



CPT/Inf (98) 9

**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 21 to 28 April 1997

The Spanish Government has requested the publication of this visit report and of its response. The response of the Spanish Government is set out in document CPT/Inf (98) 10.

Strasbourg, 19 May 1998

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Copy of the letter transmitting the CPT's report

Strasbourg, 7 July 1997

Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Spain drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Spain from 21 to 28 April 1997. The report was adopted by the CPT at its thirty-third meeting held from 23 to 27 June 1997.

The CPT requests that the Spanish authorities provide within six months a report containing an account of action taken by them to implement the Committee's recommendations and setting out their reactions to its comments and requests for information (the Committee's recommendations, comments and requests for information are listed in Appendix I). The CPT would ask, in the event of the report being forwarded in Spanish, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Claude NICOLAY
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

Mr Francisco BUENO ARÚS
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Spain from 21 to 28 April 1997. The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

2. The delegation consisted of the following members of the CPT:

- Mr Claude NICOLAY, President of the CPT (Head of the delegation);
- Mr Vitaliano ESPOSITO.

The delegation was assisted by:

- Ms Odile DIAMANT-BERGER (Senior Lecturer in Forensic Medicine, Head of the Forensic Emergency Service at the Hôtel-Dieu Hospital, Paris) (expert);
- Mr Philippe de SINNER (Director of the Swiss Prison Staff Training Centre, Fribourg) (expert);
- Ms Christine Marie-Pierce BOURGOIN (interpreter);
- Mr Claude LORD (interpreter);

and was accompanied by Mr Jan MALINOWSKI of the CPT's Secretariat.

B. Establishments visited by the delegation

3. The delegation visited the following places:

Establishments for foreigners

- Detention Centre for foreigners, Plaza de Capuchinos, Málaga
- Calamocarro Camp, Ceuta
- Premises at La Granja Agrícola, Carretera de Alfonso XIII, Melilla
- Premises at the Lucas San Lorenzo centre, Playa Hípica, Melilla

Prisons

- Ceuta Prison, Los Rosales, Ceuta

National Police establishments

- Headquarters of the National Police, Paseo de Colón, Ceuta
- Headquarters of the National Police, Plaza de Manuel Azaña, Málaga
- Headquarters of the National Police, Actor Tallavi, Melilla

Civil Guard establishments

- Headquarters of the Civil Guard, Nuestra Señora del Otero, Ceuta
- Holding facilities at the Port of Ceuta

Army establishments

- Disciplinary Unit, Regiment No. 52 of the Infantry, Melilla
- Disciplinary Unit of the Gran Capitán Regiment of the Legion, Melilla
- Remand Detention facility of the Military Police, Melilla

C. Context of the visit

4. In the course of 1996 and the beginning of 1997, the CPT received a number of reports containing allegations of the ill-treatment of foreigners on the occasion of their removal from Spanish territory. Certain of those allegations led to an exchange of correspondence between the CPT and the Spanish authorities in late 1996. Prior to being removed from Spanish territory, the persons concerned had been held for some time at the Detention Centre for foreigners in Málaga or in the Spanish towns of Ceuta and Melilla in North Africa. The Committee also received reports indicating that illegal immigrants and asylum seekers held in the latter towns were being offered very poor living conditions.

In the light of all the information at its disposal, the Committee felt that it was necessary to carry out a visit to the Málaga Detention Centre for foreigners, as well as to places where illegal aliens are held in Ceuta and Melilla.

5. In view of information made available to the CPT shortly before the visit, the Committee decided that it should also visit Ceuta Prison.

Further, the CPT took the opportunity to verify conditions in other places of detention in Ceuta and Melilla. In this context, for the first time in Spain, the CPT visited army establishments.

D. Cooperation between the CPT and the Spanish authorities

6. The degree of cooperation which prevailed during the visit was fully in compliance with Article 3 of the Convention.

At national level, the delegation had useful talks with senior officials of the Ministry of the Interior - amongst others Mr Rafael Ramos Gil, Technical General Secretary of the Ministry, Mr Angel Yuste Castillejo, Director General of the Prison Service, and Mr José Ramón Onega López, Director General of Interior Policy - as well as of the Ministries of Justice and Defence.¹ Further, the CPT is grateful to the Minister of the Interior for having provided members of the delegation with credentials.

The delegation received a very satisfactory reception at - and in particular rapid access to - all of the establishments visited, including places which had not been notified in advance of the CPT's intention to carry out a visit. Indeed, it would appear that the management of all places of detention in southern Spain, as well as in Ceuta and Melilla, had been informed of the possibility of a visit by the Committee.

7. In this context, the CPT also wishes to mention that, after the visit, the Spanish authorities provided useful additional information concerning certain of the places visited, as well as comments on some of the issues addressed by the delegation during the talks held at the end of the visit.

¹ A list of authorities with which the delegation held talks is set out in Appendix II to this report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Treatment of illegal aliens

1. Ill-treatment in the context of expulsion procedures

8. Several inmates interviewed at the Detention Centre for foreigners in Málaga alleged that they had been assaulted by National Police officers on police premises at Málaga Airport after an attempt to make them board an aircraft had failed. Certain of them claimed that they had also been assaulted by police officers before being taken to the aircraft.

Two of the persons concerned displayed conditions - persistence of pain upon movement or palpation - consistent with their allegations of having received blows with batons, respectively one and four weeks previously. Regrettably, the medical records kept by the police doctor who had examined and treated them at earlier stages of their detention were extremely succinct and cast no additional light on the matter (cf. paragraph 19, third sub-paragraph).

The CPT's delegation subsequently learned that another foreign national had complained of having been ill-treated on 21 April 1997 by police officers at Málaga Airport, on the occasion of an attempt to expel him from Spain. It would appear that the circumstances of his attempted expulsion were recorded on video by police officers; **the CPT would like to receive a copy of that video-recording.**

9. Reference might also be made to several persons interviewed in Melilla who claimed that, in June 1996, they had been expelled from Spain together with a large number of other foreigners of African origin.

They stated that, in the course of their expulsion, they had received water containing a tranquilliser and had been bound and gagged with adhesive tape. Further, one of the persons in question alleged that he had been assaulted by police officers using batons, including whilst aboard a Spanish military aircraft.

The CPT understands that the circumstances of the June 1996 expulsions were subsequently the subject of investigations and more particularly a judicial enquiry. **It would like to be informed in due course of the results of those investigations.**

10. It should also be noted in this context that the collective expulsion of foreigners from Spain has recently been examined by the Ombudsman ("Defensor del Pueblo"), who was very critical in particular of the technique of binding persons using adhesive tape to cover nearly all their body, including the mouth.

11. The removal from Spanish territory of a foreigner subject to an expulsion order who is determined to stay will often be a difficult task. Police officers may on occasion have to use force in order to effect such a removal. However, the force used should be no more than is reasonably necessary; in particular, it would be entirely unacceptable for such persons to be physically assaulted by police officers as a form of persuasion to board a means of transport or as punishment for not having done so. **The CPT recommends that police officers who are assigned the duty of removing from Spanish territory foreign nationals subject to an expulsion order be reminded of those precepts.**

The CPT also wishes to stress that any provision of medication to persons subject to an expulsion order must be done on the basis of a medical decision and in accordance with medical ethics. Further, the Committee must emphasise that to gag a person is a highly dangerous measure. **The CPT recommends that current procedures be reviewed, in the light of the above remarks.**

In this connection, **the Committee would like to receive a full account of the authorised means of coercion in relation to the removal from Spanish territory of foreigners subject to an expulsion order.**

12. In the report drawn up following its April 1994 periodic visit to Spain, the CPT requested information on both the formal safeguards and practical arrangements which are applied in Spain in order to ensure that aliens are not sent to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (cf. CPT/Inf (96) 9, Part II, paragraph 95). The response from the authorities indicated that Spanish law guarantees that foreigners will not be expelled to a country where they risk such treatment and that, in the event of refugee status not being granted, the expulsion may be suspended in order to assess the risk of ill-treatment (cf. CPT/Inf (96) 10, page 83).

However, the CPT has received reports which suggest that certain of the persons expelled from Spain in recent times have been ill-treated or even died at the hands of law enforcement officials in the countries to which they were sent. It has been alleged in this connection that, in some cases, existing legal safeguards were not fully respected. **The CPT would like to receive the observations of the Spanish authorities on those reports.**

The Committee would also like to receive a detailed account of the precise practical steps taken by the Spanish authorities in order to ensure that persons are not returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment.

2. Detention Centre for foreigners in Málaga

13. The Detention Centre was brought into service in 1990, and is located within the National Police facilities at Capuchinos in Málaga. According to information provided to the CPT's delegation, the Centre is the only place where foreigners are at present detained under Article 26 (2) of the Aliens Law² - following an initial period of police custody not exceeding 72 hours - in Andalucía, Extremadura, Ceuta and Melilla. It has a capacity of 74 and, at the time of the visit, was accommodating 36 men and 1 woman.

14. Relations between detainees and the police officers responsible for supervisory duties appeared to be reasonably relaxed and positive in nature. No complaints were made by detainees about the manner in which they had been treated by the supervisory staff.

15. The Centre possessed three dormitories ranging in size from 30 to 55 m² which could accommodate 10 to 16 persons, and a fourth dormitory of approximately 100 m², for a maximum of 36. In addition, there were three rooms accommodating not more than two persons (in principle members of the same family), each measuring 7.5 m², and a single occupancy cell, used for agitated inmates.

All of the dormitories and rooms were adequately equipped and in a reasonable state of cleanliness and repair, and had access to natural light and ventilation. They had separate sanitary facilities, which were also of a satisfactory standard.

During the day, men had access to a patio and a day room; they were not in principle allowed back into their dormitories (with the exception of a three-hour afternoon siesta period). Detained women had access to the patio and day room during the men's siesta time; further, on occasion they were apparently allowed to use an exercise area lying outside the Detention Centre but within the police compound.

16. To sum up, the material conditions of detention at the time of the visit were on the whole acceptable. However, the delegation saw the Centre under favourable conditions, when the occupancy level was well below the official capacity. The authorised capacity of the 100 m² dormitory was too high, even taking into account that it was only used as sleeping quarters. Similarly, the authorised occupancy level in the women's dormitory (10 persons in 30 m²) was too high, bearing in mind that detained women had to spend most of the day within the dormitory.

Structural changes to the above-mentioned facilities were foreseen. In particular, a new section for women was to be brought into service which inter alia would have its own day room and patio, and the 100 m² dormitory was to be divided into two smaller units. These changes are to be welcomed. However, the authorised capacity in the two units to be made by dividing the large dormitory shall still be too high (12 persons in 30 m² and 18 in 46 m²); **the CPT recommends that the authorised capacities of those two units be reviewed.**

² Organic Law 7/1985, of 1 July 1985, on the rights and freedoms of foreigners. In this context cf. also the report on the first visit by the CPT to Spain, CPT/Inf (96) 9, Part I, paragraph 67, as well as paragraphs 28 to 30 of Appendix II to that report.

17. As already indicated, all persons detained in the Centre could take outdoor exercise every day and they could watch television and play games. However, at the time of the visit, no organised activities were being offered to persons detained at the Centre. The delegation was told that, in the past, attempts had been made to offer courses in Spanish and access to a small library, but those activities had not proved popular.

The CPT invites the Spanish authorities to persist in their efforts to extend the range of activities offered to persons detained in the Centre.

18. An information sheet setting out the basic rules concerning the regime in the establishment was given to all new arrivals; it was available in an appropriate range of languages (Spanish, English, French, Arabic).

Detainees had access to a pay phone, and visits were allowed on a daily basis from family members and friends. Lawyers and representatives from non-governmental organisations also visited inmates in the establishment; nevertheless, it emerged from the discussions held with both detainees and staff that **a social worker could usefully be employed at the Centre.**

19. Basic medical care was assured at the Málaga Detention Centre for foreigners by a police doctor who held a surgery at least once a week; more serious complaints were referred to the local hospital. However, **the CPT considers that a qualified nurse should attend the Centre on a daily basis.**

The information gathered by the delegation's medical member suggests that the care being provided by the police doctor left something to be desired. In particular, it was noted that the doctor was prescribing diazepam (Valium) in a somewhat widespread manner, while the patients' medical files did not, in all cases, contain sufficient justification for that treatment. **The CPT would like to receive the comments of the Spanish authorities on this subject.**

Further, reference has already been made to the succinct nature of the records kept by the doctor (cf. paragraph 8). **The CPT recommends that the results of all medical examinations, as well as the relevant statements of the detained person concerned and the doctor's conclusions, be fully recorded by the doctor and made available to the detainee³.**

³ cf. also CPT/Inf (96) 9, Part I, paragraph 57, fifth sub-paragraph.

3. Places in Ceuta and Melilla where illegal aliens are accommodated

20. The CPT wishes to make clear at the outset that it fully understands the difficulties engendered by the arrival of large numbers of illegal immigrants in Ceuta and Melilla. The geographical location of those towns combined with a relatively pervious border with Morocco make Ceuta and Melilla appealing gateways to Europe.

21. From the explanations given to the CPT's delegation it emerged that the police find it difficult to complete the proceedings (establishing the identity of undocumented foreigners and obtaining travel documents for them, as well as - if appropriate - securing an expulsion order) within the 40-day legal limit of administrative detention. Consequently, following their detention and the opening of the relevant file, illegal aliens were formally released, although they were obliged to remain in Ceuta or Melilla. Thus, they enjoyed some degree of freedom of movement, but could at any time be taken back into custody.

22. The delegation visited the principal places in Ceuta and Melilla where illegal aliens are accommodated: Calamocarro Camp in Ceuta, La Granja Agrícola and the Lucas San Lorenzo centre (at Playa Hípica) in Melilla.

The living conditions at the **Calamocarro Camp** were far from ideal. At the time of the visit, the Camp was providing very basic shelter (in tents and sheds) to more than 250 persons; in particular, the distinct part of the Camp accommodating some 100 Algerians did not have sufficient tents, beds or mattresses for the number of persons involved. The sanitary facilities were located in a nearby building and appeared to be sufficient. However, the CPT heard (including from official sources) that in recent times the situation had been less favourable, particularly as a result of a much larger population and precarious sanitary conditions.

At **La Granja Agrícola** (the Agricultural Farm) living conditions were extremely poor. Some 130 persons were crammed in a barn, while others lived in smaller outbuildings (e.g. 20 persons in under 30 m²). However, those sheltered areas could not provide accommodation for all the +450 persons at the Farm; some slept in a decaying tent, others in a makeshift hut, while a large proportion of the Farm's population had taken refuge in abandoned caravans, vans and cars in an adjacent dump. Given the shortage of beds/mattresses, some took turns to sleep, and others slept on a bed of cardboard. Further, the civil protection movable sanitary facilities (certain of which were out of order) were visibly insufficient in number and had leaking drains. It is clear that the dubious sanitary conditions at the Agricultural Farm would become a health hazard in times of rain or excessive heat.

The **Lucas San Lorenzo centre**, accommodating illegal immigrants of Algerian origin at Melilla, occupied part of a building also housing a detention centre for minors. The facility consisted of four rooms (two measuring some 40 m² each and two of 6 m²) and a sanitary annexe, a limited space for the ca. 70 persons living there. Moreover, the premises were in a deplorable state of hygiene, apparently partly the doing of the occupants themselves.

It might be added that, at both Ceuta and Melilla, pregnant women and mothers with young children were offered accommodation in boarding houses.

23. The level of health care being provided to the illegal aliens in Ceuta and Melilla appeared to be adequate. It should be noted, however, that unlike in Ceuta (where health-care staff - qualified nurses - attended the premises used to accommodate such persons), there was no on-site health-care service for illegal aliens at Melilla.

As regards food, at Calamocarro it appeared to be sufficient; however, at the Agricultural Farm the number of portions delivered fell somewhat short of the number of persons requiring food. The Algerians in Melilla were not receiving any food from the authorities, apparently after they had refused to accept the small number of portions being delivered to them (30 portions for 70 persons).

24. It is far from clear that the illegal aliens encountered by the delegation in Ceuta and Melilla were deprived of their liberty within the meaning of Article 5 of the European Convention on Human Rights (cf. also paragraph 24 of the Explanatory Report to the prevention of torture Convention). Consequently, the CPT considers that it should refrain from making any formal recommendations to the Spanish authorities concerning their situation. Nevertheless, regardless of the legal status of the persons concerned, the Committee would like to reiterate the remark made by its delegation at the end of the visit, namely that it is incumbent upon a State to make suitable provision for persons sheltered/accommodated on its territory.

The CPT considers that the Spanish authorities should endeavour to improve the living conditions of the illegal aliens accommodated in Ceuta and Melilla and, in particular, at La Granja Agrícola.

B. Ceuta Prison

1. General information

25. Ceuta Prison is situated in the town's district of Los Rosales. The establishment entered into service in the early 1960s and was designed to act as a small local prison, but soon proved to be insufficient for its increasing inmate population. The prison has seen its capacity expand, by the addition of an extra floor to part of the buildings and the construction of a new detention block (the department for Grade 3 prisoners). At the time of the visit, the prison's official capacity was 321 (298 male prisoners and 23 women), and was holding 354 prisoners (including 30 women and 44 juveniles); the majority of the inmates were on remand.

2. Ill-treatment

26. The CPT's delegation heard no allegations of torture, and gathered no other evidence of such treatment of prisoners by staff in Ceuta Prison.

However, a certain number of inmates interviewed by the delegation alleged that they had been punched, slapped or kicked by prison officers. These allegations concerned mostly juveniles, and the incidents were said to have taken place when prison officers intervened to prevent inmates from taking possession of packets of drugs thrown over the establishment's perimeter wall into the exercise yard.

Further, one inmate claimed that, on 19 November 1996, he had been kicked and punched by prison officers after something he said on the telephone had been construed as an insult against one of them. According to a medical certificate drawn up by the prison doctor following that incident, he displayed "haematoma on the lower right palpebra - scratch on the nose - 6 cm erythema on the back - minor injuries". The CPT understands that the prisoner in question lodged a formal complaint before the competent supervisory judge concerning this incident and was examined on two occasions by a forensic doctor as a result of his complaint. **The CPT would like to receive copies of the reports drawn up following those examinations and, in due course, to be informed of the outcome of the prisoner's complaint.**

27. At the end of the visit, the CPT's delegation expressed its concern about the overall situation observed in Ceuta Prison. In particular, it gained the distinct impression that there was no proper managerial control of supervisory staff. By letter of 19 May 1997, the Spanish authorities responded to those remarks, and in particular stressed that the prison's new management (which had taken up its duties shortly before the visit) "is at present making all efforts to adjust the functioning of the establishment, in all respects, to the requirements of Spanish prison law". In this connection, **the CPT recommends that the prison's management deliver the clear message to prison officers that the ill-treatment of prisoners is not acceptable and will be dealt with severely.**

3. Conditions of detention

28. The material conditions of detention in many parts of Ceuta Prison were far from satisfactory.

Cells measured between 7 and 13 m², each cell being fitted with two to four masonry beds. The cells were adequately lit, including access to natural light, and were equipped with a fixed table, a stool, a wash basin and a lavatory; however, the degree of partitioning of the lavatory left a lot to be desired. Efforts were being made to keep certain of the detention facilities (e.g. the department for women) in a decent condition; however, much of the prisoners' accommodation was in a poor state of repair, Department I being particularly dilapidated.

As regards cell occupancy levels, most inmates were accommodated three, four or even five to cells of 9 to 13 m². It was also observed that cells measuring 7 or 8 m² were often occupied by three prisoners, and a prisoner claimed that five inmates had been sharing one such cell several days previously.

29. The situation of severe overcrowding in Ceuta Prison was openly acknowledged by its management, as well as by the authorities at central level. Certain steps had already been taken to transfer some inmates to other establishments. Further, in the light of the remarks made by the delegation at the end of the visit, the Directorate General of the Prison Service decided - as an immediate measure - to reduce the official capacity of Ceuta Prison from 321 to 232 and to take steps to improve the state of repair of the premises.

The CPT recommends that a high priority be given to bringing the inmate population of Ceuta Prison into line with its new official capacity, as well as to improving material conditions of detention in the establishment.

In this context, **the CPT would underline that cells measuring 8 m² or less should not be used to accommodate more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone). The larger cells at Ceuta Prison can be considered as acceptable for two prisoners; however, the CPT presumes that the objective of the Spanish authorities remains to comply in due course with the principle of single occupancy⁴.**

30. The regime offered to inmates at Ceuta Prison was rich in out-of-cell time but poor in activities. Prisoners were allowed access to an outside yard and dining room area during eight hours or more per day; however, in Department I those facilities were far too small for the number of prisoners concerned. The principal sources of distraction were limited to talking to other inmates and watching television.

⁴ cf. Article 19 of the General Organic Law on Prisons and Article 13(1) of the Prison Rules.

Scarcely one in six prisoners had **work** - 20 prisoners had a job in the kitchen, nine in a marquetry workshop, five in the laundry, and a score were assigned to maintenance and cleaning duties. Further, the delegation was told that, with the exception of Spanish language courses, which were provided sporadically to some inmates of foreign origin, no **education** programmes were offered. For want of suitable premises, the language courses were said mostly to be held in a corridor or exercise yard. Apparently, a small number of prisoners followed correspondence courses. In addition, **sport/recreational** activities were grossly underdeveloped, though younger prisoners/juveniles had access to a small gym in groups of about eight, and female prisoners could use some sport equipment available in their exercise yard.

31. In short, the great majority of prisoners led a monotonous and purposeless existence, acquiring and taking drugs being their main concern. It will not be possible to remedy this situation until the problem of overcrowding is addressed and space/facilities are made available for activities.

The CPT recommends that a thorough examination of the means of improving the activities programmes at Ceuta Prison be undertaken without delay and that fuller programmes (including education, recreation and sports activities) be introduced as the inmate population in the establishment is brought into line with its new official capacity (cf. paragraph 29).

32. The laundry facilities and the kitchen were under-equipped and too small for the number of persons held in Ceuta Prison. As regards more particularly the kitchen, it was in a poor state of repair and hygiene left a great deal to be desired; the refrigerator had apparently been out of order for several months and norms for the handling of food (e.g. concerning the freezing of foodstuffs) were not being applied. **The CPT recommends that the Spanish authorities take appropriate steps to remedy these shortcomings.**

33. Reference should also be made to complaints heard from newly-arrived prisoners held in the admissions unit, to the effect that, on their first day at the prison, they had not been offered outdoor exercise. **The CPT recommends that the Spanish authorities take immediate steps to ensure that all inmates are offered at least one hour of outdoor exercise every day.**

4. Other issues of relevance to the CPT's mandate

a. health-care service

34. Health care in Ceuta Prison was provided by two full-time doctors, assisted by two nurses, who assured a presence of medical staff in the establishment during weekdays and part of the weekend. The premises and equipment of the health-care service were satisfactory.

Few complaints were heard from prisoners concerning the standard of general health care provided in the establishment. Nevertheless, the number of health-care staff supporting the two doctors was low. In this connection, the CPT's delegation was informed that two psychologist's posts allocated to the establishment had been vacant for some time and that the post of a third nurse was also vacant. **The CPT recommends that those posts be filled without delay.**

The CPT also recommends that the Spanish authorities take steps to ensure that someone competent to provide first aid is always present on the prison's premises, preferably a person with a nursing qualification.

35. Some complaints were heard about access to specialist care and, in particular, to dental care. The delegation was informed that the dentist held surgeries only once a month, and it appeared that he only practised extractions (rather than curative dental treatment). The prison doctor with whom the delegation spoke attributed this state of affairs to the limited resources available for other treatment.

The CPT has already addressed the question of dental care in Spanish prisons in the reports on the 1991 and 1994 periodic visits. In the report on the latter visit, the Committee recommended that steps be taken without delay to provide caries treatment to detainees, this treatment to be available free of charge for those not in a position to pay for it. In their reply, the Spanish authorities indicated that "there exists ample dental care that covers both preventive and therapeutic aspects" (cf. CPT/Inf (96) 10, page 100). However, it appears that this is not yet the case at Ceuta Prison; **the CPT recommends that dental care at that establishment be reviewed.**

36. Further, having regard to certain complaints received during the visit, the CPT wishes to stress that medical confidentiality should be observed in prisons in the same way as in the community at large. This implies inter alia that **all medical examinations of prisoners be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of prison officers.**

37. In its report on the 1991 visit to Spain, the CPT indicated that custodial arrangements which involve attaching a patient to a hospital bed are quite unacceptable and that other means of meeting satisfactorily security needs can and should be found (cf. CPT/Inf (96) 9, Part I, paragraph 150). No evidence of such custodial arrangements was found during the 1994 periodic visit to Spain. By contrast, the doctor interviewed at Ceuta Prison told the delegation that prisoners admitted to hospital in Ceuta were on occasion attached to their beds.

The CPT recommends that the Spanish authorities take appropriate steps to ensure that prisoners taken to hospital in Ceuta are not physically attached to their hospital beds or to other items of furniture for custodial reasons.

b. segregation

38. The position of prisoners in Spain who are considered as being "dangerous" or as "unadapted to an ordinary prison regime" (cf. Article 10 of the General Organic Law on Prisons) is of particular concern to the CPT, since the special measures taken vis-à-vis such prisoners involve a greater risk of ill-treatment than in the case of ordinary prisoners. This issue has been considered in some detail in previous reports⁵.

39. In Ceuta Prison there were a handful of prisoners subject to the restrictive regime provided for in Article 10(3) of the General Organic Law on Prisons. They were held one to a cell in the segregation unit. Their material conditions of detention were comparable to those of prisoners placed in solitary confinement as a punishment, and the only out-of-cell activity offered to them was a minimum of two hours of outdoor exercise every day, which they took in small groups.

The delegation's findings indicate that, at least as regards Ceuta Prison, the Spanish authorities have failed to implement the recommendations made by the CPT in respect of this category of prisoner. **It recommends that the situation of inmates in Ceuta Prison who are subject to the restrictive regime provided for in Article 10(3) of the General Organic Law on Prisons be immediately reviewed, in the light of the recommendations made in paragraphs 113 and 114 of the report on the 1991 visit (in particular, material conditions of detention of those prisoners to be clearly better than those of a prisoner undergoing solitary confinement as a punishment; such prisoners to be provided with purposeful activities).**

The CPT also recommends that the Spanish authorities verify the situation in this regard in other prisons in Spain.

40. Some inmates were being held in the segregation unit as a disciplinary sanction or under Article 75 of the Prison Rules (i.e. for reasons of security and good order in the establishment).

The records kept as regards disciplinary sanctions were very succinct and on occasion incomplete; in one case, no trace could be found of the formal decision to place the inmate concerned in the segregation unit.

Some prisoners had been placed in the segregation unit for their own protection (whether or not at their own request) under Article 75 of the Prison Rules. This provision was also being used for the segregation of so-called noxious prisoners ("nocivos"). The placement of a prisoner in the segregation unit under Article 75 of the Prison Rules was on the Director's authority; however, the procedural safeguards offered to such prisoners was unclear.

⁵ cf. CPT/Inf (96) 9, Part I, paragraphs 109 et seq. and Part II, paragraphs 108 et seq.

The CPT invites the Spanish authorities to ensure that all disciplinary sanctions imposed at Ceuta Prison are properly recorded. Further, it would like to receive full details of the decision-making procedure as regards the placement of prisoners in the segregation unit on the basis of Article 75 of the Prison Rules and of the procedural safeguards offered to such prisoners (information on the reasons for the placement; right to be heard; right to have the decision reviewed by an appropriate authority).

c. inspection procedures

41. The CPT wishes to underline that it attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises. During such visits, the persons concerned should make themselves "visible" to both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

42. The role of the supervisory judge ("Juez de Vigilancia") in this domain has already been considered in previous CPT reports⁶. As was the case in respect of the establishments visited by the CPT in 1991 and 1994, it appeared that the supervisory judge was a rare visitor to the detention areas in Ceuta Prison.

The CPT recommends that the supervisory judge competent for Ceuta Prison view the whole of the establishment's premises in the course of his visits and enter into direct contact with both prisoners and prison staff.

d. information for prisoners and visiting facilities

43. Discussions with inmates suggested that prisoners did not always receive information on the establishment's day-to-day rules upon their arrival. This state of affairs made the situation particularly difficult for prisoners of foreign origin. **The CPT recommends that all newly admitted prisoners be supplied with information on the regime in force in the establishment and on their rights and duties, in a language which they understand.**

Further, it would be useful if a description of the main features of the prison's regime, a list of prisoners' rights and duties and an outline of the avenues of appeal open to them were to be posted on prison notice boards, in an appropriate range of languages.

44. The booths used at Ceuta Prison for visits by family members and friends displayed similar shortcomings to those observed in the facilities seen during previous visits to Spanish prisons (cf. CPT/Inf (96) 9, Part II, paragraph 138). In particular, prisoners and visitors had difficulties in making themselves heard. **The CPT recommends that steps be taken to remedy this problem.**

⁶ cf. CPT/Inf (96) 9, Part I, paragraphs 185 et seq. and Part II, paragraphs 184 and 185.

- e. execution of sentences in the prisoners' original social environment

45. During the April 1994 visit to Spain, the CPT's delegation observed that many prisoners were serving their sentences in establishments situated a long way from their families' homes and requested information on this subject from the Spanish authorities.

In their reply, the latter made reference to Article 12 of the General Organic Law on Prisons which establishes the principle that the uprooting of inmates should be avoided; they also made reference to the reasons why a certain proportion of inmates (approximately 20%) are not held close to their place of residence (need to optimise distribution, security requirements). Further, as regards remand prisoners, reference was made to the need that they be located close to the seat of the relevant court.

46. The CPT has subsequently received many complaints from prisoners (and their families and friends) held in establishments situated far away from their own social environment. Similar complaints were heard at Ceuta Prison.

The CPT would like to receive further information concerning the criteria currently being applied for the distribution of prisoners in general, and more particularly those accused or convicted of offences related to terrorism.

C. Other establishments visited

1. National Police and Civil Guard establishments

a. ill-treatment

47. Some isolated allegations were heard in the course of the visit that criminal suspects had been slapped and/or punched by law enforcement officials. Those allegations related to the time of arrest and concerned principally the National Police.

In this connection, **the CPT wishes to reiterate the importance of appropriate training for law enforcement officials, and of senior law enforcement officials delivering to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be dealt with severely (cf. CPT/Inf (96) 9, Part I, paragraph 29 and Part II, paragraph 21).**

b. material conditions of detention

48. Material conditions of detention in the National Police and Civil Guard establishments visited were rather poor and, more particularly, displayed many of the shortcomings already criticised in reports drawn up after previous visits by the CPT.

Persons in custody were being held overnight in cramped conditions (e.g. cells of 6 to 7 m² at Málaga and Melilla Police Headquarters were being used to accommodate four detainees overnight, and a cell of 12 m² in the latter establishment was holding eight detainees overnight). Further, the state of cleanliness in many of the cells seen by the CPT's delegation left a great deal to be desired, and lighting and ventilation were poor.

The delegation also observed that some of the cells were very small. This was particularly the case at the Civil Guard Headquarters in Ceuta, where five of the six cells measured a mere 2.3 m², the other measuring 3.5 m². Cells of such dimensions are not suitable for use as overnight accommodation; however, they were being used for that purpose.

49. **The CPT recommends that the Spanish authorities establish standards for National Police and Civil Guard detention facilities in general. When establishing such standards, the following criteria should be taken into account:**

- **Cells should be clean, of a reasonable size for the number of people they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (for example, a chair or bench) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.**

- **Persons in custody should be allowed to comply with the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Those detained for extended periods (twenty-four hours or more) should, where possible, be offered outdoor exercise every day.**

Further, **the CPT recommends that the conditions of detention in National Police and Civil Guard establishments be reviewed, in the light of the remarks in paragraphs 48 and 49.**

- c. detained persons suspected of "body-packing"

50. The CPT is concerned by the manner in which cases of suspected body-packing were being handled in Ceuta. After a medical examination (and prescription of a laxative), the detainees in question were returned to a police/Civil Guard cell, where they would be required to stay until such time as they had discharged in a bucket the substances concealed within their body, a process which might take a considerable time. The cells were extremely small (2.3 to 2.5 m²) and, at the Police Headquarters, in a filthy condition. Further, while placed in the cell, the persons concerned were not monitored from a medical standpoint.

51. As was pointed out in the report drawn up after the second periodic visit to Spain, given the risks involved - namely perforation of the packaging of the substance resulting in acute poisoning or intestinal obstruction - persons affected by the body-pack syndrome should be placed under close medical supervision (cf. also CPT/Inf (96) 9, Part II, paragraph 177). **The CPT recommends that steps be taken to ensure that this is the case in Ceuta.**

Further, **the CPT recommends that steps be taken immediately to find alternative accommodation for such persons in Ceuta;** it is inadmissible for them to be held for lengthy periods in the police/Civil Guard cells currently used for this purpose.

52. More generally, **the CPT invites the Spanish authorities to review the precise techniques employed in such cases.** The body-pack syndrome by its very nature will engender a disagreeable situation for both the detained persons and law enforcement officials concerned. However, technical means are now available which are less debasing than defecating/vomiting in a bucket and picking out discharged objects by hand.

2. Army establishments

53. It should be said at the outset that the delegation heard no allegations of ill-treatment of persons detained by the Spanish military forces.

54. The CPT visited three military detention facilities in Melilla, namely the disciplinary units of the Infantry and the Legion and the remand detention facility of the Military Police.

The disciplinary units were used for severe disciplinary sanctions (detention between one and three months) while minor sanctions were served in the soldier's own barracks (i.e. in the form of an obligation to remain in the sleeping quarters or in a designated room during free time).

The remand detention facility was used to hold army personnel suspected of having committed a criminal offence, and detention could in principle last several months. However, the delegation was told that in cases of prolonged detention the person concerned would be transferred to a prison (be it a military or - more likely - a civil prison); this was confirmed by the records examined by the CPT's delegation.

55. The Disciplinary Unit of the Infantry (Regiment No. 52, Alfonso XIII Barracks) consisted of three cells, each measuring some 12 m² (including a sanitary annexe comprising a lavatory and wash basin), separate shower facilities, a mess, a room set aside for visits (by family and lawyers) and a patio. The cells had adequate lighting (including natural light) and ventilation. Every cell was equipped with four beds and several cupboards and, at the time of the visit, two cells were being used by two inmates each and the third by one detainee.

Conditions of detention were less good at the Disciplinary Unit of the Legion (Tertio Gran Capitán, Millán Astray Barracks). This establishment possessed two grill-fronted cells, measuring approximately 11 m²; each of them had a partitioned lavatory, and there was a separate shower facility. One of the cells (accommodating non-commissioned officers) was equipped with three beds, and the other (accommodating ordinary soldiers) with six. The former cell had artificial lighting and some access to natural light; the latter cell had no access to natural light and the artificial lighting was out of order. At the time of the visit, the unit was accommodating eight detainees.

56. Written information provided by military personnel of both the Infantry and the Legion indicated that generous out-of-cell time was foreseen at both disciplinary units, including participation in various activities (physical education, courses).

The detainees interviewed by the delegation confirmed that they were not locked in their cells during the day; however, they said that they spent most of the time idle in the patio/exercise yard or watching television in the mess, organised activities occupying only a very limited part of the day.

57. **The CPT recommends that the capacity of the army disciplinary facilities in Melilla be reviewed; the cells at the disciplinary units should preferably accommodate not more than two prisoners and never more than three. It is also recommended that the artificial lighting in the cell accommodating ordinary soldiers at the Legion be repaired.**

Further, **the CPT recommends that the Spanish authorities verify whether persons held in the disciplinary units are being offered appropriate activities.**

58. The Remand Detention facility of the Military Police was in an impeccable state of cleanliness and repair. The cells measured in the order of 8 to 9 m² and were equipped with one or two beds; at the time of the visit no one was being held in them. The two single occupancy cells were apparently designed to accommodate persons undergoing incommunicado detention; they were equipped with a lavatory and a wash basin, and had a solid door. The remaining cells had a grilled door which, according to information provided to the delegation, remained open during the day. The rest of the premises consisted of a room for visits by family and lawyers, a mess (unfurnished at the time of the visit, save for a television set), a sanitary annexe and a patio.

59. The delegation was informed that prisoners were offered at least two hours of outdoor exercise every day. However, it appeared that no other forms of organised activities were foreseen for persons held at the facility. In this connection, **the CPT would stress that if anyone were to be held in the facility for a prolonged period of time, he should be offered appropriate activities (work, sport, etc.).**

APPENDIX I

**SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION**

A. Treatment of illegal aliens

1. Ill-treatment in the context of expulsion procedures

recommendations

- police officers who are assigned the duty of removing from Spanish territory foreign nationals subject to an expulsion order to be reminded that any force used should be no more than is reasonably necessary and that it would be entirely unacceptable for foreigners subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as a punishment for not having done so (paragraph 11);
- current procedures to be reviewed, in the light of the remarks made in paragraph 11, second sub-paragraph (any provision of medication to persons subject to an expulsion order to be done on the basis of a medical decision and in accordance with medical ethics; to gag a person is a highly dangerous measure) (paragraph 11).

requests for information

- a copy of the video-recording made of the circumstances of the attempted expulsion of an illegal alien on 21 April 1997 (paragraph 8);
- the results of the investigations carried out into the circumstances of the June 1996 expulsions (paragraph 9);
- a full account of the authorised means of coercion in relation to the removal from Spanish territory of foreigners subject to an expulsion order (paragraph 11);
- the observations of the Spanish authorities on reports that persons expelled from Spain in recent times have been ill-treated or even died at the hands of law enforcement officials in the countries to which they were sent (paragraph 12);
- a detailed account of the precise practical steps taken by the Spanish authorities in order to ensure that persons are not returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (paragraph 12).

2. Detention Centre for foreigners in Málaga

recommendations

- the authorised capacities of the two units resulting from the division of the 100 m² dormitory to be reviewed (paragraph 16);
- the results of all medical examinations, as well as the relevant statements of the detained person concerned and the doctor's conclusions, to be fully recorded by the doctor and made available to the detainee (paragraph 19).

comments

- the Spanish authorities are invited to persist in their efforts to extend the range of activities offered to persons detained in the Centre (paragraph 17);
- a social worker could usefully be employed at the Centre (paragraph 18);
- a qualified nurse should attend the Centre on a daily basis (paragraph 19).

requests for information

- the comments of the Spanish authorities on the health care being provided to detainees at the Centre, and in particular on the somewhat widespread prescription of diazepam (Valium) (paragraph 19).

3. Places in Ceuta and Melilla where illegal aliens are accommodated

comments

- the Spanish authorities should endeavour to improve the living conditions of the illegal aliens accommodated in Ceuta and Melilla and, in particular, at La Granja Agrícola (paragraph 24).

B. Ceuta Prison

1. Ill-treatment

recommendations

- the prison's management to deliver the clear message to prison officers that the ill-treatment of prisoners is not acceptable and will be dealt with severely (paragraph 27).

requests for information

- copies of the reports drawn up following the forensic medical examinations of the prisoner who lodged a complaint with the supervisory judge concerning his alleged ill-treatment by prison officers on 19 November 1996 and, in due course, information on the outcome of that complaint (paragraph 26).

2. Conditions of detention

recommendations

- a high priority to be given to bringing the inmate population of Ceuta Prison into line with its new official capacity, as well as to improving material conditions of detention in the establishment (paragraph 29);
- a thorough examination of the means of improving the activities programmes at Ceuta Prison to be undertaken without delay and fuller programmes (including education, recreation and sports activities) to be introduced as the inmate population in the establishment is brought into line with its new official capacity (paragraph 31);
- appropriate steps to be taken to remedy the shortcomings observed in the laundry facilities and the kitchen at Ceuta Prison (paragraph 32);
- immediate steps to be taken to ensure that all inmates are offered at least one hour of outdoor exercise every day (paragraph 33).

comments

- cells measuring 8 m² or less should not be used to accommodate more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone). The larger cells at Ceuta Prison can be considered as acceptable for two prisoners; however, the CPT presumes that the objective of the Spanish authorities remains to comply in due course with the principle of single occupancy (paragraph 29).

3. Other issues of relevance to the CPT's mandate

- a. health care service

recommendations

- the vacant posts of two psychologists and a nurse to be filled without delay (paragraph 34);
- steps to be taken to ensure that someone competent to provide first aid is always present on the prison's premises, preferably a person with a nursing qualification (paragraph 34);

- dental care for inmates at Ceuta Prison to be reviewed (paragraph 35);
- appropriate steps to be taken to ensure that prisoners taken to hospital in Ceuta are not physically attached to their hospital beds or to other items of furniture for custodial reasons (paragraph 37).

comments

- all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of prison officers (paragraph 36).

b. segregation

recommendations

- the situation of inmates in Ceuta Prison who are subject to the restrictive regime provided for in Article 10(3) of the General Organic Law on Prisons to be immediately reviewed, in the light of the recommendations made in paragraphs 113 and 114 of the report on the 1991 visit (in particular, material conditions of detention of those prisoners to be clearly better than those of a prisoner undergoing solitary confinement as a punishment; such prisoners to be provided with purposeful activities) (paragraph 39);
- the Spanish authorities to verify that the recommendations made in paragraphs 113 and 114 of the report on the 1991 visit are being applied in other prisons in Spain (paragraph 39).

comments

- all disciplinary sanctions imposed at Ceuta Prison should be properly recorded (paragraph 40).

requests for information

- full details of the decision-making procedure as regards the placement of prisoners in the segregation unit on the basis of Article 75 of the Prison Rules and of the procedural safeguards offered to such prisoners (information on the reasons for the placement; right to be heard; right to have the decision reviewed by an appropriate authority) (paragraph 40).

c. inspection procedures

recommendations

- the supervisory judge competent for Ceuta Prison to view the whole of the establishment's premises in the course of his visits and to enter into direct contact with both prisoners and prison staff (paragraph 42).

d. information for prisoners and visiting facilities

recommendations

- all newly admitted prisoners to be supplied with information on the regime in force in the establishment and on their rights and duties, in a language which they understand (paragraph 42);
- steps to be taken to overcome the difficulties for prisoners and visitors to make themselves heard in the visiting booths at Ceuta Prison (paragraph 44).

comments

- it would be useful if a description of the main features of the prison's regime, a list of prisoners' rights and duties and an outline of the avenues of appeal open to them were to be posted on prison notice boards, in an appropriate range of languages (paragraph 43).

e. execution of sentences in the prisoners' original social environment

requests for information

- further information concerning the criteria currently being applied for the distribution of prisoners in general, and more particularly those accused or convicted of offences related to terrorism (paragraph 46).

C. Other establishments visited

1. National Police and Civil Guard establishments

a. ill-treatment

comments

- law enforcement officials should receive appropriate training, and senior law enforcement officials should deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be dealt with severely (paragraph 47).

b. material conditions of detention

recommendations

- standards to be established for National Police and Civil Guard detention facilities in general. When establishing such standards, the following criteria should be taken into account:
 - . Cells should be clean, of a reasonable size for the number of people they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (for example, a chair or bench) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.
 - . Persons in custody should be allowed to comply with the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Those detained for extended periods (twenty-four hours or more) should, where possible, be offered outdoor exercise every day (paragraph 49);
- conditions of detention in National Police and Civil Guard establishments to be reviewed, in the light of the remarks set out in paragraphs 48 and 49 (paragraph 49).

c. detained persons suspected of "body-packing"

recommendations

- steps to be taken to ensure that persons affected by the body-pack syndrome in Ceuta are placed under close medical supervision (paragraph 51);
- steps to be taken immediately to find alternative accommodation for persons affected by the body-pack syndrome in Ceuta (paragraph 51).

comments

- the Spanish authorities are invited to review the precise techniques employed in connection with the discharge and recovery of substances concealed within a person's body (paragraph 52).

2. Army establishments

recommendations

- the capacity of the army disciplinary facilities in Melilla to be reviewed; each cell at the disciplinary units should preferably accommodate not more than two prisoners and never more than three (paragraph 57);
- the artificial lighting in the cell accommodating ordinary soldiers at the Legion to be repaired (paragraph 57);
- the Spanish authorities to verify whether persons held in the disciplinary units are being offered appropriate activities (paragraph 57).

comments

- if anyone were to be held in the Remand Detention facility of the Military Police in Melilla for a prolonged period of time, he should be offered appropriate activities (work, sport, etc.) (paragraph 59).

APPENDIX II

LIST OF AUTHORITIES WITH WHICH THE DELEGATION HELD CONSULTATIONS

Ministry of the Interior

Mr Rafael Ramos Gil	Technical General Secretary
Mr José Ramón Onega López	Director General of Interior Policy
Mr Angel Yuste Castillejo	Director General of the Prison Service
Mr Francisco Javier Nistal Burón	Deputy Director General (Management of Prison Services)
Mr Manuel Pérez Gómez	Deputy Director General (Foreigners)
Mr Antonio Cerrolaza Gómez	Deputy Director General (Institutional relations and reports)
Mr Felipe del Pozo Blanco	Head of the Private Office of the Director General of the Police
Mr José Félix López Araujo	Advisor to the Director General of the Civil Guard

Ministry of Defence

Mr Arturo Arregui Asta	Brigade General, Head of Intelligence Division
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Ministry of Justice

Mr Francisco Javier Borrego Borrego	State Advocate, Head of the Legal Service and responsible for relations with the European Commission and European Court of Human Rights
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Others

Mr Emilio Atienza Vega	Head of the Technical Office, Delegation of the Government in Melilla
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