



SUMMARY
2021 annual report
National Prevention Mechanism (NPM)
Spain

Supervision of Spain's deprivation of liberty facilities in compliance with the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)





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The full digital version of the NPM annual report, summarised here, can be consulted or downloaded from the Defensor del Pueblo [Spanish Ombudsman] website:

https://www.defensordelpueblo.es/informes/resultados-busqueda-informes/?tipo_documento=informe_mnp

This version provides access to the digital links to the annexes and to the recommendations and visit sheets found throughout the full report, including the follow-up of the government's responses.

The NPM's visits to the different places of deprivation of liberty can be consulted on the same website:

https://www.defensordelpueblo.es/en/prevention-of-torture/npm_activity/

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Summary 2021 annual report. National Prevention Mechanism Spain

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PRESENTATION

Ángel Gabilondo Pujol

MNP-Defensor del Pueblo

[NPM-Spanish Ombudsman]

The Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) states that “each State Party shall establish, designate or maintain, at the national level, a visiting body or bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment”.

Organic Law 1/2009 of 3 November, attributed the powers of the National Mechanism for the Prevention of Torture (NPM) to the Ombudsman. Among the various possibilities, it opted for a well-established institution with nationwide competence. This requires not so much the isolation of this task in an institution, but, given the nature of the task, the need to involve the whole of society in active civic work, with organised responsibility, to defend human rights in every circumstance and in every space. The most vulnerable ones in particular. In this case, of those who, to a greater or lesser degree, are deprived of their liberty.

The NPM can be seen as a unit, not simply as an isolated entity, but integrated in concrete terms from its uniqueness into the organisational structure of the Ombudsman. This is a way that the institution proceeds with a specific function.

It is significant that this Prevention Mechanism does not focus on responding to different complaints, as is usual in the various areas of the Ombudsman. While it is by no means sufficient to limit the work to this task, it is especially a distinctive feature of the NPM's approach that it is preventive and proactive. Explicit prevention not only of torture, in all senses and with all the scope that this implies, but also, as has been said, of other cruel, inhuman or degrading treatment or punishment.

In order to do so, it is essential to get close to the people deprived of their liberty, in those areas where they find themselves, in order to attend to their situation and living conditions. This is done through visits, with qualified members and with well-established protocols to get to know, identify and report on the life they develop, the environments in which they live, with attention to the facilities and conditions of existence.

It is important to underline the need for such visits to take place with sufficient and reliable teams, in liaison with other technical experts and, where appropriate, with the regional commissioners. It is about accessing from conclusions, to resolutions (Suggestions, Recommendations or Reminders of

legal duties), also giving an account of the progress of the resolution.

The data, information and graphs in the report summarised here follow the terminology of the Optional Protocol to the UN Convention on the Rights of the Child and are in line with its mode of analysis and evaluation. In this respect, they are indispensable.

In 2021 72 visits to places of deprivation of liberty were carried out, and 7 non-face-to-face actions, which formulated 899 resolutions (255 Recommendations, 618 Suggestions and 26 Reminders of legal duties) to improve the living conditions of persons deprived of liberty.

It should not be forgotten that 2021 has been marked by the aftermath of the impact of covid-19, which started in 2020, and its very serious global social and economic repercussions.

Its effects have been particularly evident and distressing in the areas of greatest intrinsic vulnerability, such as prisons. Specifically, with regard to complaints, the fact that in pandemic years the data have increased so significantly, reaching 917 in 2020 and 833 in 2021, much higher than in previous years, confirms the impact of covid-19 on the general conditions of persons deprived of liberty, with situations of isolation even more pressing.

This undoubtedly brings back a more holistic sense of health, reaching out to those deprived of their liberty and those who work in the centres where they are deprived of their liberty. This health must also be the health of their rights. A country also shows its face in places of deprivation of liberty. In their conditions and in their treatment, we see their appreciation of people and freedom, freedom lost, but not their rights, the freedom of their rights. And in this respect for their rights lies also our freedom. The Ombudsman must exercise his will for greater pedagogy and involvement in order to confront as a society what it is and means that there are thousands of people in these centres and how we must assert and defend their rights.

Obviously, in detention situations, there is a will to create the conditions for the integration of these people into society, with responsibility and respect for coexistence. And the situation of people with mental disorders is worrying, and there is a need to regulate voluntary admissions to mental health centres in an adequate, comprehensive and guaranteed manner. At the same time, the detention centres for juvenile offenders and their conditions are of particular concern. On the other hand, it is essential to incorporate a gender approach in all visits to places of deprivation of liberty where there are events that show the urgency of studying the situation of women in prisons.

I am grateful for the work of the National Prevention Mechanism unit for the preparation of the report, together with their permanent work and the Advisory

Council, as a body for technical and legal cooperation. The Mechanism is central and crucial and shows in a unique way what the Ombudsman is, what he means and what he wants to be. Among other decisive aspects, it must procure the voices of the silences of excluded words.



INTRODUCTION

The how and the where

The work of the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (NPM) focuses on monitoring places of deprivation of liberty, in order to ensure that the rights of persons held there are respected, either as individual subjects or as part of groups in situations of particular vulnerability, in accordance with the mandate of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which entered into force on 22 June 2006.

The summary of the twelfth volume of the NPM annual activity report series is published here.

Throughout these pages, various references are made to the content of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Spain in 2020 (published in 2021), of special and undoubted interest both for the Spanish National Prevention Mechanism and for all agents managing the different places of deprivation of liberty in Spain. Their criteria and observations, as well as the technical rigour of the members of their visiting teams, constitute an important point of reference.

It should also be noted that, throughout 2021, the covid-19 pandemic has continued to have an intense impact on those who are deprived of their liberty in the various centres visited by the NPM.

Structure of the report

This report follows the structure of the previous years, in line with the approach initiated with the first report in 2010.

It begins with a chapter providing general data on the visits carried out this year. Their planning, characteristics and recorded incidents.

The following chapters analyse the supervision carried out in the different types of places of deprivation of liberty:

- short-term: police stations, police headquarters, court lock-ups;

- medium-term: detention centres for foreigners;
- long-term: prisons, juvenile detention centres and psychiatric hospitals; and
- supervision of instrumental sites: operations for the repatriation of foreigners.

This is followed by a chapter with a cross-cutting approach, dedicated to the NPM's programme for the prevention of gender-based discrimination in all places of deprivation of liberty.

Overall, the NPM tries to give an account of the visits it has made to different places of deprivation of liberty, of the conditions in which they are found and of the subsequent and essential dialogue with the Administration, with the aim of trying to change those aspects that are considered susceptible to improvement, in the most transparent and organised way possible. The aim is to reproduce in a clear way how this dialogue, which is always intended to be constructive, has developed.

The NPM's work, as mentioned above, focuses on visits to places of deprivation of liberty. On the basis of these, it draws up detailed conclusions on the situation of each centre and formulates resolutions to the competent administration to propose an improvement in the conditions of these places. These resolutions are Recommendations, Suggestions and Reminders of legal duties, which throughout the full report are explained in the context of the visits (highlighted with boxes within the text and also accessed in a full list, in digital format).

The NPM tries to explain the meaning and importance of the changes and innovations it proposes (recommends and suggests) to the centres it visits, as well as in the letters it sends to the administration. Often these changes imply the establishment of systems to enhance transparency in procedures and thus to provide greater facilities for external, as well as internal, scrutiny. In other cases, it is the lack of budgetary or other resources that makes it difficult to adopt the changes proposed by the mechanism.

The information provided in the full report, of which these pages are a summary, is divided into the following elements, according to each type of centre visited (short-, medium- and long-stay):

- An evaluation table of the different detention facilities visited.
- A record of each of the visits made by the National Prevention Programme this year (and in previous years where applicable), accessible via the web (<https://www.defensordelpueblo.es/mnp/actividad/>). These accessible factsheets provide cumulative information on the findings after each visit and the resolutions to which they have given rise. This information is

updated throughout the processing of the dossiers.

- The annexes reflect the latest available information on deprivation of liberty in Spain from a variety of official sources. They can be accessed from the tables at the end of the chapters, through the digital links (also from the report that can be consulted from the NPM web portal).
- Annexes through which all resolutions can be accessed in digital format: [Recommendations](#), [Suggestions](#) and [Reminders of legal duties](#).

The “References” section at the end of the full report includes three chapters on other aspects of the NPM’s work: on investigations and allegations of torture or ill-treatment in Spain (included in this summary); on the pronouncements of international bodies relevant to the work of the NPM; and on the NPM’s national and international training, cooperation and dissemination activities.



1 GENERAL INFORMATION ON VISITS

The National Prevention Mechanism (NPM) visited 72 places of deprivation of liberty during the year. There have also been 7 non-face-to-face operations (due to the constraints of the covid-19 pandemic and also due to the effects of Storm Filomena) and 8 operations for the repatriation of foreigners. Following the findings of the visits and other actions, the NPM has issued resolutions to the responsible administrations. These data are shown in the table below:

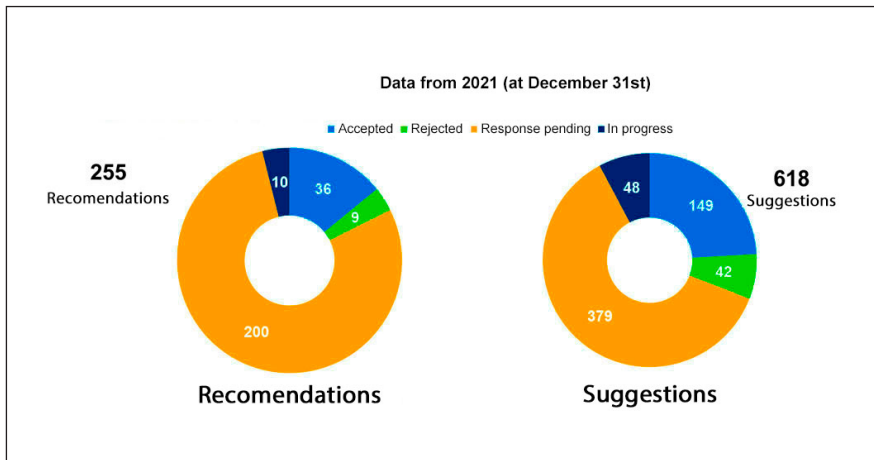
Actions of the NPM in 2021	
Visits of NPM team to places of deprivation of liberty	72
Non-face-to-face actions (covid-19)	7
Repatriation operations FRONTEX	8
People repatriated	306
Resolutions formulated	
Recommendations	255
Suggestions	618
Reminder of legal duties	26

Updated data on the activity of the National Prevention Mechanism can be accessed from its website (<https://www.defensordel-pueblo.es/mnp/actividad/>). Among other things, you can consult here the resolutions formulated and sent to the competent authorities and an interactive map with all the visits carried out since the beginning of the NPM's activity. Each visit generates a record of the conclusions and resolutions derived from the corresponding inspection report, its follow-up and resolutions.

In addition, the NPM's resolutions, formulated throughout the year, can be accessed via the following links:

- [Recommendations](#)
- [Suggestions](#)
- [Reminders of legal duties](#)

From the resolutions it is possible to highlight the data contained in the following charts, relating to Recommendations and Suggestions:



* **In progress:** Resolutions answered and under study or pending further information.

Data collection

The proper implementation of the mandate of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which takes the form of visits to places of deprivation of liberty, must be preceded by information gathering to provide objective indicators as to which places should be prioritised when scheduling such visits.

For this purpose, the National Prevention Mechanism (NPM) gathers information from the administrations on which these places of deprivation of liberty depend: the General Directorate of the Police, the General Secretariat of Penitentiary Institutions, the General Directorate of the Civil Guard, the Secretary of State for Security and the Departments of Justice and the Interior of the Regional Government of Catalonia (and, from 29 June 2021, also the Administration responsible for penitentiary matters of the Autonomous Community of the Basque Country, as powers have been transferred to the latter). They are administrations that manage a large number of detention facilities.

Visits to places of deprivation of liberty

According to the above-mentioned Optional Protocol (OPCAT), deprivation of liberty means any form of detention or imprisonment or of custody of a person, by order of a judicial or administrative authority or other public authority, in

a public or private institution, from which he or she is not free to leave. In National Prevention Mechanisms around the world, based on an extensive conception of the OPCAT definition, there is a tendency to visit health and social care facilities, whether public or private, in a broader sense than the strictly preventive one.

None-face-to-face actions	
Long duration	Actions
Penitentiaries (due to Storm Filomena)	6
Total	6
Instrumental places	Actions
Foreign National Repatriation Operations (FRONTEX)	1
Total	1
TOTAL	7

Incidents during visits

As has been repeatedly pointed out in other reports, in general terms, the National Prevention Mechanism considers the level of knowledge of the officials and workers of the centres of the meaning and scope of their work to be sufficient. In this way, the work of the visiting team, right from the start, runs almost always smoothly.

At the beginning of each visit, a brief explanation of the Ombudsman's functions and the NPM's unique features is given. Special emphasis is placed on the preventive nature of its actions and how the unity of the mechanism is embedded in the Ombudsman's structure. At these initial moments of each visit, the power to access all places where persons are deprived of their liberty, to hold confidential interviews with them and to have access to all documents in the institution and the procedures applied to them is made explicit.

Only in very rare cases is there any difficulty, such as is indicated in the incidents referred to under the following headings.

Incident at the visit to the Central Inspectorate of the Guard in Valencia

At the beginning of the interview with the heads of the Central Inspectorate of the Guard in Valencia, we asked how the visit by the European Committee for the Prevention of Torture (CPT) to these premises in September 2020 had gone (the CPT's report had made it clear that the visit had been carried out

by the European Committee for the Prevention of Torture (CPT), which noted the allegations of ill-treatment attributed by detainees to officers at that police station) and whether there had been any changes in procedures as a result. The three officials interviewed, who are in charge of the police station, stated that they had no knowledge of this visit or its conclusions.

Following this preliminary meeting, the NPM noted the importance of having certain documentation as soon as possible and requested, as it usually does, its prompt compilation and delivery. At the end of the visit, no documents had been received, nor did the collection of documents appear to have been initiated, despite repeated insistence that they needed to be provided before the visit was completed.

Incidence on the visit to the Topas Penitentiary Centre (Salamanca)

At the meeting prior to the end of the visit to the Topas Penitentiary Centre (Salamanca), the National Prevention Mechanism team expressed its concern to those in charge of the centre that it had not been informed at the outset of a serious incident in which a prisoner had been involved and unfairly harmed. All this in the context of a visit aimed, as mentioned above, at analysing the situation of female inmates. The director unexpectedly left the room in the middle of the meeting, without giving any reason.

Incident on the visit to the Conxo Psychiatric Hospital (Santiago de Compostela)

On arrival at the Conxo Psychiatric Hospital (Santiago de Compostela), the National Prevention Mechanism team was attended to by the doctor on duty, who stated that he was unaware of his competence to carry out the visit. The NPM therefore requested that he contact his superior, the head of the hospital, for instructions on how these visits should be handled, but the head of the hospital declined to take charge of the situation. In general, the attitude was unhelpful throughout the visit.

Incidents during the visit to the Esquerdo Clinic in Madrid

Before the visit to the Esquerdo Clinic in Madrid could begin, difficulties arose because, despite repeated explanations of the competences of the National Prevention Mechanism, the visiting team encountered obstacles in gaining access, carrying out and completing the visit normally. The lack of awareness of the competences and powers attributed to the Ombudsman in his capacity as NPM was evident, causing considerable delay in accessing the premises, as well as impeding the full compliance with the programmed objectives. For this reason, we were unable to obtain the documentation necessary

for the analysis of the functioning of this mental health unit (activity reports, registry books, protocols, staffing lists, legal files of the persons admitted, communications to the courts, among others).

Visits with specific cross-cutting approaches

In order to broaden the criteria by which the National Prevention Mechanism conducts its visits to places of deprivation of liberty, the mechanism has launched two programmes with the aim of specifically targeting the prevention of discrimination against certain groups of inmates. In 2018, one was launched focusing on the prevention of gender discrimination (first in prisons, and in 2021 it has been extended to juvenile and mental health centres), and this year another one has been launched focusing on the treatment of inmates with intellectual disabilities. The aim of these programmes is to integrate their results into the day-to-day work of the NPM as a whole.

Prevention of gender discrimination

In 2021, the programme for the prevention of gender discrimination has been applied in visits to two detention centres for juvenile offenders and two psychiatric facilities, one penitentiary, managed by the General Secretariat of Penitentiary Institutions, and the other managed by the regional government (the visits and the resolutions carried out in this regard are set out in chapter 6 of this report).

Preventing discrimination against people with intellectual disabilities

The other programme of visits with a specific focus is the one that aims to analyse in a transversal way the situation of people with intellectual disabilities interned in different places of deprivation of liberty (penitentiaries, detention centres for juvenile offenders, jails, etc.). Previous reports have already pointed out various indications of a lack of specific care for these people in various centres, or the incomplete application of the preventive instruments available and of the administrative provisions made in different areas.

Visit to Spain by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

In 2021 the report to the Spanish Government on the visit to Spain from 14 to 28 September 2020 by the European Committee for the Prevention of Torture and inhuman or degrading treatment or punishment (CPT) was published, the content of which is the subject of specific attention throughout this report.

During this visit, the CPT delegation was able to verify both the treatment and the conditions under which persons are deprived of their liberty in various Spanish facilities. For this purpose, they visited several prisons, the two prison psychiatric hospitals (Alicante and Seville) and a juvenile detention centre in Algeciras (Cádiz).

In addition, the treatment and safeguards offered to persons deprived of their liberty in police custody were examined.

The visit took place during the covid-19 pandemic. The measures taken in places of detention for the protection of public health against the Sars-CoV-2 virus and the restrictions imposed in the context of the pandemic were therefore analysed.

Advisory Council and NPM structure

The Advisory Council is a technical and legal cooperation body of the National Prevention Mechanism, made up of the Ombudsman's deputies, in addition to a maximum of 10 members, who are appointed from among persons with a recognised track record in the defence of human rights or in areas related to the treatment of persons deprived of their liberty for any reason. They do not receive remuneration and will meet at least twice each year.

The functions of the Advisory Council consist of making proposals on visits to places where persons are deprived of their liberty; making proposals for the improvement of the protocols for these visits and for their follow-up; defining the reports that the Ombudsman requests from it on regulations of relevance to the situation of persons deprived of their liberty; propose training programmes and specialisation courses on the prevention of torture and cruel, inhuman or degrading treatment or punishment, and follow up on the reports drawn up by the NPM and the Subcommittee for the Prevention of Torture (SPT).

By resolution of 27 September 2021, the members of the Advisory Council of the National Prevention Mechanism were appointed. After examining the candidatures presented, and in accordance with the report of the Coordination and Internal Regime Board, it was agreed to appoint Luis Francisco Nieto Guzmán de Lázaro, at the proposal of the General Council of Spanish Lawyers; María Castellano Arroyo, at the proposal of the Medical Association - General Council of Official Medical Associations; Luis Andrés Cucarella Galiana, in a personal capacity, and Maite Parejo Sousa in representation of the Asociación Pro Derechos Humanos de España (APDHE) (Human Rights Association of Spain) (the latter two, elected from among candidacies presented to the Ombudsman in their personal capacity or on behalf of organisations or associations representing civil society).

The number of staff at the end of the year was eight. One is at the head,

seven in technical functions and three for administrative tasks, of which two positions are filled.



2 SHORT-TERM DEPRIVATION OF LIBERTY

2.1 Visits to general detention facilities

- The monitoring activity of the National Prevention Mechanism has been conditioned by the situation caused by the covid-19, albeit to a lesser extent than in 2020. Throughout the visits to short-term detention facilities, the existence of specific health protocols, the availability of sufficient prophylactic means for detainees and the staff in charge of their custody, as well as the respect of measures aimed at guaranteeing physical distance inside these facilities have been verified [§ 1]*.
- The report of the visit of the Committee for the Prevention of Torture (CPT) of the Council of Europe, published in 2021, states that most of the persons the delegation met during visits to police stations in Andalusia, Valencia and Madrid stated that they had been treated correctly by the officers both at the time of their arrest and while in their custody. However, they received a significant number of allegations of ill-treatment, as well as allegations of excessive use of force, issues which are extensively detailed in the report [§ 2].
- In its report, the CPT recommends that the Spanish authorities send a strong message that ill-treatment of detainees is illegal, unprofessional and punishable by appropriate sanctions. It also demands a guarantee that an effective investigation is carried out into every allegation and that senior officials are held accountable for their management responsibilities. To this end, it refers to the need to provide sufficient personnel and material resources [§ 3].
- Similarly, the CPT considers it necessary to ensure adequate storage time for all recordings made in all custody areas in order to verify any allegations of ill-treatment made against officials. It also advocates restricting the use of handcuffs and that their use avoids causing unnecessary pain to the person concerned and the risk of injury in the event of an accident. The CPT's report stresses the importance, from a preventive point of view, of immediate access to legal aid and of ensuring that it always takes place under appropriate conditions of confidentiality. It also reiterates the importance of police training. It places particular emphasis on the need for the use of force during the detention and custody of persons deprived of their liberty to be properly

* The numbers between brackets correspond to the paragraph numbers in the complete report NPM 2021 (in Spanish: www.defensordelpueblo.es).

documented, as this is essential from the point of view of prevention. These observations of the CPT are reflected in several sections of this NPM report. As can be seen, these are largely consistent with what the NPM has been pointing out for years and which have given rise to many Recommendations in recent reports [§ 4].

Actions of the NPM

- The findings of the visits have led to the formulation of 20 Recommendations, 165 Suggestions and 2 Reminders of legal duties [§ 6].
- The following issues were addressed:
 - Specific and adapted access for detainees with disabilities functional diversity.
 - Minimum material conditions for detention.
 - Recommendation to close the cells until a reform is carried out in relation to the Algeciras Police Station (Cádiz) and the Local Police of Maó (Menorca).
 - The premises are not always in a good state of maintenance and upkeep.
 - Appropriate cell size.
 - Environmental conditions of the premises.
 - Special attention to the existence of elements that compromise the physical integrity of persons deprived of liberty (Algeciras Police Station, in Cádiz).
 - Existence of adequate rest facilities for detainees.
 - Sufficient and adequate lighting, preferably natural lighting, to enable persons occupying the cells to read, as recommended by the CPT.
 - Data protection and dignity of persons deprived of their liberty: ensure that the names and surnames are not accessed.
 - Health care.
 - Adequacy of prophylactic means to minimise the impact of the covid-19 infection.
 - Special attention is paid to ensuring confidentiality and without presence of police personnel.
 - Presence of inappropriate elements in the custody areas.
 - Handcuffs hanging from a wall in juvenile court cells.
 - Presence of weapons during the custody and transfer of detainees.
 - Ensure that police personnel do not carry their weapons loaded.

- Provision of anti-theft holsters for police personnel.
- Electric shock weapons and restraint devices.
 - Recommendation to the Ministry of the Interior for comprehensive and detailed regulation of the use of weapons. The Administration has replied that it is working on it.
 - Participation in meetings with the company that owns the brand of taser guns, Amnesty International officials and an interview with a person who was reduced with one of these guns and who gave his/her testimony about the physical and psychological consequences he/she still suffers.
 - Incidental visit to the Torreldones Police Station (Madrid), which has these devices, to gather information.
- Prevention of self-harm and suicidal behaviour.
 - The CPT stresses the need to ensure that suicide prevention protocols and training for police staff are in place in all police stations. The Recommendations made and reiterated in this regard following visits to the Algeciras (Cádiz) Police Station in 2020 and 2021 are still pending a response.
 - Need to record in the log book all rounds made by police personnel to check the condition of persons deprived of their liberty.
 - The constant presence of officers in the cells is essential, especially given the lack of video surveillance and intercoms inside the cells.
- Legal aid and space for interviews with lawyers.
 - Immediate access for professionals.
 - Guarantee of confidentiality.
- Detention of minors.
 - Existence of specific regulations in this area (recommendation to the Ertzaintza).
- Video surveillance, audio surveillance and recordings.
 - Demand for more video surveillance coverage and no blind spots.
 - Audio recordings
 - Protocols observed.
- Identification of custodial officers.
- Body searches.
 - Adequate search practice is essential to ensure the safety of the person deprived of liberty and custodial staff.

- Supervision of garment delivery in comprehensive searches.
- Weighing the conditions of safety against the circumstances of each case. For example, the removal of corrective eyewear that would make it impossible to ensure their perceived integrity, safety and dignity.
- Clothing for detainees.
- Record books and completion of the chain of custody.
 - Supervision of proper completion.
 - The need for the availability of a register of allegations of ill-treatment.
 - Ensure the recording in the logbook of the exact moment when legal aid is requested, as well as of all contacts with third parties, as urged by the CPT during its visit to Spain in 2020.
- Informing detainees of the conditions under which they will be held in police facilities in a uniform manner across all police forces.
- Update of instructions from the State Secretariat for Security.
 - Oversight in the process of reviewing instructions on relevant issues such as full body searches, the situation of pregnant women in detention, the treatment with regard to the video surveillance and video recording system, including audio, as well as the intellectual disability and mental illness of the detainees.
- Translation and interpretation [§ 12-46].

2.2 Vehicles used for driving by police forces

- Supervision of the vehicles used.
- Elimination of the systematic use of back-cuffing of persons deprived of their liberty during transfer, as urged by the CPT [§ 47].

2.3 Facilities of Asylum seekers and inadmissible persons

A visit was made to the Asylum Seekers' Lounge at Adolfo Suárez Madrid-Barajas Airport, Terminal 1 ([Visit 18/2021](#)). The file opened as a result of the visit made at the end of 2020 to the Gran Canaria Airport Admissions and Asylum Seekers Room was also processed and was followed up on during the visit made at the end of 2021 ([Visit 72/2021](#)).

As for the first, seven Suggestions were formulated, two of which were sent to AENA (Spanish Airports and Air Navigation), as they were related to

the maintenance of the facilities, and the other five to the Directorate General of Police. In particular, it was suggested:

- That the right of asylum seekers to their checked baggage is guaranteed. However, at Las Palmas airport, travellers are allowed to keep their belongings with them, which leads to unequal treatment that needs to be corrected.
- That applicants are guaranteed access to outdoor spaces on a daily basis and for sufficient time, and that this is recorded in the relay book available at the premises for appropriate supervision.
- That applicants are guaranteed access to foreign currency exchange in order to make use of food and beverage vending machines and available public telephones.
- The establishment of a specific sanitary service for the Asylum lounge.
- That the physical register book in the asylum seekers' room is in line with the data required by the application of computerised management of asylum and subsidiary protection cases.

Some of these suggestions have been accepted, but the administration still does not accept others that, in the opinion of the mechanism, are essential, such as the suggestion to have a medical service independent of that offered by the airport and the suggestion that these people should be able to exchange their money. They have therefore been reiterated.

It has been reiterated to the administration that these persons should be allowed access to their mobile phones. On this issue, it has again been established that non-uniform practices exist. Thus, in the Gran Canaria Airport lounge, unlike the one in Madrid, access to one's own mobile phone is permitted.

A recommendation has been made to ensure that custody personnel make rounds of the rooms for inadmissible persons and asylum seekers under the General Directorate of the Police, in order to check the condition of the persons occupying them - while they remain in these facilities, in accordance with the times established by those responsible for them - and to record them on a medium accessible to the supervision of national or international inspection bodies. The Recommendation has been accepted.

The NPM considers these rounds to be a good practice to prevent sexual assaults on women, given that, although the distribution of rooms is initially carried out according to the sex of the occupants, it has not been possible to verify that subsequent supervision is carried out, which means that there may be unauthorised changes in the occupancy of the rooms.

Two Suggestions have been formulated, following the visit at the end of 2020 ([Visit 110/2020](#)) to the Inadmissions and Asylum Room at Gran Canaria

Airport. One to extend the coverage of the video-surveillance system so that it covers all the areas through which the person deprived of liberty passes or in which he/she remains, with the exception of the toilets and the space reserved for interviews with lawyers. The material was available pending installation.

The second suggestion, which has been accepted, to offer balanced and varied rations, including vegetables, fresh fruit and dairy products, to all occupants of the room.

Medical incidents, as in Madrid, are dealt with by the airport service. As mentioned above, it is the NPM's discretion to ensure that a medical service independent of that provided by the airport is guaranteed.

With regard to the documentary record of the passage of these persons through the institutions, the Directorate General of Police has communicated that the electronic record book for the custody of detainees cannot be used for inadmissible persons and asylum seekers, and therefore a paper file is created for each of these persons.

The NPM has made a Suggestion to the General Directorate of Police to close down four cells that are no longer operational. Such cells were used in the past to hold persons detained for criminal offences [§ 48-57].

2.4 Irregular access by sea

- Over the year 2021, a total of 40,100 people arrived on Spanish shores, a decrease of 0.7 per cent compared to the previous year [§ 58].

New arrivals are transferred to the so-called temporary centres for foreigners (CATE), which have no regulations of their own and where the general regulations of any detained person are applied to them. These are detention centres, not first reception facilities for persons rescued at sea.

- The following issues were addressed:
 - Use of police station cells to hold migrants rescued at sea for operational reasons. The European Committee for the Prevention of Torture in 2017 report [\[CPT/inf \(2017\)3\]](#), argues that the places where migrants are usually detained, such as airports, police stations, among others, are inadequate for holding persons, that detention in these cases should be minimal, and in any case for less than 24 hours. For a detention of more than 24 hours, it is considered that states must provide accommodation that is adequately furnished, clean and in a good state of repair, as well as other conditions that are considered essential in terms of lighting, ventilation, heating, and so on.
 - The need for a specific book of detainees, without the provincial police station's book being considered sufficient, which does not

allow the exact number of persons held in the CATE to be known.

- The need to equip the Málaga CATE with a book of complaints of ill-treatment.
- The need to make complaint form available to persons detained in the CATE of Algeciras (Cádiz).
- It is considered very important that custodial officers do not carry weapons or shackles and that adequate training is given to custodial officers.
- It is also considered relevant that mobile phone chargers are provided in sufficient quantity and in safe conditions of use, for the contact of these persons with the outside world (paragraph 2 of the CPT rules of March 2017 [[CPT/Inf \(2017\)3](#)]).
- Constant presence of female officers when women are deprived of their liberty.
- Discrepancy with the practice detected in the Málaga facility of assigning places of custody to detainees according to their nationality or ethnic profile.
- Amendments to the detainee's rights information form to prevent the automatic notification of the person's detention to his or her consulate.
- Inclusion of the right to seek international protection in the model rights information diligence.
- Installation of heating in the CATE in Algeciras (Cádiz), in line with the CPT regarding adequate material conditions for stays of more than 24 hours.
- Improved access to toilets and showers in the same centre in Algeciras to avoid access difficulties depending on the weather.
- Preparation of internal rules for the functioning of the CATES in Spanish and other languages. Of great relevance according to what the CPT points out [[CPT/Inf\(2009\)27-part](#)], extract from the 19th General Report.
- Provision of space for daytime activities in CATES, in line with the criteria of the CPT [[CPT/inf\(2017\)3](#)].
- Proper completion of the sheets of the register book and of the detainee custody form, which do not always contain the migrants' departure data, and completion of the sections of the form of Instruction 4/2018 of the State Secretariat for Security.
- Works at the Algeciras Police Station and replacement of mattresses.
- The need to modify the feeding of detainees in order to include fresh fruit and vegetables [§ 59-71].



3 MEDIUM-TERM DEPRIVATION OF LIBERTY. CENTRES FOR THE DETENTION OF FOREIGNERS

- The internment centres provided for in Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration, and regulated in Royal Decree 162/2014, of 14 March, are public establishments of a non-penitentiary nature in which persons are deprived of their freedom of movement in order to ensure the materialisation of their expulsion.

Detention has a maximum duration of 60 days and both the authorisation for admission and the detention are subject to judicial control [§ 73].

- The General Directorate of the Police reported that the number of persons admitted to the detention centres for foreigners (CIE), up to September 2021, was 1,352 persons, but did not provide other requested data, so a Recommendation was formulated for a response to the information requested.

In parallel, the National Prevention Mechanism (NPM) informed the General Police Directorate that data on detention centres for foreigners would be regularly requested through an IT platform (called Ábaco), which allows the NPM to collect data from other places of deprivation of liberty [§ 74-75].

Madrid Detention Centre for Foreign Nationals

- Throughout 2021, visits have been made to the Madrid Foreign Detention Centre (CIE) ([Visits 23/2021](#) and [48/2021](#)) and information has been received on the recommendations made in 2020.

In particular, those formulated so that the injury reports are sent directly by the doctor who draws them up to the judicial authority, giving a copy of the report to the persons concerned, have been accepted. Also to refer all injury reports to the duty court, without prejudice to referral to the supervising judge, even if no injuries are indicated, if the inmate states that he has been assaulted [§ 76].

- The suggestion made in 2020 to equip the infirmary of the foreign centre with computer and photographic equipment and material has also been accepted, as well as the suggestion to expand and improve the facilities.

The General Directorate of the Police has communicated that it was going to make available to the infirmary the equipment and material at its disposal, as well as an e-mail account of the general directorate so that it could be used officially by the supervisor of the medical service.

It was also reported that new information posters on the video surveillance cameras had been removed and requested, as the previous ones were out of date and incomplete, and clarifications were requested on other issues such as leaving a documentary record of the information given to the inmate on his right to request international protection or on the removal of elements that may be used in self-harming behaviour, as well as the replacement/substitution of the manual opening of cells by automatic systems [§ 77-79].

- In 2021, the NPM has asked the General Directorate of the Police to approve an instruction including a protocol for handling complaints and allegations of ill-treatment of inmates in foreign national detention facilities that includes the principle of conducting an effective investigation, the non-expulsion of an inmate while determining whether there are indications that he or she has been the victim of a disciplinary or criminal act, as well as how to forward the information to the duty court, the supervisory court and the competent administrative body.

It was also recommended that the duty court be informed of the maximum time of pending detention and the date of expulsion, if known or at a later date if it is determined during the processing of possible criminal proceedings, in order to take the appropriate decisions regarding the suspension of the expulsion.

The General Directorate of the Police has not accepted the Recommendation, so the NPM will reiterate it in order to issue an instruction including a protocol for handling complaints and allegations of ill-treatment of inmates in detention centres for foreigners.

The National Prevention Mechanism understands that the expulsion of the complainant should be stopped, given that his or her testimony is indispensable to the extent that there can be no effective investigation without such testimony.

In 2021, the Directorate General of Police has been reminded of its legal duty to assist the Ombudsman in his enquiries as a matter of priority and urgency and inspections, given that during the visit carried out on 15 June 2021 to the Central Office for Foreign Detainees (OCDE) and the Foreign National Detention Centre in Madrid, it was not possible to access video surveillance images, nor the protocol of

action followed with the persons who were to be expelled, nor was the aforementioned information received via the email provided by the visiting technicians for this purpose.

- It was also recommended:
 - That a protocol be drawn up in order to inform inmates who are to be expelled of the possibility of returning to their country by their own means, guaranteeing the traceability of this communication and subsequent steps.
 - To ensure that the distribution in OCDE cells is carried out according to the origin of the persons and to avoid that persons from prisons and persons detained for unlawful stay occupy the same cell.
 - That measures be adopted to guarantee the right to privacy of inmates in medical consultations, allowing the door to the medical office to be closed, except in duly justified cases.
 - That immediate access to and monitoring of the video-surveillance and video-recording system during visits by national institutions, such as the Ombudsman, and international institutions, such as the Committee for the Prevention of Torture (CPT) or the Subcommittee on Prevention of Torture (SPT), be guaranteed [§ 80-81].
- Suggestions were also made to ensure privacy in the provision of legal assistance to detainees at the Central Office for Foreign Detainees (OCDE), as well as access to mobile phones, leisure activities and provision of food and drink for citizens who are to be deported [§ 82].
- The NPM also suggested that a protocol be drawn up to guarantee the existence of a mechanism to request and register petitions, complaints and suggestions for the inmates of the Madrid Detention Centre for Foreigners (CIE), and made other suggestions, such as guaranteeing that whenever there are injuries, the corresponding injury report is issued and sent to the duty court, with a copy to the injured person [§ 83].
- Other suggestions made were:
 - The multi-purpose rooms should be provided with a number of tables and chairs in accordance with the capacity and seating capacity of the centre.

- That a suitable prayer room and sufficient computers with internet access be made available for the inmates, in accordance with the provisions of paragraph 5 of the European Committee for the Prevention of Torture standards of March 2017. On this matter, it was replied that work was going to be undertaken for a comprehensive refurbishment of the centre and that the NPM's suggestions would be taken into account so that they could be included in the refurbishment project.
- That the CIE be provided with a book of complaints of ill-treatment, a book of incidents and a book of personal and cell searches.
- That the CIE be provided with a suicide prevention and trafficking prevention protocol, in accordance with paragraph 10 of the above-mentioned standards.
- An enquiry should be initiated immediately whenever the management of the centre becomes aware that an inmate may have suffered ill-treatment and to raise awareness among all staff that all forms of ill-treatment are unacceptable. The Suggestions made have been accepted, although the Administration states that such enquiries are already being made, although no information is provided on the procedure used.
- It has been suggested that custodial officers should not routinely be equipped with rubber bumpers, batons and handcuffs, which should only be worn in case of incidents, that uniformed personnel should always wear their badge number visibly and that this obligation, which is a basic preventive measure, should be strictly enforced [§ 84-85].

Barranco Seco Detention Centre for Foreigners (Las Palmas)

- In 2020, a Reminder of Legal Duties was issued after visiting the Barranco Seco (Las Palmas) Foreign National Detention Centre (CIE) to ensure that a medical examination was carried out on the inmates on their arrival at the centre and before their departure, even if this took place outside of health care hours.

In 2021, it was announced that medical examinations would not be carried out immediately when the admission takes place between noon Saturday and Monday morning [§ 86].

- The following Suggestions were also made:
 - that an internet connection be installed in the doctor's office;
 - that the maintenance of food vending and change machines is ensured; and
 - that a clock be installed in the common areas.

All of them have been accepted [§ 87].

- With regard to the noise caused by the Canine Unit, located in premises adjacent to the centre, which prevents inmates from resting, the response received in 2021 shows, once again, that the Administration has not resolved the problem, which has been dealt with since 2012, when the National Prevention Mechanism (NPM) formulated a Suggestion to the General Directorate of the Police for the transfer of this unit [§ 89].
- It was also concluded that there is a need to set up a mailbox for petitions and complaints. The Directorate General has communicated that the inmates will be informed of the possibility of writing to the Ombudsman, which is positively valued and the CIE will be informed that the appropriate measures will be adopted to guarantee confidentiality, as is the case with complaints from inmates in penitentiary centres [§ 90].

Murcia Detention Centre for Foreign Nationals

- The General Directorate of the Police reported the acceptance of the suggestion made by the National Prevention Mechanism (NPM) to include the compatibility judgement in the injury reports issued at the Murcia Detention Centre for Foreigners.

The administration reported that the repair work announced in previous years, including the bathrooms and toilets, construction of a laundry, video surveillance cameras in the solitary confinement cell, opening of call boxes and automatic opening of doors, had not been started, although it was reported that the centre would be closed for this work [§ 91].

- In February 2021, and following the visit at the end of 2020, the NPM also formulated a number of Suggestions:
 - that the number of tables and chairs in the multi-purpose rooms be proportionate to the seating capacity of the centre.

- that the centre should be provided with a prayer room and sufficient computers with internet access for inmates; and
 - that the cells are provided with adequate ventilation.
- The National Prevention Mechanism (NPM) also made other suggestions:
 - The completion of the register of arrivals and departures of inmates should be guaranteed, and the inmate should be notified at least 24 hours in advance of his or her expulsion.

The Administration has communicated that this is done in writing in English, French and Arabic, although only the date of departure is reported for security reasons, which are not indicated. The NPM considers it essential to facilitate the foreigner's itinerary since, in many cases, he or she is not deported to his or her country but to another country with which he or she has no links.
 - That the centre for foreigners be provided with a single version of the information document on the content of the rights of the detainees and the applicable procedure and that it be available in the languages most widely spoken by the detainees. The inmate is deemed to ratify with his or her signature the receipt of such information in an understandable language.
 - Copies of the centre's operating rules should be made available to inmates in several languages.
 - That the forms for petitions, complaints and requests to the centre's management should be self-copied and a stamped and dated copy should be given to the inmate at the time of their presentation, with the petitions, complaints and requests being recorded in the corresponding register book.
 - As in other centres for foreigner nationals, the need to provide the CIE with a book of complaints of ill-treatment, a book of incidents and a book of personal and cell searches, as well as a suicide prevention and trafficking prevention protocol, has been highlighted.
 - That the correct completion of the forms and of the containment book is ensured, specifying the measure adopted in each case.
 - As soon as the presence of an unaccompanied minor becomes known, appropriate measures should be taken without delay, and both minors and asylum seekers should be separated from

other foreigners.

- That officers do not wear rubber bumpers and handcuffs.

The general management has accepted all these Suggestions with the exception of those concerning the provision of computers with internet access [§ 92-97].



4 LONG-TERM DEPRIVATION OF LIBERTY

4.1 Prisons

- The health emergency caused by covid-19 has continued to condition activity in prisons. Persons deprived of their liberty, their families and relatives, as well as prison staff, have been affected [§ 98].
- It should be noted that the vaccination of inmates and prison staff has been generalised during the year 2021 both in the General Secretariat of Penitentiary Institutions (SGIP), which reports to the Ministry of the Interior, and in the Secretariat of Penal Measures, Reinsertion and Victim Support of the Department of Justice of the Autonomous Community of Catalonia (SMPRAV), which has been one of the main changes with respect to the situation in 2020 [§ 99].
- Once again, the National Prevention Mechanism appreciates the work of all the staff of the SGIP and the SMPRAV, who have continued to carry out their public function with great effort and dedication in difficult circumstances that have lasted for two years now [§ 100].
- From the point of view of rights guarantees, it is necessary to continue to maintain, despite the pandemic, the balance between measures taken to protect inmates and public employees, and respect for the rights of persons in prison, their families and relatives [§ 101].
- The past year has also seen two significant events in the penitentiary field. Firstly, the transfer of functions and services from the State Administration to the Autonomous Community of the Basque Country, by virtue of Royal Decree 474/2021 of 29 June. Secondly, the transfer of functions and services from the State Administration to the Autonomous Community of Navarre in the field of prison health, according to Royal Decree 494/2021 of 6 July [§ 102].
- This transfer of competency in the area of prison healthcare, although positive, should not hide the fact that the actors involved must assume that it is necessary to give a decisive boost to compliance with Law 16/2003, of 28 May, on the cohesion and quality of the National Health System, and to transfer all prison healthcare to the autonomous communities [§ 103].
- As noted elsewhere in this report, the report on the visit by a delegation of the Committee for the Prevention of Torture (CPT) of the Council of Europe to several prisons in Andalusia, Valencia and Madrid between

13 and 28 September 2020 was made public during 2021 [§ 104].

- The CPT's report alluded to the fact that during visits it received a large number of consistent and credible allegations of recent physical ill-treatment by staff, as, in its view, there continues to be a pattern of physical ill-treatment by prison officers as a disproportionate and punitive reaction to the behaviour of some prisoners. It set out a number of measures which it believes are necessary to improve the situation, such as better supervision by management; increased training of staff in control, restraint and de-escalation techniques; more rigorous documentation of all injuries; immediate and systematic reporting of allegations of ill-treatment to the relevant prosecuting authorities; effective investigations; and that video surveillance systems in all prisons are fully operational [§ 105].
- For the Committee for the Prevention of Torture, the material conditions in the prisons visited could generally be considered adequate. In relation to prisoners in a closed regime module, it was found that they were not offered an adequate range of activities and were not sufficiently supported to help them integrate into a regular regime module. As regards mechanical restraint, he noted considerable progress in reducing the application of the measure and its duration, but considered that the measure is open to abuse and requires even stricter safeguards, and that the long-term goal should be its abolition [§ 106].
- The Council of Europe committee insisted that preparations for the transfer of prison health care to the National Health System should be made immediately. For yet another year, the lack of and conditions in which health care personnel carry out their work is not acceptable, and the shortage of psychiatrists and clinical psychologists continues [§ 107].
- The CPT was again concerned about the effectiveness of supervising judges in the prisons visited, and stated that this issue should be addressed by the General Council of the Judiciary [§ 108].

Some basic figures

- In 2021, the prison population in Spain was 63,078 persons (4,472 of them women), of whom 7,763 (510 women) were in Catalan prisons [§ 109].
- With regard to the death of inmates in 2021 in penitentiary centres and penitentiary psychiatric hospitals, within the scope of the General Secretariat of Penitentiary Institutions, there were 184 [§ 110].

Actions of the NPM

- Throughout 2021, 15 prisons were visited in person. The centres of Algeciras (Cádiz), Huelva, Joves de Barcelona and Seville I were visited for the first time. The others are follow-up visits (Seville II Penitentiary Centre, Puerto I-Cádiz-, Ávila, Segovia, Castellón I, Menorca, Brians I -Barcelona-, Albolote -Granada- and León). Non-face-to-face visits were also carried out during the Filomena storm, which took place at the beginning of the year, with the aim of finding out about the situation of prisoners and prison staff. The prisons contacted were: Madrid II, III, V, VI, VII and Castellón II. In addition, several hospital custody units were visited [§ 112-113].
- In the area of prisons, 92 Recommendations were made this year (71 from visits carried out in 2021 and 21 from visits or files from previous years), 172 Suggestions (159 from visits carried out in 2021 and 13 from visits or files from previous years), as well as 15 Reminders of legal duties (10 from visits in 2021 and 5 from visits or files from previous years) [§ 114].

Actions initiated in previous years have been followed up. Proposals were made to improve certain specific open environment instructions, which have not been accepted. Frequently reiterated issues were also addressed by this institution, such as the identification of officials or video surveillance, matters that continue to be processed by the SGIP.

However, the SMPRAV has already issued a specific circular. With regard to coercive means, the progress made by the instructions issued by the two administrations is to be welcomed. However, protocols on the use of telemedicine, the registration of urgent health care requests or the practice of medical examination in solitary confinement have not yet been designed. As requested by the NPM in previous years, the SGIP has launched a pilot project to implement the simultaneous translation system.

The European Committee for the Prevention of Torture (CPT) welcomes the adoption of Instruction 03/2018 SGIP, as it encourages a reduction in the use of this measure in strict compliance with the principles of legality, subsidiarity and proportionality, as set out in art. 72 of the Prison Rules (RP) [§ 115-116].

- In addition, the following issues were addressed:
 - Regarding reports of ill-treatment, the NPM welcomes the publication of an action protocol to guide the centres. However, given the shortcomings identified, there is a need to standardise the registration format and improve its completion. In addition, ensuring the protection of persons involved in an investigation is considered a priority.

- Once again, the need for specific training for medical personnel in the drafting of injury reports has been expressed, and that it is they who must send them directly to the judicial authority. During the visits, it was detected that injury reports and the application of coercive means during weekends or public holidays were not immediately notified to the judicial authority, for which reason a Recommendation was made to the General Council of the Judiciary (CGPJ).
- With regard to the closed regime, the need to work on the preparation of grade progression and the aesthetic improvement of the modules in order to create a less oppressive environment was emphasised.
- The reduction of the use of restraints, especially mechanical restraint, should be encouraged by promoting the training of prison staff and the use of alternative measures. The long-term goal is total elimination.
- Again, there is evidence of prolonged mechanical restraints motivated by suicide attempts, which in the view of this mechanism is a questionable practice. In line with the CPT, which conceives of its use on persons with a mental illness or who have committed an act of self-harm or attempted suicide, as a punishment rather than a security measure.
- It was recommended that the recording of this type of restraint be referred for supervision not only to the inspectorate, but also to the judicial authority and the public prosecutor's office, a proposal that was rejected.
- Mediation and counselling by prison legal counselling services is advocated as a means of reducing the use of the disciplinary regime.

In this regard, the European Committee for the Prevention of Torture (CPT) in its latest report recommends that a procedure be established to review the sanction in the case of transfer to another prison, if the sanction has been issued months ago and the inmate's behaviour in the new establishment justifies its review.

Similarly, this body continues to insist on the importance of isolation not exceeding 14 consecutive days due to the harmful effect of this sanction, and on the need to ensure that acts of self-harm are not punished.

- It was again emphasised that video surveillance should capture both images and sound and that the retention period should be extended by at least six months.

- Weaknesses continue to be identified in the processing of instances in general.
- It was noted that health care has ample room for improvement and that, in particular, psychiatric and psychological care needs to be strengthened.

The CPT considers that a more detailed cognitive health assessment - especially psychiatric - should be made for each prisoner and that the Spanish specialised care system is inefficient, as it lacks full-time psychiatrists and clinical psychologists. In the case of patients with mental illness, there is a lack of specific interventions and pharmacotherapy-based management.

It also calls for the adoption of measures to ensure confidentiality in the request for and conduct of medical consultations.

- Preventive isolations - justified by the pandemic - to the indications of the Ministry of Health.

The CPT welcomes the approach taken by the Spanish authorities during the pandemic, but recalls the importance of allowing the prison population to exercise outdoors during quarantine.

- During the visits it was noted that there are still deficiencies in some prison facilities that generate inhumane living conditions.
- The need to adopt measures to avoid the lack of information and communication difficulties of certain groups, such as foreigners or people with disabilities, is emphasised.
- The insufficient number of staff in some centres, especially health personnel, and the need to incorporate new technologies in the development of work activities should be highlighted.

The CPT recommends taking measures to reverse staff shortages, such as making the job vacancies offered more attractive [§ 130-194].

4.2 Detention centres for juvenile offenders (CIMI)

4.2.1 General Information

- According to the available data, there are 65 centres in Spain for the enforcement of custodial measures for minors, with approximately 2,601 places [§ 202].
- The year 2021 saw the closure of the San Francisco La Biznaga Centre for Young Offenders in Torremolinos, the only centre in the province of Málaga, and the opening of the Genil centre in Granada.

It can be seen that in this autonomous community only the El Molino, Los Alcores and Bahía de Cádiz centres have places for women in a therapeutic regime. This fact may mean that there are young inmates who come from populations far away from the centres, which would make therapeutic involvement with the families difficult [§ 203].

- On the occasion of the visit to the Ciudad de Melilla centre for minors, a meeting was held with the Councillor for Minors and the Family of the Autonomous City of Melilla on the main problems detected: in many cases, the reason for admission to the Ciudad de Melilla centre for juvenile offenders is having been involved in incidents in the protection centres, difficulties in the processing of documentation on foreigners and the regulatory modification approved in this regard (Royal Decree 903/2021), as well as deficiencies in the area of video surveillance [§ 204].

Actions of the NPM

- In 2021, five visits were made to centres for juvenile offenders in the autonomous communities of Andalusia, the Basque Country, Aragón, Madrid and the Autonomous City of Melilla. In four of these centres they were follow-up visits, only one of them was visited for the first time (Arratia, Basque Country). In addition, two with a gender focus have also been turned, which will be the subject of specific attention under the corresponding heading.

Specifically, the following were visited (in chronological order): El Molino Juvenile Offenders Internment Centre (Almería), Education and Internment Centre by Judicial Measure of Zaragoza, Arratia Educational Centre (Vizcaya), Teresa de Calcuta Centre for the Execution of Judicial Internment Measures (Madrid) and Ciudad de Melilla Educational Centre for Juvenile Offenders.

All five centres visited are privately run: El Molino for Adis Meridianos, Zaragoza is run by the Foundation for the Comprehensive Care of Minors, Arratia by the Berriztu Educational Association, Teresa de Calcuta by the Association for the Management of Social Integration (GINSO) and City of Melilla by the Diagrama Foundation. Although the centres are concessioned, the responsibility for the provision of the service lies with the competent administrations, and therefore it is these administrations that are responsible for what may happen in the centres, and they have the obligation to supervise and control the centres [§ 205].

- In the year 2021, article 59 of Organic Law 5/2000, of 12 January, regulating the criminal responsibility of minors (LORPM) has been modified by the eleventh additional provision of Organic Law 8/2021, of 4 June, on the comprehensive protection of children and adolescents

against violence. This change prohibits the use of mechanical restraint consisting of securing a person to an articulated bed or to an object fixed or anchored to the premises or to movable objects.

This repeal follows the recommendation made by the Ombudsman in 2020, which was accepted by the Ministry of Justice. For this reason, special attention was paid to checking the use of means of restraint in the centres visited, following such an important change in regulations [§ 206].

- The main objective of the visit to the Teresa de Calcuta centre was to carry out a detailed analysis of the actions carried out in this centre following the suicide of a minor in 2021 [§ 207].
- The minutes of the visits contain 262 conclusions, which have given rise to the formulation of 48 Recommendations, of which 32 were addressed to the Department of Minors and the Family of the Autonomous City of Melilla, 102 Suggestions and 5 Reminders of legal duties. A Recommendation was also made to the Regional Ministry of Social Affairs and Sports of the Autonomous Community of The Balearic Islands, in the course of the processing of the file on the visit to the Es Pinaret Socio-educational Centre, carried out in 2020 [§ 208].
- In addition, the following issues were addressed:
 - It has been detected in the centres visited that information is not systematically collected on the inmates who have previously received care from the system of child protection resources.
 - Requests for health care are not always recorded in documents, and the inmate is not provided with a receipt of the request for a medical consultation.
 - There are centres where security personnel or educators are present inside the medical practice or outside with the door open.
 - Not all the centres had clinical psychology professionals available to adequately attend to these people who are serving a therapeutic measure.
 - Addictions are a problem for the vast majority of people who are institutionalised. However, not all the centres visited had a specific programme for the treatment and detoxification of toxic substances.
 - Protocols do not include a gender perspective, nor do they apply any kind of scale due to language or cultural difficulties.
 - Self-harm by inmates is sanctioned, rather than dealt with in a preventive or therapeutic manner.
 - Use of inadequate rooms to lock up inmates who are included in the suicide prevention protocol.

- In general, in all the centres visited, it is still apparent that the injury reports still do not comply with the Recommendations of the [Study on injury reports of persons deprived of their liberty](#).
- In some centres, injuries are not reported if they are not obvious, or if the injured person does not wish to file a complaint.
- Copies of the reports are not always given to injured persons, regardless of whether they request them or not.
- The NPM continues to observe that for new admissions of minors, the rooms of the observation module are used, which are usually used to take persons that the centre considers should have a higher level of observation, and usually have a more prison-like appearance. The conditions in which the children were kept in the rooms lacked light, toilet, table and chair, producing an effect of dehumanisation and mistreatment. The NPM team found that children in these rooms were urged to urinate in a bottle.
- In all the centres we visited, we found that strip searches were widely practised, despite the fact that those in charge of the centres claim that they do not carry out this type of search. The European Committee for the Prevention of Torture (CPT), in paragraph 194 of its report to the Spanish government on its visit carried out to places of deprivation of liberty in the year 2020 [[CPT/Inf\(2021\)27](#)] recommends making every effort to minimise invasive or degrading effects.
- In none of the centres visited during the year 2021 was mechanical restraint by straps to a bed used. However, we observed in one centre that they had two rooms prepared for the application of mechanical restraints by means of straps.
- In the interviews conducted, a number of minors stated that they were thrown to the ground with force and that during the shackling manoeuvre, the security staff hurt their arms and, in order to keep them immobilised, their knee was jabbed into their side.
- On this issue, the European Committee for the Prevention of Torture, in its above-mentioned report [[CPT/Inf\(2021\)27](#)] sets out its views in paragraph 186.

The CPT considers that, in educational establishments, the use of mechanical restraint and handcuffing as a means of restraining violent and/or agitated minors should be stopped immediately.

Instead, alternative methods of violent incident management, such as verbal de-escalation techniques and manual control, should be employed; this will require staff, especially custody

officers, to be properly trained and regularly certified in their use.

In addition, individual alternative measures should be developed to prevent agitation and calm children. It is axiomatic that any force used to control young people should be limited to the minimum required by the circumstances and should in no case be an occasion for the infliction of pain, whether deliberate or due to staff not being adequately trained.

In the event that a minor acts in a very agitated or violent manner, the child should be kept under close supervision in an appropriate environment (e.g. a time-out room). In case of agitation caused by the health condition of a minor, staff should seek medical assistance and follow the instructions of the health professional (including, if necessary, the transfer of the minor concerned to an appropriate health care setting).

The use of this means of restraint in these circumstances may constitute inhuman and degrading treatment. This approach is fully shared by the National Prevention Mechanism.

- The NPM observed in one facility the repeated application of mechanical restraints to inmates who were in the facility under a mental health therapeutic detention measure.
- Security personnel wear uniforms and carry truncheons and shackles continuously. In this regard, the CPT in its report [\[CPT/Inf\(2017\)34\]](#), paragraph 125, “considers that the fact that security staff who have contact with minors wear rubber bumpers in plain view is not conducive to fostering positive staff-inmate relations”.
- There are concerns about the lack of specific training of security personnel in the use of force and the application of restraints in juvenile facilities. This lack of adequate training has a direct impact on the treatment of detainees, contrary to the criteria of the European Committee for the Prevention of Torture (CPT) as stated in paragraph 186 of its report [\[CPT/Inf\(2021\)27\]](#).
- In general, the staff of the centres do not receive specific training on the national and international standards and norms of human rights and children’s rights bodies.
- Alternative sanctions to temporary isolation and group separation should be used, as any form of isolation can have negative effects on the physical or mental health of juveniles. The CPT in its report [\[CPT/Inf\(2021\)27\]](#) following the visit to Spain in 2020, in paragraph 191 underlines the following:

any form of isolation can have a detrimental effect on the physical and/or mental well-being of children. In this regard, the Committee notes a growing trend at the international level to abolish solitary confinement as a disciplinary sanction with regard to juveniles.

Special reference should be made to the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which have recently been revised by a unanimous resolution of the UN General Assembly and which explicitly stipulate in Rule 45 (2) that solitary confinement shall not be imposed on minors.

- In one centre, within 8 months, group separation had been used more than 1,000 times.
- An inadequate practice has to be pointed out, which consists in the fact that when a sanction of separation from the group or temporary isolation takes place, sometimes the inmates have not been systematically visited by any member of the health team.
- Sometimes the enforcement of the group separation sanction is carried out in special rooms, which the NPM considers to be unsuitable.
- In several centres the video surveillance and recording system did not cover all common spaces or rooms used for temporary isolation, the recorded images were kept for a period of 15 and 20 days.
- During 2021, communications and visits were still clearly affected by the health emergency. In some centres, the visiting room was equipped to comply with the covid-19 protocol, establishing a methacrylate separation between family members and inmates.
- Telephone calls are not always made in situations of adequate confidentiality or privacy.
- Lack of educational support from teachers under the respective regional administrations, or training in general, and loss of quality in training due to the operation in bubble groups.
- Lack of vocational training workshops or employment workshops, which generates unemployment, frustration and lack of motivation, both for minors and the team of professionals.
- The inmates who participate in the workshops receive a certificate issued by the entity that manages the centre, which sometimes makes it explicit that it is training acquired in a centre for the enforcement of judicial measures, which produces an undesired stigmatising effect.
- Some rooms are so small that they do not allow for a chair and table, and some of the windows are fitted with a metal lattice that prevents good ventilation. We also observed dirty and broken mattresses or a lack of shelving.
- In some of the centres visited, the aesthetics of the facilities have a prison-like appearance.

- The rooms in the group segregation unit are identical in design to those in the solitary confinement and closed regime modules in prisons. The doors of these rooms have an opening in the centre from which food could be supplied.
- Not all centres have a mechanical door-opening system, so that in the event of an emergency a rapid evacuation can be carried out. It is equally necessary for rooms to be equipped with call points or intercoms.
- The existing system of complaints and petitions in the centres does not offer sufficient and necessary guarantees for persons deprived of their liberty to be able to exercise this very important right freely and without fear of reprisals.
- The mailboxes are a way of realising the right of inmates to lodge complaints about any issue that affects them.
- Foreigners of legal age cannot access training or courses given outside the centre, as they do not have valid residency documents.
- The educational project of the centre in the city of Melilla does not respond effectively to the characteristics and protection and health needs of the majority profile of minors (at the time of the visit, 100% were foreign minors).
- In order to care for foreign minors, it is essential to have a professional in cultural mediation in centres where a high percentage of foreign minors reside [§ 211-277].

Specific visit to the Teresa de Calcuta Centre to analyse the suicide of a minor

- Examination of the individualised intervention programme of the firm measure shows that there is no involvement of the psychiatric service, there are no mental health therapeutic objectives, and it does not address the problem of the specificity of the offence of child to parent violence.

The NPM found that the focus is on compliance with the centre's rules and regulations, and the psychotherapeutic approach is neglected.

The NPM observed that many juveniles, although they were serving a measure in a semi-open regime, had not been able to leave the centre during their detention, neither to educational or training resources outside the centre, nor with their families.

The 17-year-old girl who committed suicide was included in the special observation procedure. This procedure involves the frequent

observation of inmates who, due to agitation or lack of control, are assessed by the centre to be frequently observed during the night, although the Suicide Prevention Programme (SPP) is not activated. This observation is made by an auxiliary intervention technician [§ 224].

4.3 Health, social or rehabilitation centres

Mental health problems

- The covid-19 pandemic has had a specific effect on mental health. The visibility of mental health problems during 2021 has been the subject of debate in the Congress of Deputies and has led to the Spanish government's gestation of the Mental Health Strategy of the National Health System for the period 2021-2026, a health challenge to face this reality [§ 278].
- The effects of the pandemic have been reflected in the number of people involuntarily admitted to mental health facilities. The suspension of family visits and the reduction in the number of daily activities have been a disruptive element in their routines which, together with a context of lack of staff and resources in the centres, have highlighted their high potential for vulnerability.

Nevertheless, the centres have tried to adapt to the different situations, facilitating communication between the persons concerned and the families through phone calls, video calls or e-mails, until normality has been restored, without prejudice to the necessary preventive measures [§ 279].

Interesting facts

- Each year, the NPM requests disaggregated data on places of stay of a health nature from the different health departments of the Autonomous Communities. These are short (acute units), medium and long stay centres (residential centres, supervised flats), etc.), as well as the number of non-voluntary placements in institutions within their respective areas of competence. It should be borne in mind that there are no homogeneous criteria or a uniform methodology among the different administrations in determining what is meant by these different types of stays (short, medium or long term). Accordingly, the information provided below is provided for guidance only and should be understood with this caveat.

It should be borne in mind that the data provided represent the total number of admissions and that the same person may have been admitted on more than one occasion to more than one site or to the same site.

In most cases, the data provided are not disaggregated between medium and long stays, but are reported together. Often, this is also the case for the different types of stay, with short, medium and long stay places or admissions being found in the same data.

The NPM notes the difficulty of collecting data from centres that, although privately run, have public places. The case of the Principality of Asturias is striking, whose data does not include the number of involuntary admissions of private places, but does include the number of places.

The NPM considers that, even if a centre is privately run, the administration has an obligation to inspect and control the operation of the centre, in which context the availability of accurate data on non-voluntary admissions and length of stay is a basic issue, as these are health care establishments.

Once again, the difficulty of collecting this data, which is of paramount importance for the programming of the visits to these facilities inherent to the NPM's mandate, has been noted. Despite the fact that this is the fourth year that the Ombudsman has requested them and that every facility is offered to do so, some autonomous communities have difficulties in sending them [§ 280].

Activity of the Public Prosecutor's Office

- It is not an easy task for the NPM to collect the relevant data with which to select the most suitable centres to be visited. Among other factors, the volume of non-voluntary placements in acute centres or units, the number of restraints, the capacity of the facilities or the number of spaces, depending on the type of patient, should be taken into account.

The overall figures provided in the Report of the Attorney General's Office for the year 2021 [[Memoria de la Fiscalía General del Estado del año 2021](#)] refer to the initiation, in 2020, of 57,592 internment proceedings throughout the national territory. This is -11.61% compared to the previous year. The Prosecutor's Office considers that it can foresee important social and psychological consequences that the gradual normalisation after the pandemic will make visible [§ 281].

- The State Attorney General refers to the need to regulate in greater detail the various procedural and enforcement aspects of involuntary admission, since the literal wording of article 763 of the Civil Procedure Act (LEC) has proved insufficient. It stresses the desirability of setting up psychiatric intervention units staffed by health personnel trained to deal with such situations [§ 282].
- The diversity of judicial criteria regarding mechanical restraint and the

protocols for its application, as well as the existence of the availability of these criteria and protocols in different territories, had motivated the specific treatment already given by the prosecutor's office in its 2019 report and the work for the elaboration of an instruction on the matter. After review in 2021 by a coordinating unit, it has been approved at the time of this report [§ 283].

- During 2021, the Public Prosecutor's Office has responded to all information sent in relation to the visits carried out by the NPM and has made the necessary arrangements with the relevant prosecutor's offices in order to unify criteria on various issues such as the monitoring of non-voluntary placements or mechanical restraints applied to patients [§ 284].

Follow-up to previous NPM visits

- In 2021, the NPM continued to process files relating to visits carried out in previous years.

The actions initiated on the occasion of the visit to the Acute Unit of the Fuenlabrada Hospital (Madrid) have been completed ([Visit 102/2018](#)), rejecting the Recommendation that had been made to implement in each acute unit of the hospitals of the Community of Madrid a physical and unalterable record of the application of restraints, as an alternative to the computerised one, in which, as a minimum, the name or number of the patient's clinical history, the start and cessation of this application, the telephone or face-to-face authorisation, who prescribes the restraint, the points of restraint, the reason, the personnel involved and the location.

In 2019, the NPM visited the Acute Unit of the Marqués de Valdecilla Hospital (Santander) ([Visit 97/2019](#)). It continues to follow up on the resolutions that were formulated at the time. Following the last letter received, two new Recommendations have been made. The first refers to a mechanical restraint applied to a patient for 16 days, which was unacceptable according to the NPM's criteria. The next Recommendation concerned the format of injury reports, their completion and submission to the court.

In 2020, the NPM visited the Fuente Bermeja Hospital (Burgos) ([Visit 106/2020](#)). The process of constructive dialogue on the resolutions that were formulated at the time before the Regional Ministry of Health of the Regional Government of Castilla y León continues. Thus, the Recommendation aimed at establishing a specific record book for mechanical restraint in each hospital and centre in Castilla y León, including detailed and exact information on the measure adopted, has been accepted. Likewise, the Suggestion was accepted to proceed with

the express prohibition of mechanical restraint face down, which was contemplated as possible in the centre's mechanical restraint protocol.

The NPM continues to work with various regional administrations on a number of cases, which began in previous years. These are the files initiated following visits to the Padre Menni Hospital Centre (Santander) ([Visit 96/2019](#)) and the Nuestra Señora del Carmen Neuropsychiatric Hospital (Zaragoza) ([Visit 94/2019](#)) [§ 285].

NPM actions in 2021

- In 2021, the NPM has conducted two visits to establishments dedicated to care for people with mental health problems. In one case it was the first visit and in another it was a follow-up visit. The centres visited were Esquerdo Clinic (Madrid) ([Visit 64/2021](#)) and the Psychiatric Hospital of Conxo (Santiago de Compostela) ([Visit 51/2021](#)).

Both establishments visited are medium and long-stay residential centres [§ 286].

- Visits to these establishments are limited in number, as their complexity requires the collaboration of external technicians, as well as the desirable reinforcement of the Ombudsman's staff, in order to properly coordinate the preventive and reactive approach in these visits.

The Esquerdo Clinic is a social-health establishment located in the city of Madrid and managed by the Hestia Alliance Foundation. It has places in the private sphere and places arranged with the Regional Ministry of Social Policies and Family and the Regional Ministry of Health of the Community of Madrid. It should be noted that during the visit to this sanatorium in October 2021 ([Visit 64/2021](#)), both the method and the regular procedure of the visit were hindered by the centre's manager, negatively affecting the proper conduct of the visit and limiting the NPM team's action. In line with this fact, the monitoring team was only able to access the facilities of the Hospital Treatment and Rehabilitation Unit (UHTR) and the Hestia Esquerdo Residence, both medium and long-stay, respectively.

The Conxo Psychiatric Hospital belongs to the University Hospital Complex of Santiago de Compostela. It is managed by the Galician Health Service, a body that belongs to the Regional Ministry of Health of the Regional Government of Galicia. It is a long-stay centre, although its characteristics and, above all, the profile of most of the patients admitted bring it closer to the condition of a residential mental health centre for patients with a serious disorder and other associated pathologies, and with serious difficulties of social integration.

The results of the visit to the Conxo Psychiatric Hospital led to 1

Recommendation and 17 Suggestions [§ 287].

- In addition, the following issues were addressed:
 - The deterioration of the building remains unresolved.
 - With regard to the documentation examined in reference to the communication to the court of non-voluntary urgent internment, a suggestion was made, which was accepted, to include the exact date of commencement, but this has not materialised.
 - Similarly, with regard to the creation of a visitors' logbook, which the NPM suggested in 2017, it is still not available.
 - With regard to the application of mechanical restraints, it could be seen in several lists, as there is no specific record book, that they are frequently applied. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in the 2013 report ([A/HRC/22/53](#)) paragraph 63, considered that any detention of such persons, even for a short period of time, may amount to torture and ill-treatment. It is essential that an absolute ban be applied for all coercive and non-consensual measures, including restraint and solitary confinement of persons with intellectual or psychological disabilities, in all places of deprivation of liberty, including psychiatric and social care institutions [§ 290-293].
- The NPM recalls the report of the European Committee for the Prevention of Torture (CPT), on the Measures of Restraint in psychiatric institutions for adults [[Medidas de restricción en establecimientos psiquiátricos para adultos](#)], which states in paragraph 52 that “experience has shown that a detailed and accurate record of the measures of restraint taken can provide the hospital management with an overview of the extent of their incidence and allow decisions to be taken, if appropriate, to reduce their incidence” [§ 294].
- Furthermore, in the 2017 revision of the same CPT report, it is stated that the frequency and duration of these measures should be regularly reported to a supervisory authority or external supervisory body to provide a national or regional overview of the problem.
 - The NPM was unable to verify during its visit whether, when mechanical restraints are used, free and voluntary consent is sought from residents, so it requested information on this issue at a later stage.
 - Also in relation to the application of mechanical restraint, the NPM found that it is often the lack of staff that is the reason for this practice, as well as the lack of training of staff in the correct practice of the measure (as set out in paragraph 49 of the CPT


report [[CPT/Inf\(2006\)35part1](#)]).

On this issue, the aforementioned CPT report *Measures of restraint in psychiatric establishments for adults*, in paragraph 43, states that “this reasoning seems illogical. The use of means of restraint in a correct manner and in an appropriate environment requires more - not less - medical staffing, as each instance of restraint requires the direct, personal and constant supervision of a member of staff” [§ 295-296].

- In paragraph 50, the CPT report notes that “the proper implementation of retention requires considerable staff. For example, the CPT considers that when a patient is restrained or belted, a member of staff should be continuously present to maintain therapeutic purpose and to provide the patient with appropriate assistance. Such assistance may include accompanying the patient to the toilet or, in the exceptional case, that the measure cannot be terminated in a matter of minutes, helping the patient to consume food”.

The NPM shares the view of the European Prevention Committee (CPT), and considers that containment is being carried out under insufficient monitoring conditions. Other aspects were also worthy of note:

- In some of the rooms used for restraint, it was found that they were permanently occupied by people who had been admitted, and the straps were always placed on the bed.
- Signs of obvious overmedication were noted in patients.
- There is no specific protocol in place for the prevention of suicides.
- Access to the complaints system for inmates is still not facilitated.
- In many of the mental health centres visited, there was a shortage of psychology professionals. Conxo Hospital has only one psychologist for 188 residents, although it was reported that there were two on staff.
- There is evidence of little participation of inmates in rehabilitation activities and psychotherapeutic intervention.
- Lastly, it should be noted that in this centre, “punishment in pyjamas” is commonly imposed as a sanction. The inability to wear one’s own clothes during the day is a measure that is not conducive to the strengthening of personal identity and self-esteem. A Suggestion was made that, as proposed by the European Committee for the Prevention of Torture in paragraph 34 of its above-mentioned report, patients in closed units should be allowed to wear their own clothes during the day [§ 297-303].



5 INSTRUMENTAL PLACES OF DEPRIVATION OF LIBERTY. REPATRIATION OF FOREIGN NATIONALS

- In 2021, the National Prevention Mechanism has supervised 6 operations of repatriation of foreigners, one of them non-face-to-face, and all of them in the framework of operations by air of the European Border and Coast Guard Agency (FRONTEX).

The repatriation flights monitored had the following destinations: Tirana (Albania), Tbilisi (Georgia), Bogotá (Colombia), Lima (Peru) and Santo Domingo (Dominican Republic).

Tirana and Tbilisi have been visited twice ([Visits 34/2021](#) and [59/2021](#)); to Bogotá, Lima and Santo Domingo ([Visit 3/2021](#)); to Bogotá and Santo Domingo ([Visit 40/2021](#)), and to Bogotá and Lima ([Visit 58/2021](#)). A non-face-to-face monitoring of the Albania-Georgia operation was conducted ([Visit 24/2021](#)).

All these supervised flights departed from Adolfo Suárez Madrid-Barajas airport, although two of them made stopovers. Specifically, the flight to Tirana (Albania) and Tbilisi (Georgia) was made in Leipzig (Germany) to pick up some people who were to be returned. And the flight to Lima (Peru), Bogotá (Colombia) and Santo Domingo (Dominican Republic), in Santo Domingo itself, due to technical needs arising from the pandemic situation [§ 304].

Current situation of FRONTEX operations

- Following its creation in 2004, the European Border and Coast Guard Agency (FRONTEX), through the adoption of Regulation (EU) 2016/1624, considerably expanded its original mandate and was empowered to facilitate European integrated border management at the external border of the European Union, where the main responsible parties are the Member States. Three years later, the [Regulation \(UE\) 2019/1896](#) further extended its competencies, allowing it to move from a supporting and coordinating role to an operational one.

This measure implied an exponential increase in resources with the creation of a permanent corps of 10,000 operational staff until 2027, and an average budget of EUR 900 million per year. The [Special Report 08/2021: FRONTEX](#) published by the European Court of Auditors,

concludes that FRONTEX has not yet adapted to the requirements of its 2016 mandate.

In 2020, the Ombudsman asked the General Commissariat for Aliens and Borders to send advance information on each of the operations organised both by FRONTEX and by the Central Unit for Expulsions and Repatriations (UCER), whether by air, sea or land, so that the participation of the National Prevention Mechanism (NPM) team could be assessed from its mandate of preventive visits. This dossier is currently pending completion despite the time that has elapsed. The Ombudsman awaits the normalisation of the regular sending and receiving of this information, without which the eventual monitoring of these operations could not be properly planned.

On the other hand, the NPM had tried to carry out an unattended documentary supervision of the flight to Albania and Georgia, scheduled for 14 April 2021 ([Visit 24/2021](#)), requesting in advance a list of documents considered necessary for this purpose. At the time of writing of this report, no response has been received, so that the relevant documentary analysis has not been possible [§ 305].

Central Office for Foreign Detainees (OCDE) of Madrid and Centre for Internment of Foreigners (CIE) of Madrid

- On the occasion of two of the expulsion operations, one of them bound for Albania and Georgia and the other for Colombia and the Dominican Republic, two visits were scheduled for the supervision of the pre-flight phase, organised by the European Border and Coast Guard Agency (FRONTEX) and the National Police, to the Central Office for Foreign Detainees in Madrid (OCDE) and the Centre for the Internment of Foreigners (CIE) in Madrid (CIE) ([Visits 23/2021](#) y [48/2021](#)). The persons who were to be airlifted out the following day were held in these facilities. For more information on these facilities, see Chapter 3 of this report and the full NPM report of which this is a summary [§ 310].

Actions of the NPM

- In 2021, the National Prevention Mechanism monitored the repatriation of 306 foreign nationals on five of the flights that were monitored in person. Two involved the participation of Ombudsman staff [§ 306].

The 6 operations monitored by the mechanism in 2021 have resulted

in the issuance of 1 Reminder of Legal Duties, 10 Recommendations and 12 Suggestions [§ 309].

- In addition, the following issues were addressed:
 - In general, the operations are carried out without incident and with a professional performance on the part of the agents involved, which facilitates the work of the inspection teams and the NPM.
 - During all flights in 2021, special attention has been paid to the hygienic and health security conditions in which the deprivation of liberty in the context of the pandemic took place. In this regard, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published, on 20 March 2020, a statement of principles [[declaración de principios](#)], concerning the treatment of persons deprived of their liberty in the context of the coronavirus pandemic. In addition, the UN Subcommittee on Prevention of Torture (SPT) submitted, on 25 March 2020, [recommendations](#) related to the covid-19 pandemic to Member States, including Spain, of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and to National Prevention Mechanisms.
 - In interviews conducted during the operations, many of the persons to be repatriated continued to state that they had not been given sufficient advance notice of when and under what conditions the expulsion would take place and that they had not been allowed to collect their belongings after being detained.
 - It is still not facilitated for persons to return to their country of origin on a voluntary basis. On the one hand, this contravenes the NPM's recommendation to encourage and facilitate the voluntary return of persons who have to leave the country because they are in an irregular situation, without the need to form part of a police repatriation mechanism, with all the harm that this entails.

On the other hand, the provisions of Articles 7 and 14 of the [Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008](#) on common standards and procedures in Member States for the return of third-country nationals in an irregular situation, are not complied with.

- The NPM has continued to collect testimonies indicating that, in many cases, the transfers from the different localities to

the premises of the Central Expulsion and Repatriations Unit (UCER) had been made without stopping to eat or go to the toilet, even though the journeys had sometimes lasted several hours.

- Completion of the chain of custody sheets continues with obvious shortcomings.
- The problem of the lack of video-surveillance cameras in some of the rooms in this Hall 4 of the airport has still not been solved.
- Personnel involved in repatriation operations are not always properly identified with their professional number or equivalent.
- Deficiencies relating to the fit to travel documents of persons expelled under the 72-hour mode and to the medical documentation held by the health team, in particular the medical records, remain unresolved.
- It continues to be noted that neither the medical team nor the police officers were in possession of a form that could be used to report an injury report to the judicial authority.
- The absence of the detainee register and custody book (which since May 2019 has been completed electronically through the DILISES application), the custody form and the information form of Instruction 4/2018 of the State Secretariat for Security [§ 311-336] is constantly evident.

Repatriations to Mauritania

- With regard to the return operations to Mauritania dealt with in the 2020 annual report, the Directorate General of Police replies that the citizens who were returned to that country, in application of the Agreement between the Kingdom of Spain and the Islamic Republic of Mauritania on immigration, are covered by the current regulations on aliens.

Likewise, said Administration states that the information to verify that the foreign citizen, object of the return file, comes from the territory of the Republic of Mauritania, is varied and complementary, among which are the interviews with the migrants, analysis of the boats , and so on.

The Directorate General of Police affirms that the application of the agreement with Mauritania is not activated without first having carried out the processing of a return file with all the guarantees set out in the legislation. And that only once this dossier has been completed, the

decision of the competent authority has been notified, and confirmed that the case falls within the cases listed in said agreement, is it activated [§ 337].



6 DISCRIMINATION PREVENTION PROGRAMME GENDER-BASED PLACES OF DEPRIVATION OF LIBERTY

- This programme of the National Prevention Mechanism (NPM) aims to check the treatment of women and LGBTI community in places of deprivation of liberty in order to detect and prevent discrimination against them¹. On the basis of the visits and in accordance with the usual functioning of the NPM, as described in the preceding pages, a series of Recommendations have been formulated to the different administrations involved. It is a cross-cutting programme that cuts across all of the NPM's work, as it aims to extend it to all types of centres visited by the NPM.

The programme began in 2018 with a pilot visit to the Antoni Asunción Hernández Prison in Picassent (Valencia) (this was reported in section 4.1.4 of the NPM annual report for that year). For its implementation, the NPM has a multidisciplinary team, with a methodology and specific tools for the visit (interviews, surveys, forms).

In 2021, 6 visits have been carried out in this sense, extending its action from prisons to juvenile centres and psychiatric hospitals. The following sections are devoted to reporting on the visits and Recommendations made [§ 338].

6.1 Prevention in prisons

- The Recommendations made by the National Prevention Mechanism (NPM), in the context of this gender discrimination prevention programme, take into account internationally established parameters, especially two: the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) (16 March 2011)² and the International Commission of Jurists' Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (Yogyakarta Principles) (March 2007)³ [§ 339].
- The following sections list the Recommendations made by the NPM

¹ In this context, the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council is of reference, [A/HRC/31/57](#) of 5 January 2016.

² United Nations, [A/RES/65/229](#) 16 March 2011.

³ <https://www.refworld.org.es/cgi-bin/texis/vtx/rwmain/open docpdf.pdf?reldoc=y&docid=48244e9f2>

so far, on the occasion of the different visits in the first years of the project, the result of which was finalised in 2021⁴ as well as the Recommendations made in the framework of the two visits carried out this year, to the Topas Prison (Salamanca) ([Visit 17/2021](#)) and to the Penitentiary Centre of Menorca ([Visit 11/2021](#)) [§ 340].

6.1.1 Prison population

Disaggregation of data

- *Incorporate the sex variable in the computerised data collection and produce sex-disaggregated data statistics ([Visit 101/2018](#))*

This recommendation was accepted by the Administration in 2019. But in successive visits, the National Prevention Mechanism has found that it is not fully implemented. Specifically, in the visits to the penitentiary centres of Menorca ([Visit 11/2021](#)) and Topas ([Visit 17/2021](#)) found that the lists provided, the data collection formats and the health statistics are not disaggregated by sex [§ 341].

- *Correctly capturing the sexual identity of transgender people in data collection and statistics ([Visit 17/2021](#))*

When the NPM asked the Topas Penitentiary Centre for a list of transgender persons, it was provided with the name of only one person. However, during the visit, three more transgender persons were interviewed, resulting in an unbalanced and confusing treatment of data in the consideration of transsexuality [§ 342].

Roma women

- *Incorporate the variable of Roma minority women in data collection and statistics compilation ([Visit 91/2019](#))*

After having verified during the visit to the Madrid I Penitentiary Centre ([Visit 91/2019](#)) the high number of Roma women inmates, the National Prevention Mechanism made this Recommendation, which was reiterated after the visit to the Alcalá de Guadaira Penitentiary Centre (Seville) ([Visit 102/2020](#)), identifying that 20.4% of the female inmates belonged to this minority. The Recommendation was accepted by the Administration, but in subsequent visits to other prisons, such as Topas ([Visit 17/2021](#)), the NPM was able to verify that the recommendation was

⁴ Regarding the approach and a first development of the project in previous years, please refer to the relevant chapter of the NPM annual report 2020 (Gender Discrimination Visits Project - IA 2020 section) [[Proyecto de visitas discriminación género-separata del IA 2020](#)].

6. Discrimination prevention programme gender-based places of deprivation of liberty

still not being implemented, as a handwritten list of 38 Roma persons, representing 5.7% of the prison population (35 men and 3 women), showed that 37% of the women identified themselves as Roma [§ 343].

Inclusive language in forms and registers

- *Encourage the use of inclusive language in forms and records ([Visit 101/2018](#))*

This Recommendation was accepted by the prison administration, but has not materialised so far, so the NPM has reiterated it once again [§ 344].

Inclusive language in admission dossiers

- *Provide the inmates with information documentation that incorporates a gender perspective and inclusive language on their admission to the centre ([Visit 88/2020](#))*

During the visits to the penitentiary centres of Topas ([Visit 17/2021](#)) and Menorca ([Visit 11/2021](#)), the National Prevention Mechanism verified non-compliance with this Recommendation. In the Menorca centre, the inmates stated that they were not given any informative documentation on admission either. In the Topas centre, the NPM found in group interviews that there is no specific format for admission, which led to complaints [§ 345].

Distance between the place of origin and the penitentiary centre

- *Systematise the collection of data on the distance between the prisoner's home of origin and the prison in order to have information that allows us to document this situation of inequality and carry out the consequent compensatory actions for this circumstance, which affects the health and economy of women in prison ([Visit 102/2020](#))*

This Recommendation, which at the time was accepted by the Administration, is in practice not being complied with in the prisons visited, as is the case of the Topas Penitentiary Centre ([Visit 17/2021](#)) [§ 346].

Family Videoconference

- *Ensuring the use of videoconferencing as a way for female inmates to have regulated and stable communication for the maintenance of the family bond ([Visit 102/2020](#))*

This Recommendation has been reiterated in the two visits carried out in 2021 to the Menorca Penitentiary Centre ([Visit 11/2021](#)) and to the Topas Penitentiary Centre ([Visit 17/2021](#)), as the NPM detected that

there were still difficulties in making telephone calls for inmates with lack of economic resources [§ 347].

6.1.2 Specific focus

Personnel training

- In 2019, the NPM had recommended that technical and health staff in penitentiary institutions receive appropriate training on gender equality and gender identity, sexual orientation and gender-based violence. The Administration accepted the Recommendation partially, as it did not state in its reply that it would apply the training to health personnel.

As it has stated on other occasions, the NPM considers that such training is essential for equal treatment and for the advancement of initiatives such as the mixed module and for the implementation of the recommendations addressed to the Administration in this area [§ 348].

Psychological assessment and semi-structured interviews

- *Incorporate a gender perspective in psychological assessment protocols and semi-structured interviews, in order to give greater visibility to the differences observed ([Visit 101/2018](#))*

This is a recommendation that was accepted at the time, but has not materialised to date [§ 349].

Suicide prevention programme

- *Incorporate a gender perspective in the suicide prevention protocol ([Visit 88/2020](#))*

This Recommendation was made on the occasion of the visit to the Ceuta Penitentiary Centre ([Visit 88/2020](#)), after verifying that in all the centres visited, the same suicide prevention protocol is applied, without taking into account the specificities of women and men -only the concern about certain data, such as having children, or dependent ascendants or descendants, is mentioned [§ 350].

- The suicide prevention protocol of the Topas and Menorca prisons does not take into account the different situations affecting women on entry into prison or other life circumstances (such as motherhood or having suffered gender-based violence) [§ 351].

This omission can have serious consequences, as is the case in the Menorca Centre ([Visit 11/2021](#)), where it was the case of one of the two inmates, in which this fact prevented a proper assessment of the suicide risk, which materialised in an attempt one month after her admission. Visits with her minor children had not been properly

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managed; de facto isolation had been established ; she had not been able to have meaningful communication with peers, nor with her partner, citing questionable health reasons, and she had not been provided with psychological accompaniment [§ 352].

During the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)), the NPM found that the registration data of the suicide prevention protocol (which is done by hand) is not disaggregated by sex. Of particular note is the case of a woman who showed signs of postpartum depression on her return to the prison from Aranjuez (Madrid) after giving birth and placing her child for adoption. She did not go through the suicide prevention protocol even though it is indicated in cases of depression. The NPM therefore made the following Recommendation [§ 353].

- *Disaggregate data by sex and age from the suicide prevention protocol ([Visit 17/2021](#))*

This Recommendation has been reiterated to the Penitentiary Centre of Menorca ([Visit 11/2021](#)) [§ 354].

Supporting interns in the suicide prevention programme

- *To regulate the work carried out by the support inmates of the suicide prevention programme, both in terms of gender training and remuneration, guaranteeing their supervision by professionals and their emotional relief ([Visit 102/2020](#))*

This recommendation, formally accepted by the Administration, is currently unfulfilled [§ 355].

Psychiatric and psychological care

- *Ensure accessibility to gender-sensitive psychiatric and psychological care for female inmates ([Visit 102/2020](#))*

During the visit to the Penitentiary Centre of Menorca ([Visit 11/2021](#)), the National Prevention Mechanism found that the mental health of the two women was neglected, despite repeated requests from them for assistance. They were both suffering great distress at the lack of management of access to their minor children.

The same neglect was found by the NPM at the Topas Penitentiary Centre ([Visit 17/2021](#)), despite the fact that 53% of them suffer from mental disabilities. There is no psychiatrist in the healthcare team, with only a consultant psychiatrist who does not visit the centre in person [§ 356].

Legal assistance

- *To provide inmates with access to a prison legal counselling service on*

gender-based violence ([Visit 11/2021](#))

This Recommendation was made by the National Prevention Mechanism during the visit to the Menorca Penitentiary Centre ([Visit 11/2021](#)), in view of the high incidence of gender violence. Also for the results of the work carried out by the Penitentiary Legal Guidance Service specialised in gender of the Alcalá de Henares Bar Association, in accordance with the Suggestion made by the NPM during its visit to the Madrid I Penitentiary Centre ([Visit 91/2019](#)) [§ 357].

6.1.3 Violence against women

- *Establish a protocol for the detection and intervention of gender-based violence as a biopsychosocial health problem, providing multidisciplinary medical, psychological, treatment and social care ([Visit 17/2021](#))*

During the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)) the National Prevention Mechanism found that violence against women is not assessed or addressed in an interdisciplinary medical, psychological and social manner, despite the added consequences of their condition as inmates in a penitentiary centre, hindering the process of their rehabilitation and reintegration.

- the fact of having been a victim is not recorded in the health history;
- the different types of violence that may have been involved in each case: aggression, abuse, prostitution, psychological, physical, sexual or other types of violence (vicarious, structural) [§ 358].

- *Establish a protocol for the prevention, detection, action and care of possible victims of gender violence, which regulates the victim's access to the relevant health, psychological and legal care ([Visit 17/2021](#))*

During the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)), the NPM confirmed that there is no protocol for action by health, technical and civil servant staff to guarantee an adequate and protective response to a potential victim of gender-based violence due to physical or sexual assault in the centre.

During the visit, a recent attempt to sexually assault and injure a female inmate while she was working at the centre, by a fellow inmate convicted of sexual offences, was reported. Those in charge of the centre adopted a clearly delegitimising response, without taking into account that the inmate was classified by the comprehensive care treatment for the mentally ill. Faced with this lack of protection and contradictions, the NPM brought the facts to the attention of the administration. Following an inspection, the centre provided psychological and legal assistance to

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the victim. The need to take into account the above-mentioned protocol and to apply it in the book of complaints or allegations of ill-treatment was thus highlighted [§ 359].

Protocols and semi-structured interviews

- *Incorporate the assessment of the history of gender-based violence in the different protocols and semi-structured interviews for the collection of psychosocial and health information ([Visit 91/2019](#))*

During the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)), the National Prevention Mechanism confirmed the non-compliance with this Recommendation, and so it was reiterated once again [§ 360].

Social file in open section

- *Incorporate the assessment of the history of gender-based violence in the social file to be included in the open section in order to be aware of the possible return to a situation of gender-based violence in the home or family and to be able to connect the woman with specialised resources for gender-based violence abroad ([Visit 102/2019](#))*

The Recommendation has been accepted by the Administration [§ 361].

«Ser Mujer» [To Be a Woman] Programme

- *To develop the “Ser Mujer” treatment programme in all its dimensions, as officially designed in terms of the number of sessions, topics addressed and evaluation, with the support of a multi-professional health, psychological, social and legal team and community resources specialising in women, with its relevance being reflected in the individualised treatment programme for the inmates ([Visit 102/2020](#))*

This is a Recommendation accepted by the Administration. However, the National Prevention Mechanism found, during a visit to the Topas Penitentiary Centre ([Visit 17/2021](#)), that this treatment programme “Ser Mujer” had been discontinued. The Recommendation has therefore been reiterated.

In the Penitentiary Centre of Menorca ([Visit 11/2021](#)) there is no programme of care for victims of violence against women [§ 362].

6.1.4 Health

Sensory deficits and age-related loss of capacities

- *Assess functional limitations resulting from sensory deficits and age-related loss of abilities, with the following adaptation of occupational activities and destinations ([Visit 102/2020](#))*

The National Prevention Mechanism verified during the visit to the Topas centre ([Visit 17/2021](#)) that there is no adaptation of occupational activities and destinations focused on the functional diversity associated with ageing [§ 363].

Health diagnosis

- *To carry out a health diagnosis that serves as a framework for multi-professional intervention on the health of female inmates, addressing prevalent health problems and monitoring whether treatment programmes have an impact on improving women's health ([Visit 102/2020](#))*

In the visit to the centre of Menorca ([Visit 11/2021](#)), the NPM noted the lack of a health diagnosis that would allow for a specific response to the needs of women in prison [§ 364].

Health promotion actions

- *To carry out programmes with health promotion activities that address the health problems identified as prevalent and strengthen the rights, participation and empowerment of female prisoners with a view to social reintegration ([Visit 102/2020](#))*

Addressing the high consumption of medicines from the addiction treatment programme, generating therapeutic alternatives -such as anxiety management, sleep habits, increased physical and occupational activity - to the consumption of medicines ([Visit 102/2020](#))

These are two Recommendations that have been accepted but have not been implemented to date [§ 365].

Periodic explanation of the Individualised Treatment Programme

- *Give instructions for the periodic explanation to each inmate of her individualised treatment programme in order to encourage her involvement and ownership ([Visit 102/2020](#))*

Despite the acceptance of this Recommendation, during the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)), the National Prevention Mechanism once again confirmed the inmates' lack of knowledge of the Individual Treatment Programme applied to them. And when they are aware of it, they are not aware that any work has been done to commit to its objectives, which hinders the active and leading role of the persons concerned in the serving of their sentence and their reintegration process. The NPM reiterated the Recommendation [§ 366].

Comprehensive approach to drug withdrawal

- *Address the specialised drug abuse treatment and detoxification of female prisoners from a holistic approach, taking into account their possible past victimisation, the special needs of pregnant women and women with children in the centre and the diversity of their cultural traditions ([Visit 102/2020](#))*

In the Topas Penitentiary Centre ([Visit 17/2021](#)), the National Prevention Mechanism found a high consumption of medicines in the ordinary women's unit, often difficult to identify as addictions, as they are prescribed medicines. Dispensing does not always occur with sufficient vigilance, so that sometimes these drugs are traded irregularly. Or their use is combined with the use of other non-prescribed substances, which can have a negative impact on the health and behaviour of the inmates, mainly at weekends or during periods when such directly observed treatment is not guaranteed. The NPM also collected testimonies of the use of medication for emotional relief, as there are no specific programmes for health promotion, healthy lifestyle, smoking cessation or anxiety management [§ 367].

Equal opportunities in drug dependence treatment

- *Implement a gender-sensitive drug dependence treatment and rehabilitation programme for women that guarantees equal opportunities for treatment and reintegration while serving custodial sentences managed by this Administration ([Visit 88/2020](#))*

El The National Prevention Mechanism noted during the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)) that, as in other centres, unlike men, women do not have access to the therapeutic unit to deal with their addictions, nor is there an alternative drug addiction programme for them. The only treatment observed was pharmacological, with four of the women receiving methadone.

Proportionately more incidents occur in women than in men, often related to the use of intoxicants, psychotropic drugs, misuse of medication or possession of improper substances [§ 368].

Treatment of disability

- *Articulating a gender-sensitive treatment response to disability ([Visit 17/2021](#))*

In the Topas Penitentiary Centre ([Visit 17/2021](#)) the proportion of women with a disability is very high compared to men (24% of women compared to 10% of men). In addition to this notoriously higher percentage, in women it has a higher degree, since 76% have it above

65%, compared to 39% of men with that percentage or higher. The treatment response to people with mental or intellectual disabilities is given within the framework of the Programme of Comprehensive Care for the Mentally-ill Patients (PAIEM) and the Disability Programme of the Full Integration entity, which only works with men [§ 369].

6.1.5 Access to work and treatment

Productive workshops

- *Guarantee women's access to all productive workshops, regulating a system of quotas and objective criteria for access to work that are known to all the inmates (Visit 17/2021)*

During the visit to the Topas Penitentiary Centre ([Visit 17/2021](#)), the National Prevention Mechanism found that women only have access to auxiliary activities, which are less well paid than productive workshops. Moreover, women do not have access to all destinations. There are only women in cleaning, laundry and dining room distribution tasks, without the possibility of applying for a subordinate position, nursing assistant, waste management, in the library or the commissary. No woman is in a production workshop, only one transgender man, administratively registered as a woman, is in the knot production workshop.

In the Penitentiary Centre of Menorca ([Visit 11/2021](#)), the NPM confirmed this situation, as women do not have access to work on equal terms with men. For this reason, Recommendation [§ 370] has been reiterated.

Labour rights

- *Guarantee respect for labour, safety and occupational risk prevention rights in all jobs, whether paid or unpaid, with the relevant adjustment between hours worked and hours paid, with coverage of jobs without discrimination on the basis of sex (Visit 17/2021)*

During the visit to the Topas centre ([Visit 17/2021](#)), the National Prevention Mechanism found that the main destination to which women in the mixed module have access is the laundry, which serves the whole prison. It is hard and demanding work. The women in the laundry are employed for 60 hours, one of them for 80 hours a month because she is in charge. They work from 9.30 a.m. to 1.30 p.m. on a paid basis, and 2 or 3 hours in the afternoon on a "voluntary" basis, with no record of the hours outside the working day, operating the same industrial machinery. For this so-called voluntary work, it is necessary to be able to fulfil the assigned work, as each day of the week a module has to be washed with the staff available at that time.

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In the processing in 2021 of the file opened previously, on the occasion of the visit to the Madrid I Penitentiary Centre Madrid I ([Visit 91/2019](#)), the NPM verified that of the 16 inmates interviewed who worked, only three received remuneration, even though they all did the same work, and it was unclear why such an irregular situation arose.

Upon requesting information from the Administration, the NPM found an unwillingness to adjust financial allocations to mitigate this unfair practice, which is attributed to bureaucratic reasons. This prompted a Reminder of Legal Duties to ensure respect for the principle of equality [§ 371].

Training for employment

- *Ensure that women have access to training courses that provide practical skills and formal qualifications that improve their employability and have an impact on their reintegration and rehabilitation, by regulating a quota system that respects equality with men ([Visit 17/2021](#))*

During the visits to the penitentiary centres of Topas ([Visit 17/2021](#)) and Menorca ([Visit 11/2021](#)), by the NPM, the women did not have access to employment training activities on equal terms with men, which deprives them of the possibility of training for employment and reintegration [§ 372].

- *Ensure women's access to varied and motivating occupational activities, by regulating a quota system that respects equality with men ([Visit 17/2021](#))*

In the centre of Topas ([Visit 17/2021](#)), occupational activities are less varied and less attractive in the women's module.

In the women's module of the Menorca centre ([Visit 11/2021](#)), there are no occupational activities. Promoting them depends on the initiative of the inmates themselves, but in practice they also do not have the material to carry them out [§ 373].

6.1.6 Spaces

- *Ensure the mandatory equality of living conditions for men's and women's areas ([Visit 11/2021](#))*

In the centre of Menorca ([Visit 11/2021](#)), the so-called women's module is actually located in the Transit Department. It has a small, dark courtyard with a very high wall with barbed wires and a small room that serves as a dining room, gymnasium and living room. The common areas in the women's unit are of minimal dimensions, which severely limits physical exercise. The cells are located on a first floor with architectural barriers. The clinic was closed. In addition, the cells have

windows with perforated metal panels in front of them, which prevent access to views, natural light and sufficient ventilation [§ 374].

6.2 Mental health

- The mental health area of the National Prevention Mechanism's Programme for the Prevention of Gender-based Discrimination in Places of Deprivation of Liberty is developed taking into account the framework established by the WHO⁵, the European Union⁶ and Spanish legislation⁷.

In this area of the program, the NPM visited the Conxo Psychiatric Hospital (Santiago de Compostela) in 2021 ([Visit 52/2021](#)), depending on the Regional Government of Galicia, and the Penitentiary Psychiatric Hospital of Alicante ([Visit 78/2021](#)), which is the only prison hospital for women that depends on the General Secretariat of Penitentiary Institutions.

With regard to this second prison hospital, the NPM shares the view of the European Committee for the Prevention of Torture (CPT) that prison psychiatric hospitals should enjoy full institutional and functional separation from the prison administration, given the different conditions in prisons⁸.

The NPM has found many similarities between the women admitted to both types of hospitals, such as poverty or having been victims of gender-based violence throughout their lives. And in the organisation of both hospitals, the lack of disaggregated data on female inmates, or the lack of a protocol for the detection and prevention of such violence, among many other things, has been noted.

The recommendations made by the NPM to the two administrations are set out below. Other important issues, such as mechanical restraints and isolation, are being investigated in the course of the dialogue with the respective administrations [§ 377].

⁵ The Convention on the Rights of Persons with Disabilities, 13 December 2006, ratified by Spain in 2008, dedicates Article 6 to women with disabilities [[\(2016/2096\(INI\)\)](#)].

⁶ European Parliament resolution on promoting gender equality in the field of mental health and clinical research [[2016/2096\(INI\)](#)], of 14 February 2017.

⁷ Specifically, the [Proposed General Law on Mental Health 122/000158](#).

⁸ Paragraph 99 of the [report to the Spanish government on the visit to Spain carried out by the European Committee for the Prevention of Torture and Inhuman or degrading treatment or punishment \(CPT\)](#), from 14 to 28 September 2020.

6.2.1 Population: Gender, Identity and Age Situations

Disaggregation of data

- *Disaggregate data collected from official documentation and records by sex, gender identity and age group ([Visit 52/2021](#))*

At Conxo Hospital ([Visit 52/2021](#)), the National Prevention Mechanism found that the documentation provided (the report, lists, registers or databases) lacked disaggregation by sex, or was only done at the request of the NPM during the visit.

Regarding the visit to the hospital in Alicante ([Visit 78/2021](#)), it should be noted that, when the list of Roma patients was requested, the following was communicated the EU has written that they do not have it, because they “consider that it could be discriminatory and not constitutional”. The NPM reiterated a recommendation to this effect, which was finally accepted by the prison administration.

On the other hand, as far as foreign detainees are concerned, the NPM found that there are many more women than men, in a ratio of seven to one. It can be concluded that the confluence of being a woman and a foreigner deepens the conditions of poverty, vulnerability and lack of support, which further affects mental health [§ 378].

- *To record those patients with a history of incarceration in prisons, juvenile detention centres or probation centres, so that this information can be exploited statistically for both internal use and external monitoring ([Visit 52/2021](#))*

Several of the women interviewed by the NPM at Conxo Hospital ([Visit 52/2021](#)) had previously been in prison. A patient with a history of drug addiction, also a victim of gender violence, with a prolonged stay in prison of 13 years, 10 of which she had been in a module with the most restrictive living regime, explained that on occasions she had been physically assaulted by officials, and that she was not provided with detoxification programmes, even though she maintained active consumption, which can trigger psychiatric crises due to insufficient therapeutic care and lack of adequate prison treatment.

In conclusion, the NPM considers that previous stays in prison and the circumstances experienced there should be known and recorded in the data of persons in psychiatric hospitals [§ 379].

Inclusive language in documentation

- *Guarantee the use of inclusive language, not sexist and non-discriminatory ([Visit 52/2021](#))*

The documentation provided by the Hospital de Conxo ([Visit 52/2021](#)) lacks inclusive language. It even uses a term such as 'hembra' in documents relating to staff [§ 380].

Spaces and infrastructure

- *Ensure that places in the Alicante Prison Psychiatric Hospital include women ([Visit 78/2021](#))*

At the time of the visit of the National Prevention Mechanism to the Alicante hospital ([Visit 78/2021](#)) there were 217 patients: 184 men (84.7%) and 33 women (15.2%). Spain is one of the countries with the highest female imprisonment rate in Western Europe (7.5%), with an average of 4.5%. The percentage of women in psychiatric internment in this centre is double that of prisons, which is partly due to the fact that it is the only prison psychiatric centre dependent on the General Secretariat of Penitentiary Institutions with female patients.

At the time of the NPM visit, 30% of the women were from Andalusia, whose psychiatric prison hospital in Seville is for men only. This implies a significant distance of the inmates from their places of residence and from their family and social ties, which interferes both with their recovery from their illness and with their chances of social reintegration [§ 381].

Impact of infrastructure and organisation

- *To provide women with a disaggregation of profiles according to their health and functional situation, which favours therapeutic and rehabilitative intervention, appropriate to their respective recovery processes ([Visit 78/2021](#))*

In the Psychiatric Penitentiary Hospital of Alicante ([Visit 78/2021](#)), there is no separation by age, pathology or any other type of criteria in the women's module, which means a lack of attention in the therapeutic and rehabilitative responses, appropriate and effective for each case. For female inmates there are only two intervention spaces, the women's module or the acute module, while the men have different modules, so that they can be relocated according to different criteria, according to broader therapeutic purposes.

At the time of the visit to Conxo Hospital ([Visit 52/2021](#)) there were no women in the special care unit. The number of female inmates in the women's closed module was 16, i.e. 26% of the female residents, compared with 19 male inmates in their closed module, i.e. 15%, a difference of 11 points [§ 382].

Older women

- *Review the therapeutic and rehabilitative response of the centre, addressing the needs of older women in a coherent and comprehensive manner ([Visit 52/2021](#))*

At the time of the visit of the National Prevention Mechanism to Conxo Hospital, 32.44% of the resident population were women and 67.55% were men (61 women and 127 men, out of a total of 188 residents). It is noteworthy that the group of men aged 65 and over was 16.7% and the group of women of the same age 34.4%.

There is no therapeutic or rehabilitative consideration in the centre that takes into account differential motivations for age, health problems or active ageing [§ 383].

- *To establish an adaptation of the workplace to the age and physical circumstances of women, ensuring that the necessary ergonomic measures are taken ([Visit 52/2021](#))*

At Conxo Hospital ([Visit 52/2021](#)), the laundry workshop involves a particularly heavy workload, as it provides laundry services to different hospital units, and is mainly carried out by female inmates (13 of the 15 places), over fifty years of age, without the workstations being suitable for their age or physical circumstances [§ 384].

- *Adapt the therapeutic and rehabilitative response taking into account the factor of age and ageing of the resident population, incorporating the gender perspective ([Visit 78/2021](#))*

In the hospital of Alicante ([Visit 78/2021](#)) there is no therapeutic or rehabilitative consideration of ageing, age-differential motivations, health problems or active ageing. This has a particular impact on women, as they live together in a single module and are all offered the same activities [§ 385].

Disability and incapacity

- *Ensure that official certification of assessment of the degree of disability by inmates ([Visit 78/2021](#))*

All persons detained in the Psychiatric Penitentiary Hospital of Alicante ([Visit 78/2021](#)) have a mental disability. However, out of 33 women, only 13 are officially certified (39%) compared to 122 men (61.95%). This difference significantly limits women's access to various benefits for which such certification is required: recognition of certain social rights, economic benefits, support or access to sheltered employment [§ 386].

- *Articulate positive compensation measures that alleviate the vulnerability derived from the lack of socio-family support, guaranteeing through this intervention equal opportunities and treatment ([Visit 78/2021](#))*

With regard to the situation of incapacity in the Alicante Prison Psychiatric Hospital, at the time of the visit there was also a significant percentage difference: 16.3% of men were in this situation, compared to 21.2% of women. Only one of the seven incapacitated women had guardianship of her family (14.2%), compared to 12 men (40%). The guardianship of women is exercised by guardianship entities of the autonomous communities, which exposes a situation of greater social uprooting and less socio-familial support [§ 387].

Poverty

- *Guarantee women a minimum income that covers the support of needs not covered by the Administration and that allows them to maintain economic and emotional autonomy in the hospital (television, commissary card, telephone, dyeing) ([Visit 78/2021](#))*

In the Psychiatric Prison Hospital of Alicante, the National Prevention Mechanism analysed the extract of all women's and 60 men's property movements. This extract shows the situation of greater poverty suffered by women, the majority of whom have zero or less than 100 euro. The management and technical teams reported that women have lower incomes than men due to lack of family support, greater poverty prior to institutionalisation or lack of financial benefit for their disability [§ 388].

6.2.2 Personnel

Workforce

- *To fill all vacant staff positions, as is appropriate in a therapeutic space where the medical-social care of patients must take priority above all else, guaranteeing the right to care, comprehensive health and care of all patients ([Visit 78/2021](#))*

An analysis of the staffing levels of the prison psychiatric hospital in Alicante shows that, although the prison staffing levels are close to those planned, the number of prison health care workers is much lower than planned. The shortage of auxiliary nurses (34%) and orderlies (46.6%) has a direct impact on the level of care and attention of the inmates. This is contrary to the normative configuration of these units as therapeutic spaces, in which the prevailing norm is for medical-social care of the patients to be at the top of the list. The lack of female assistants severely affects disabled inmates or inmates of the acute module. These women lack elementary attention to such important

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aspects as daily cleanliness and basic hygiene.

Psychiatry and psychology staff are also insufficient to provide therapeutic care. The inmates have a psychiatrist and a psychologist who also have to attend to other modules. The presence of both professionals is limited, below that required for adequate attention to psychotherapeutic needs. The work of both, which defines the *raison d'être* of a psychiatric hospital, is limited to crisis care and brief check-ups [§ 389].

Equality Protocol

- *Revise the content of the Equality Protocol, incorporating strategies for the promotion of equality of the centre's staff, a training and awareness-raising plan for staff on gender issues, an approach for the prevention of harassment and all types of gender-based violence, a timetable for implementation and a system for the evaluation of results and explicit monitoring ([Visit 78/2021](#))*

The equality protocol of the Prison Psychiatric Hospital of Alicante lacks the following: strategies for the promotion of equality among staff; a training and awareness-raising plan; an approach to the prevention of harassment and all types of gender-based violence; a timetable for implementation; and a system for the evaluation of results and their explicit monitoring.

With regard to the content of the protocol, it should be noted that joint sporting activities are focused on male interests; mixed leisure activities do not seem to be implemented, nor is there a timetable for their incorporation. Productive jobs lack job evaluation and a gender-disaggregated pay audit [§ 390].

Personnel training

- *Establish a continuous training plan for all staff that incorporates the gender perspective ([Visit 52/2021](#))*

The staff at Conxo Hospital lacks training that includes specialisation in working with women in areas such as maternity, sexual and reproductive health, socio-health care or rehabilitative care [§ 391].

6.2.3 Prevention against violence, abuse or harassment

- *Provide the centre with a protocol for the prevention, detection, protection and care of possible victims of gender violence or other types of violence, abuse or harassment in the centre, which regulates the victim's access to health, psychological and social care, as well as providing ongoing training for all staff in relation to gender violence and*

sexual violence, maintaining in all cases a proactive attitude to deal with these situations ([Visit 52/2021](#))

This Recommendation was made to the two hospitals, as they do not have any protocol for the prevention of gender-based violence, or any other type of violence or abuse suffered in hospitals, which guarantees an adequate and protective response for potential victims.

During the visit to Conxo Hospital ([Visit 52/2021](#)), a resident explained to the visiting team that she had been a victim of sexual violence in the hospital. The case was brought to court by the victim, following the intervention of the National Prevention Mechanism [§ 392].

- From the Conxo Hospital it should be noted that 5 of the 14 women interviewed by the NPM had suffered violence and abuse prior to their admission [§ 393].

6.2.4 Rehabilitation response, occupational therapy and workplaces

- *Extend the number and schedules of rehabilitative and therapeutic activities in all units to advance in the recovery process, establishing compensation and motivation measures to ensure that women participate equally in workshops, avoiding reproducing sexist stereotypes ([Visit 52/2021](#))*

In Conxo Hospital there is a low level of rehabilitation and occupational therapy activities. Occupational workshops benefit a low percentage of patients (23%). A clear stereotyped division of tasks is also reflected: there are no women in the gardening workshop, only two in carpentry, compared to 13 in the laundry. There are no afternoon activities [§ 394].

- *Guarantee women's access to training courses that provide skills training to improve their employability and have an impact on their reintegration and rehabilitation, by regulating a quota system that respects equality with men ([Visit 78/2021](#))*

In the Alicante Psychiatric Penitentiary Hospital there are three training courses or workshops with specific content and material such as pottery, gardening and sewing, but women only have access to the sewing workshop. A man has joined this workshop and this has not posed any safety problems, while the possibility of women joining the ceramics or gardening workshop is said to raise safety concerns. At some point there was a beauty and hairdressing salon [§ 395].

- *Guarantee women's access to all productive work, regulating a system of quotas and objective criteria for access to work that are known to all residents ([Visit 78/2021](#))*

In the Alicante Psychiatric Penitentiary Hospital, as reflected in the centre's equality plan and as stated by the women, there are productive

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workplaces where the presence of women is non-existent, such as maintenance and kitchen work. The occupation of these positions involves learning and applying interesting work skills, in which women should be able to participate on an equal footing [§ 396].

- *Guarantee mixed leisure and therapeutic activities unrelated to religious content (Visit 78/2021)*

In the Alicante Psychiatric Penitentiary Hospital, therapeutic leisure and free time activities are very limited. There is a total lack of mixed socialisation and normalisation spaces. The only mixed activity is promoted by the Prison Pastoral Care, which consists of going to Mass [§ 397].

6.2.5 Mental health care

- *To guarantee a multidisciplinary response with psychiatric, therapeutic and health involvement that assumes that gender violence is a serious health problem that affects women and conditions to a large extent their social reintegration (Visit 78/2021)*

In the Alicante Psychiatric Prison Hospital there is no multidisciplinary approach to mental health. Gender-based violence is not taken into consideration as a health problem, neither in diagnosis nor in intervention. Although the computer program has space on the form for it, the health personnel do not include gender-based violence in the medical evaluation, as verified in the review of multiple medical records. There is no specific attention even when it is known that the inmates have been victims of mistreatment and abuse of all kinds, which is why they have little contact with their families and are often disconnected from them [§ 398].

- *Strengthen therapeutic care by reinforcing the staff of professionals and incorporating the speciality of clinical psychology (Visit 78/2021)*

In the Alicante Psychiatric Penitentiary Hospital, it is very difficult for women to attend therapy regularly, due to the shortage of clinical psychology staff and the lack of psychiatric treatment, with a clear predominance of pharmacological therapies. In the closed women's unit of the Conxo Hospital, complaints are received about insufficient psychological care. The patient is not allowed to change or free choice of medical personnel [§ 399].

- *Respect the right of persons with mental illness to equal access to gender-sensitive health care, ensuring access to sexual and reproductive health services on an equal basis with the general population, and guaranteeing adequate spaces that allow for the right to a comprehensive experience of sexuality (Visit 52/2021)*

In Conxo Hospital, residents are not guaranteed sexual and reproductive

rights, nor a positive experience of sexuality, which is the subject of complaints in the interviews conducted by the National Prevention Mechanism. They show that sexuality is an invisible dimension, which is approached as a problem and exclusively from the point of view of preventing the risk of pregnancy, ignoring, for example, sexually transmitted diseases [§ 400].

- *To provide a therapeutic response to smoking among hospitalised women, in line with the scientific evidence that recommends smoking cessation due to its association with multiple diseases ([Visit 78/2021](#))*

In Alicante hospital, there is a high level of tobacco consumption by the inmates, which can be considered as indirectly reinforced, since it is made easier to buy tobacco in the commissary and consumption is regulated, without offering any kind of preventive intervention or harm reduction. In fact, some of the inmates interviewed stated that they had increased their consumption once they were admitted to the centre and that they were not offered any therapeutic alternative to give up this habit [§ 401].

Suicide Prevention Protocol

- *Articulate a protocol for the prevention of suicide and self-harming behaviour, specific to the centre, which takes into account the gender perspective, taking into consideration the different circumstances that affect the suicidal risk and emotional stability of women ([Visit 52/2021](#))*

This Recommendation was made to both Conxo Hospital and Alicante Hospital, as neither of them has a suicide prevention programme adapted to medium and long-term residential institutions. The acute suicide prevention protocol they use does not include a gender perspective, nor does it take into consideration the differential situations that affect women in their income or other life circumstances (gender violence suffered, maternity, family burdens). In interviews conducted by the visiting team with some of the women, the NPM found references to suicidal behaviour [§ 402].

Drug withdrawal

- *To develop a treatment programme for drug dependence, adapted to functional diversity and mental illness, incorporating the gender perspective ([Visit 78/2021](#))*

In Conxo Hospital there is no therapeutic approach to addictions, this being a problem known to the staff and a frequent reason for sanctioning, referral back to a closed module and penalisation with no outings or activities [§ 403].

- *To develop drug dependence treatment programmes, incorporating the*

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gender perspective in all of them (Visit 78/2021)

The Alicante Psychiatric Prison Hospital has four programmes for addressing drug use with a medical-pharmacological approach, in which women participate, but these programmes lack a gender approach [§ 404].

6.2.6 Internment and external relations

Internment

- *Conduct a study to explain this significant difference, articulating corrective and compensatory measures, to avoid such long periods of stay (Visit 78/2021)*

At Conxo Hospital, men have an average length of stay of 12 years, and women of 14 years. There are people who have been in this centre for more than 50 years [§ 405].

- *Develop policies, based on sex-disaggregated, gender-sensitive data, that include the provision of mental health services from an intersectional approach that takes into account lack of family support, rural background, age, poverty and social exclusion, in accordance with paragraph 21 of the European Parliament Resolution of 14 February 2017 (Visit 52/2021)*

At Conxo Hospital there are significant gender differences in discharges. Men are more likely to go home after discharge than women (51.3% of men compared to 39% of women). Lack of family support is higher among them. It is common for women to be in charge of supporting their relatives, and when they are the ones admitted, this support is not available, which in practice makes it difficult for them to leave the hospital and thus to reintegrate into society. This is especially true for the most vulnerable women, who face discrimination due to several additional factors, such as poverty or old age.

Women are more than twice as likely as men to be discharged because of death (32.5% of women compared to 15% of men) [§ 406].

- *Establish an individualised intervention plan that seeks alternatives to institutionalisation for women and men, especially for women, as the differential impact they suffer in comparison to men makes it all the more necessary (Visit 52/2021)*

At Conxo Hospital the percentage of people in need of care is higher among women (34.4% compared to 22.8% of men). There is thus a profile of greater dependency in the female psychiatric population, associated with deteriorating health and less autonomy for activities of daily living [§ 407].

- *Urge the Fundación Pública Galega para a Tutela de Persoas Adultas*

(Galician Public Foundation for the Guardianship of Adults) (FUNGA) to carry out its tutoring work with frequent and close interlocution with the people with mental illness under guardianship, incorporating the gender perspective in this tutoring ([Visit 52/2021](#))

In Conxo Hospital, the percentage of women under the guardianship of Fundación Pública Galega para a Tutela de Persoas Adultas (FUNGA) (48%) is higher than that of men (42%). The persons under the care of this foundation, according to information provided by residents and professionals, receive little follow-up, do not have regular visits and enjoy a lower level of economic autonomy and less decision-making capacity [§ 408].

- *Establish a specific protocol to facilitate and prioritise the referral of patients to the public mental health network, as well as the possibility of carrying out measures in community resources, taking into account the gender perspective and taking into account the differential characteristics of women ([Visit 78/2021](#))*

The women who come from different parts of Spain can only be admitted to the Psychiatric Penitentiary Hospital of Alicante, as it is the only one authorised for this purpose, which depends on the General Secretariat of Penitentiary Institutions. This causes the detainees a social and family uprooting that hinders their reintegration. In this regard, the recommendation of the European Committee for the Prevention of Torture, contained in paragraph 167 of its report following its visit to Spain in 2020, is of particular relevance, indicating the desirability that “the [Spanish] authorities ensure that the need for continued detention in prison centres is subject to regular substantive review”.

It should be added that, despite the provisions of article 763 of the Civil Procedure Act, the centre does not have a specific protocol for the referral of patients to the public mental health network [§ 409].

Communications

- *Facilitating frequent communication with the outside world and with the family, guaranteeing due privacy of communications, by introducing new forms of communication, such as video-calls ([Visit 78/2021](#))*

In the Alicante Psychiatric Penitentiary Hospital, throughout 2021, a total of 106 video calls were made, of which only 12 were made by women, despite the fact that women are further away from their places of origin. Video calls are underused and the women interviewed are unaware of their right to make and request them. The National Prevention Mechanism found that in the module currently occupied by the detainees there is a cabin in a passageway, with noise and no privacy.

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At Conxo Hospital, the inmates of the closed module report that they can only make one phone call per week, and during the visit it was found that there is no place to make or receive calls in privacy, and that they do not have access to mobile phones or video calls [§ 410].

- *Articulate restorative and compensatory measures, such as providing financial support, so that family members can visit the hospitalised women frequently, in order to avoid the loss of family ties and to enable psychotherapeutic work at the family level ([Visit 78/2021](#))*

In the Alicante hospital 24% of the female inmates have minor children, compared to 4.8% of the male inmates. The concern for the youngest children is strongly expressed in many of the interviews with the inmates.

This discrimination against women is compounded by the violation of the best interests of the child [§ 411].

6.3 Minors

- As noted above, the National Prevention Mechanism's Programme for the Prevention of Gender-based Discrimination in Places of Deprivation of Liberty has extended its focus, as of 2021, to juvenile detention centres.

In this case, in addition to the international parameters already indicated - such as the Bangkok Rules or the Yogyakarta Principles - it is worth mentioning the provisions of the European framework, as well as Organic Law 8/2021 of 4 June on the comprehensive protection of children and adolescents against violence [§ 412].

- As part of the development of the programme, in 2021 two visits were made to centres for juvenile offenders, one to the Bahía de Cádiz centre ([Visit 38/2021](#)), dependent on the Andalusian Regional Government, and another to the Concepción Arenal centre ([Visit 50/2021](#)), of the Regional Government of Galicia. In addition, based on the Recommendations of this project, which are set out below, Recommendations have been made in this area to the Autonomous Communities of Madrid, the Basque Country and the Autonomous City of Melilla [§ 413].

6.3.1 Internal population

Disaggregation of data

- *Incorporate the gender variable in data collection and draw up statistics disaggregated by sex, both in the reports and in the different registers, in order to really know the profile of girls offenders, with the aim of*

providing an educational and therapeutic response adapted to their needs (Visit 50/2021)

During the visit to the Concepción Arenal centre (Visit 50/2021), at the time of the visit there were 28 inmates. This is in line with the data available to the National Prevention Mechanism on the population in centres for juvenile offenders in 2019 and 2020 in Spain, according to which only 11% are women.

The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), in its document Preventing Torture and ill-treatment of Women Deprived of their Liberty, paragraph 9, has highlighted the fact that women's rights in a context of deprivation of liberty have been subsumed in a supposedly neutral way, but that in practice this has acted as a model for men. Proof of this is that the data recorded in the centre's report (such as age, type of offence, escapes or self-initiated attempts) and searches and lists (courses, workshops, contracts or sanctioning files) are not disaggregated by sex.

The NPM made a similar recommendation to the Regional Government of Madrid, on the occasion of the visit to the Teresa de Calcuta Centre (Visit 54/2021) [§ 414].

- *Disaggregate data on transgender minors (Visit 50/2021)*

Furthermore, during the visit, the National Prevention Mechanism found that data on transgender minors is also not disaggregated, with the consequent invisibility. Furthermore, there is an imbalance in data processing, as two minors who are transgender men have been counted as women in documents [§ 415].

- *Incorporate cross-cutting variables such as Roma ethnicity, foreign nationality, functional diversity and sexual diversity into the management of the centre, in order to design better targeted and more effective programmes for those who are in a more vulnerable situation (Visits 38/2021 and 50/2021)*

Both in the Concepción Arenal centre (Visit 50/2021), as well as in the Bahía de Cádiz (Visit 38/2021), the National Prevention Mechanism found that disaggregated information on cross-cutting variables (Roma, foreign nationality, sexual diversity, functional diversity) is not collected, with the result that these especially vulnerable minors remain invisible, which does not facilitate overcoming their special discrimination. In the Bahía de Cádiz centre, the NPM positively values the existence of an intercultural mediator.

The same Recommendation has been made to the Community of Madrid, in the framework of the visit to the Teresa de Calcuta centre for

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minors ([Visit 54/2021](#)) [§ 416].

- *Incorporate the variable of “intervention of the child protection system” in the collection of data and statistics, in order to integrate the history of lack of protection and institutionalisation prior to admission to the centre and to promote measures to adjust to this circumstance ([Visits 38/2021 and 50/2021](#))*

In both centres, the National Prevention Mechanism found that there is no comprehensive collection or statistics on children with whom there has been or is intervention by the child protection system prior to juvenile justice intervention. This information is recorded in each child's file, but there is no comprehensive data, although it is an important indicator of vulnerability.

At the time of the NPM visit, those in charge of the Bahía de Cádiz centre counted seven minors in this circumstance, which would represent 12%. But in subsequent interviews conducted by the NPM team, it was found that at least two more children had been involved with the protection system, even if they were not in active protection at the time. Of the seven minors, two were boys of foreign origin without family support in Spain, and five were girls who suffered severe family neglect during childhood, showing that the neglect factor has a differential component of gender and origin.

The technical team of this centre stated that coordination with the child protection system is sometimes difficult and bureaucratic when the minor is serving a judicial measure. The centre pointed out that difficulties arise when it has to resort to protection in order to prevent the child's return to the family home, as the child-parent relationship has deteriorated [§ 417].

- Filioparental violence is the main reason for the admission of girls serving a measure in the therapeutic unit of the Bahía de Cádiz centre, and the third cause for boys in this centre. This crime is closely related to dysfunctional family dynamics where minors, although responsible for the violent conduct, have often been victims of significant situations of lack of protection.

The treatment of child to parent violence requires specialisation and a psychotherapeutic approach. During the visit to the Arratia centre ([Visit 29/2021](#)), the NPM confirmed that this specialisation is available, but that there are no places for girls, and therefore the following Recommendation was made to the Government of the Basque Country:

Guarantee in the Autonomous Community of the Basque Country the allocation of places for minors or young women in the Arratia educational centre, in order to facilitate the opportunity to serve a

judicial detention measure arising from a crime of filial violence and, in this way, benefit from the availability of an optimal and specialised resource ([Visit 29/2021](#)) [§ 418].

Transsexuality and sexual diversity

- With regard to the treatment of transgender minors, at the time of the visit, the National Prevention Mechanism verified that the Concepción Arenal centre is providing adequate health, social and legal support to transgender minors. However, they continue to be treated and conceptualised as girls, which adds to their compliance with their measure the psychological and emotional stress of a context that is not sufficiently respectful of their identity.

Moreover, in the list of children diagnosed with a mental disorder submitted to the NPM by the centre, there are two children “with gender dysphoria”, so that it seems that transsexuality is still considered a mental health problem [§ 419].

- *Facilitate the possibility to use binder as underwear by providing at least two changes ([Visit 50/2021](#))*

In the Concepción Arenal centre, the transsexual minors state that they only have a binder (an undergarment whose function is to conceal the breasts).

During the visit to the Teresa de Calcuta Centre ([Visit 54/2021](#)) two Recommendations have been made to the Community of Madrid in the same sense [§ 420].

6.3.2 Training, work assignments and activities

- *Review the educational project and activities in order to incorporate the gender perspective in a real way, with specific consideration of the needs and difficulties presented by female juvenile offenders ([Visit 50/2021](#))*

The educational project of the Concepción Arenal centre formally envisages a specific approach aimed at the care of minors. However, none of the documents reviewed take into consideration any particularities or adaptations to their circumstances, such as their possible pregnancy or the process of drug withdrawal [§ 421].

- *Guarantee equal access to occupational workshops, promoting a mixed use and implementing workshops that, due to their themes and contents, foster egalitarian environments ([Visit 38/2021](#))*

The occupational workshops at the Bahía de Cádiz centre are carpentry, aesthetics and sewing, and the impossibility of equal access based on

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gender was noted, with several girls interviewed stating that they could not attend the carpentry workshop [§ 422].

- *Increase the participation of inmates in external training resources, especially in bacculaureate training, as well as increase the number of specialised teachers to provide academic training in juvenile offenders' centres ([Visit 38/2021](#))*

In the Bahía de Cádiz centre, the NPM found that the training needs of the girls are not adequately covered by the level of the classes. Girls have a higher level of education, 4 of them have a high school diploma compared to none of the boys. 10% of the inmates and 16% of the women inmates participate in external training resources, which is a situation that would be desirable for the rest, especially for girls. When bacculaureate studies are carried out at the centre (80% of the cases), it is the cause of several complaints that the level provided by the teaching staff is insufficient for minors [§ 423].

- *Guarantee equal opportunities for minors with regard to employment opportunities, establishing the necessary compensatory mechanisms ([Visit 50/2021](#))*

The two girls who have been at the Concepción Arenal centre, up to the time of the NPM visit, did not participate in any of the paid workshops. In the last three years, only one girl out of the 27 has had an employment contract in the employment workshops [§ 424].

- *Guarantee one hour of outdoor sport per day for both boys and girls, irrespective of the module where they perform the measure ([Visit 38/2021](#))*

The minors in the Bahía de Cádiz centre who are serving a therapeutic measure have less access to sport than stipulated, since, although formally the timetable foresees one hour of sport per day, in the interviews it was found that they only have access twice a week, unlike the boys [§ 425].

6.3.3 Violence and sexual abuse

- *Establish a protocol for the investigation of violence and sexual abuse suffered prior to admission to the centre, with the aim of providing a therapeutic and protective response ([Visits 38/2021](#) and [50/2021](#))*

In both the Bahía de Cádiz and Concepción Arenal centres, the psychological and health assessment lacks a protocol for the detection of violence and sexual abuse. This is an essential requirement for the fulfilment of the legal criterion of “adopting all necessary measures to promote the physical, psychiatric, psychological and emotional recovery and social inclusion of children and adolescents who are victims of

violence”⁹.

In the Bahía de Cádiz centre, a high percentage of children report a previous experience of physical, psychological or sexual violence, or have witnessed their mother being abused.

With regard to sexual abuse, the high number of girls interviewed who have been sexually abused is particularly relevant: 42.1% of the respondents compared to 10% of the boys. In terms of experiences of physical, psychological violence and abuse in childhood, the percentage is 68.4% of female respondents compared to 20% of male respondents. This situation of serious health impact needs proper diagnosis and intervention [§ 426].

- *Provide the centre with a protocol for the prevention, detection, protection and care of possible victims of gender violence or other types of violence, abuse or harassment in the centre, which regulates the victim's access to health, psychological and social care, as well as providing ongoing training for all staff in relation to gender violence and sexual violence, maintaining in all cases a proactive attitude to deal with these situations ([Visit 38/2021](#))*

In the Bahía de Cádiz centre, there is no protocol for the prevention, detection and protection of gender violence, or any other type of violence or abuse suffered in the centre, which guarantees an adequate and protective response for a potential victim. This is especially necessary in an environment that should be a framework of security and personal development for particularly vulnerable adolescents.

During the visit, two minors disclosed incidents of sexual violence at the centre to the National Prevention Mechanism team, and the mechanism discussed the matter with their management, finding that there was a tendency to minimise the situation or doubt its veracity, despite a viewing of the cameras that coincided with what they had said.

The management approached this problem in a delegitimising and revictimising way. Given this evidence of the difficulty of any kind of disclosure and the lack of protection from abuse at the centre, the NPM reported the facts to the Regional Government of Andalusia.

The same Recommendation has been made, on a pre-emptive basis, to the Autonomous City of Melilla, in the framework of the visit to the Ciudad de Melilla centre ([Visit 61/2021](#)), and to the Autonomous Community of Madrid, on the occasion of the visit to the Teresa de

⁹ Article 4.2 of Law 8/2021 of 4 June on the comprehensive protection of children and adolescents against violence.

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Calcuta centre ([Visit 54/2021](#)) [§ 427].

- *Articulate a protocol for detecting, preventing and acting against harassment, abuse or any other type of violence between minors, that incorporate a gender perspective ([Visit 38/2021](#))*

In the Bahía de Cádiz centre, the data from the health survey and the interviews carried out by the NPM reflect a significant number of children who feel that they are being bullied by their peers. There is a significant gender difference: 52.6% of girls and 10% of boys [§ 428].

- *Establish a protocol for the detection and prevention of harassment, abuse or any other type of violence, which incorporates the gender perspective ([Visit 50/2021](#))*

At the Concepción Arenal centre there is no protocol for the detection and prevention of harassment, abuse or any other type of violence in the school [§ 429].

6.3.4 Health

- *Implement multidisciplinary intervention protocols (educational team, psychiatry, psychology, medicine, nursing, social work) of alternative therapies for the management of anxiety and emotional tension of minors, involving all educational and socio-health staff in order to avoid the medicalisation of these situations as much as possible ([Visit 38/2021](#))*

From the analysis of documents from the Bahía de Cádiz and Concepción Arenal centres related to health care, it is worth highlighting their essentially biomedical approach.

In the Bahía de Cádiz centre, there is a high level of medicalisation and a lack of adequate response to anxiety states and signs of depression in minors, which are frequently interpreted as calls for attention or emotional dysregulation, applying an approach of educational correction rather than emotional containment, especially in the therapeutic module [§ 430].

- *Carry out health programmes on affective-sexual diversity, prevention and awareness of gender-based violence, positive sexuality and healthy relationships with the participation of health personnel, as well as an interdisciplinary and biopsychosocial approach to health needs ([Visit 38/2021](#))*

In the Bahía de Cádiz centre, there is no evidence of health promotion and prevention activities by specialised staff and in relation to a multidisciplinary team. On the other hand, there was no evidence of interdisciplinary and intersectoral coordination in the approach to health. The National Prevention Mechanism identified in the interviews and

surveys the need for health programmes on affective-sexual diversity, prevention and awareness of gender-based violence, positive sexuality and healthy relationships.

The protocol for the care of pregnant women at the Concepción Arenal centre does not mention the possibility of termination of pregnancy.

During the visit to the Ciudad de Melilla centre ([Visit 61/2021](#)) the NPM made a Recommendation to incorporate a gender perspective in the health protocol for women [§ 431].

Comprehensive approach to drug withdrawal

- *Facilitate specialised drug abuse treatment programmes with a gender and sexual diversity perspective, taking into account possible past victimisation, the special needs of pregnant minors and the diversity of their cultural traditions ([Visit 50/2021](#))*

According to the centre itself, 80% of the minors in the Concepción Arenal centre have problems of consumption and addiction to toxic substances. In the educational intervention programme - carried out by the educators - there is no specific treatment or intervention programme for drug-dependent minors. There is also no analysis of gender differences in the initiation and maintenance of drug use (dependence and emotional regulation). Addiction care also lacks an intercultural perspective, despite the fact that the percentage of Roma minors is significant [§ 432].

- *Facilitating specialised drug abuse treatment programmes with a gender, sexual diversity, and intercultural perspective, taking into account possible past victimisation, and reinforcing addiction intervention with specialised community resources ([Visit 38/2021](#))*

The educational staff of the Bahía de Cádiz centre states that addiction to toxic substances and behavioural addictions affects 80% of the minors who have passed through the centre. This point is confirmed by the children in the interviews and in the health survey administered. A significant percentage, 42% of girls compared to 8% of boys, have indicated in their sentences that the detention should include toxicology treatment. The proportion indicates a clear feminisation of drug use and the relationship of drug use with criminal offences. However, no programme is developed in practice in this area with minors who are not in the therapeutic unit, although formally there is a written AVANZA programme, for which no data on sessions or explicit interventions are provided and which is clearly insufficient.

All minors responding to the survey acknowledge tobacco use and 90% cannabis use, and that the use of intoxicants has had a direct

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impact on the need for judicial measures. 36.8% of girls report having had non-consensual sex in exchange for substances or for economic needs, while 100% of boys answer in the negative.

The National Prevention Mechanism observed early onset drug use, mainly as an escape from emotional states for those who lack the skills to manage them, establishing recidivist addictive profiles that hinder their social reintegration. The minors verbalise that they do not see addiction intervention as useful or practical and that during admission they say that they have gone through physical and psychological withdrawal without support.

With the minors in the therapeutic unit, a programme on the subject is developed, but it lacks an analysis of the gender difference in matters such as the initiation, maintenance and function of drug use in minors (dependence and emotional regulation), observing a substitution by pharmacological use that implies an invisible dependence [§ 433].

Suicide Prevention Protocol

- *Revise the suicide prevention protocol, incorporating a gender and sexual diversity perspective ([Visits 38/2021](#) and [50/2021](#))*

In both the Bahía de Cádiz and Concepción Arenal centres, the suicide prevention protocol lacks a specific gender focus. Differential indicators such as childbearing, abortion, past violence and sexual orientation are not reported.

In addition to the suicide prevention protocol, the Cádiz centre has articulated a form of action, of which there is no written reference to its regulation, which it calls “20-minute observation”. This method consists of an observation of the children with this time frequency when they are in their room, which is activated at the request of the technical team when a destabilising situation has been observed. Several minors interviewed referred to the feeling of harassment of being watched every 20 minutes and not understanding exactly why they were being watched, so the National Prevention Mechanism has requested information on this practice and its regulation.

On the occasion of the visit to the Ciudad de Melilla centre ([Visit 61/2021](#)), the NPM has made a Recommendation to the City Government in the same sense [§ 434].

6.3.5 Treatment

- *Carry out the psychoeducational intervention programmes incorporating a gender perspective and establishing a scheduled programme with mechanisms for the periodic evaluation of results ([Visit 38/2021](#))*

The psychoeducational intervention programmes of the Bahía de Cádiz centre lack a gender perspective and adaptation to the particularities of girls, and although they formally exist, none of the minors interviewed reported knowing about them. This programming is not developed in a direct and real way, but in a cross-cutting manner, so its real impact is very diluted and there is no possibility of evaluation and monitoring [§ 435].

- *Provide all minors with systematised and needs-based psychological care ([Visit 38/2021](#))*

From the analysis of the documents, the programmes and the interviews held, it can be concluded that the therapeutic psychological intervention in the Bahía de Cádiz centre is limited to the minors in the therapeutic unit. The rest of the minors do not receive psychological intervention, and psychological contact is only given in times of crisis or in the assessment and diagnosis interviews to establish the individual educational intervention programme. This is especially serious for minors who have been imposed a sentence in mental health treatment, even if they are not in the therapeutic unit (eight minors at the time of the visit) [§ 436].

- *Review the educational and therapeutic response, as well as the effectiveness of the intervention, carried out with Roma minors, incorporating the figure of a Roma cultural mediator in view of the high number and special vulnerability of Roma minors ([Visit 50/2021](#))*

At the Concepción Arenal centre, at the request of the National Prevention Mechanism, disaggregated information is provided on the Roma population in the centre, which at the time of the visit accounted for 31% (Roma minors who have been in the centre in the last nine years account for 43% of the total number of girls who have served measures). Despite this over-representation, which is very relevant in the case of Roma minors, there is no specific adjustment in the educational or therapeutic project.

- *Adopt the appropriate measures to ensure that the protection needs of minors are met, facilitating their access to gender and culturally sensitive programmes and services ([Visit 50/2021](#))*

In the Concepción Arenal centre, the situation of serious vulnerability of the only minor in the centre, Roma woman, who is a runaway and pregnant, stands out [§ 437].

- *Guarantee that minors serving a measure in the Therapeutic Unit in practice enjoy the phases formally included in the educational project (assessment, development and progress), with the last phase being carried out in maximum relation with the community and normalised resources. In this way it will be possible for the children to do activities*

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independently and in contact with the community in order to overcome discrimination in treatment and the lack of opportunities associated with the mental health problem ([Visit 38/2021](#))

The minors who are in therapeutic internment in the Bahía de Cádiz centre do not have a therapeutic development module. Both the assessment module and the progress module are located in a different site in the same locality, so that these girls, unlike the boys, do not enjoy the benefits of being placed there to carry out a normalised activity in a more autonomous way in contact with the community. They suffer from a lack of opportunities, as they are treated differently and discriminated against because of their mental health problem.

Along the same lines, in the visit to the El Molino centre (Almería) ([Visit 1/2021](#)), the National Prevention Mechanism formulated a Recommendation to guarantee equal treatment in access to the home of autonomy without gender discrimination in all centres for juvenile offenders run by the Autonomous Community of Andalusia. It should be noted that since 2019, following the visit to the Los Alcores centre (Seville) ([Visit 13/2019](#)), the NPM has insisted on this issue to the Regional Government of Andalusia [§ 438].

- *Promote the use of inclusive language in forms and registers in all detention centres under the Ministry of the Presidency, Justice and Interior of the Community of Madrid ([Visit 54/2021](#))*

This Recommendation, made to the Community of Madrid in the framework of the visit to the Teresa de Calcuta centre ([Visit 54/2021](#)), takes up an indication reiterated in visits to other centres [§ 439].



THE INVESTIGATION OF THE ALLEGATIONS OF TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT

Some information on processes and investigations

According to the information provided by the Secretariat of State for Justice, in 2021 in Spain, 8 convictions were handed down for the crime of torture (art. 174 of the Criminal Code); 78 for the crime against moral integrity (art. 175 CP); none for the crime of failure to prevent torture or attack against moral integrity (art. 176 CP); none for illegal detention or kidnapping (art. 167.1 CP); 12 for discovery and disclosure of secrets (art. 198 CP), and 3 for offences committed by public officials against the inviolability of the home and other guarantees of privacy (arts. 534 to 536 CP). No pardon, total or partial, was granted in relation to these offences to members of the state security forces.

On the other hand, 14,038 private citizens were convicted for the offence of attacking the authorities, their agents and public officials, and for resistance or disobedience (Articles 550 to 553 and 556 of the Criminal Code).

With reference to the General Secretariat of Penitentiary Institutions (SGIP), according to this management centre, there were no judicial proceedings that resulted in convictions of penitentiary officials for malpractice or ill-treatment. Of the inspection reports, reserved information and disciplinary proceedings, initiated in 2021 and those initiated in previous years and resolved this year, for malpractice or ill-treatment inflicted by prison workers or officials, only one ended with a sanction, according to the SGIP.

There were a total of 194 law enforcement and prison officers serving sentences in prisons.

As far as regional police forces are concerned, no complaints were received in the case of the Ertzaintza, and 16 confidential enquiries and 2 disciplinary proceedings were initiated. On the part of the Canary Islands regional police, no complaint was received, nor were any disciplinary proceedings or reserved information initiated.

According to the information provided by the Guardia Civil, no complaints have been received about malpractice or alleged ill-treatment, cruel or inhuman treatment by its officers, either in official detention or during drives. One disciplinary case has been opened, linked to conduct relating to the ill-treatment of citizens in custody by members of the Guardia Civil, and no information has been reserved.

Acronyms and abbreviations used

CATE	Centro de atención temporal de extranjeros [Temporary care centre for foreigners]
CIE	Centro de internamiento de extranjeros [Detention centre for foreign nationals]
CIMI	Centro para menores infractores [Juvenile Offender Centre]
CP	Centro penitenciario/centros penitenciarios [Prison/prison centres]
CPT	Committee on Prevention of Torture (Council of Europe)
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
IA	Annual Report (of the National Prevention Mechanism)
LGTBI	Lesbians, gays, transsexuals, bisexuals and intersexuals
MNP	Mecanismo Nacional de Prevención [National Prevention Mechanism]
OCDE	Oficina Central de Detenidos Extranjeros [Central Office for Foreign Detainees]
OPCAT	Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PAIEM	Framework programme for comprehensive care for the mentally ill
RP	Reglamento penitenciario [Prison Regulations]
SGIP	Secretaría General de Instituciones Penitenciarias [General Secretariat of Penitentiary Institutions]
SMPRAV	Secretaría de Medidas Penales, Rehabilitación y Atención a la Víctima (Generalitat de Catalunya) [Secretariat for Criminal Measures, Rehabilitation and Victim Support (Regional Government of Catalunya)]
SPT	Subcommittee on Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment (United Nations)
UCER	Unidad Central de Expulsiones y Repatriaciones [Central Unit for Expulsions and Repatriations]
UE	European Union

