, the prison centre health services in general, have gained a positive assessment from the CPT, notably in the area of the prevention of suicide and contagious illnesses.

It has been precisely the well-structured policy for the prevention of contagious illnesses in the area of drug-dependencies has merited particular approval by the CPT, as it has confirmed the existence of needle exchange programmes at two of the prison centres visited, along with other similar preventative measures.

- In turn, the CPT has confirmed the satisfaction it expressed in its 1998 visit about the initiatives deployed in order to allow prisoners to be able to maintain contact with the outside world. This was verified at the prison centres visited in 1998 and in the last visit in 2003.

- As regards Prison Psychiatric Institutions, the CPT has praised the quality of the medical reports, their detail, accuracy and respect for medical confidentiality.

Equally, the procedure for applying the physical means of immobilisation followed at two of the centres visited was approved. These had to be authorised by a doctor, being recorded at the time when the facility begins to be used and at the end of the measure. A record is also taken of the reasons for using it and the name of the doctor who prescribes its use. These are measures which, moreover, have to be ratified at the start and the end by the signature of the centre director and reported to the judge in charge of the supervision.

Finally, the Spanish authorities are delighted at the sincere, open and transparent willingness to collaborate which, in general terms, has been observed at the Units and Centres visited by the CPT. This attitude was very much on display when these visits took place. This is a form of collaboration that the Spanish authorities have the intention of depending, being grateful for the suggestions given and the Committee's work. It is convinced that only through mutual respect, the free exercise of the rights and liberties of individuals and the cooperation of the Spanish state at all levels, within the field of responsibility of each one, can we attain the common goals that we are seeking.

III. PARTICULAR CONSIDERATIONS

A. Centres of Officers of the Law.

Mis-treatment

Paragraphs 10 to 14. Mis-treatment

The CPT confirms that most of the people arrested by Officers of the Law who were interviewed acknowledged that the form of treatment they had received was proper.

Notwithstanding this statement, the report states certain protests about abuses carried out by members of the Civil Guard and the local police forces, largely at the time of the arrest or during the transportation to the corresponding facilities.

Accordingly, the CPT recommends, as it has already done on previous occasions, that officers of the Law be regularly reminded that such conduct is not acceptable and of the penalties that may be received for committing this, and that more force than is strictly necessary must be used at the time of making the arrest.

Thus, as has been stated throughout the report, the existence of cases of mis-treatment (at no time has the CPT recorded conduct constituting torture) is the exception. That is to say, the CPT mentions isolated cases in which some excessive use of force may have taken place. But, as has been seen in most cases, the form of treatment given to the individuals concerned has been proper.

Hence, in the light of this premise, the cases of abuse, as they have been appraised in the recommendations and comments made by the CPT, are the exception. This does not stand in the way of the fact –as could not be otherwise- the intention of the Spanish authorities is that of completely eradicating any action of such a nature.

In this respect, the Officers of the Law –whichever Force they belong to- are fully aware of the obligation to respect the rights that the Constitution and the rest of the legal code recognises to persons under arrest. They are likewise aware of the consequences that could arise from a lack of knowledge about these rights, which could lead the officials involved to be dismissed from the service, as the disciplinary code of each Force states.

Nevertheless, as far as the use of force at the time of the arrests is concerned, it is practically unthinkable to conceive of making a peaceful arrest, that is to say, one without some form of resistance by the individual arrested. For this reason, if it is necessary to resort to the use of force in some instances, this is generally determined by the previous violent form of behavior by the person arrested. The response to this is always appropriately proportional to the objective sought, and is the result of the necessity that is imposed by the aggression received, as the case may be.

In any event, chapters 8, 9,10,11,12 and 17 of the text known as the “Manual of Criteria for the Carrying Out of Formal Procedures by the Police Force”, drafted in the framework provided by the National Commission for Police Force Coordination, features the Protocols for dealing with persons under arrest. This has been the subject of widespread distribution (39,000 copies, in two editions).

In regard to this last matter, when an exceptional case of abuse by police officials is detected, a strict penalising procedure is applied. This is regardless of the fact of bringing this to the knowledge of the Judicial Authorities, so that the criminal liabilities that said officials may be subject to can be determined.

Paragraph 15 . Training of the Security Forces and Units personnel

In this paragraph, the CPT makes reference to a preventative measure which, in its judgment, is appropriate to use against abuse. This is the proper training of the Officers of the Law. It recommends that this is carried out on a continual basis, and that it is extended to all levels of the hierarchy of State Agents. It likewise stresses the importance of human rights being integrated into practical professional training for high risk situations, such as the arresting and interrogating of suspects. This would be more effective than independent courses on human rights.

Thus, training in human rights is the subject of particular attention by the Spanish authorities as being the suitable means of spreading awareness of the need to act in a respectful manner when carrying out the tasks of the arrest, placing in custody, interrogation and treatment of people deprived of their liberty by agents of the State.

In the case of the National Police Force, training in this topic starts with the entrance courses of the different Ranks of the Force. This is implicitly contained in all of the subjects, and expressly contained in the subject of Professional Ethics or the Professional Code of Practice. (The information about the reading list, that is concerned with existing human rights, for access to the different ranks of the Force, is attached as Appendix I). This training is extended throughout the different promotion, updating and specialisation courses.

As far as the members of the Civil Guard are concerned, Appendix I likewise details the study programmes deal with the rights of persons under arrest for access to the different categories of the Force, along with those referring to the safeguarding of the rights of foreigners who come to our country.

Likewise, in order to guarantee the sufficient standard of capability to become adapted to the new realities of the situation in this topic, a wealth of specialisation courses, sessions and conferences has been taught in recent years. Above all, these have focused on the teaching of languages, care for women and minors who are the victims of abuse and the immigrants who come to our country (a summary of the courses taught is attached in the cited Appendix I).

In short, the CPT recommendations and the social reality itself, have lead the police authorities to increase their insistence on the tasks of training. Sessions or seminars have proliferated, with the attendance of personnel from all ranks and jobs, in accordance with the relevance that these topics merit. These have been carried out with the assistance of different Institutions and Organisms, such as the Spanish Federation of Municipal Districts and Provinces, the General Board of Solicitors and Lawyers, the Judicial Power General Board, the Centre for Studies of International Human Rights (CSIHR), and the Spanish Red Cross.

Paragraph 16. Creation of an independent body that internally investigates the complaints about torture in the police forces.

In point 16 of its report, the CPT considers that it is essential to have "the creation of an independent investigation body, capable of ordering disciplinary punishment on the officers who break the law" as a mechanism for the prevention of abuse.

In response to this recommendation, it is firstly necessary to reiterate the extent and strict nature of the internal mechanisms for demanding the accounting of responsibilities in the different Police Forces that have already been set forth in previous reports.

Hence, in the case of the complaints of abuse or torture meriting a disciplinary rather than a criminal form of punishment, these would be covered by the corresponding regulations of each Police unit. In the case of the Civil Guard, this falls under sections 8. 1 (serious offence) or 9. 2 (very serious offence), of the Disciplinary Procedure Enabling Act 11/1991, of June 17. In the case of the National Police Force, these are classified as very serious (section 27.3.c) or serious offences (section 7.1) of the Security Forces and Corp Enabling Act 2/1986, of March 13, and the Royal Decree, 884/1989, of July 14, on the Disciplinary Procedure Regulations of the National Police Force.

In accordance with the same regulations set forth, the penalising authority lies with the normal supervisors of the officials, from the Minister to the Chief of the Unit in which the task is performed, depending on the severity of the offence.

The power to appoint an examiner for the case lies with respective Director General of the Force, in the instances of an alleged serious or very serious infringement, as is the case at present. In the case of the Police, the person appointed may be any public official belonging to a Unit or Rank of an equal or senior group to that which the accused officer belongs. This is in accordance with section 21.1 of the cited Disciplinary Procedure Regulations of the National Police Force. Meanwhile, in the case of the Civil Guard, this individual must belong to the Legal Unit of the Armed Forces, as set forth in section 39 of the cited Civil Guard Disciplinary Procedure Act 11/1991, of June 17.

With respect to the Criminal Investigation Department, since this reports to the Judges and Public Prosecutor in its work, the latter can likewise take the initiative in bringing disciplinary proceedings against a police official, as set forth in section 298 of the Civil Procedure Act.

In turn, as the CPT has stated on previous occasions, the General Police Board has a Disciplinary Procedure Unit for the Personnel Division. This is responsible for the application of disciplinary procedures, acting with due independence in the investigations that it carries out.

On the other hand, within the Civil Guard General Board, the Internal Affairs Service has the mission of monitoring and investigating the conduct of the staff of this Body that is contrary to professional ethics.

Owing to those matters stated above, it is not possible to consider that there is a supposed form of discretion that lies with senior officers when it comes to correcting infringements by their subordinates. This is because the powers of the acting authorities that give the order to proceed, investigations, etc. in the disciplinary procedures are thoroughly regulated and each decision is determined in contrast to the possible alternatives in the context of the Law and must be sufficiently justified.

Likewise, it is not possible for there to be an abeyance, abandonment or filing of proceedings, without the governing causes in Law first being determined, and the reasons for the factors by which the examiner and the penalising Authority coming to one conclusion rather than another being justified.

Taking account of the statement above, together with the principles of legality, efficacy and hierarchy (section 103 CP) that the Authority uses for complying with the objectives that they are entrusted with, and those of internal organisation, efficiency in the allocating and use of public resources (section 3 of the 6/1997 Act, of April 14, on the Organisation and Functioning of General State Authorities), by virtue of which the Authorities have the capacity to discipline the officer concerned, the proposal to create an independent body is not considered to be advisable. This particularly takes account of the aggregation of the existing guarantees concerning a complaint about abuse, along with the twofold route (disciplinary and judicial) for the settling of responsibilities of the alleged miscreants that have committed the offence of abuse.

The possible creation of said independent bodies, in addition to putting all of the system detailed in question, would break up the diverse internal and external control procedures in order to necessarily create and grant powers to another Administrative Body or Organ.

Protection against abuses

Paragraphs 18 to 23. Access to a lawyer and notification of the arrest

As a means of prevention against abuses, the CPT considers it necessary for there to be a guarantee to access to a lawyer, who he can hold an interview with in private, from the same time at which the arrest takes place

In the event of the individuals arrested being subject to the prohibition against communication procedure, the CPT declares that it is impossible for such persons to have access to a lawyer of their choice, and they should have an interview with a lawyer appointed ex- officio, even after the statement has been made.

With respect to the individuals subject to the prohibition against communication procedure, the CPT considers that the right to provide information about the fact of his arrest and the place at which he is being held, to a family member or a third person, should be cut to a maximum of 48 hours. It recommends that the period of up to 5 days currently in force should not be maintained.

Likewise, the CPT makes reference to reforming the Criminal Procedure Act, effected into law by the Enabling Act 13 /2003,of October 24, by which the prison isolation procedure is amended.

The CPT requests information about the specific measures adopted in order to fully implement its recommendations with respect to the rights to have access to the services of a lawyer and the notification of the persons under arrest being placed in custody.

Spanish procedural legislation regulates access to a lawyer from the time of the arrest. This is codified as a constitutional right in section 17.3 of the Spanish Constitution, whereby:

"All persons under arrest must be immediately informed, in a manner they can understand, of their rights and of the reasons for their arrest, and not be obliged to make a statement. The attendance of a lawyer with the individual arrested in the police and judicial proceedings is guaranteed, on the terms that the law establishes."

The Criminal Procedure Act establishes that the arrested person has:

"The right to appoint a lawyer and to request his presence in order to attend the police and judicial statement procedures and to act with full acknowledgement of the offence that is the subject concerned. If the arrested person or prisoner does not appoint a lawyer, one shall be appointed ex-officio."(section 520. 2 c.)

Subsequently, paragraph 6 of the same section explains what qualified assistance consist of: a request for information about the rights of the individual arrested, for a medical check, the recording of the matters that he considers appropriate for his defence in the statement and an interview arranged on the conclusion of the interview .

Having reviewed this legal framework of qualified assistance, with regard to the CPT recommendation on the right of access to a lawyer from the time of the arrest, rather from the time of the statement, it is necessary to recall that once the arrest has been made, the police official is obliged to request the presence of a lawyer chosen by the arrested person or one be appointed by the Institute of Lawyers to act ex-officio (section 520.4 of the Criminal Procedure Act). There is a criminal penalty for not doing this. As a maximum, during the eight hours that the Law lays down for said lawyer to appear at the police station, no questions may be asked of the arrested person, nor any formal procedure be followed with respect thereto. The arrested person is already informed that he has the right to remain silent, and the right to a medical check from the time of his detention.

What is the risk that the arrested person runs during the eight hours before the arrival of a lawyer? The obtaining of a confession under these conditions not only serves no purpose (pursuant to the terms of section 11.1 of the Judicial Power Enabling Act 6/1985 of July 1, evidence obtained that directly or indirectly violate the fundamental rights or liberties shall not have effect), but this may also be punished as an offence under articles 530 and 537 of the Penal Code. Furthermore, the practice of alleged coercion, torture or humiliations is counteracted by the possibility of the individual private liberty to request *habeas corpus (*section 3 of the Enabling Act 6/1984, of May 24, regulating the Habeas Corpus process). There is a consequent obligation to immediately place the arrested person at judicial disposition. Likewise, the arrested person may immediately request a medical check if this is not done by the police officer, or do this once his lawyer is present.

Consequently, there is no legal opportunity that may be mocked with impunity, with the legal guarantees that are described and the strict interpretation that the courts make of these, both the Constitutional courts and those of ordinary jurisdiction. These courts oversee the fundamental rights at all times.

One "to the letter" interpretation of the CPT would lead to the incorporation of an external component into the Criminal investigation team: a lawyer appointed for the case by the Institute of Lawyers, and said investigation would entail dysfunctional consequences.

It is recommended, in these cases, to take account of the comparable right to place the matter in question in the proper place that corresponds under our national law, since a large number of countries around us maintain legislation that is similar to Spanish law on this issue.

Accordingly, in the case of Italy, the third paragraph of article 104 of the Criminal Procedure Code establishes that:

"During the course of preliminary investigations, when there are specific and exceptional reasons for caution, the Judge –at the request of the Public Prosecutor's Office- may, upon a reasoned petition, postpone the exercising of the right to communicate with the defence lawyer for a period of time no longer than five days."

That is to say, in the case that is least advantageous for the arrested person, access to communication with his lawyer –whether at his choice or an ex-officio appointee- may be delayed for up to five days. Italian legislation coincides with Spanish laws about the duration of access to a lawyer in the most unfavourable case, that of a lack of communication.

In the United Kingdom, the Police and Criminal Evidence Act of 1984, recently reformed in 2001, establishes the possibility that an arrested person can be held incommunicado for 36 hours, upon the decision of a police officer, without court action being taken, if he accused of the committing of a serious offence, not necessarily a terrorist one, and the police official has reasons to believe that the exercising of said right (access to a lawyer) may alert other suspected individuals, cause the hindering of the recovery of goods or lead to physical harm to other persons.

As can be seen, English law grants broad powers to the Police to impede access of the arrested person to his legal adviser.

In France, article 706.23 of the Criminal Procedure Act establishes that, in the case of terrorist offences, the stay in police custody may be extended for up to four days, although the ordinary period is 48 hours. The extension from two days has to be authorised by a Magistrate. In these cases, the arrested person can only speak to his lawyer once 72 hours have passed from his arrest.

The Spanish position is much more benign for the arrested person. This applies even in the case of terrorism –even though he may be held incommunicado at the police station, either for the first 72 hours or within an extension of 48 hours, requested from and granted by a judicial authority. The situation of a prohibition against communication will not deprive him of his right to a defence that is attendant upon him (section 520, bis 2, Criminal Procedure Act). That is to say, a lawyer will have to be present in all statements in the identity recognition process that he makes to the Criminal Investigation Department and at the police station.

As regards communication with family members in a maximum time of 48 hours after the arrest, it is necessary for the following comment to be made:

For an arrested person who does not fall under the prohibition against communication procedure, that is to say he is subject to the ordinary police-judicial custody process, this notification is complied with. It is with satisfaction that the CPT itself expressly acknowledges this in its report. Thus, point 21 therein states:

"In relation to the notification of the arrest, the persons who have been interviewed during the visit who are or were in the custody of state officials (all of the persons arrested on charges relating to criminal offences or to foreign legislation) and have asked for a relative or a third person be informed of his situation, state that this has been complied with without a delay. Furthermore, the measures carried out in order to meet this request have been properly carried out. The CPT approves of this."

As regards the arrests under the judicial prohibition against communication procedure, the CPT has already been informed about Spanish legislation and its constitutional law, so there is no inconvenience in reproducing the arguments that justify this being adapted to the Constitution and the International Treaties signed by Spain.

Thus, as is well-known, the legal regime on detention without communication, in this case referring to the suspension of family notification, under section 527 b), as this relates to section 520.2 d) of the Criminal Procedure Act, has been subject to the opportune constitutional controls. This procedure, as stated in our Constitution has been examined in the light of the International Agreements and Treaties on human rights signed by Spain, and have featured in the Constitutional Court Rulings 196/1987, of December 11, and 199/1987, of December 16, amongst others.

This legal procedure is highly restrictive. In any event, it requires judicial authorisation by means of a reasoned and justified decision that must be adopted in the first twenty-four hours following his arrest–section 520.bis.2 Criminal Procedure Act. A permanent and direct form of control of the personal circumstances of the arrested person by the Judge who has agreed to the prohibition against communication or by the Examining Magistrate of the judicial district in which the arrested person has been deprived of his liberty applies, by virtue of a delegation of the functions of the former.

A delay in informing the family members has been completely justified in the Constitutional Courts with arguments that perfectly well explain the solution furnished to the issue of the conflict of legal issues in this case:

Thus, the seventh Legal Grounds, of the HCR 19619/87, states that "The special nature or severity or the subjective and objective circumstances that take place therein may make it essential that the police or judicial procedures aimed at investigating him be carried out in the greatest secrecy, so as to avoid outside individuals having knowledge of the state of the investigation, prevent those who are guilty or involved in the offence investigated being brought to justice or the evidence of the commission being destroyed or concealed. In this respect, the Criminal Procedure Act grants the judicial authority exclusive competence to announce that the arrested person is prohibited from communicating. This is an exceptional measure, lasting for a brief period of time, that has the objective of isolating the arrested person from personal relations that may be used to inform the outside world of new of the investigation that may be detrimental to the success thereof."

It is unlikely, given the risk circumstances that our country finds itself with, particularly following the mass murders perpetuated and the thousands of victims caused by Islamic terrorism in Madrid on March 11 of this year, that criminal policy is going to alter from that which is soundly maintained in the form of the State policy against terrorism and organised crime. The opposite path would mean giving ground in the fight against these dangerous criminal phenomena in the very painful present circumstances. In spite of this, the high standards of achievement with respect to human rights and in particular those involved in this field, which our Constitution and its faithful regulatory development have achieved, and which place us in a true position of pre-eminence in the European Union, are maintained.

With regard to the procedure for imprisonment without communication, reformed by means of the Criminal Procedure Reform Enabling Act 13/2003, of October 24, dealing with provisional imprisonment, this involves a type of reform that was considered in the State Agreement for the Reform of Justice, signed by the main Parliamentary Groups in May 2001, and contained in a Resolution approved by the Plenum of the Congress of Deputies on the occasion of the Debate on the State of the Nation that took place on July 15 and 16, 2002.

The reform has amended the procedural regulations concerning provisional imprisonment, with the aim of improving citizen security and fitting the budgets and the maximum periods of duration to the provisions that have been set out by the case law of the Constitutional Court.

The new draft text for sections 509 and 510 of the Criminal Procedure Act, is as follows:

"Section 509

1. A magistrate or court judge shall be able to agree to detention or imprisonment without communication in order to prevent persons allegedly involved in the facts investigated interfering with the course of justice, or concealing, altering or destroying evidence related to the commission thereof, or from committing new offences.

2. The holding of persons under arrest or prisoners without communication will last for the time strictly necessary in order to urgently undertake the procedures that will prevent the dangers referred to in the paragraph above. The absence of communication shall not extend for a period of longer than five days. In the cases in which prison is agreed upon in proceedings for any of the offences that are referred to section 384 bis, or there are investigations that affect the particular activities of organised crime, it shall be possible to extend the prohibition against communication for a further period of no greater than five days.

Nevertheless, the judge or court that has knowledge of the proceedings shall be able to instruct that the prisoner be held without communication again, even after he has been permitted to communicate, provided that the case presents reasons for this. This second act of non-communication shall not exceed three days under any circumstances».

”Section 510

1. The person held without communication shall be able to attend the proceedings for the due preventative measures under the formalities that relate to him under this Law, when his presence does not detract from the purpose of holding him without communication.

2. It shall be permitted for the prisoner to have the personal effects that correspond thereto, as long as, in the judgment of the court or tribunal, these do not interfere with the purposes of the non-communication.

3. The prisoner shall not be able to make or receive any communication. Nonetheless, the judge or court shall be able to authorise communications that do not interfere with the purpose of him being held in prison without communication and, as appropriate, shall adopt the due measures».

Pursuant to these regulations, the reasons that justify the non-communication can be reasonably reduced to the immediate need to safeguard the investigation of the facts, preventing the information provided by the person arrested or prisoner leading to the escape of other persons involved, the committing of other offences, and the concealment. Alteration or destruction of the sources of the evidence (which the German doctrine has come to refer to as Verdunkelungsgefah*r, that is to say, “the danger of darkening”). This coincides exactly with the circumstances mentioned in the Constitutional Court Ruling 196/1987.*

The amendments introduced permit and facilitate the investigations being carried out with the greatest degree of secrecy in exceptional cases, in which the Judge observes that there is a need for this, having regard to the special nature of the crime and the surrounding circumstances and with the sole purpose of preventing new purposes being committed, persons escaping from justice or the disappearance of items that are important for the case.

The provision for the maximum limitation of the prohibition against communication to five days –although this can be extended by a further five days in the cases of terrorism or organised crime- is also proper. These are hypotheses in which the risk of escape or the disappearance of evidence justifies the extension of the measure. Likewise, with the reform of the Law, a maximum limit has been placed on the second period of non-communication, that may be arranged by the Judge or Court that has knowledge of the case, if the same offers reasons for this. It shall not be possible for this second period to exceed three days.

With the setting of said periods, a certain degree of vagueness in the previous regulations has been eliminated. Greater precision has been granted to the duration of the period of non-communication than in the previous text in force, which referred to the possibility that it could be extended for the time that was “absolutely necessary”, but without setting a maximum period. This was to be permitted for objective reasons (for example, the need to complete an international order for assistance).

Paragraphs 24 and 25. Access to medical care

The CPT recommends that measures are adopted in order to ensure medical confidentiality. It specifically states that medical checks on persons under arrest should be carried out without officers of the Law being present or being able to listen, unless the doctor so requests this in specific cases.

Likewise, the CPT recommends that the results of the medical examinations be recorded in writing, and that these be made available to the individual deprived of his liberty and to his lawyer. It further recommends that individuals held in solitary confinement also be guaranteed the right to be examined by a doctor of their choice, as long as a doctor appointed by the State be present at this second medical check. .

The CPT requests information about the modifications proposed in previous reports concerning the form used by the doctors who carry out forensic tasks, and also about ensuring whether the doctors really use the forms, together with the actions carried out in order to adopt the amendments that it has proposed regarding the Protocol followed by the doctors who carry out forensic tasks, and to make sure that these doctors are following said Protocol.

In the first place, the CPT recognises that "The right of individuals arrested to have access to medical care seemed to work in a satisfactory manner."

Notwithstanding the preceding statement, the makes the recommendations of a general nature mentioned, with respect to a case reported at the Algeciras National Police Station.

Thus, in terms of the privacy and intimacy of a medical check without the presence of police officers, and the fact that the results of the medical checks "be recorded in writing by the doctor and be made available for the individual who is deprived of his liberty and for his lawyer", there is no problem whatsoever with these being correctly applied.

In effect, the Protocol that has to be used in the check-up on the persons under arrest conducted by Medical Experts, established by the Order of the Ministry of Justice of September 16, 1997 –in accordance with the recommendations made by International Organisations, notably the United Nations and the Council of Europe – specifies which characteristics said check has to comply with. It is prescribed in the third point therein that: "the data contained in the Protocol shall be confidential in nature. The disclosure of facts or data that are found out in the exercising of said function and the violation of professional secrecy shall be penalised...."

On the other hand, it is completely unusual for a police officer to be present during the check on the detained patient. In other words, in an alternative scenario, if this is thus carried out at a clinic under the auspices of the faculty or Institute of Legal Medicine that reports to the Ministry of Justice, the possibility of the violation of privacy is inconceivable.

Likewise, there is no procedural inconvenience in the fact of the details of the medical check being placed at the disposal of the arrested person and his lawyer. This is a question of the competent judge giving notice, ex-officio or at instance, of the check carried out by the Medical Expert to the interested party. This is precisely in order to be able to provide due expression to the right to a defence in the proceedings concerned. This is a rule that is commonly used under the Criminal Procedure Act in Spain. Anything to the contrary would lead to a manifest lack of defence, contrary to the right to effective judicial protection that is guaranteed by article 24.1 of the Constitution, and is likewise contrary to the right to use the means of proof that are pertinent for his defence (article 24.2 of the Spanish Constitution).

The CPT again states that another private doctor chosen by the arrested person be present, regardless of the presence of the Medical Expert appointed by a competent Judge that Spanish law recognises. The arrested person has, of course, to meet the costs of this medical attention. This type of care is requested specifically for "those people subject to the solitary confinement procedure", that is to say, according to the terminology in use, that they are held incommunicado due to a judicial decision.

There are no new features in this respect in the Spanish legislation in force or in parliamentary initiatives dealing with this matter. Paragraph 2.f) of section 520 of the Criminal Procedure Act –in which the rights corresponding to an arrested person are set out – asserts "A right to be checked by a Medical Expert or by his legal replacement and, in the absence thereof, by one that the institution where he is held provides or that is provided by any other office of the State or of other Public Authorities."

The fact that, in general terms, the right to be attended by a doctor of his choice is not established for persons under arrest cannot mean that the persons under arrest who are held without communication suffer a restriction on a right that is, consequently, non-existent.

The cited section 520 lays down certain priorities for a medical check for all persons who are arrested, without specifying restrictions for those held without communication. These priorities are for:

- A Medical Expert, in the first instance,
- His legal replacement
- The doctor of the police unit at the station where he is being held (N.P.F. or C.G.)
- Any other person working for the national health service, whether in a state, community or municipal capacity.

Under no circumstances is there a right to a doctor as personally preferred by the arrested person during preventative detention. The care or observant attendance of Medical Experts is provided for persons under arrest, as laid down by sections 497 and subsequent sections of the Judicial Power Enabling Act 6/1985, of July 1, as amended by the Enabling Act 16/1994, of November 8, (Chapter IV. Book VI. Regarding Medical Experts and other staff members in the service of the Administration of Justice).

In relation to this matter, the recommendation that the CPT makes is set down in terms of a joint medical check being carried out, by the Medical Expert and by the doctor of his choice. It does not intend that the former be substituted.

In any event, this is not an issue for which there is any legal provision, and a legal amendment in this respect is highly unlikely, given the arguments that the Constitutional Court has found itself in agreement with, not only with reference to the Constitution, but also to International Covenants and Agreements for safeguarding human rights that deal with the assets that terrorism attacks and its methods of acting. The investigation of these extremely serious offences justifies the measures that the Rule of Law imposes to take care of the physical and mental health and well-being of the arrested person held without communication during this period, and these measures are sufficient for this purpose. This does not overlook the fact that "during the detention, the Judge may request information and personally gain knowledge at any time… regarding the condition of the arrested person" (section 520 bis .3, of the Criminal Procedure Act)

Paragraph 26. Notifying the arrested person of his rights

The CPT is aware that all persons under arrest systematically receive about their rights, although it recommends that the persons under arrest receive a document in which his rights are detailed in a precise manner, from the very time at which he is deprived of his liberty, which must be available in several languages.

Likewise, the CPT would like the current document to be modified so that all persons under arrest be expressly informed of their right to be examined by a doctor of their choice (at their own expense).

Effectively, as the CPT recognises, the persons under arrest for offences that have broken foreign laws or in other cases are immediately informed of their rights, in Spanish. When it is a question of foreign persons under arrest, this information is given to them in English and French. Subsequently, they are always provided with a piece of paper in their own language (if it is one that is commonly used: German, Rumanian, Arabic, Chinese…) thoroughly detailing all of the rights that they have, including the right to be able to have a doctor of their choice if they pay the costs. Finally, they are read the same rights in the presence of a lawyer and an interpreter, as appropriate. All of these notifications are set down in official books and forms.

Likewise, the standard documents for the reading of rights in the languages of the nationalities that are most commonly present in Spain, and which are used by the Civil Guard Police Force Units, also appear on the Criminal Investigation Department page opened on the computing network (Intranet), which all of its members have access to.

Moreover, for those languages which –due to the fact that it is difficult to transcribe their written alphabet in computer form (Chinese, Japanese, Cyrillic languages)- the Criminal Investigation Department Technical Unit places pre-printed forms in these languages at the disposal of all Units. The assistance of an interpreter is used for the other cases that are not covered above.

Paragraphs 27 and 28. Recording of custody

The CPT renews its invitation to the Spanish authorities to explore the possibility of allocating the responsibility for the custody of persons under arrest to custody officers who are specifically recruited and trained for this position. It likewise recommends that the Security Forces be reminded of the need to keep detailed custody records, and that the authorities make use of a single and global register for all of the State security establishments.

The CPT considers that "improvement can still be made in this area", since it finds defects with regard to the data that makes reference to the releasing or transfer of the arrested person.

The CPT does not state what relative significance or importance lies with the defects found with respect to the whole of the records examined. This would give us an idea of compliance with the norms set out in these cases.

However, as an internal form of regulation for preventing this kind of diffusion of responsibilities, the Order 14/1995, of the Secretary of State for the Interior, created the "Record-Book of Persons under arrest" and the "Custody-Book of Persons under arrest", in order that police activity regarding the depriving of an individual of his freedoms, re-stating his constitutional and legally recgnised rights and setting out the scope of responsibilities in the event of a failure to observe these could be closely regulated.

This Order set out a single and global record in all State security establishments in advance. It establishes that following the publication of it, all of the Offices or Units of the General Police or Civil Guard Management at which arrest could be made have the duty to keep a Register-Book of persons under arrest and the Custody-Book that are regulated under this same Order. All of these establishments have to adopt the forms and be adapted to the standards of compliance that the Order details. (A copy of the Order is attached as Appendix II).

In the same respect, re-affirming the rights that are legally and constitutionally recognised to persons under arrest, the publication of the Order 7/1996 of the Secretary of State for Security, concerning the practice of full body searches of persons under arrest is of special relevance (Likewise, a copy of the same is attached as Appendix II).

As far as custody officers are concerned, there is a specialised Unit at the National Police Force Stations known as the Operational General Module (OGM), which is integrated into the Custody Service, coordinating it with the Security Services and the Complaints Office.

Through the OGM, we can achieve complete treatment for the people who are admitted, both in terms of the bodily protection of the same, and in terms of their feeding, well-being, self-inflicted injuries, visits, etc. Therefore, in practice, there are already some specialised custody agents, as the Committee recommends. This means that logically, the officers who make up the cited Unit have a certain degree of specific and proper knowledge and experience, so that all of the activities related to the custody of persons under arrest are carried out with full guarantees.

Paragraph 29. Inspections at the detention centres

The CPT repeats its invitation to the Spanish authorities for them to establish a system of frequent and un-announced visits by an independent authority to the detention centres of the officers of the law.

The Spanish Legal Code establishes that the judicial authority is the body that can carry out inspections at the police facilities that the arrested person passes through.

On this point, it is necessary to cite the Enabling Act 6/1984, of May 24, regulating the Habeas Corpus procedure, which makes it possible for any arrested person to be allowed to be immediately placed at the disposal of the judicial authority and to obtain a review of the possible abuses in a summary proceeding and being exempt of formalities.

On the other hand, in the course of an investigation, the Ombudsman, an Institution that is independent of the police Authority, may also make a personal appearance at any police facility, in order to request the data that may be necessary or to carry out the personal interviews that it deems opportune. This is all in accordance with the terms of the Enabling Act 3/1981, of April 6, regulating its Statutes.

In short, these are two Institutions that offer the utmost guarantees concerning the protection of persons under arrest.

Conditions of Arrest

Paragraphs 30 to 36. Conditions of arrest at the Centres of the Officers of the Law

Following the visits carried out, the CPT recommends in its report that the conditions of arrest at certain facilities visited be reviewed, and the faults found at these be looked at, with particular attention to the improving of the lighting at these places, ventilation, hygiene, the size and extent of occupation of the cells, along with access to proper health facilities at all times, including at nights. It insists on the need for the Spanish authorities to set a standard for officers of the law at the detention facilities, taking account of the Committee's criteria.

Firstly, with regard to the facilities that are under the responsibility of the Civil Guard General Board, it is necessary to recognise that whilst some institutions have improved notably in recent years, others need to be fitted out and conditioned in certain ways.

The effort to adapt the custody facilities for persons under arrest to the recommendations made by the CPT does not only extend to the facilities that the arrested person is properly said to be detained at, but also to other facilities used as support functions (identification rooms, rooms where statements are taken, etc.)

Aspects such as the dimensions, airing, ventilation, surveillance by technical means, fire-protection elements and internal layout are being taken into account in the new constructions. The goal here is to progressively adapt the physical conditions of the old facilities. To this end, the following order of priority has also been set down:

- Custody facilities at Command Headquarters.
- Second level facilities.
- Facilities at those Stations which, because of the nature of their entity, and due to their potential for service in ordinary conditions, can carry out constant surveillance of the persons under arrest.

Likewise, it has been arranged that jail cells are not to be built at those stations at which, owing to their limited size or because of the scarcity of staff members, it is not possible to guarantee the provision of a constant surveillance service under ordinary conditions.

It is unnecessary to highlight the great effort in investment that is needed in order to make the adaptations stated, especially if account is taken of the conditions of the structures at over 2000 Civil Guard facilities, some of which have been in service for over one hundred years. This means that it is impossible in material terms to guarantee that their facilities can be fitted out. Nonetheless, those facilities that do not meet certain minimum conditions are not used as places of custody for persons under arrest until they can be made ready for such use.

Secondly, with regard to the facilities of the National Police Force, it is reported that a policy of rejuvenation of all of the facilities used for detention (jail cells) is being followed. This policy consists of the cells being of a proper size, with adequate lighting and good ventilation, as well as being provisioned with the security measures necessary that make it possible to act immediately in exceptional cases such as an arrested person falling ill, self-inflicted injuries, etc.

In specific terms, the Jerez and Santa Cruz de Tenerife Police Stations were reformed following the visit of the CPT, and the faults that were included in its Report were solved.

As far as the Alicante and Algeciras Police Stations are concerned, projects for the construction of new structures are presently being drawn up for both places. In both cases, there is a significant financial investment involved, and it is expected that these will be completed in the year 2006.

The structure at the Playa de las Américas Police Station was inaugurated in the year 1997 and, considering its present condition, it is adequate in general terms. The specific fact that is mentioned in the CPT report regarding the statement that one individual was being held in a cell in which the artificial lighting was not working was an isolated matter, which it is hoped will not be repeated. No other irregularities exist.

The Aeropuerto Reina Sofía facilities in Tenerife meet the requirements necessary for the purpose for which they are established, although with certain logical limitations due to their location at installations with a high turnover of citizens which is beyond being a police problem.

Detained immigrants

Paragraphs 37 to 44

The CPT recommends, as a matter of urgency, a review of the provisions for dealing with the cases of the unauthorised entry of foreign citizens into Spain, in particular those that involve foreigners who arrive in large numbers: genuine access to a lawyer, qualified interpreters, etc...

Likewise, it considers that the procedures applied to immigrants of sub-Saharan origin who have recently arrived at Immigrant Detention Centres, show a large number of defects which means that the rights of the same are ineffective, and recommend the correction of these.

The Spanish legal code does not, of course, fail to deal with the concern arising from the phenomena of the unauthorised entry of foreign citizens into our country. It follows from this that Spanish authorities have been declaring their intention of providing a response to the needs that have arisen. This is in order to tackle immigration as a structural fact that has made Spain become a preferential country of destination for migratory flows.

Without abandoning the defence of migratory flows that are carried out in an orderly and respectful manner within the judicial framework, this legal code has been progressively compiling a classification –which is increasingly broad- of the procedural-legal guarantees in favour of those immigrants who arrive or are in Spain illegally.

Thus, Chapter III of the Enabling Act 4/2000, of January 11th, on the Rights and Liberties of Foreigners in Spain and their Social Integration, guarantees the right to effective legal protection (section 20.1), the right to have guarantees particular to administrative proceedings (section 20.2), the right to appeal against the administrative decisions that affect them, together with the right to free legal assistance in the administrative or judicial proceedings that may lead to a refusal of entry from abroad, to their return or expulsion from Spanish territory and in all of the procedures dealing with asylum. They furthermore have the right to an interpreter to attend if they do not understand or speak the official language that is used (section 22).

Additionally, by means of the recent amendment to the Enabling Act 4/2000, made by the Enabling Act 14/2003, of November 20, notable progress has been made in the reinforcement of this legal framework, very particularly with regard to the conditions that must be guaranteed during the time that foreign citizens are staying at Alien Internment Centres. In this way, the new sections 62 bis to 62 sexies of the Enabling Act 4/2000 have raised the statute regulating Internment Centres to an enabling status. This guarantees a set of significant rights to the foreigners interned at these places (and therefore, those of sub-Saharan origin that the CPT specifically refers to). These rights include the ones of ex-officio legal assistance, the assistance of an interpreter –free of charge, as the case may be- and communication with their family members or the consular officials of their country or other persons, amongst other rights.

Thus, there is a notable set of guarantees that protect the rights of foreigners who, because of their illegal circumstance in Spain, find themselves subject to return or expulsion proceedings. These guarantees are clearly and favorably reflected in the principle of the norms that govern foreign citizens and immigration into Spain.

In any event, it is inevitable that the effectiveness of these guarantees may, on occasions, be prejudiced by the dimension that Spain has taken on in the illegal immigration phenomenon and the impossibility of simultaneously making the necessary adaptations of the administrative structures in real time to the changes in the reality of illegal migratory flows that are constantly occurring.

In this respect, the Spanish government is aware of this reality and for this reason it is making, and will continue making significant efforts to ensure that these judicial provisions are deployed, on all occasions, with the utmost effectiveness and fullness.

In short, the Spanish authorities are fully and favorably predisposed to constant improvements and perfections, not only with respect to the legal provisions regulating foreign citizens and immigration, but also to the effective work-in material terms- in implementing this legal code. In this respect, it is firm in its sense of purpose to remain attentive to the need to adapt to the continuous changes in a phenomenon which is as changeable as the migratory phenomena is.

As regards the reference that the CPT makes to the processing of cases of expulsion or return of detained immigrants who run risks of torture or abuse, it is asserted that if these people are in this situation, they have the possibility of requesting asylum, on their own initiative, or on the advice of the lawyer who assists them. In these cases, the proceedings are automatically suspended until the Asylum Office, a body that is independent of the National Police Force, resolves the case

Paragraph 45

In light of the defects observed in the medical care provided to the immigrants detained at the Isla de las Palomas and at the Las Eras centres, since the doctor and the nurse of said centres were absent sick, the CPT would like to receive information about the plans for substituting for doctors and nurses at said establishments.

Repeated attempts have been made to cover the positions of doctor and ATS for the Foreign Citizens´ Internment Centre at Las Eras, on the Island of Fuerteventura. Since no candidates have been obtained for these posts, it was necessary to make use of the Red Cross, with the objective of covering said posts through labour contracting being maintained.

With respect to the Immigrants Centre on the Isla de Las Palomas, the positions stated are likewise held by personnel belonging to the Red Cross.

Paragraph 46. Languages

The CPT recommends that the efforts made for the improvements of the languages spoken by police officers assigned to handling the cases or the custody of detained immigrants, and the officers who are in contact with these people following training that includes interpersonal communication skills. .

The teaching systems of the Security Forces and Units grant great importance to the specialisation on clandestine immigration. In this respect, and by way of example, the Head of Teaching of the Civil Guard is drawing up a General Plan for Continuous Training. The following topics are featured amonsgt its actions:

- Immigration. Trafficking in human beings.
- Identification, body search and controls. Legal and practical regulation.
- Arrest. Legal and practical regulation.

Likewise, a course for Immigrant Care Teams, aimed at staff members in direct contact with immigrants, has been carried out since the year 2000. Its purpose is the acquisition of knowledge in order to perform the task of helping this group, the protection of their rights and liberties and the protection of their persons and goods.

With regard to the teaching of languages, the effort made by the Civil Guard General Board is also very appreciable. This has taken the form of a Plan for the period 1999-2005, which up to this time has enabled 754 members of the Force, used in 23 Command Headquarters on the Spanish coast, have studies courses in the English or French languages.

Also significant are the resources that are annually used on interpreters and translators. So, in the financial year 2003, the budgets of the General Police Board calculated the costs of the services of interpreters and translators as amounting to € 987,000, while the Civil Guard General Board invested € 300,000 in these services.

In the same way, the General Police Board has over one hundred translators-interpreters, who principally provide regular service in the personnel of Alicante, Almeria, Barcelona, Madrid, Malaga, Melilla, Las Palmas de Gran Canaria, Santa Cruz de Tenerife, Seville and Valencia. In addition to these we should add the temporary employment contracts, of an average duration of 5 months, which are performed annually and which numbered 164 contracts in the year 2003.

In turn, the Civil Guard General Board has 22 permanent interpreters and back-up from temporary translators-interpreters. During the year 2003, this amounted to 110 workers contracted for periods of three months.

Paragraph 48 to 51. Short-term detention conditions of the ad hoc detention centres

The CPT considers that the rate of occupation of the ad hoc detention facilities for immigrants visited on the Isla de las Palomas and Las Eras to be excessive. It likewise makes a statement about the lack of cleaning at certain facilities, and the absence of places where the arrested people can exercise in the open air. Thus, it recommends that the detention conditions at these facilities be reviewed.

The following information is provided about specific different cases, for which the CPT makes these observations:

With regard to the CETI de Isla de las Palomas, the visit referred to in the Report was carried out on July 28, 2003, between 1.10 am and 11.30 am (20 minutes). There were 18 women, 12 men and 2 babies, a total of 32 people at Isla de Las Palomas on that day. They were staying approximately 24 hours at these facilities. These immigrants came from a contingent that arrived on July 26, 2003, made up of 168 immigrants, along with a further 19 who came on July 27, 2003. These immigrants could not be handed over to the National Police Force (NPF) because their facilities were swamped.

This installation at Isla de Las Palomas is not stable in nature. Instead, it is a provision arrangement set up to deal with the problem of illegal immigration. It is a former Army barracks that has been fitted out by the State Security Infrastructures and Material Management, in order to contain the immigrants who are intercepted.

Consequently, it is not equipped with individual compartments, but rather it has common dormitories that were once occupied by soldiers of the Spanish Armed Forces.

The immigrants are not held as detainees, but rather they are interned at this facility, until they are placed at the disposal of the National Police Force. In normal circumstances this time does not exceed 24 hours, and so it is not necessary for them to stay over at this place.

For this reason, during their stay on the island, they are provided with hot food according to the time of day, along with blankets and dry clothing. They are also provided with mattresses when they have to stay longer than 12 hours at the facilities.

As regards the swamping that is referred to in said Report, (16 women in one room of 24 m^2 and 12 men in 36 m^2), such a kind of occupation is within the capacity of said modules, although it could give the impression of overcrowding when the people are lying down on mattresses on the floor.

With respect to the lack of light that the Committee refers to, both natural and artificial light, all of the facilities have natural light as there is a window that measures 1.35 by 1.08 metros in every one of the rooms that face outwards, with sliding windows that are kept open so there can be proper ventilation. However, since it has a metallic screen perforated by countless holes, this makes the natural light weak and miserly in that room. This measure is justified for reasons of security, since escape attempts have been made through this. Nevertheless, all of the facilities have a source of artificial light installed.

As regards the dirt, the CPT report does not clarify whether this refers to the walls or to another type of waste, clothing, bags, etc. It is true that the walls of the Isla de las Palomas Centre are painted and dirty, since the immigrants wipe their hands across them once they have been identified by finger-printing, even though they are usually provided with paper towels to clean them with. Likewise, the walls are made dirty with food remains. Nonetheless, these walls are cleaned as soon as the immigrants leave the facilities, and the fitting of tiles of up to three metres in height is anticipated for all of the rooms.

With respect to the doubts about the health facilities of this Centre, it is noted that the cleaning of the bathrooms and showers for the immigrants takes place daily. This is carried out by the cleaners contracted for this job, who keep the facilities in the best conditions of cleanliness possible.

As far as the existence of empty rooms at the Isla de las Palomas Centre is concerned, it seems that this refers to those that were in 24-hour quarantine at the time of the visit, so that they could be disinfected by the health-hygiene team of the Command Headquarters of Algeciras. This followed the removal of the immigrants who had stayed there on July 26 and 27 (one day prior to the visit). This operation is repeated every time a removal takes place.

As regards the bathrooms that are available inside the modules, in which there is a lock mechanism, and a wall of 1.20 metres in height that isolates the user from the rest of the people who are in the room, this is a form of design that is created for security reasons.

As regards the Eras de la Torre Centre (Cadiz), the use of which is assigned by its Council to the Algeciras Police Station, it is reported that this is only being used for the time necessary for the processing of the opportune case. The foreigners remain at said place for roughly 5 or 6 hours, making use of bunk beds, toilets, sinks, showers, natural light and natural ventilation through a false ceiling.

Paragraphs 52 to 57. Detention conditions at long-term detention facilities

The CPT recommends the review, without delay, of the detention conditions at the Algeciras and El Matorral Centres, in the sense of avoiding the impression it is a prison, as well as dealing with the high rate of occupation and the maintenance conditions. Likewise the conditions at the Fuerteventura Airport Centre are considered unacceptable. These are only suitable for very short periods of detention time, which are never for longer than 24 hours..

At the Algeciras Internment Centre, located at the former Prison , building works and fitting outs have been carried out so as to adapt it to the purposes that are required during the time for which they are used. It can be concluded that these are suitable installations in accordance with the regulations in force, since these came into effect in the biennial 2002-2003, complying with the requirements of well-being and dignity demanded, as the CPT itself acknowledges in point 59 of its report.

Health care has improved considerably, as a nurse is now available from Monday to Friday, in the mornings, with a medical consultant and a staff registered nurse available in the afternoons from 16.00 to 19.00 hours, and at weekends, with another health technician assistant available then from 9.00 to 21.00 hours on Saturdays and Sundays. There is an emergency health service outside these hours.

A permanent English interpreter is available and another in French and one in Arabic can be located. In the same way, the Centre has a social worker who organises leisure activities.

The Fuerteventura Airport facilities that were used also have a Foreign Citizens´ Internment Centre that were re-modeled in the year 2003, in order to extend its capacity by 250 places and to bring its bathroom and women's´ facilities up to date, at a cost of 100,000 euros. It is presently operational but out of use, since it is only established that it can be used for short-term internments in the cases in which the El Matorral Internment Centre is swamped. In fact, the last people were admitted there on October 1, 2003 until December 1, 2003, and it has been closed from that date.

Paragraphs 58 to 70. Activities at the immigrant detention centres

The CPT recommends that the activities that are offered to persons under arrest be extended and developed, and that health care be reinforced with the extension of the nursing service and that the standards of the personnel be reviewed. .

It is likewise considered necessary that every individual held at a detention centre for immigrants be medically examined

In specific terms, the CPT requests information about the provisions for medical coverage and nursing by the doctor and the nursing staff of the facilities at a Isla de las Palomas and Las Eras.

The CPT adds that the fact that the police officers carry arms at a detention centre is both intimidating and potentially dangerous. It is further stated that the systematic practice of the police wearing latex gloves and face masks when they come into the detention centres should end. This is so as to avoid the feeling of vexation and rejection that this practice arouses amongst the inmates detained.

Finally, the CPT considers it necessary that the internal regulations of the centres be distributed in writing, that detained families stay together, that the practice of the use of the telephone at the El Matorral Centre be reviewed and that inspections of the Centres be carried out by an independent authority.

As has been mentioned above, the Eras de la Torre Centre (Cadiz), is only being used for the time necessary for the processing of the opportune case. Foreigners are kept at this place, either until internment is requested or an order for repatriation is issued. In neither of these two cases is this to be for a time longer than 72 hours.

Official interpreters in English and Arabic are available and medical care is provided at the time they are admitted by Red Cross doctors and, in the event of subsequent need, when the arrested person is transferred to the Hospital.

The El Matorral Internment Centre in Fuerteventura is six kilometres from the capital and does not have public transport that communicates it with the Puerto del Rosario.

Following the reforms carried out in 2002, the facilities were adapted in compliance with the legal requirements demanded for these types of Centres, at least the CPT recognises this in point 59.

Medical care is provided daily by the contracted health staff, since there two doctors and two staff registered nurses, along with a social worker, who have been chosen from the public tender.

The effects noted with respect to availability of the telephone booths have also been noted. In the same manner, the excessive concentration of internees has been reduced to the ordinary capacity. They stay of inmates in the recreation courtyard has been extended, and the Official Gazette of Information on the Rights and Obligations of the internees has also been made available in other languages.

The improvement of the facilities in accordance with the Committee's recommendations is underway.

As regards the need for detained families to remain united, pursuant to the application of the Foreign Citizens´ Act, this is possible in those cases in which the family members arrive on Spanish territory at the same time. Nevertheless, this is not the case on the majority of occasions. It follows from this that it is impossible to immediately group together all of the members of the same family unit.

As regards the reference that is made to the use of rubber gloves and face masks by the police, these are employed for preventative mandatory reasons, since cases of foreigners admitted with tuberculosis have been detected.

B. Prisons

Mis-treatment

Paragraphs 75 and 76. Staff members of the Villabona Penitentiary Centre

The CPT recommends that measures be taken to increase the supervision of the staff members in the disciplinary unit of the Villabona Prison. Senior management should visit the unit regularly and make direct contact with the inmates, in private.

It likewise recommends that the authorities of the central and local levels clearly convey the message that no form of mis-treatment of inmates is acceptable, including verbal aggression, and that these will be the object of serious penalties. This message should be repeated on a periodic basis.

The Penitentiary Inspectors made a visit to the Villabona establishment during the month of August 2003, and checked, "in situ", that there had not been any complaints about the possible mis-treatments that some inmates stated to the CPT Delegation.

Only two inmates declared that they had been the object of mis-treatment. The inspection concluded that these were cases in which the necessary coercive means were applied, in accordance with the regulatory procedure established, with it being possible to evaluate episodes of mis-treatment.

In any event, and pursuant to the Penitentiary Regulations approved by the Royal Decree 190/1996, of February 9, the use of coercive means by prison officials should always be proportional to the objective sought. It should never entail a concealed form of punishment, and will only be applied when there is no other lesser means of obtaining the objective sought and for the time that is strictly necessary.

Likewise, the cited Penitentiary Regulations establish that the use of coercive means shall be authorised in advance by the Governor, unless this is not possible for reasons of urgency, in which case it will be brought to his attention immediately afterwards. The Governor shall immediately report the adoption and cessation of the coercive means used to a Duty Judge, stating the facts that have given rise to the use of this in detail, along with the circumstances that lead to a recommendation that these measures be maintained.

The application of coercive means is controlled by way of the corresponding record book and the necessary medical reports in this matter, both at the time of the application and in the sub sequent follow-up on the measure.

The Authorities issue disciplinary punishment for all forms of conduct by officials that are substantiated as being unsuitable in the use of coercive means that the prison code places at its disposal in order to correct the changes in order in the establishments.

Finally, the disciplinary reaction is complemented by a possible criminal penalty, when the action of the officer could constitute a criminal offence. In such cases, the Public Prosecutor is informed.

Paragraphs 81 to 83. Prisoners subject to special regimes

The CPT recommendations regarding the prisoners subject to special regimes in the Villabona Penitentiary Centre, are focused on the development of the programmes that the prison legislation establishes for these; assisting direct contact between said inmates and the staff members, and providing a system that is as normal as possible for them as well as making sure that said inmates are not housed in the same unit as the prisoners who suffer segregation as a disciplinary measure.

There is however the intention to re-orientate the so-called regime of the special departments, in which there are treatment programmes falling under the scope of section 93.1. 6ª of the current Prison Regulations, approved by the Royal Decree 190/1996, of February 9. This states that a model for intervention and generic treatment programmes, adjusted to the regulatory requirements shall be designed for those special departments. These shall be orientated towards achieving the progressive adaptation of the inmate to the life under an ordinary regime, together with providing incentives for those positive conduct factors that could be used as a form of encouragement for the social re-integration and re-insertion of the prisoners, with the necessary staff being designated to this end.

As regards the CPT recommendation of not placing those prisoners subject to a special regime together with those subject to segregation, it is necessary to take account of the fact that Spanish prison regulations establish that the inmates classed in the 1st. rank of treatment should be sent to closed units. These same regulations establish the need for the procedure of solitary confinement as a penalty must be carried out in the cell that the prisoner ordinarily occupies. There are two exceptions to this:

- Cases in which he shares it with another prisoner.
- When this is recommended for reasons of security or for the proper running of the establishment.

Owing to the structural characteristics that exist in some Centres, these conditions demand that prisoners who are punished with solitary confinement must complete their punishment in a closed unit system. In any event, such confinement takes place in separate modules and with different schedules form 1st degree treatment prisoners.

This situation is not a general one but rather one that is adopted in some establishments for strict reasons of security and which is reported to the relevant Duty Judge.

Paragraph 86. Prisoners segregated for their own safety

The CPT recommends that additional efforts be made to provide segregated prisoners with an environment that enables them to take part in the system with as much protection as possible.

Section 75.2 of the Prison Regulations establishes that under certain circumstances and with specific objectives, the Governor of the establishment –upon request from an inmate or on his own initiative- can agree to measures that involve regimental limitations being placed on the prisoners.

In this respect, Order 11/99 of the General Prison Institutions Board of September 13, 1999, establishes that in order for such limitations to be applied, such arrangements should always be exceptional in nature. Deciding the length of time of these arrangements should take account of the fact that it is essential to safeguard the objectives that are sought, insofar as these cannot be achieved by other less restrictive means. Prior to the adopting of the arrangement, even if it is made upon a request from an inmate, it is necessary to assess other possible alterbnatives or strategies aimed at overcoming the problematic situation that has arisen.

It is likewise established in the cited Order that if such an arrangement becomes adopted, the viability of a transfer to another establishment, involving the lifting of the regimental limitations, must be considered. In such a case, the most suitable centre or centres will be studied, so that the circumstances that led to the action for self-protection are not repeated.

Paragraphs 87 to 91. Conditions of detention

The CPT recommends matching the number of prison places with the number of people detained in the shortest possible time, not putting two inmates together in small cells, and increasing the number of work places available and developing other systems of activities for the prisoners.

Likewise, the *CPT requests updated statistical information about the optimum, functional and real levels of occupation of the Spanish prison system.*

Firstly, while the prison authorities are aware of the imbalance existing between residential and internal places, its intention is to ensure that prison centres are sufficient and suitable for the existing number of prisoners, as well as said inmates receiving a suitable form of treatment in accordance with the terms of the Spanish Constitution.

The efforts of the Prison Authorities are being directed to this end. They have made a commitment to review the Infrastructures Plan, and in order to carry this out, four new centres are under construction or at least planned.

In relation to such projects, during the course of the year 2003, the Sociedad de Infraestructuras y Equipamiento Penitenciarios, S.A., has signed Working Agreements with the municipal districts of El Puerto de Santa María (Cadiz), Albocasser (Castellon), Estremera (Madrid) and Morón de la Frontera (Seville), for the implementation of the four new prison centres approved by the Resolution of the Council of Ministers on January 24, 2003 at these places.

In the same manner, we are waiting for locations to be found for new prison centres in the Canary Islands, specifically at Las Palmas, Navarre and in the Basque Country, with contacts having been initiated with the General Prison Institutions Board in order to make progress with these projects and to try to solve the problems in order to adapt the places that are offered so that they can be established.

With regard to the data about productive work and the occupancy rate of inmates, there aare presently over 9,000 prisoners in productive work. While the occupation rate of prisoners is higher, this is complemented with other activities of an educational, training, occupational, socio-cultural, sporting and therapeutic nature. The figures show the following results:

- Educational programmes:	participation of over	10,000 prisoners
- University teaching:	participation of about	1,000 prisoners
- Cultural activities:	participation of nearly	14,000 prisoners
- Sporting activities:	participation of nearly	16,000 prisoners
- Training programmes:	participation of over	8,000 prisoners

As far as the special and closed units are concerned, recreation and activity rooms have been created in these. Likewise, when the number of prisoners is higher in these units, courtyard exercise and activities are logically carried out in more numerous groups.

As regards the data requested by the CPT concerning the Spanish prison system, a table is attached in Appendix III showing the operational, optimum and auxiliary capacities of all of the Penitentiary Centres that are run by the General State Authorities, as well as those that are run by the Generalitat of Catalonia.

In turn, Appendix III also includes the latest weekly statistics with the level of occupation of all the prison establishments.

Paragraphs 93 to 95 Health services

The CPT recommends that a new form be established to be used by doctors for the systematic recording of injuries at the time of admittance into prison, and that a review be undertaken of the provision of dental care at the Villabona and Tenerife Prisons, and that the level of psychiatric care at these places be increased.

However, there is an updated form for the detection of injuries upon entry into a Prison Centre that allows for an examination for possible injuries and the annotation of any declaration by the prisoner in this respect. Once this form –which is independent of the particular medical examination on entry into prison-has been filled in, a copy of it is sent to the competent Judge, with another copy remaining included in the clinical files.

Logically, any injury that is observed in this examination must likewise be recorded in the clinical files as one further piece of objective data.

Both the medical services of Tenerife and Villabona and those of the other establishments will be reminded of the need to complete those forms and the importance of these activities.

In short, the aim of the prison authorities is to ensure thorough compliance with this activity in those areas where it is not properly performed. This is considered to be more functional than drafting a new printed form.

On the other hand, the General Prison Institutions Board is aware of the current deficiencies regarding dental and psychiatric care. This situation affects all of the Centres. This is why it is studying a way to improve these and hopes to have new forms available from 2005.

Prisoners with drug dependency problems

Paragraphs 96 to 102. Care for drug-dependent prisoners

After having demonstrated their satisfaction in the programmes observed, the CPT invites the Spanish authorities to consider the development of specific programmes for women prisoners with drug dependency problems.

As regards this comment, it is stated that the prison centres are developing a specific care problem for drug dependent women, aimed at their normalization, re-education and social re-insertion, protecting the life, integrity and health of the inmates and offering the possibility of following treatment programmes for dependency on toxic substances.

Without any class of restriction, women in Prison Centres can have access to training and occupational programmes related to the improvement of the psychological, training, employment and social areas.

Other issues

Paragraphs 103 to 107. Requests for information

The CPT requests comments about the issues related to staff members, their training, the lack of personal contact of the officers with the inmates, the possibilities of the officers wearing an identifying badge (name or number), stressing the need for training within the prison official service.

It likewise recommends that the relevant Penitentiary Duty Judges inspect all of the detention units and make direct contact with the prisoners and with the prison staff.

There is doubtless a lack of prison officers, due to the great increase in the prison population that is being borne by our Prison System, which worsens the relationship between officers and inmates. The Authorities are aware of this and will try to correct the situation through the arranging of new places in the corresponding Public Employment Tenders.

An arrangement is being made, both in a centralised and a de-centralised form, for a high number of training courses that the officers who carry out surveillance functions can take.

Additionally, initial training courses are being held for officers that incorporate the Public Authorities for the first time, with the goal of obtaining the right degree of theoretical-practical preparation for the functions that they have to perform.

In the specific aspect of courses aimed at facilitating the relationship with inmates, mention must be made of those for "Updating for Surveillance Area officers", "Social skills in the prison system" and the languages courses prepared due to the high number of foreign inmates.

Likewise, in order to improve the training of officers and professionals in this field, some Working Agreements are being signed with other Public and Private Authorities or Entities. The following ones amongst these deserve special mention:

- Working Agreement between the General Prison Institutions Board and the S.EK. University of Segovia, for the carrying out of work experience projects at the Segovia Prison Centre, for psychology students.

- Working Agreement between the General Prison Institutions Board and the Camilo José Cela University, for the undertaking of student work experiences.

- Working Agreement between the General Prison Institutions Board and the National Distance Learning University, for the training of prison staff, especially in the question of languages.

- Working Agreement between the General Prison Institutions Board and the Rey Juan Carlos University, of Madrid, for the undertaking of university student work experiences.

With respect to other matters, and by way of example of activities related to the training, culture and integration of the particular inmates, we can cite the following Working Agreements that have been signed:

- Working Agreement between the Autonomous Organism of Prison Work and Services and the Municipal Foundation of Culture of the Council of Valladolid, in order to assist access to culture of the inmate population of the Valladolid Penitentiary Centre.

- Working Agreement between the Autonomous Organism of Prison Work and Services and the Women's Institute, for the undertaking of promotional programmes that guarantee true equality of opportunities for women in prison.

- Working Agreement between the Autonomous Organism of Prison Work and Services and the Confederation of Businesses of Andalusia for the running of prison production workshops.

- Working Agreement between the Autonomous Organism of Prison Work and Services and the Newspaper "EL PAIS", S.L., for the undertaking of a cultural programme dedicated to promoting the reading of the press among prisoners of Penitentiary Centres.

- Working Agreement between the Autonomous Organism of Prison Work and Services and the Institute of Lawyers of Almeria for the setting-up of a Penitentiary Legal Assistance and Guidance Service for the prisoners.

As regards the recommendation about the inspections of the Penitentiary Duty Judges, it should be remembered that the Penitentiary Authorities do not have competence to interfere in the visits of Duty Judges to prison establishments. The Prison Authority is responsible for assisting and facilitating the Prison Duty Judge with access to each and every one of the areas of the establishment that he himself wishes to visit.

The Prison Duty Judges visit the sites of the Penitentiary Centres, without any exception.

Likewise, in addition to the surveillance provided by the aforesaid Judges, the Ombudsman's Institution has also been carrying out a broad range of work in this respect.

In this respect, in the Ombudsman's report to the Cortes Generales (House of Parliament), concerning the administration carried out during the year 2003, this Institution reports that: "Regardless of the ex-officio investigations that may derive from the news that appears in the mass media, and from the complaints received from inmates and other individuals, one of the fundamental elements that the Institution has for gaining knowledge of the prison centres are the periodic visits made to the same".

The work of the Institution of the Ombudsman includes periodic visits to each and every one of the Spanish prison centres, which presently number seventy-seven.

In the financial year 2003, this Institution has visited the following prison centres:

Madrid I (Alcala-Meco); Malaga (Alhaurín de la Torre); San Sebastian (Martutene); Ceuta; Daroca (Zaragoza); Algeciras (Cadiz); Bilbao (Basque country); Alcala de Guadaira (Seville), Villabona (Asturias); Herrera de la Mancha (Ciudad Real); Bonxe (Lugo); Cuenca; Puerto de Santa María I, Puerto de Santa María II (Cadiz) and Brieva (Avila). These centres are cited in chronological order relating to the date on which the visit was carried out.

Prison Psychiatric Institutions.

Paragraph 111. Prison mental health institutions

In relation to the Alicante and Seville Psychiatric Hospitals, the CPT considers that these should be assisted by suitably trained health staff.

It likewise requests information about the absence of a institutional and functional separation between the prison mental health institutions and the prisons, and the impact of this on the attitude and focus prevailing at the prison mental health institutions.

The two Prison Hospitals of Seville and Alicante currently form part of the general penitentiary mechanism. Nonetheless, these are not centres that can be compared with the rest of the State prisons, since the majority of the patients that they hold are people who have been released or that have been subject to some kind of allowance on the basis of their mental illness. For this reason, the regulatory aspects are subject to the hospital status of the establishment and, in practice, there is a clear functional separation between both tasks.

Certainly, there is a contradiction in the treatment of individuals who are not legally responsible at a facility that has not lost all of its prison status. This is an element that will be dealt with in the context of the transfers from the prison health services to the Autonomous Communities, with the aim of determining who should be attended to under the community structure and who by the prison care system.

Paragraphs 112 and 113. Mis-treatment

After having received isolated cases of mis-treatment, the CPT recommends that the tasks to be carried on at the Alicante Prison Psychiatric Hospital should be taken on by nursing staff with psychiatric training (therapeutic perspective) and not by prison officers.

As regards the complainst about mis-treatment, it can be stated that only one complaint has been received from a patient about two officers for “aggressive language and an excessive use of force”. This is currently being investigated by the Magistrates Court of Alicante. Orders have ben given to the Governor of the establishment to examine the element of control in this matter.

The prisons Inspections service has acted with the greatest diligence in cases of complaints of mis-treatment. For instance, it is worth looking at the recent activity at one of the centres visited, the Psychiatric Hospital of Seville, where the complaint of an inmate relating to a presumed case of mis-treatment (the cutting off of a pony-tail against the will of the inmate) lead to a disciplinary case with the worker being suspended from his functions and the Public Prosecutor being informed. The case is presently continuing to the due legal proceedings.

At the present time, there is a clear differentiation of functions between the surveillance staff and the auxiliary health staff who take part in support tasks for the senior and mid-ranking officers. Nonetheless, in both Psychiatric Hospitals there are monitoring officials who also voluntarily take part in activities of a re-socalising nature such as therapeutic permissions for leave. In accordance with the recommendations of the CPT, it is considered that these activities should be encouraged, along with the corresponding training of that staff, and the prison authorities will dedicate their efforts to this end.

Paragraphs 115 and 116 Living conditions of the patients

The CPT recommends improving maintenance at the facilities, and lessening the prison environment of both Psychiatric Hospitals, especially the one at Alicante.

The defects observed in the maintenance of installations has been due to difficulties of a budgetary nature. The aim of the prison authorities is to make an effort in the areas of maintenance and the replacement of furnishings and materials.

During the year 2005, it is planned to carry out a full re-modeling Plan for the Prison Psychiatric Hospital of Alicante (fitting out of rooms, separation of the damp block, painting, etc.).

Some common areas of all of the modules, the women's rooms, the ward and one of the three residential modules have already been painted. Showers have already been fixed and a female observation room is being built.

In any event, the prison authorities consider that some rooms that are used for non-seriously ill patients, those en risk of autolysis and that are planned to be used for short stays should have little furnishing.

Paragraph 117. Commentary

On the otheer hand, the CPT considers that –unless there are medical reaosns to the contrary- all of the patients who have to be involuntarily in a psychiatric establishemnt should be offered at least one hour of daily exercise outside.

With regard to this matter, it is reported that, in principle, the patients at the prison Psychiatric Hospitals do not have more limitations on their outside activities (courtyards) than those who are there for specific medical reasons.

Paragraph 119 to 122. Treatment

The CPT recommends that geater efforts be amde in order to supply all the patients of the Alicante Prison Psychitric Hospital with a daily structured programme of therapeutic and rehabilitation activities, based on their individual needs and capabilities.

Likewise, the authorities are invited to develop therapeutic programmes at the Alicante Prison Psychiatric Hospital, establishing individual treatment plans for all the patients of said hospital, extending the educational activities, being responsible for permissions for leave and permits for psychiatric staffs and the Duty Judge, and improving the care for foreign patients, in particular with respect to the language in which the psychiatric evaluations are carried out.

The prison authorities share the need to improve the personalised treatment of the patients and the genral therapeutic activities, independently of the medical-pharmacological treatment which, we consider, is being properly carried out.

In the Psychiatric ward of Alicante, there are four multi-disciplinary teams that are assigned to the different residential units (wards 1,2 and 3 and the women's´ ward).

These teams are to continue being responsible for the patients allocated when these are in special short stay units (short-term illnesses and casualty).

The CPT criteria of the therapeutic dimension that should govern Prison Psychiatric Hospitals and of the need to improve non-mandatory staff training, aiming it possible to provide individualised treatment of the patients, is shared by the prison authorities.

As regards the flexibilzation of the process of decision-taking regarding the permissions for leave and permits of the inmates, giving full responsibility to the psychiatrists and to the Duty Judge, it should be pointed out that the inmates in our psychiatric establishments do not have to obtain the discharge permits regulated under section 47.2 of the General Prison Enabling Act, since they are unclassified. However, they do have to obtain therapeutic permissions for leave proposed by the Board of Management and authorised by a Duty Judge. Thus, during the last year, 2295 permissions for leave were made from the Psychiatric Hospital of Alicante which were of benefit to 233 different inmates, and 1395 were issued in Seville to 139 different inmates.

This permission for leave procedure offers some indications of "care given" that are clearly greater than those corresponding to the population subject to other exit permits (second and third degree) in the whole of the prison establishments: with three times more exits in the psychiatric hospitals (ration of inmates/exits).

In turn, at the Seville Psychiatric Hospital, the Duty Judge presently grants weekly authorisations when these have been granted on an indefinite basis before, when there are no incidents that would recommend their review.

As far as immigrants are concerned, there is no doubt that the lack of knowledge by the professionals of the language of some patients constitutes a significant problem. Both at the Psychiatric hospitals and at the ordinary establishments, informative leaflets have been prepared in the most commonly-used languages of foreign prisoners. Nevertheless, this does not mean any advantage when it comes to evaluating the physical and mental condition of an individual from the medical point of view. For this reason, there is an intention to promptly make use of a sworn interpreter in these type of situations.

On the other hand, at the present time, all of the penitentiary centres have a form in 6 languages (English, French, German, Arabic, Russian and Chinese) in order to assist the medical examination on admittance to prison, of those foreign prisoners who do not speak Spanish.

Paragraphs 125 to 127. Lock-up and incapacitation

The CPT recommends reviewing the practice of immobilising patients at the Seville Prison Psychiatric Hospital, and also reviewing and defining a policy with respect to the isolation of these type of inmates.

As regards these recommendations, it is necessary to point out that no specific actions have been adopted since there has been no need for mechanical fastening apparatus beyond the time necessary. Physical immobilisation is an ordinary resort in agitated patients and is habitually used in non-penitentiary care facilities, until a response to due pharmacological treatment is obtained..

The two cases of the Psychiatric Hospital of Seville that are mentioned, with a duration of 4 or 5 days, seem doubtless to be exceptional. However, we cannot overlook that fact that in some cases, faced with a high risk of autolysis due to endogenous depression, caused by the effect of the anti-depressive drug, the incapability of movement of the patient disappears, but the autolitic idea could remain intact and so does the intention to carry it into effect..

In any event, in this respect a polciy cannot define further action than that which arises from the medical criteria.

Isolation in a Psychiatric Centre is not comparable to regimental isolation in an ordinary Penitentiary Centre. At a Psychiatric Centre, isolation is not a punishment but rather it is a medical prescription when faced with a circumstance of self-inflicted injury or general aggressiveness. Both in this case and in that of mechanical restraints, the Duty Judge is duly informed.

Given the exclusively psychiatric nature of these measures, the patient is left in the hands of the operatives who decide on their living routine and the cessation of the measure, so that there can be some daily control over these patients.

Analysing the register book, at the visit carried out by the Inspectors during the month of August 2003, it was seen that there was a three day isolation measure carried out in three cases. In the cases of voluntary isolation, the inmates presently leave periodically into the open air, and in the case of complete immobility, they are allowed to receive family members in their rooms.

Paragraph 130. Resources of the staff members

The CPT recommends increasing the numbers of psychiatric, psychologist and nursing staff members in the afternoons, at nights and at the weekends. It likewise remarks that it would be desirable to replace prison officers with health staff with specialist training.

The prison authorities are aware of the current lack of stable technical staff. Equally, it is considered that there is a need to improve the availability of the number of operatives and the form of the provision of service by the nursing and auxiliary staff. Both aspects are being studied with the aim of making suitable staff teams available in terms of prison health care before the transfers to the Autonomous Communities take place.

Likewise, it is appropriate to indicate that the provision of services by surveillance officers at the Prison Psychiatric Hospitals is necessary. Without these, the tasks that are performed can be taken on by health professionals. This is all without prejudice to the fact that it is necessary to increae the number of psychiatrists and psychologists, as well as compementing the training of the surveillance officers, taking account of the particular characteristics of the inmates.

Prevention of suicides

Paragraph 131

The CPT recommends that an overall policy of suicide policy be developed without delay at the two Psychiatric Hospitals, that includes the monitoring of the patients who show risks of suicide, as well as those who have attempted it.

The Suicide Prevention Programme for Prison Institutions can also be applied at those Psychiatric Centres at which it has been adopted on the basis of the greater degree of risk that the patients show at these establishments. Regardless of the fact that special care can be taken in terms of preventative measures, a policy of complete prevention is impossible and further it is probably incompatible with respect for human rights.

The suicide prevention policy is presently being modified, with there being greater involvement of professionals 8from the health, surveillance and treatment fields).

Paragraph 133. Request for information

The CPT requests information about the result of the investigation of the suicide at the Alicante Prison Psychiatric Hospital.

The Reserved Information note no. 106/03, made by the Authorities, has no found evidence of any fault in the procedure followed. The prisoner was included in the Suicide Prevention Protocol and the psychological, psychiatric, labour and entertainment practices were being carried out without any indication of the probability of suicide being detected on the day of the facts. The Alicante Psychiatric Hospital reports that the Magistrates Court no 1 of Alicante, which instructed the Proceedings 1827/03 in this case, did not order a second autopsy even though the judicial proceeding had not yet been completed.

The documentation was forwarded to the CPT on January 14, 2004, including the autopsy report and complementary evidence concerning the case of the inmate who died at that Psychiatric Hospital. This was in response to the request for information made by the Committee.

Paragraphs 137 and 138. Safeguards

The CPT recommends that regular checks be made on the need for constant confinement, and that the result be reported in writing to the patient, and that an informative leaflet on the rights of the patient and his family members be prepared, in several languages.

However, regulatory reports on the progress of the patients admitted are sent to the competent judicial authority every six months. In principle, unless medical reasons advise to the contrary, the interested party is informed about these reports and about his own progress.

An informative leaflet has been prepared at the Alicante Psychiatric Hospital for the patients, and there is another one for there family members, which will be distributed when the publication has been completed. Although some aspects that the CPT comments on about the right of the patient to object to the result of the periodic reviews have not been included, instructions will be given for this to be done in subsequent editions. The preparation of said leaflets will be extended to the Seville Psychiatric Hospital.

On the other hand, it is possible to make improvements in terms of the information provided to foreign patients regarding their circumstance and treatment, which is currently carried out by the staff or with the help of other inmates who act as interpreters.

Paragraphs 139 to 140

In light of a complaint about the lack of response to complaints presented by prisoners, the CPT considers that patients should have open channels for complaints, both inside the centre and in external organisms, and be able to have confidential access to a relevant authority.

Moreover, in relation to this subect, the CPT requests information about the powers of the Prison Duty Judge with respect to complaints made by patients, inviting the Spanish authorities to furnish said judges with the resources necessary to assume a full monitoring function at the prison psychiatric centres.

Finally, the CPT attributes great importance to the prison psychiatric centres being regularly visited by an external independent unit that is responsible for inspecting the treatment dispensed to patients.

At the Seville Psychiatric Hospital, all of the patients have a permanent legal-judicial adviser provided from the establishment personnel (Legal Expert, Sub-director of Treatment and Sub-director of the Regime), together with a free service arranged by the Institute of Lawyers of Seville that they can get in contact with through the Centre or directly by mail.

Regardless of the preceding fact, the ex officio lawyers or those contracted by the patients can carry on their functions when the patients are admitted to the establishment.

In the same way as at the ordinary Penitentiary Centres, the patients of the Prison Psychiatric Centres can address themselves to any level of jurisdiction that they deem opportune using a sealed envelope which the Management of the establishment has the obligation to forward to the relevant address. As is natural, they can likewise address themselves to the establishment authorities, which as a rule have to respond to all of the written documents they receive.

In the same way, the Prison Duty Judge in Spain has very extensive competences. In this respect, section 76 of the General Prisons Enabling Act sets out that:

"1. The Duty Judge shall have the powers to ensure compliance with the punishment imposed, determine the resources referring to the modifications that may be experienced in accordance with the terms of the Laws and Regulations, safeguard the rights of the prisoners and correct the abuses and deviations in the compliance with the rules of the prison regime that may take place.

2. The Duty Judge is especially responsible for: . . .

g) Agreeing on a form of action concerning the requests or complaints that the inmates make in relation to the system and the prison treatment, insofar as this affects the fundamental rights or the penitentiary rights and benefits they have.

h) Carrying out visits to the prison establishments that the Criminal Procedure Act lays down . . . "

In order for these functions to be properly complied with, the Prison Duty Judge has all of the powers and the instruments that the Criminal Procedure Act places at his disposal. However, by constitutional norm, the Criminal Investigation Department, independent of the remainder of the Powers of the State. Therefore said judicial bodies are exclusively responsible for the choice of the suitable resources for carrying out their tasks.

D. Youth detention centres

Paragraphs 141 to 143.

The CPT requests comments on the implementation, in practice, of the specific safeguards set out with respect to the expulsion procedures for foreign minors (for example, corroboration of the age of an individual prior to him being deported, the identification of the family members of the minor in his country of origin, the placing of a minor in the charge of a suitable family member or an appropriate authority).

In relation to unaccompanied foreign minors who are found in Spain, the specific guarantees stipulated for their processing and repatriation, as appropriate, that are laid down in the Enabling Act 4/2000 of January 11, on the Rights and Liberties of Foreigners in Spain and their Social Integration, and in the Enforcement Regulations, are complied with in a standard manner by the different Units of the National Police Force. This is because a Working Protocol has been drawn up by the General Office of Foreign Citizens and Documentation, Circular 10/03, dated April 10, 2003, which is distributed to all of the force members. This contains all of the steps to be followed from the time that the unprotected foreign minor is detected.

In accordance with this Circular, minority of age will be presumed for the youth until such time as this is completely determined otherwise.

The process is initiated when a polcie officer locates, or is presented with a foreign minor. The Forensic Scientist is in charge of opening a corresponding file on the minor and determining whether or not a previous file exists on him.

After the minor has been located, this is immediately reported to the Public Entity of the Autonomous Community that is responsible for the Protection of Minors, so that it can make a record of the fact. Immediate care is provided in those cases that are necessary, and a place in a reception centre is assigned in advance, as necessary.

This fact is equally communicated immediately to the Children's Ombudsman, so that it can be recorded and so that authorisation for the carrying out of medical tests in order to determine his age can be obtained, in the event of there being doubt about this.

When radiological medical tests are necessary, these are carried out at an agreed Medical Centre which the minor is transferred to. The result of these tests are reported to the Children's Ombudsman, who will place the minor at the disposal of the Public Entity for the Protection of Minors. The minor will be transferred to this palace for the opening of the corresponding protection file.

The Provincial Patrols for Foreign Citizens and Documentation, acting with the Forensic Scientist, are responsible for the processing and registration of the minor in the Register of Unaccompanied Foreign Minors. This is for purely identificatory purposes. It features all of the foreign minors who are given protection in its provincial area, as well as the reception centre where they reside.

Likewise, the Provincial Patrols for Foreign Citizens and Documentation are the bodies in charge of getting in touch with Embassies or consulates, for the undertaking of the administrative work of the locating of the family members of the minor, as well as the issuing of safe conduct documents or his possible delivery to the Social Work Authorities of the country of origin or its representatives.

Finally, pursuant to the terms laid down by section 35.4 of the cited Enabling Act 4/2000, when nine months have passed from the time at which they are placed at the disposal of the corresponding service of the Autonomous Community that undertakes protection, and at the instance thereof, the corresponding residence permit is processed for them, in accordance with the terms of section 65.2 of the Enforcement Regulations of the cited Enabling Act stated above.

Paragraphs 144 and 145. Abuses

The CPT recommends that the necessary measures be takne to solve the problem of violence between minors at the Immediate Admission Centre for Foreign Children at Llanos Pelados.

It likewise requests information, for the years 2002 and 2003, about the numbers of complaints about mis-treatment by staff members issued at the child detention facilties in Spain, together with the number of disciplinary and/or criminal proceedings institituted as a result of these complaints, and the result of the proceedings (deccisions of the competent court, judgement or punishment).

In relation to the Immediate Admission Centre of Llanos Pelados, it has to be pointed out that the authorities in charge –in accordance with the CPT recommendation – have proposed an improvement in the conditions of the children received at this Centre, placing their emphasis on preventing any problem of violence between the minors. This has been done to such an extent that preently, one year ofter thevisit, the sitiuation has improved notably. This has doubtles been due to a reduction in the existing number of children at the Centre. This has made it possible for staff members to provide better care and control, which no doubt leads to greater security and well-being for the minors.

As regards the second of the issues raised, conerning the number of complaints and proceeindgs instituted because of mis-treatment by the memebrs of staff of the Centre, it is reported that in the period referred to, there have been a total of 14 complaints for mis-treatment against detained minors at the different Centres, of which 6 have lead to judicial proceedings. Out of these, 1 has been filed, 1 is awaiting an oral hearing, 1 has been abandoned and 3 have been dismissed. With respect to the remaining 8 complaints, the administrative procedures relating to these are at the following stages: 3 complaints being processed and 5 filed. Likewise – although without there having been a complaint by the minors concerned – an examinatory file has been opened with the aim of clarifying a possible case of mis-treatment occurring recently. The processes involved in this case will be continued.

Paragraphs 146 to 151 . Closed system Detention Centre for children of Nivaria.

The CPT has made the following recommendations with respect to this Centre:

- *The official status of the Centre must be observed.*
- *All children must be able to receive a weekly visit from their families.*
- *The Centre should be regularly visited by an independent body.*
- *The residents should soon have access to health facilities, in suitable conditions, at all times.*

Likewise, the CPT wishes to recieve comments about the *periods of time that the minors spend locked up in their cells without any activity, and the lack of reasonable space to teach classes or carry on other activities.*

Coinciding with the CPT recommendations, and for the purposes of obsering the capacity of the Centre, it is planned to increase the existing number of places, in such a way that it is expected there will be 160 new places by the end of 2004, so as to releive the overcrowding.

Likewise, in terms of access to the health facilities, control checks have been set up so that minors can leave the Centre services at night, accompanied by an instructor and a security guard.

In acordance with the terms recommended by the CPT, it is intended to open a financial entry in the next budget year that enables those parents resident on other islands to have the possibility of visiting their children who are detained at these type of Centres.

On the other hand, and in relation to the recommendation made that the Centre be visited regularly by an independent body, it is necessary to remember the importance of the Public Prosecutorin guaranteeing the saftey and well-being of the minors. As an institution it has two roles that are constitutionally entrsuted to it: the function of promoting the action of Justice and the defence of legality, together with the rights of the minors, overseeing the interests of the latter.

Thus, successive legislative modifications concerning minors, which are always guided by consideration for the greater interest of the minor as the main point of inspiration for all actions related to it, both administrative and judicial, have been increasing the powers of the Public Prosecutor in relation to minors. At present, the following draft of section 174 of the Civil Code, introduced by the Enabling Act 1/1996, of January 14, on the Judicial Protection of Minors is in force:

"1. The Public Rights Ombudsman is responsible for the supervisory overseeing of the protection, reception or safeguarding of the minors that this Section refers to.

2. To this end, the public entity shall provide it with immediate notice of the new entries of minors, and shall provide it with a copy of the administrative decisions and of the formalisation documents relating to the establishing, variation and cessation of the protection, safeguarding and reception thereof. It shall likewise be informed of any new development of interest in the circumstances of the minor.

The Public Rights Ombudsman shall, at least on a half-yearly basis, check the situation of the minor and shall bring the protection measures it deems necessary to the attention of a Judge.

3. Monitoring by the Public Prosecutor shall not exempt the public entity from its responsibility towards the minor and its obligation to inform the Public Prosecutor of the anomalies that it observes."

Likewise, in relation to the overseeing and protection exercised over the minors by an independent authority, it is also necessary to point out the important job carried out by the Ombudsman. During the course of 2003, the latter has continued making visits to the minors during which –in addition to checking on the condition of the facilities and the equipment of the centres – interviews were held with the supervisors of the Centres, with the instructors and with the minors. Such actions as were considered necessary were initiated exofficio in order to find out what problems or difficulties exist for the proper application of the cited Enabling Act 5/2000 on the Penal Responsibility for Minors.

Paragraphs 152 and 160. "La Esperanza" of Ceuta Centre (previously known as the "San Antonio" Centre) for unaccompanied foreign minors

Although, in gereral terms, the CPT considers the situation at "La Esperanza" of Ceuta Centre (previously known as the "San Antonio" Centre) to be relatively satisfactory, it makes recommendations aimed at reforming certain facilities. It suggests that a common room be provided with board games and reading materials and that sports and recreational activities be organised for minors detailed at this Centre, in particular during the time in which there is no schooling.

However, with regard to the "La Esperanza" Centre facilities, these are presently at the stage of being fully re-modelled and improved.

In this respect, two modules for the receiving of minors at the first stage of the system have been fitted out and made operational. This is a preliminary step towards integrating them into living quarters. These are going to be completely refurbished, both outside and in the internal partitions and fittings, with the creation of multi-use rooms for minors received in each residential module.

The individual and common showers and bathrooms have been newly constructed, being adapted to the different areas of the Centre, making use of the existing spaces that are not used in these.

In the same way, the dining and kitchen areas have ben re-modelled, creating a space that is welcoming and familiar for the situation of the minors who are received. The laundery and general services areas have also been refurbished and fitted out, and the ceilings and roof of the Unit have been repaired.

As for the staff of the Centre, it should be pointed out that real efforts are being made to establish a team of direct child care professionals at the "La Esperanza" Centre, with employment records in line with the demands of the minors received.

Specifically, this Unit has been endowed with an Educational team made up of ten instructors and 11 educational monitors, apart from a Psychologist and a social worker dedicated to this Unit. In addition, the Centre has General Services staff (Diverse Services, Maintenance, Driving nad Internal Security Personnel) who also report to the Autonomous City.

Apart from this, in relation to the activities of the centre, the actions taken in the period falling between the second half of the year 2003 and the first half of 2004 are set out below. These are broken down into different areas of organisation and participation:

Activities 2003

- **Educational Sphere**

Significant improvements have been made in this sphere, which help to achieve the normalisation and integration of the minors. On the one hand we have seen the elimination of the reading and writing room that existed in the Centre itself, which was attended by 25 children with 3 teachers. The minors who attended this classroom have been integrated into five public schools in the City in the schoolyear 2003/2004. On the other hand, the true schooling level has reached 100% for children of 16 years of age, without any problems of integration in the centres having been detected.

With regard to minors between 16 and 18 years of age, we have also seen that all of these have enrolled in different top level Social Guarantee and Professional Training programmes. These children attend the educational centres regularly.

As far as the academic achievement of these children is concerned, this is at quite a low level. This is basically because since we are dealing with non-compulsory learning, there is some reticence on the part of the children when it comes to performing educational tasks at the Centre. On the other hand, there is some cultural and educational backwardness that holds back the large majority of these minors and that leads to failure at school. Finally, mention should be made of the high degree of interest of these children in handling money, which helps them to work as car monitors.

The list of studies that this group of minors follows is shown here:

PROFESSIONAL TRAINING	
CENTRE	PUPILS
I.E.S. ALMINA	1
SOCIAL GUARANTEE	
CENTRE/ NAME	PUPILS
I.E.S. ALMIRA. Bar-Restaurant Assistant	5
I.E.S. SIETE COLINAS: Refrigeration and Air-conditioning Operative	6
I.E.S. ABYLA: Low Voltage Electricity Operative	2
I.E.S PUERTAS DEL CAMPO: Office Auxiliary Services	1
UGT: Vehicle Repair Assistant	3
CC.OO: Shop Assistant	4
CC.OO: Lodging, Lengerie and Laundry Assistant	4
CC.OO: Fast Printing and Handliing Operative	2

- **Community sphere:**

The activities external to the Centre in which the minors took part during the year 2003, are as follows:

- Summer Courses at the Ceuti Sports Institute

- Canoeing course, carried out at the Municipal Swimming Pool of the Díaz-Flor Sports Centre and in which 9 children take part.

- Swimming course, carried out at the Municipal Swimming Pool of the Díaz-Flor Sports Centre and in which 9 children take part.

- Multi-adventure course, carried out by 16 children at different palces in the City.

The following summer courses have also been undertaaken at the Casa de la Juventud:

- Computing course, held at the Casa de la Juventud and which 6 children attend.

- Painting course, held at the Casa de la Juventud and which has the participation of 5 minors.

- Extra-school activities:

  - Handball Training Sessions, at the Valle Inclán Public School, two days a week at which a total of 4 children attend.

  - Handball Training Sessions, at the Santa Amelia public school, two days a week, with a total of 5 children.

  - Basketball training, done by two children, two days a week, in the local team "Unión África Ceutí".

- Activities organised by the Instituto Ceutí de Deportes:

  - Ceuta City Marathon, held in June and with the participation of 3 children.

  - San Juan Race, with the participation of 5 children.

  - II Uphill race, held in September and which had 31 minors participating.

  - 100 Urban Metres, held in December and with the participation of 23 minors.

  - San Silvestre Race, held on December 31 and with the participation of 35 children.

  - Monte Hacho Tour, with the participation of 35 children.

- City of Ceuta Half Marathon with the participation of 16 children

- Activities organised by the Centre itself:

  - Camp on Aranguren mountain, in which 50 children took part, on October 25 and 26.

  - Camp at the Mirador de Isabel II, in which 40 children took part, held in September 2003.

  - I Indoor Football Solidarity Trophy, with the participation of teams from the La Esperanza Minors Centre, Colegio San Agustín and Barriada San Antonio.

  - Visits to the Medieval Market of the Royal Walls.

  - Visits to the "El Mar de Ulises" Exhibition.

  - Visits to the Desnarigado Museum.

  - Nature activities, such as fishing, climbing, trekking, orientation, etc.

  - Attendance at different sports meetings at which teams from the City took part and which were played at national level.

  - Excursions to the beaches at la Potabilizadora, Calamocarro and El Chorrillo.

  - Excursions to the Mediterranean Sea Park.

  - Participation in the Coastwatch Programme organised by the Environmental Board.

  - Cinema.

- Activities organised by the Federación Ceutí de Fútbol:

  - Participation in the Fedrated League with 2 teams from the Centre in the youths and cadets category, which meant 3 weekly training sessions.

Activities 2004

- Cultural and sports acttivities:

  - Visit to the exhibition of old canons on Janaury 29.

  - 4th Childrens theatre presentation from March 15 to 19.

  - Visit to the CEUTA TE ENSEÑA Exposition, with children from primary and secondary levels. Board of Education and Culture.

  - I Shared Living Sessions, La Esperanza Minors Centre and the Nuestro Padre Jesús de Ronda School on April 16 and 17.

  - Photography Course from April 12 to June 3 at the Casa de La Juventud.

  - Computer and Internet courses, from February 24 to April 1 at Casa de la Juventud.

  - Manual Skills Workshop. Taught at the La Esperanza Minors Centre from April 3 to 18.

  - Professional Guidance Programme for children from Residential Centres. Taught at the Centre from 3 to 18 of April.

  - Visits to the Mediterranean sea park during the month of May.

  - Sunny 3x3 basketball tournament , organised by the Federación Ceutí de Baloncesto.

  - Participation in the Childrens´ and Youth Football League 7, both organised by the Federación Territorial de Fútbol de Ceuta.

  - Camp at Mirador de Isabel II.

  - Participation in the Spainsh Cross-country championship that was held at Santiago de Compostela in the month of March in which 1 child took part.

Paragraphs 153 to 157. Immediate Admission Centre for foreigh children of Llanos Pelados

As regards the Immediate Admission Centre for foreign children of Llanos Pelados, the CPT recommends that the living conditions of the minors are reviewed, that measures are taken to ensure that each minor of Llanos Pelados has educational or professional training, sports and recerational activities are organised and the children are at all times assured of access to suitable medical care, with the establishment receiving daily visits from a nurse or care assistant.

It also considers that the staff of the centre should be reviewed, that footwear should be supplied to all the children of the Centre, and it is hoped that the problems with the use of the computer room and the Centre´s vehicles are solved.

As has already been commented before, following the visit of the CPT to the Immediate Admission Centre of Llanos Pelados, the authorities in charge are aware of the need to improve the conditions of the minors received there and so have tackled an examination of aspects such as location, infrastructure and the educational programmes, both at the Centre in question and at other Minors Centres.

The level of saturation which that Centre was suffering during the CPT visit with 80 children – more than double its capacity- has been corrected. This means that the occupation rate in recent months has been of an average of 18-19 minors, which had meant a substantial improvement in the conditions of the Centre and the situation of the minors who reside there.

egardless of the future improvements to be introduced, it is reported that a Socio-educational Project was drawn up for the Centre in March 2004. This dealt with issues such as the proper operation, professional profiles, the system and rights of the minors, which will be implemented. This will be supervised by the competent authorities for the full normalisation of the activity in this Centre and so the defects found by the CPT can be overcome.

IV. CONCLUSIONS

The Spanish authorities are convinced that this country holds a relevant place in the International Community as far as the defence and protection of human rights is concerned. This is the result of involvement by all of the State Authorities (executive, legislative and judicial) in the task of erradicating all practices that are vexatious to the integrity of individuals.

Without prejudice to this statement and in accordance with the receptive spirit that has always been demonstrated by the authorities of this country, it is only possible to welcome with satisfaction every recommendation or comment that leads to an improvement in the existing mechanisms so as to make further progress in the direction indicated.

Nonetheless, in the case of the recommendations that have already been made in previous reports in relation to the rights of persons under arrest (access to a lawyer, medical care and notification of the arrest) it does not seem possible that there will be a radical change in the regulations presently in force in this respect. This is especially the case in the national and above all the international panorama, in which terrorism has become a cruel threat and one of the chief concerns of the popuation. The authorities shall not cease to defend the full adaptation of such regulations to the constitutional text and to International agreements.

This is why there is no recourse other than to invite the Committee members to reflect on the meaning and context on which the rules that regulate the rights of persons under arrest are applied, in the same way as the Government of this country undertakes to increase the efforts to remedy all defects and introduce the improvements that may be possible in the practical exercising of the rights recognised to persons under arrest, within the legilsation currently in force.

On the other hand, in relation to immigration, one fundamental objective of the migration policy is to persevere in finding a solution to a phenomenon which in recent years has exceeded all expectations and which, on occasions, has obliged us to adopt “emergency” solutions that require a deeper form of reflection.. For this reason, whilst being aware of the need to improve the conditions in which the immigrants who arrive illegally in this country are received, this requires a significant investment effort, which will be made insofar as this is possible.

In any event, and this could only be the case, the Spanish authorities will deploy such efforts as may be necessary in order to prevent racist or xenophobic practices related to immigrant individuals, guaranteeing the effective exeercising of the rights that our legal code recognises to them.

Another of the areas that has merited the attention of the Committee is the penitentiary system. In this respect it is necessary to draw attention to the increase in numbers that the prison population has undergone in recent years. This piece of data has necessitated an increase in the cost of infrastructures and in the improvement of the living conditions of the inmates. The present prison policy is conrtinuing in this direction.

Finally, it is also worth highlighting the problem generated by the large number of unaccompanied minors who arrive in our country. This likewise requires an adaptation of the facilities that currently exist and, as the Spanish authorities are seeking to do, guaranteeing the rights that this very vulnerable group enjoys.

In short, since it has good knowledge of the obligations represented for our country in the ratification of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Spanish government takes on the challenge of persecuting all conduct that attacks the fundamental rights of individuals, whichever group they belong to. For this reason, starting from the point of a level that is considered to be more than acceptable with regard to the protection of the rights and liberties concerned, a commitment is made to adopt such measures as may contribute to reinforcing this protection and to improving fulfillment of the duties that the Convention imposes.