



CPT/Inf (2013) 8

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 19 to 22 June 2012

The Spanish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2013) 9.

Strasbourg, 30 April 2013

CONTENTS

Copy of the letter transmitting the CPT’s report.....3

I. INTRODUCTION.....4

II. BARCELONA PRISON FOR MEN (LA MODELO).....5

1. Preliminary remarks5

2. Overcrowding5

3. Ill-treatment7

4. Means of restraint8

5. Conditions of detention11

6. Health care12

7. Other issues.....14

 a. discipline and special regime department14

 b. complaints15

 c. foreign nationals.....16

APPENDIX:

List of the CPT’s recommendations, comments and requests for information17

Copy of the letter transmitting the CPT's report

Mr Juan Antonio Puigserver Martinez
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Ministry of the Interior
Amador de Los Rios N° 5
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Strasbourg, 27 July 2012

Dear Mr Puigserver Martinez,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I 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) following its visit to Spain from 19 to 22 June 2012. The report was adopted by the CPT at its 78th meeting, held from 2 to 6 July 2012.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Spanish authorities to provide within **three months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Spanish authorities to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

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

Yours sincerely,

Lətif Hüseyinov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Copy: Mr Fernando Alvaronzález, Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Spain to the Council of Europe

Mr Antonio Cerrolaza Gómez, Deputy Technical General Secretary, Ministry of the Interior

I. INTRODUCTION

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 19 to 22 June 2012. The visit was one which appeared to the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention). The delegation included the following members of the CPT: Celso Das Neves Manata, Head of delegation (Portuguese), Andres Magnusson (Icelander) and Olivera Vulić (Montenegrin). They were supported by Hugh Chetwynd (Head of Division) of the CPT's Secretariat, and assisted by Ines Caravia (interpreter), Danielle Gree (interpreter) and Felix Ordeig Cole (interpreter).

2. The objective of the visit was to examine the current treatment and conditions of detention of persons held in the Barcelona Prison for Men (“La Modelo”), taking due account of the recommendations made by the CPT in its previous visit reports concerning this establishment.

3. The co-operation provided by the Catalan authorities during the visit was excellent; the CPT’s delegation was able to have rapid access to all areas of La Modelo Prison it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to talk. In particular, the delegation appreciated the assistance provided by the CPT liaison officers, both in Madrid and Barcelona.

The principle of co-operation set out in Article 3 of the Convention also requires that decisive action be taken, including at the highest political level, with a view to improving the situation in the light of the Committee’s key recommendations. In this respect, two of the CPT’s longstanding key recommendations which have yet to be implemented by the Spanish and Catalan authorities concern the conditions of detention at La Modelo Prison and the resort to fixation of prisoners. The Committee urges the Spanish and Catalan authorities to take concerted action to address these issues, in the light of the recommendations contained in the current report, and in accordance with the principle of co-operation.

4. In the course of the visit, the CPT’s delegation held consultations with Ramon Parés Gallés, Director General of Prisons, Department of Justice of the Generalitat de Catalunya. The delegation also met Rafael Ribo I Masso, the Catalan Ombudsman, and held discussions with representatives of non-governmental organisations active in areas of concern to the CPT.

II. BARCELONA PRISON FOR MEN (LA MODELO)

1. Preliminary remarks

5. La Modelo Prison, located in the centre of Barcelona, is the main remand prison in Catalonia. It was built in 1904 and has a radial design with six wings (known as Galleries); in addition, it has a small unit of some 20 places for prisoners over 65 years of age and an open section for 120 inmates who spend their days outside the prison but who sleep in the establishment from Monday to Thursday every week.

With an official capacity of 1,100, the prison was accommodating 1,781 inmates at the time of the visit, of whom more than 1,000 were on remand.

6. In several previous visit reports to Spain, dating back to 1994, the CPT has underlined the deleterious effects that the high levels of overcrowding have had on the conditions of detention for prisoners held in La Modelo Prison. As the Committee has pointed out, an overcrowded prison entails: cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks as using a sanitary facility); reduced opportunities in terms of employment, education and other out-of-cell activities, due to demand outstripping the staff and facilities available; overburdened health-care services; increased tension and hence more violence between prisoners and between prisoners and staff.

All these negative factors have been observed by the CPT over the years at La Modelo Prison.

2. Overcrowding

7. The Catalan authorities have undertaken an extensive programme of prison building over the past 10 years in order to create the necessary capacity for a rapidly rising prison population; between January 2001 and January 2010, the number of inmates in Catalonia rose by 75% to 10,500. New prisons such as Brians II, Joves and Lledoners, with a combined capacity of some 3,000 places, have been brought into service in recent years. Two more prisons have been built near Figueres and Taragona and, once operational, will have the capacity to accommodate an additional 2,000 prisoners.¹ Further, the CPT's delegation was informed that several prisons were not operating at full capacity, such as Brians II Prison and Lledoners Prison; in the latter establishment, one of the eight accommodation blocks with 128 places remained mothballed.

The CPT has also taken note that the overall prison population in Catalonia has remained stable at around 10,500 persons since January 2010. This is a reflection of the authorities' strategy to increase alternative measures to imprisonment. Additional measures are also being taken to reform the parole system and enhance the possibilities for foreign nationals to serve their sentences in their country of origin. Taken together with the expansion of the prison estate, this approach presents a clear opportunity to overcome once and for all the problem of overcrowding.

¹ It is envisaged that the existing prisons of Figueres and Taragona, with a combined inmate population of some 600 inmates, will be closed.

However, the current economic environment combined with the fact that the Catalan authorities will have to pay for the construction of the newly built prisons over a 30-year period has put a brake on any additional prison-related expenditure. In practice, this has already resulted in delays to the opening of the new prisons of Figueres and Taragona due to the lack of budgetary resources for staffing needs; the CPT's delegation was informed that most staff had now been earmarked for Figueres Prison but there remained a questionmark over the funding of health-care personnel, while for Taragona Prison the procedure for contracting staff had not yet been launched.

8. Given the present circumstances, it is surely unfeasible in the foreseeable future to fulfil the Catalan authorities' stated wish to close down La Modelo Prison. Realistically, the establishment is likely to continue to function as the main remand prison in Catalonia at least for some years to come. In order to ensure that it is able to offer decent living conditions to the inmate population and an appropriate working environment for staff, the number of prisoners needs to be considerably reduced.

9. La Modelo Prison has been consistently operating above its official capacity for more than 20 years. At the time of the CPT's first visit to the establishment in 1994, it was accommodating 2,056 inmates, since when it has continued to operate more or less at this level of overcrowding, except during the late 1990s when the numbers went down to some 1,300 inmates.

Further, at the time of the 2012 visit, the distribution of the 1,781 prisoners across the establishment's 550 cells, each measuring some 10m² (sanitary annexe included), was not even. For example, the 6th Gallery, in which the closed regime department was located as well as persons serving a disciplinary sanction of solitary confinement, had only single-occupancy cells, and the 4th Gallery, which was earmarked for troublesome prisoners, had an occupancy rate of just under 2.5 inmates per cell. By contrast, the 2nd Gallery, which was primarily for prisoners with work, had an average occupancy rate of five inmates per cell, and the 1st Gallery, which accommodated "first timers" had an even higher occupancy rate, with 31 cells, each accommodating six inmates (i.e. an effective living space of some 1.5m²).

The CPT has stated as far back as its report on the 1998 visit that the cell occupancy rate at La Modelo Prison should be reduced to a maximum of two prisoners per cell (which is the occupancy rate used to determine the establishment's official capacity). And, in the report on the 2011 visit to Spain, the Committee once again called on the Catalan authorities to reduce the level of overcrowding. If La Modelo Prison is to remain open, a strategy should be put in place to progressively reduce the inmate population to its official capacity. This will require finding some 700 places in other prison establishments in Catalonia in which to place inmates who would otherwise be allocated to La Modelo, an objective that should be attainable given the additional capacity potentially available within the prison system.

The CPT calls upon the Catalan authorities to put in place a strategy, with clear timelines, for the phased reduction in overcrowding at La Modelo Prison. To this end, it would like to be informed about the entry into service of the new Figueres and Taragona Prisons, and the opening of the eighth accommodation block at Lledoners Prison. Further, it would like to receive additional information on the measures being taken by the Catalan authorities to promote alternatives to imprisonment.

3. Ill-treatment

10. At the outset, the CPT wishes to emphasise that its delegation observed that relations between prisoners and staff in Modelo Prison were generally positive.

However, a number of allegations were received of physical ill-treatment of inmates by prison officers assigned to the 6th Gallery. The allegations consisted primarily of slaps, punches, kneeling and kicks, and concerned either the time when prisoners were being brought to the 6th Gallery or during their stay in this wing (including while they were subjected to the measure of fixation). The allegations, made by prisoners interviewed separately in different Galleries who claimed they had been ill-treated by staff while in the 6th Gallery, were consistent and similar in nature. Further, the allegations pertained, in the main, to one particular shift of officers on the 6th Gallery.

11. It is extremely important for the Prison Service and Director of La Modelo Prison to deliver the clear message that ill-treatment of inmates is not acceptable. Prison officers need to understand why ill-treatment is unacceptable and unprofessional, and that allegations of ill-treatment will be thoroughly investigated. If proven, misconduct of this kind merits severe legal sanctions.

The CPT recommends that a clear message be delivered to prison officers working on the 6th Gallery of La Modelo Prison that all forms of ill-treatment are not acceptable and will be the subject of appropriate sanctions. More specifically, these prison officers must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that prison officers are provided with training in recognised control and restraint techniques.

12. Further, as was the case during the 2011 visit, from the information gathered by the delegation, it would appear that altercations between staff and inmates often arose due to poor communication skills of prison officers. In particular, in the light of the large percentage of foreign nationals in La Modelo Prison (56% at the time of the visit), there is a need for prison officers to receive specialised training in diversity and inter-cultural awareness as well as conflict prevention in order to minimise recourse to the use of force; it would also be desirable for at least some prison officers to possess basic knowledge of relevant foreign languages. In a number of the allegations relating to ill-treatment or resort to fixation, the initial spark was apparently a misunderstanding caused by communication difficulties. For example, one foreign national inmate told the delegation that when he was accommodated on the 6th Gallery, he had been slapped in the face by a prison officer because he had not understood that he was supposed to keep his hands behind his back when addressing a member of staff.

The CPT recommends that the Catalan authorities pay greater attention to improving the inter-personal communication skills of prison officers, in the light of the above remarks.

13. Given the large size and diversity of the inmate population combined with poor conditions of detention in many parts of the establishment, the potential for inter-prisoner violence is very much present and requires prison staff to be vigilant. In the first five months of 2012, there were 74 incidents of aggression between inmates although few had resulted in prisoners requiring medical treatment. Prisoners reported that staff were quick to intervene to put an end to any acts of inter-prisoner violence. Nevertheless, the management of inter-prisoner relations through the careful assessment, classification and cell allocation of individual prisoners would be facilitated by a reduction in the inmate population.

The CPT would like to receive further information on the measures undertaken at La Modelo Prison to combat inter-prisoner violence.

4. Means of restraint

14. In its reports on the 2007 and 2011 visits, the CPT expressed serious concerns about the use of fixation² within the prisons of Catalonia, and provided a series of examples illustrating the abusive use of this measure³. The CPT recommended that the authorities review their approach towards the resort to fixation in prison and put in place far stricter rules governing its application, notably: that fixation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain those risks; that it should never be used as a punishment or to compensate for a shortage of trained staff; that it should only be used within a medical setting (i.e. in the health-care centre of a prison).

In their response to the report on the 2011 visit, the Catalan authorities refer to the legal basis for fixation (Article 45 of the Organic law on Prisons and Articles 71, 72 and 188 of the Prison Rules). Further, they point to the measure being exceptional and specifically limited in purpose to calming down an agitated or violent prisoner, and that it is ordered by the director of the establishment and brought to the attention of the supervisory judge. Reference is also made to a number of rules introduced to regulate fixation, most notably Circular 2/2007, and to the fact that supervision is carried out by prison officers every thirty minutes and by health-care staff every four hours. Finally, the authorities point out that fixation is a rare measure in Catalan prisons, applied “only” 397 times in 2010 (i.e. to 1.43% of the Catalan prison population for that year).

² The measure of fixation involves lying prone on a bed, face down, with the arms and legs attached to the bed with cloth straps and, at times, a strap across the lower back which is also attached to the bed.

³ See CPT/Inf (2011)11, paragraph 87 and CPT (2011) 71, paragraph 124.

15. However, the findings of the 2012 visit to La Modelo Prison once again raised concerns in relation to the reasons for the resort to fixation, its duration, the methods employed, the lack of supervision and the inadequate recording of the measure. Further, it should be noted that fixation was applied 65 times in the 6th Gallery of La Modelo Prison during the 12 months prior to the delegation's visit⁴; consequently, at that establishment it is not a rare measure.

The issues raised in paragraphs 126 and 127 of the report on the 2011 visit remain pertinent, most notably that other options were not being exhausted before resorting to fixation and that the measure of fixation was often prolonged even after its legitimate objective had ended.⁵ The documentation examined revealed that prisoners continued to be fixated for several hours after they had calmed down. In one instance, a prisoner who had been fixated at 7.30 p.m. was subsequently recorded as being stable, alert, calm and cooperative at 0.50 a.m.⁶ However, he continued to be fixated and an hour later was noted as being agitated again and was forcibly medicated with an intra-muscular injection. As the purpose of fixation is – or should be - to allow an agitated/aggressive prisoner to calm down, it is imperative that the inmate be released once he no longer displays signs of agitation/aggressiveness. To keep a prisoner fixated is likely to promote a state of agitation.

16. The death of a prisoner after being fixated in September 2011 in La Modelo Prison provides a graphic illustration of why fixation should only be applied within a medical setting.

The prisoner in question (22 years old) had been transferred to the 6th Gallery at 8.45 p.m. on 15 September 2011 to serve a disciplinary punishment of solitary confinement. However, due to his aggressive attitude towards staff and his stated threat that he would hang himself, he was fixated to a bed in the prone position, his ankles and wrists attached to the bed with cloth straps and a strap tied across his lower back. It is reported in the official documentation that staff conducted a visual check on the inmate every 30 minutes but no record exists of the exact time of such visits or of the staff's observations, except one entry made at 6.20 a.m. which stated that "the prisoner was calm". A medical doctor visited him at 9 p.m. and, due to his agitated state, an intra-muscular injection composed of haloperidol, akineton and rivotril was administered at 9.15 p.m.; thereafter, the doctor visited the inmate at 11 p.m., at 3 a.m. and at 7 a.m., and on the last-mentioned occasion he was found to be in a semi-unconscious state and vomiting. He was transferred to the infirmary, and later died.

⁴ During the same period, the measure of fixation was only applied four times in the psychiatric unit of La Modelo Prison.

⁵ It is interesting to note that when the measure of fixation was applied in the psychiatric unit of La Modelo Prison, it never lasted longer than a few hours.

⁶ The prisoner also claimed that his request to be released to go to the toilet was refused and he subsequently urinated in his trousers.

The autopsy report concluded that the cause of death was “malign ventricular arrhythmias (i.e. irregular, non-effective contractions of the ventricles in the heart) in a context of prolonged agitation”. It stated that the death should be “classified as natural and as a sudden death known as death in a situation of restraint”.⁷ It also stated that there were signs of acute respiratory difficulties and food particles present in the lungs.

Taking into account all the information at its disposal, the Committee considers that it may well have been possible to prevent the death of this prisoner if the restraint had been applied in a medical setting, under direct and continuous supervision of a member of the health-care staff.

The Committee wishes to alert the authorities to the particular risk associated with restraining a prisoner who is taking several sedative drugs as well as a neuroleptic (as was the case with this prisoner) as it may result in central nervous system depression leading to impaired breathing, decreased heart rate, aspiration, and loss of consciousness, possibly leading to coma or death.

17. The principles and minimum safeguards set out in paragraph 128 of the report on the 2011 visit in relation to fixation in prison have not been taken properly into account by the Catalan authorities. Issues of the appropriate use of resort to fixation, the position⁸ and duration of fixation and the establishment of a specific register to record every instance of fixation should be addressed. The Committee also recalls that an individual subject to fixation should, at all times, have his/her mental and physical state continuously and directly monitored by an identified member of the health-care staff. Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint.

The CPT reiterates its recommendation that the Catalan authorities review, as a matter of urgency, the current practice as regards the resort to fixation in prison, so as to ensure that all the principles and minimum safeguards set out in paragraph 128 of the report on the 2011 visit are fully applied.

⁷ The autopsy report also stated: “*Esta muerte entonces, se sitúa dentro del conjunto de fallecimientos que se producen en las situaciones definidas como muerte en contención. En muchos casos, como en este, se trata de muertes de tipo funcional en la que hay cambios mínimos en el corazón y que la causa de la muerte suele estar vinculada a una hipersensibilidad del miocardio a las catecolaminas. En estos pacientes con un cuadro de agitación, el aumento de adrenalina y otras hormonas adrenérgicas en sangre que producen la agitación provocan una arritmia ventricular letal*” [This death falls within deaths defined as death in a situation of restraint. In many cases such as these, they are functional type deaths where there are minimal changes in the heart and the cause of death is linked to myocardium hypersensitivity to catecholamines. In these patients in a state of agitation, the increase in adrenalin and other adrenergic hormones in the blood cause the agitation, provoking a lethal ventricular arrhythmia.]

⁸ Persons should only be fixated face up, arms down, as this is less painful than the face down position.

5. Conditions of detention

18. As regards material conditions, La Modelo Prison is more than 100 years old and requires constant upkeep to maintain it in a decent state of repair. Certain areas of the prison showed signs of dilapidation, such as the workshops, and many cells. At the time of the visit, efforts were clearly being made to keep the prison clean; further, conditions in the 7th Gallery for prisoners over 65 years of age, as well as in those cells in other Galleries with an occupancy level of one or two inmates, could be considered as on the whole acceptable. They had good access to natural light, sufficient ventilation and were adequately furnished (one set of bunk beds, a table and chair, shelving unit, washbasin and toilet); that said, the in-cell toilets were only partially partitioned, which is a significant shortcoming in cells occupied by more than one person.

In those cells with a higher occupancy rate, particularly four, five or six inmates, the conditions were very unsatisfactory. Cells tended to be dirty, stuffy and had limited access to natural light (one of the two sets of bunk beds was placed in front of the window) and many of them were infested with cockroaches. Further, the state of hygiene in these cells often left much to be desired. Complaints were also received about a lack of heating in winter months.

The lack of call bells in any of the cells in Galleries 1 to 5 also meant that at night-time, prisoners had to bang loudly on their doors to attract the attention of the single prison officer on duty on each wing.

Obviously, to fundamentally improve conditions of detention at La Modelo Prison requires addressing the problem of overcrowding (see paragraph 9 above). **The CPT recommends that immediate steps be taken to:**

- **ensure all prisoners are provided with the necessary products to maintain their cells in a clean and hygienic state;**
- **proceed with the disinfection of the cells where necessary;**
- **fully partition the toilet in all cells used to accommodate more than one prisoner;**
- **ensure that all cells are equipped with a means enabling prisoners to attract rapidly the attention of a prison officer.**

19. As regards the regime, it is positive that all prisoners are able to spend a large part of the day outside their cells. Even those inmates who did not participate in any organised activities or work could be out of their cells for more than ten and a half hours every day,⁹ during which they could have access to the outdoor yards for six hours. Each Gallery possessed at least a small library for inmates; the library in the basement of the 2nd Gallery was larger and better equipped than the others and also served prisoners on the 1st Gallery.

As for educational activities, some 433 prisoners were enrolled with the school at the time of the visit (classes being organised each academic year between September and June), with courses in primary and secondary education and a particular emphasis on language learning (Catalan, Castilian and English). The feedback from prisoners on the educational courses was positive and attendance was high, but the education department of 18 full-time teachers and 14 volunteers was unable to cater to the demand of all inmates who wished to follow classes.

⁹ Cells were opened between 8.15 a.m. and 2 p.m. and from 4.30 p.m. to 9.30 p.m.

At the time of the visit, 194 inmates had a job in one of the various workshops (printing room, garment bag and box production, tailoring) or were following vocational training (information technology, pottery, arts and plastics, bag making). Further, some 80 prisoners worked in the kitchen, bakery and general services.

Sports activities (football, volleyball, table tennis and fitness training) were offered every day to some 850 inmate for one hour on a rota basis, as no more than 125 prisoners could participate in these activities at one time.

Given the limited space available within the prison grounds it would be difficult to expand the amount of organised activities on offer. Thus, despite the efforts made by the prison to provide a purposeful regime to inmates, more than half the prison population spent much of their day with little to do. Reducing the levels of overcrowding will obviously improve this state of affairs.

The CPT recommends that the Catalan authorities pursue their efforts to offer purposeful activities to all prisoners in La Modelo Prison.

6. Health care

20. The health-care services in La Modelo Prison were on the whole of a good standard.

The health-care staffing levels were satisfactory. At the time of the visit, there were 10 general practitioners, 13 nurses and 15 clinical auxiliaries, as well as two psychiatrists, a biologist and a pharmacist, all working on a full-time basis. The prison was visited by a range of specialists (dermatologist, ophthalmologist, surgeon, etc.). A dentist also visited the establishment four times a week for four hours each time; however, this is hardly sufficient for an inmate population of 1,800. Moreover, the delegation was informed that the presence of the dentist would probably be reduced in 2013 due to budgetary cuts. Instead, **the CPT recommends that the weekly presence of the dentist be increased.**

As regards facilities, in addition to the main health-care centre, each Gallery had a doctor's consultation room which were all properly equipped and clean, and inmates could sign up in a register each morning to see a member of the health-care staff that same day. Further, the supply of medication was more than adequate, and the electronic medical filing system comprehensive and well-ordered.

21. As was the case in 2011, the CPT's delegation observed that a medical examination was carried out upon admission, usually within a few hours of a prisoner's arrival and always within 24 hours. It noted that all inmates were given a Mantoux test for detecting exposure to tuberculosis and that a voluntary blood test was offered for testing HIV and hepatitis.

22. As regards the recording of injuries, the Catalan authorities stated in their response to the report on the 2011 visit that any signs of violence were reported immediately to the director of the prison and the supervisory judge was also informed. Further, they said that any statements made by the inmate were noted down and included in the prisoner's personal file, to which he could have access.

However, from an examination of individual cases, it appeared that only the objective findings were recorded and sent to the director, whereas relevant statements of the inmates were not written down and doctors did not draw up any conclusions on the injuries sustained by prisoners.

The CPT reiterates its recommendation that steps be taken to ensure that, in addition to fully recording any signs of violence observed when a prisoner is medically screened upon admission, the report completed by the doctor contain any allegations of ill-treatment made by the prisoner concerned and the doctor's conclusions as to the consistency between such allegations and the objective medical findings. Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report should be systematically brought to the attention of the supervisory judge. Moreover, the report on every examination should be made available to the prisoner and his lawyer.

The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

23. In the 12 months prior to the visit by the CPT's delegation, there were three deaths in La Modelo Prison. The delegation examined in detail the death of one prisoner who died on 16 September 2011 after being fixated (see paragraph 16 above). The CPT is concerned that the conclusion of the autopsy report, a copy of which was provided to its delegation, is in apparent contradiction with some of the findings contained within the report and with data contained in other documentation (e.g. the prisoner's medical record). Notably:

- how can the death be classified as a "natural death" if it occurred in a situation of restraint?
- how is the finding of gastric material (food particles) on the right bronchus and bronchiole terminal compatible with a finding of death in restraint? does it not raise an issue of aspiration?
- how can the autopsy conclusion refer to prolonged agitation when the prisoner was given an intra-muscular injection some 10 hours prior to his death and was, furthermore, observed as being "calm" at 6.20 a.m. (see paragraph 16)?

The CPT invites the Catalan authorities to review the autopsy report concerning this prisoner as well as the conclusion on the manner, cause and mechanism of the death, in the light of the above remarks and taking due account of the Council of Europe Committee of Ministers' Recommendation Rec(99)3E on the harmonisation of medico-legal autopsy rules. Further, it would like to receive a copy of the toxicological and histopathology reports and of any photographs taken during the autopsy.

7. Other issues

a. discipline and special regime department

24. In its report on the 2011 visit, the CPT pointed out that solitary confinement can have an extremely damaging effect on the mental, somatic and social health of those concerned. Therefore, it should only be imposed as a disciplinary sanction in exceptional cases and as a last resort, and for the shortest possible period of time. In their response to the report on the 2011 visit, the Catalan authorities affirm that the legislative provisions governing placement in a solitary confinement cell as a disciplinary measure are in line with these precepts and that the sanction for a given disciplinary offence may not exceed 14 days of solitary confinement.

However, the Committee continues to have concerns over the fact that prisoners may be placed in solitary confinement for up to 42 days when several serious offences have taken place at the same time. In the course of the 2012 visit, the delegation again came across a number of cases of inmates at La Modelo Prison who had been given a disciplinary sanction of solitary confinement in excess of 14 days; two persons were serving sanctions of 28 days at the time of the visit.

The CPT is well aware that any disciplinary punishment in excess of 14 days must be approved by a supervisory judge,¹⁰ and has also taken note of the 1987 Constitutional Court decision on this matter referred to by the authorities in their response to the report on the 2011 visit. Nevertheless, standards have evolved considerably in the last 25 years; the trend in many member States of the Council of Europe is towards lowering the maximum possible period of solitary confinement as a punishment. The CPT considers that the maximum period should be no higher than 14 days for a given offence, and preferably lower. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period.¹¹

The Committee reiterates its recommendation that immediate steps be taken to ensure that no prisoner is held continuously in solitary confinement as a punishment for longer than 14 days. If the prisoner has been sanctioned to solitary confinement for a total of more than 14 days in relation to two or more offences, there should be an interruption of several days in the solitary confinement at the 14-day stage.

¹⁰ From the information gathered by the CPT's delegation, such approval is generally granted.

¹¹ See the 21st General Report of the CPT (CPT/Inf (2011) 28), and notably paragraph 56 (b) of the substantive section on solitary confinement of prisoners.

25. The CPT's delegation also examined the operation of the special regime department on the 6th Gallery and found that the situation had not changed since the visit in 2011.¹² At the time of the 2012 visit, 50 prisoners in the Gallery were classified as 1st degree (i.e. those inmates who were considered to be "dangerous" or "unadapted to an ordinary prison regime" as defined by Article 10 of the General Organic Law on Prisons). For those inmates placed on a regime governed by Article 93 of the 1996 Prison Regulations, whose placement was reviewed every three months, the regime of three hours of outdoor exercise per day with one other inmate and three hours of scheduled activities per week was rather limited. However, the general approach in the prison was not to extend placement on an Article 93 regime beyond three months but instead to progress inmates onto an Article 94 regime (long or short), which is specifically intended to prepare them for reintegration into ordinary accommodation. That said, at La Modelo Prison, there was still a lack of infrastructure and personnel to provide the range of activities that such a special regime department (*Departament Especial de Regimen Tancat*) was expected to offer. The delegation also observed that prison officers made little attempt to engage proactively with inmates.

If La Modelo Prison is to retain a special regime department, **the CPT recommends that greater efforts be made to develop the activities and support on offer to 1st degree prisoners in the special regime department on the 6th Gallery.**

b. complaints

26. At present, prisoners in Catalonia can address complaints on a confidential basis to a number of independent outside bodies, notably the Ombudsman and the supervisory judge. However, there is still no internal complaints system operating in prisons in Catalonia. In their response to the CPT's report on the 2011 visit concerning this question, the authorities stated that every complaint against a prison staff member is immediately acted upon by the Inspection Service within the Prison Directorate and that whenever there is an indication that a criminal offence may have occurred the matter is passed on to the prosecution service. The Committee is grateful for the information provided by the authorities in respect of the Inspection Service but it does not address the issue of internal complaints in the prison.

27. At La Modelo Prison, inmates may make written requests to the director on a form or orally. Further, the director and his deputies regularly visited the different Galleries and received requests from inmates. There is, however, no specific internal complaints system in place. Requests and complaints are mixed together; in addition, there is no register of the "requests" made and prisoners are not provided with a receipt. As was the case in 2011, many inmates complained that their requests/complaints were either lost by prison staff or that a response was never provided. For example, a foreign prisoner accommodated in the 3rd Gallery stated that he had written about 10 times to the director or deputy-director of the prison complaining about various issues but was still waiting to receive an answer to any of them. For this reason, other inmates stated that there was no point in making a complaint.

¹² See CPT (2011) 71, paragraphs 130 to 135.

28. The CPT considers that complaints should as far as possible be resolved within the prison itself. This requires putting in place a proper internal complaints system; for example, prisoners ought to be able to make written complaints at any moment and place them in a locked complaints box located in each accommodation unit (forms should be freely available); all written complaints should be registered centrally within a prison before being allocated to a particular service for investigation or follow up. In all cases, the investigation should be carried out expeditiously (with any delays justified) and prisoners should be informed within clearly defined time periods of the action taken to address their concern or of the reasons for considering the complaint not justified. Information on the right to appeal should also be provided. In addition, statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison. Introducing such a system in La Modelo Prison and in other Catalan prisons would be beneficial for inmates and prison staff as well as for the management.

The CPT reiterates its recommendation that the Catalan authorities introduce a proper internal complaints system to complement the existing approach, taking into account the above remarks.

c. foreign nationals

29. The number of foreign nationals imprisoned in Catalonia has increased threefold since 2001 to some 4,800 inmates and now represents over 45% of the prison population.¹³ At the time of the visit, La Modelo Prison was accommodating 994 foreign nationals (56% of the inmate population) from 80 different countries, the largest groupings being from the Maghreb countries and Latin America, notably Columbia. The vast majority of foreign nationals understood and spoke Castilian but there were nevertheless some inmates whose ability to communicate in Castilian was extremely limited. Further, many could not write in Castilian and no foreign national met by the delegation spoke Catalan, although a few were following language lessons.

In their response to the 2011 report, the Catalan authorities refer to the various legal regulations providing foreign nationals in prison with equality of treatment in terms of access to work and other purposeful activities. Further, Circular 1/2011 of 11 July on “aliens in prison in Catalonia” aims to enhance the programmes available to foreign nationals in prison with a view to assisting their reintegration or preparing them for return to their country of origin. It also refers to the provision of training for prison staff.

30. The CPT recognises that a prison establishment accommodating such a large percentage of foreign nationals from so many different countries, as was the case in La Modelo Prison, presents specific challenges. In particular, it requires prison officers possessing skills in interpersonal communication and having qualities in the field of cultural sensitivity. However, from the information gathered by the CPT’s delegation, many foreign nationals felt that they were either consistently misunderstood or that prison officers were prejudiced against them (see also paragraph 12 above).

In addition to providing prison officers with training on inter-personal communication skills and cultural awareness, **consideration should be given to the appointment of one or more dedicated foreign national liaison officers in La Modelo Prison.**

¹³ The numbers and percentage of foreign nationals in prison in Catalonia have stabilised since January 2011.

APPENDIX

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

Overcrowding

recommendations

- the Catalan authorities to put in place a strategy, with clear timelines, for the phased reduction in overcrowding at La Modelo Prison (paragraph 9).

requests for information

- on the entry into service of the new Figueres and Taragona Prisons, and the opening of the eighth accommodation block at Lledoners Prison (paragraph 9);
- the measures being taken by the Catalan authorities to promote alternatives to imprisonment (paragraph 9).

Ill-treatment

recommendations

- a clear message to be delivered to prison officers working on the 6th Gallery of La Modelo Prison that all forms of ill-treatment are not acceptable and will be the subject of appropriate sanctions. More specifically, these prison officers must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that prison officers are provided with training in recognised control and restraint techniques (paragraph 11);
- the Catalan authorities to pay greater attention to improving the inter-personal communication skills of prison officers, in the light of the remarks in paragraph 12 (paragraph 12).

requests for information

- the measures undertaken at La Modelo Prison to combat inter-prisoner violence (paragraph 13).

Means of restraint

recommendations

- the Catalan authorities to review, as a matter of urgency, the current practice as regards resort to fixation in prison, so as to ensure that all the principles and minimum safeguards set out in paragraph 128 of the report on the 2011 visit are fully applied (paragraph 17).

Conditions of detention

recommendations

- immediate steps to be taken at La Modelo Prison to:
 - ensure all prisoners are provided with the necessary products to maintain their cells in a clean and hygienic state;
 - proceed with the disinfection of the cells where necessary;
 - fully partition the toilet in all cells used to accommodate more than one prisoner;
 - ensure that all cells are equipped with a means enabling prisoners to attract rapidly the attention of a prison officer.(paragraph 18);
- the Catalan authorities to pursue their efforts to offer purposeful activities to all prisoners in La Modelo Prison (paragraph 19).

Health care

recommendations

- the weekly presence of the dentist at La Modelo Prison to be increased (paragraph 20);
- steps to be taken to ensure that, in addition to fully recording any signs of violence observed when a prisoner is medically screened upon admission, the report completed by the doctor contain any allegations of ill-treatment made by the prisoner concerned and the doctor's conclusions as to the consistency between such allegations and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report should be systematically brought to the attention of the supervisory judge. Moreover, the report on every examination should be made available to the prisoner and his lawyer (paragraph 22);
- the approach described in paragraph 22 should also be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 22).

comments

- the CPT invites the Catalan authorities to review the autopsy report concerning the prisoner referred to in paragraph 16 as well as the conclusion on the manner, cause and mechanism of the death, in the light of the remarks made in paragraph 23 and taking due account of the Council of Europe Committee of Ministers' Recommendation Rec(99)3E on the harmonisation of medico-legal autopsy rules (paragraph 23).

requests for information

- a copy of the toxicological and histopathology reports and of any photographs taken during the autopsy referred to in paragraph 23 (paragraph 23).

Other issues

recommendations

- immediate steps to be taken to ensure that no prisoner is held continuously in solitary confinement as a punishment for longer than 14 days. If the prisoner has been sanctioned to solitary confinement for a total of more than 14 days in relation to two or more offences, there should be an interruption of several days in the solitary confinement at the 14-day stage (paragraph 24);
- greater efforts to be made to develop the activities and support on offer to 1st Degree prisoners in the special regime department on the 6th Gallery of La Modelo Prison (paragraph 25);
- the Catalan authorities to introduce a proper internal complaints system to complement the existing approach, taking into account the remarks made in paragraph 28 (paragraph 28).

comments

- consideration should be given to the appointment of one or more dedicated foreign national liaison officers in La Modelo Prison (paragraph 30).