

# **Response of the Spanish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Spain from 21 to 28 April 1997**

The Spanish Government has requested the publication of the CPT's report on its visit to Spain from 21 to 28 April 1997 (cf. CPT/Inf (98) 9) and of its response. The response of the Spanish Government is set out in this document.

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## **Ministerio del Interior**

With reference to the document sent by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter called CPT) on the visit carried out by a Delegation to the cities of Malaga, Ceuta and Melilla between the 21st and 28th days of April of this year, this Ministry wishes to issue the following report on this respect.

## **A - TREATMENT OF ILLEGAL ALIENS**

### **1 - Procedures for the expulsions of aliens from Spanish territory.**

In the first place, we feel appropriate to point out that incidents produced when carrying out the expulsions of aliens from Spanish territory incidents are minimum.

Focusing on the specific place where the CPT Delegation carried out the investigation, we can state that, during the year 1997, the Provincial Brigade of Aliens and Documentation of Malaga has expelled more than 300 aliens citizens with no more incidents taking place than those incurred by five Senegalese citizens to whom reference is made in the CPT document.

Nevertheless, the Spanish authorities have proceeded to stress to members of the Security Corps and Forces the need to apply in the expulsion act to an alien bearing resistance, only those measures of physical compulsion that may be absolutely necessary and in proportion to the circumstances, and always within the respect of the constitutional rights.

### **2.- Expulsions of aliens that were in Melilla in the month of June 1996.**

Both the expulsions as well as the devolutions of illegal aliens residing in Melilla in June 1996, were carried out in accordance with the provisions of the existing Spanish legislation regarding aliens.

In this sense, Article 30 of the Organic Law 7/1985, of 1st July, about Rights and Freedoms of Aliens in Spain, as well as Article 107.1.d) of its Implementation Rules approved by Royal Decree 155/1996 of 2nd February, provide that the expulsion resolution in the cases established in paragraphs a), c) or f) of Article 26.1 of the mentioned Organic Law (illegal stay, implication in activities against law and order or lack of legal living resources) shall be immediately implemented.

As far as devolutions, Article 123.3 of the referred Rules establishes that foreigners that are in situation of devolution, in the terms of the first paragraph of that same article, should abandon immediately the Spanish territory.

It is important to stand out that none of the expelled aliens was an applicant of asylum. On the specific case of a Cameroonian, he had previously applied for asylum at the Police Headquarters in Melilla, but processing of this application was rejected on 5th June 1996.

Regarding to the manner in which the operation as a whole was carried out, as well as about identities and nationalities of these foreigners, it must be pointed out that:

I - On 21st June 1996, at 1.30 hours, a group of 42 Subsaharians arrived at the Malaga Airbase, having gone through the established expulsion proceedings in Melilla and who, prior judicial authorization, were put into the Aliens Internment Centre of Malaga and in the Eurolatinoamerican Youth Centre of Mollina, distributed in the following manner:

- 14 at the Malaga Foreigners Internment Centre
- 28 at the Eurolatinamerican Youth Centre of Mollina:

On the same date 21st June, at 18.30 hours, the 33 foreigners, against whom a devolution order had been dictated, as provided by Article 36.2 of the Organic Law 7/1985, and Article 123 of the Implementation Rules, arrived at the Malaga Airbase. On this specific instance they were transferred to the offices of the Malaga Provincial Police Headquarters where they remained detained until they left for their further destiny, the maximum term established by the existing legislation never being exceeded.

The following day 22nd June at 5.00 hours, one last group of foreigners arrived at the Malaga Airbase, 17 of whom had an expulsion order in force, with an order of devolution against the other 11 having been dictated. These foreigners were retained, under the police vigilance and custody at the Airbase until they left, four hours later destination to the Gando Base, in the Grand Canary.

II- The destination countries of the referred foreign citizens were the following:

- 32 foreigners sent destination Cameroon

- 21 from Cameroon
- 5 from Guinea Conakry
- 4 from Rwanda
- 1 from Togo
- 1 from the Central African Republic

- 21 foreigners sent destination Mali, all of them from Mali.

- 24 foreigners sent destination Senegal.

- 15 from Zaire
- 5 from Senegal
- 3 from the Ivory Coast
- 1 from Mauritania

- 28 foreigners sent destination Guinea-Bissau

- 19 from Nigeria
- 7 from Liberia
- 1 from Angola
- 1 from Guinea

As far as the group of foreigners transported to Guinea-Bissau, the Government of this country agreed to identify, to document and to send the foreigners to their real countries of origin, although, as was further learned, this action was not initiated immediately. Therefore, as soon as the Ministry of Interior was aware that one of these foreign citizens had died and that the departure of these people to Guinea-Bissau had not taken place, an officer was sent to this country to get acquainted with the situation.

In view of that and after the efforts carried out by the Spanish authorities, on 16th October, 23 Nigerian citizens departed to Lagos, and on 23rd October the rest were prepared and documented in Guinea-Bissau to leave immediately. Meanwhile, another five foreigners, four Liberians and one Rwandese, were offered the alternative to legalize their situation in Guinea-Bissau or to pass at the disposal of the High Commissioner of the United Nations for Refugees.

### **3.- Incidents on the expulsion of five Senegalese citizens in Malaga.**

During the month of March 1997, 12 citizens from Senegal entered at the Detention Centre for foreigners in Malaga. One of them entered said Centre on 13th March 1997, under the Order of the Linares Magistrates Court number 3. His expulsion had been decreed by the Civil Government of Vizcaya on 2nd December 1994 and notified on 13th December. We would like to underline that this citizen was duly documented by the General Consulate of Senegal in Madrid.

In the month of April of this year it was envisaged to carry out the expulsion of these 12 Senegalese citizens. However, strong resistance was opposed by five of them, thus preventing to carry out the operation..

Specifically, the above referred foreigner was to be expelled from the national territory on 11th April 1997, but due to the strong resistance and aggressiveness shown by him it was impossible to accomplish it, thus being remanded at the Malaga Detention Centre for foreigners. Due account of this incident was given to the Magistrates Court number 11, of this city.

Apart from the referred Senegalese citizen, who was taken care of by the Health Provincial Unit Chief medical doctor of the Provincial Police Headquarters of Malaga, who noticed "a wound in the lower lip and psychomotor agitation of a light nature", injuries resulted also as a consequence of these incidents, for another three agents of the National Police Corps, in whom the doctor perceived the following injuries:

- agent nº 1: "mouth and nose traumatism, as well as nosebleeding and loss of four dental units".
- agent nº 2: "painful abdominal traumatism".
- agent nº 3: "traumatism in both upper limbs, presenting haematoma in the internal surface of the right arm, as well as erosions on the left carpal area".

The detainee was later on transferred to the Carlos Haya Hospital of the referred town, where the same above injuries were perceived as well as a not medically treated old fracture of the fifth metacarpal of the right hand.

On 21st April 1997 expulsion of the mentioned detained Senegalese citizen was intended again, in compliance with the provisions of the Order of this same date from the Malaga Magistrate Court nº 11, the operation being prevented by the aggressiveness and resistance shown by the detainee. It was necessary to render him sanitary assistance to avoid his

self-inflicting injuries and the causing of even more serious injuries to the police agents, all the above with due judicial authorization under which custody he was.

As a consequence of these new incidents, the corresponding inquiry was open, which was sent to the Málaga Magistrate Court nº 9, the detainee entering in prison and remaining in custody.

From the above facts, it may be concluded that the above Senegalese citizen entered the Malaga Detention Centre for foreigners with due judicial authorization and that his expulsion, which presented no obstacle, since he was documented by the consular authorities of his country, could not be carried out because of the strong resistance and aggressiveness he opposed.

Regarding the police inquiry opened as a consequence of the resistance put forward by the five foreigners that could not be expelled, three different Malaga Magistrate Courts had the competent jurisdiction, and agreed to their imprisonment.

Against the five detainees, new expulsion proceedings were instituted.

#### **4.- Means of coercion in relation to the removal from Spanish territory of foreigners subject to an expulsion order.**

The means of coercion used by the agents of the State Security Corps and Forces to carry out the expulsion of foreign citizens are those reasonably necessary to place a person in a plane if displaying slight resistance, and these methods normally consist of the use of irons and those physical compulsion measures that maintain respect for the constitutional rights.

Should the behaviour alteration be serious, the Judicial Authority is informed in order that it may authorize, if necessary, the administration of tranquillizers under medical supervision, to prevent that the violent attitude of the person concerned may be detrimental for himself or for third parties.

#### **5.- Means adopted by Spanish Authorities in order to insure that people are not returned to a country where they may run the risk of being submitted to torture or inhuman treatment or punishments.**

In cases where, as a consequence of serious conflicts or disturbances of political, ethnic or religious nature, a person may have been forced to abandon his country and does not fulfill the conditions for the granting of the refugee status, the stay in Spain of a foreigner is authorized by Spanish Rules on Asylum and Aliens by humanitarian reasons and public interest. In any case, the rejection or expulsion of the party concerned will not imply the non-fulfillment of the obligation established in the first paragraph of Article 33 of the Geneva Convention about the Refugee Statute, as will not imply sending the foreigner to a third State in which he may lack effective protection against the devolution to the pursuing country, in accordance with the mentioned Convention.

Spain does not expel a foreigner to a country other than his own and always supplied with the corresponding documentation. Expulsion of foreigners is never done to those countries where they may expect to suffer tortures or may be subject to persecution. In this sense, the Ministry of Foreign Affairs recommends not to carry out expulsions to those countries where a war conflict exist.

Thus, those persons who are going to be expelled from Spain, if they consider that they may be object of persecution or torture in the country to which they are going to be expelled, they may apply for asylum. Their applications are examined by the Interministerial Commission of Asylum and Refuge that, even if asylum is not granted, may recommend that the applicant is not expelled on account of the existence of causes as those expressed, and that he may even be authorized to reside in Spain, under the provisions of Article 17.2 and 3 of the Law 5/1984 of 26th March, regulating the Right of Asylum and of the Status of Refugee, under the new wording given to the same by Law 9/1994, of 19th March.

#### **6.- Detention Centre for foreigners in Malaga**

At present, this is the only Detention Centre for foreigners existing in Andalusia. It has a maximum capacity of 63 men and 12 women. It is divided in seven modules, pending remodelation to be performed with a prospective investment of 20 million Pesetas. This will mean a series of improvements in the facilities, that will mainly affect the independence of the venue dedicated to women.

The health assistance at the Malaga Detention Centre is carried out by the medical doctors of the Health Service Provincial Unit.

At the mentioned Centre there is a protocol of a medical follow-up of prisoners, according to which follow-up cards have been created, in which it is stated the filiation and identification data of the inmates, those of the medical doctor responsible of the assistance, the signs and symptoms presented by the patient, the diagnosis and the treatment prescribed.

The data of this card is transferred to another one in which it is stated, apart from the nationality, the registered number of entry at the Centre, the module where he is staying, and the prescribed medicines, included the prescription orders day by day.

At the present time a new regulation is being elaborated, which will rule the Detention Centres for Foreigners, in which the possibility exist that the inmates in these centres are delivered a medical report on their situation.

As far as the reference of the CPT document is concerned on the somewhat widespread prescription of diazepam (Valium) it must be pointed out that the prescription of any pharmaceutical product is done by the doctor in charge of health services of the Centre, and the existence of a widespread prescription of this medicine cannot be affirmed.

### **7.- Living conditions of foreigners accommodated in Ceuta and Melilla and in particular at the Granja Agrícola.**

The Centres where Subsaharian and Maghreb immigrants in Ceuta and Melilla are accommodated, Calamocarro Camp, Granja Agrícola and the Lucas San Lorenzo Centre respectively, have been the object of improvements and reforms of their facilities during the present year.

In this context, at the Calamocarro Camp, the 16 military canvas tents where immigrants used to be accommodated that were deteriorated and in poor condition have been replaced. Besides, 5 additional tents have been installed to receive the rest of foreigners present at the Camp, 170 Subsaharians and 80 from the Maghreb.

Recently, the area of the dining room has been rehabilitated as well as the sections of rubblework which have been subject to perfect conditions of habitability (roofs, renovation of walls, granite floors, etc.)

The Camp has 17 light spots, lighting inside the tents and rubblework facilities, as well as 21 water closets, 20 showers and 16 washbasins.

Likewise the facilities of the Granja Agrícola have been improved by means of the supply of different material (water closets-hygienics modules, trays, mattresses, etc.)

During the month of July several steps have been taken in Melilla as far as cleaning, disinfection, painting and conditioning of the Granja Agrícola, as well as the installation of some tents to be used as dining-room, gathering and leisure room. Also some improvement has been experienced in the health assistance, food for the inmates and the establishment of a diet that may take into account the religious beliefs of foreigners.

On the other hand, in Melilla, the creation and conditioning of a new Centre for Subsaharians and Algerians is being considered. The Autonomous City will provide and prepare the appropriate land, with a minimum of 2.000 square metres. The supply of water closets-hygienics modules, administration and nursing modules (including reception, health assistance, office for the NGOs, security, and administration personnel from INSERSO) dining-room module and accommodation module are also anticipated.

The conditioning of the Calamocarro Camp (oxidation pond, new kitchen area, new bedroom, etc) and the improvement of the sanitary system is being considered for Ceuta.

Notwithstanding the above, it is important to point out that not all the immigrants staying in Ceuta and Melilla are accommodated at the mentioned Centres neither they always remain at these places, since entrance and departure of foreigners from them is daily and constant.

Many of the foreigners that are in these cities, go in the first place to the Calamocarro Camp or to La Granja, but once some time is elapsed, on their own will and for different interests they move to another point in the city or to other places.

In general, they further make their way to the Police Headquarters of that town to initiate their bureaucratic process of their papers.

## **B. CEUTA PENITENTIARY CENTRE**

### **1. Ill Treatment**

At this stage it seems interesting to underline that the CPT delegation in due time expressed that ill treatment to inmates had not been evidenced in this prison.

However, an specific case is mentioned in the document in which an inmate denounced to have been kicked and punched on 19th November 1996.

The Prison Authorities were informed by the Management of the Penitentiary Centre that an inmate apparently had an argument with an officer of the Ceuta prison, for which reason, on the following 22nd November the start of a secret information inquiry was agreed upon, while the facts were informed at the Ceuta Magistrate Court N° 4.

Since the inquiries performed by judicial authorities, prevail over those carried out by the Administration itself, the secret information inquiry duly initiated at the Penitentiary Administration is presently immobilized and will continue so until the competent judge finishes with the inquiries, at which time the administrative investigation will resume subject to, in any case, to the conclusions arrived at by the judicial authority.

Of all the above and in accordance with the provisions of Article 72 of the Penitentiary Regulations, approved by Royal Decree 190/1996, of 9th February, the competent Penitentiary Supervisory Judge was duly informed.

After the referred facts, the inmate was examined by the medical service of the Penitentiary Centre, a medical report being issued where it was checked the existence of a haematoma on the right eye area, predominating the lower palpebra and conjunctival injection, scratch and discreet inflammation in the back area of the nose and scratch and erythema area of approximately six centimetres on the back, at the level of the left lumbar area.

It is also recorded the sick leave report of the officer involved in the incidents, which started on 20th November 1996, since he was diagnosed a bruise in the rotula.

Both the inmate and the prison officer presented mutual complaints before the judicial authority, which are still pending of resolution.

On a different note and in relation to the general appreciation carried out by the CPT Delegation about the non-existence of "an appropriate administrative control by the supervisory personnel at the Ceuta Penitentiary" it was indicated to the mentioned Delegation during the visit of 14th April, that some days before a new Director had been appointed, who was given the responsibility to take a series of steps in order to solve the evidenced deficiencies. These measures, as the months elapse, have started to bear results which can be appreciated as follows.

### **2.- Conditions of detention**

#### **2.1.- Prison Population**

In this field, as we said before, a great effort has been made by the penitentiary authorities in order to solve the overcrowding of inmates in the referred prison. Thus, on 25th April 1997, that is to say the second day of the CPT Delegation visit, there were 353 inmates in the prison, 323 men and 30 women. However, on the 18th of July 1997, the Centre population had been sensibly reduced, the inmates being 285, with 255 men and 30 women.

This implies that in the month of July 68 inmates had been admitted in the Centre, less than at the time of the visit of the Delegation, to which it must be added the decrease in the number of entries in the Ceuta prison population, since part of the newly admitted are transferred to other prison centres , mainly those of Seville II, Jaen, Almeria, Ocaña II and El Dueso.

In this context, we cannot overlook the fact that the Prisons Administration worked out a Plan of Infrastructures which has already initiated its procedure, and which objective, as far as the number of prison population is concerned, is to provide the Centres with sufficient number of places, as well as to renew the facilities. Specifically, in the geographic area of the

South of the Peninsula the construction of a Penitentiary Centre in Algeciras and another one in Cordoba are anticipated, apart from the recent start-up operation of the new Penitentiary Centre of Granada.

Therefore, little by little the objective of the Spanish authorities to comply with the principle of "individual occupation" is taking shape, except in cases of temporary scarcity of places or due to reasons of treatment, as provided by the penitentiary regulation (Article 19 of the Organic Law 1/1979, of 26th September, Penitentiary General, and Article 13 of Prison Regulations)

## 2.2.- Program of activities

The development of the programs of activities in the Ceuta prison is subject to the existence of certain human resources, responsible of its implementation.

At this time the following people are working at the prison: a Treatment Subdirector (Psychologist), two Educators, a Prison Institutions Teacher, two Social Workers, a Sports Supervisor and an Occupational Supervisor, apart from a Lawyer and a Psychologist in practice, who will shortly be incorporated as permanent personnel. To cover the vacant positions the required contests will be held, after which the positions now vacant of one Educator, one Teacher and one Psychologist are expected to be filled in.

## 2.3 Laundry and kitchen facilities

The CPT Delegation states in its document that both the laundry and the kitchen are small for the number of prison inmates. However, something has improved from the time of the visit, since the number of inmates decreased notoriously, as we have pointed out above, and although the service offered by these facilities, cannot be compared to a more modern prison, it is somehow better now for being less crowded.

As far as the refrigerator being out of order, this piece of equipment has been repaired, although it must be indicated that the refrigerating chambers have been continuously in operation and that the refrigerator, which the CPT document makes reference to, is the one used to keep, for a short period of time, the products taken out from the refrigerating chambers to be cooked later on.

## 2.4 Possibility for inmates to enjoy the yard in their first day of entrance in prison

As a general rule the inmates can enjoy certain time in the patio, although it is true that on occasions this possibility may not have been offered in order that in said patio inmates having incompatibilities could mix.

In spite of the above, it should be put on record that the maximum period of stay in the entrance department is of 24 hours and that whenever is possible this maximum term of stay is shortened, during which time the inmates are interviewed by the different professionals, following the penitentiary rules.

## 3. Other relevant issues

### 3.1 Health-care service

At this time the health-care service staff is the following: a Head of Medical Services, a physician, two ATS/DUE and one Nursing Assistant. The morning and afternoon hours are distributed among this staff in order to provide sufficient coverage to the prison, apart from the medical duty hours in case of urgencies. The incorporation of one more physician and another ATS/DUE is pending.

### 3.2 - Dental care

Apart from the above mentioned personnel, there is a dental officer that gives specialized attention to the inmates in accordance with the provisions of Article 208 of the Prison Regulations, establishing that medical and health-care attention given to the inmates must be equivalent to that provided to the rest of citizens. Given the fact the Spanish Social Security System considers covering only the dental extractions, this same coverage is also given to the inmates.

However, there is a possibility that certain complementary benefits for the Administration account may be obtained, specifically the taking of moulds and acrylic prosthesis and other removable ones, including its construction, subject to the inmates' lack of economic possibilities to pay for this service.

### 3.3 - Medical examination

As a rule the medical consultation is conducted observing respect for the right of privacy of the patient and confidentiality with the doctor. However, the case may be when, due to safety reasons for the health care staff, it may be absolutely necessary the presence of a supervisory officer.

### 3.4 - Custody in hospitals

As far as the recommendation that prisoners taken to the Ceuta hospital may not be physically attached to their beds or other items of furniture for custody reasons, this Department has no evidence that this situation is generalized.

However, the policy followed by the Spanish authorities for the construction of custody areas in public hospitals, not only makes it easier the medical attention to the inmates reducing the inconveniences for the users and staff, but saves the number of custody agents and, more important, prevents situations as those described in the CPT document.

### 3.5- Application of Article 10 of Law 1/1979, of 26th September, Penitentiary General.

The mentioned article establishes the possibility that certain inmates extremely dangerous or unadjusted to the living regulations, may be destined to special departments. On the other hand, Article 93 of the Prison Regulations establishes the rules to which the referred departments way of life must be adjusted to, consisting in the limitation of out-of-cell hours, the need to let them out-of-cell in very small groups, etc.

Likewise, the regulation of the isolation sanction establishes also limitations in the out-of-cell hours, and a living regulation that in certain aspect resembles quite a lot that of special departments, in such a manner that the way of life of an isolated inmate and of a special department inmate are similar in many aspects. Besides, the isolation sanction is also applicable - such as the living regulation of special departments - in cases of inmates giving proof of an aggressive and violent conduct and continuously and seriously disturbing the normal life of the Centre, as provided by Article 42.4 of the referred Organic Law.

### 3.6 - Application of Article 75 of Prison Regulations, approved by Royal Decree 190/1996 of 9 February.

The possibilities to impose certain restrictions in the living regulations of an inmate to ensure his own safety and the good order of the establishment are included in the mentioned Article 75, which limitations may take place either at the request of the inmate, or at the initiative of the Penitentiary Centre Director. In any case the Regulations clearly establish and guarantee the obligation to account for to the Supervisory Judge any of these restrictions, in order that such judicial authority may be aware of the case and may take decisions accordingly if deemed appropriate, apart from the always existing possibility that the inmate may appeal against any administrative decision to the judicial authority at the time he considers it appropriate. Likewise, it must be born in mind that in almost all cases in which this article is applied it is at the inmates own request.

### 3.7 CPTs' recommendations to the Prison Supervisory Judge.

In relation to the recommendation addressed to the Supervisory Judge on the convenience that, at the Ceuta Prison, he may "view the whole of the establishments' premises in the course of his visits and enter into direct contact with both prisoners and prison staff", the Administrative Authorities are not allowed to perform any sort of statement of appraisal, as provided by Article 117 of the Spanish Constitution, establishing that Judges and Magistrates of the Judiciary are independent and subject only to the rule of law. Consequently, the Administration, as an extension of the Executive Power, should not intrude in the acts of the Judicial Power, this being a power independent from the former.

### 3.8 - Information for the inmates

In the Ceuta Prison Centre library several copies of the prison rules are available for the inmates. This information is supplied in Spanish, Arabic, French, English and German, with the aim that almost the total prison population may have access to it at any time.



However, it may be true that on certain occasions there are inmates who do not know any of the mentioned languages, although these cases are infrequent, and there is always the possibility to be assisted by the different consular officers who frequently visit them at the Centre.

Additionally, there is staff -in particular the educators- whose work focuses mostly in the punctual transmission of information to the inmates.

Finally, and in relation to the possibility pointed out by the CPT to use the prison notice boards, there is great experience of the lack of effectiveness of this method, since the information displayed in walls or boards remains there shortly, being pulled out by the inmates themselves.

### 3.9 - Serving of sentences in the prisoners social environment

The serving of sentences close to the social-family environment is important in the process of achieving the resocialization of the inmate, but the social reinsertion objective is not exclusively reduced to the location of the inmate in a particular Centre.

The distribution of inmates in different Prison Centres obeys to a combination of factors, among them: the classification level assigned to the inmate, the living regulation that such level implies; the available infrastructures; the procedural situation of the inmate, as well his/her age and sex.

To combine all the above factors and others which the prison regulations make reference to, may require the destination of inmates to particular Prison Centres that are not always within the social-family environment of the prisoner.

However, the Spanish Penitentiary Administration endeavours, as much as possible, to fulfill the objective of supplying all Spanish regions with the necessary penitentiary infrastructure that may respond to the demand of the prison population generated by each region. Thus, since 1991 a Plan of Infrastructures has been implemented with the inauguration of 10 new Centres, other six Centres are pending to be opened in the next few months and another 7 Centres are projected for the next years.

One of the geographic areas particularly affected by the construction of these new penitentiary infrastructures is the area of Andalusia, where the Huelva and Granada Centres were recently inaugurated and where it is anticipated to construct also the Cordoba and Algeciras Centres, which undoubtedly will permit to respond to the demands of the city of Ceuta.

### 3.10 - Criteria currently being applied for the distribution of prisoners in general, and more particularly those accused or convicted of offences related to terrorism.

Article 63 of the Organic Law 1/1979, a precept on which the legality of the administrative action on inmates distribution is based, provides different criteria to adopt the decision of the treatment degree, the living rules to be applied to the inmate and his destination to the relevant Prison Centre. These criteria are taken into account to determine the destination of the inmates of the terrorist sector.

The explanation of the penitentiary policy on the subject of territorial distribution of the terrorist sector is based on the individual treatment advised by the procedural, prison, and personal situation of each prisoner of this sector.

This tutelary distribution is aimed at the prisoners right to separate himself from the directives of the terrorist organization, making more simple his social insertion, which constitute the right of every inmate, although to achieve it he may have to serve his sentence at a Prison Centre outside his original region.

## **C. OTHER ESTABLISHMENTS OF THE NATIONAL POLICE CORPS AND OF THE CIVIL GUARD VISITED BY THE CPT DELEGATION.**

### **1.- Suspected ill-treatment**

In the different training centres of the Security Corps and Forces teachings are imparted to the prison officers, whatever their scale or rank, about detention, which is examined from a juridical and operative point of view studying also the psychological factors that intervene on it.

Teaching activities are also carried out during the training periods, aiming at sensibilizing the police officers in the respect to human rights.

On the other hand, the police officers are aware of the penalties established by the Criminal Code for torture crimes and of the responsibility, within the disciplinary scope, derived from ill treatment or humiliation to persons under their custody.

## **2 - Material conditions in the cells of the police establishments**

Cleaning of the cells is daily done by the cleaning company who has the service contract awarded.

The introduction of chairs or banks in the cells is not considered because of the security problems that this measure would create. However, the inside structure of the cells, with the inclusion of a piece of masonry work more than half a metre high, makes up for the absence of pieces of furniture.

As far as ventilation of the cells of the Melilla Police Headquarters is concerned, the award of a construction contract is pending for the works projected for the present year, which include the installation of a ventilation system in all and each one of the cells.

As regards lighting of the cells, the way to enhance it is under study.

## **3 - Search of persons suspected of "body-packing" of drugs**

One of the specific obligations of the Security Corps and Forces established by Article 282 of the Criminal Justice Law and in Article 4 of Royal Decree 769/1987, of 19th July, of the Police of the Judiciary, is to discover the public offenses committed in their territory, to practice, within their competences, the necessary proceedings to verify them, and to gather all effects, instruments or proofs of the crime, liable to disappear, placing them all at the disposal of the Judicial Authority.

The transport of stupeficients presents a high incidence, mainly in Ceuta. The short time taken by the journey from Ceuta to Algeciras and its low cost, propitiates that persons with few economic resources in the area of Campo de Gibraltar and bordering provinces, may trade with stupeficient substances by means of the ingestion or rectal introduction of portions of Hachis, so that, hidden in their bodies, may pass unnoticed through the anti-drug control at the frontier.

The Special Office for the Prevention and Repression of Drugs Illegal Trade dictated the 14th November 1988 order by which the acting of agents of the Police of the Judiciary is regulated in customs venues respect to persons suspected of body packing of drugs.

The detainee, suspected to carry drugs inside his body, remains permanently under police vigilance and control. This monitoring, apart from the aim to avoid the disappearance of the corpus delicti, is aimed at safeguarding the health and physical integrity of the bearer, who may be transferred to a medical centre if any symptoms are noticeable that he may be affected by the drug.

Specifically, at the Ceuta Police Headquarters a procedure was sought that might be both efficient to recover the drug and clean for those that have to recover it, and was designed to this end with the company in charge of maintenance of the police buildings. However, such procedure did not work out, thus some method that

may safeguard the dignity of both the authority agents, and that of the individual transporting the drug in the cavities of his body is yet to be found.

Madrid, 7 th november 1997

THE TECHNICAL GENERAL  
SECRETARY

RAFAEL RAMOS GIL

