

## EXECUTIVE SUMMARY

In the course of the 2018 visit, the CPT's delegation reviewed the treatment of persons deprived of their liberty by the police and looked into the effectiveness of the safeguards afforded to such persons. Further, the delegation visited four prison establishments, focusing in particular on the situation of prisoners placed in special and closed regime departments (*Departaments Especials de Règim Tancat*) and on women prisoners. The co-operation provided by the Spanish and regional Catalan authorities in facilitating the visit was excellent.

### Law enforcement agencies

The vast majority of persons met by the CPT's delegation stated that they had been treated correctly when detained by *Mossos d'Esquadra* officers. However, the delegation once again received a number of allegations of ill-treatment, consisting mainly of kicks and punches to the head and body and blows with truncheons to the body, usually at the moment of apprehension after the persons concerned had been brought under control. The CPT's delegation also received a few specific allegations from inmates interviewed separately that they had been beaten with truncheons while subjected to an unauthorised means of restraint they referred to as the "*bocadillo*" (while restrained by the ankles, sandwiched between two plastic mattresses bound together by Velcro straps). The CPT recommends that the Catalan regional authorities deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions.

In respect of safeguards against ill-treatment of persons deprived of their liberty by the police, the CPT welcomes the proactive steps taken by the Catalan regional authorities to ensure that the rights of persons detained by the *Mossos d'Esquadra* are respected as well as to enhance the implementation in practice of those rights. Nevertheless, at "Les Corts" in Barcelona, it found instances of unjustified delays (of 12 hours or more) in notifying third persons nominated by detainees. There is also a need to improve access to a lawyer in practice, through improved co-operation with the Bar Associations. As regards the right of access to a doctor of one's own choice, this should be adequately reflected in law and, in light of the 2018 findings, on-site healthcare at "Les Corts" reinforced and the confidentiality of medical consultations guaranteed. More generally, a system whereby experienced police officers are assigned dedicated responsibility for the overall well-being of persons held in the detention area of *Mossos d'Esquadra* stations should be introduced, starting with "Les Corts" in Barcelona.

As regards conditions of detention in police stations, the main deficiencies observed during previous visits to *Mossos d'Esquadra* remain, including a lack of access to natural light and inadequate artificial lighting, poor ventilation, inadequate access to drinking water and personal hygiene products and the absence of exercise yards. The CPT notes that a feasibility study of the renovations required is being carried out and recommends that the necessary resources be made available by the Catalan regional authorities to rectify this situation.

### Prison establishments

The CPT welcomes the structural steps taken by the Spanish and Catalan regional authorities to reduce the prison population and to end overcrowding in the prison system. At the time of the September 2018 visit, the overall prison population in the autonomous community of Catalonia stood at 8,421 inmates for a capacity of 10,445 places, down from around 10,500 prisoners (and an occupancy level of 110%) in 2012. In the course of the 2018 visit, the CPT's delegation visited Brians 1, Mas d'Enric and Ponent Prisons as well as Barcelona Women's Prison, known as Wad-Ras.

*Prison establishments for men*

A number of allegations of physical ill-treatment by prison officers were received, notably at Brians 1 Prison. These mainly concerned slaps, punches and blows with truncheons to various parts of the body involving inmates who were agitated, exhibited aggressive behaviour and/or had been involved in inter-prisoner violence / incidents of self-harm. Increased vigilance by prison management is required to address this problem, including by ensuring the regular presence of prison managers in detention areas, increased direct contact with prisoners, the prompt and thorough investigation of complaints made by prisoners, and improved prison staff training. It is also important that the prison health care services systematically record and report injuries to prisoners in line with Instruction 02/2018 of the Catalan Prison Service (DGSP) and that allegations of ill-treatment are effectively investigated.

As regards the use of mechanical fixation in prisons, the CPT has taken note of the DGSP's intention to reduce progressively the resort to such a measure. In the course of the 2018 visit, the CPT's delegation observed a slight decrease in the number of times inmates had been fixated and that the average duration of the measure had declined significantly. That said, the Committee's ongoing concerns about this practice include the sufficiency of the reasons given for the use of fixation measures, the continued use of methods that may cause serious injuries to inmates, the role of doctors in condoning fixation, and systematic non-compliance with existing safeguards. Further, it remains worrying that fixated prisoners are receiving intra-muscular injections without any attempt being made to seek their consent or to explain to them the purpose of the medication.

The findings from the 2018 visit indicate that resort to mechanical fixation in the prisons visited retains clear punitive elements and that the measure still does not comply with the relevant legal provisions (i.e. Article 72 of the Prison Regulations). Therefore, the CPT reiterates that the practice of mechanical fixation of inmates for security reasons should be ended. Pending its abolition, the CPT recommends that certain safeguards surrounding the current application of the measure be strengthened, such as: limiting its duration to minutes; introducing stricter criteria for the resort to the measure and ending the practice of forced medication.

In respect of prisoners accommodated in special closed-regime departments (*Departaments de règim tancat* or DERTs), Circular 02/2017 foresees a more individualised approach and the reinforcement of safeguards surrounding their placement in a DERT. The CPT found that further steps were required to fully implement this Circular. More emphasis should be placed on developing a purposeful regime to promote inmates' reintegration into an ordinary regime module. Also, staff assigned to a DERT should in principle be affiliated to the module on a regular basis and be able to provide activities throughout the year. Further, as foreseen by the Circular, inmates affected by mental health disorders should either be placed in a medical setting or be provided with increased attention by specialised staff.

As regards the provision of health care in prisons, the CPT found that the Primary Health Care Team (EAPP) in each prison mirrored the care provided in the community. Nevertheless, the confidentiality of medical consultations and access to a doctor for prisoners in the DERTs should be improved, and mentally ill prisoners accommodated in infirmaries should be provided with a full range of occupational therapy activities, which also requires having adequately trained nurses. Steps should also be taken to safeguard the doctor/patient relationship in prisons and to end health care staff certifying prisoners fit for punishment. It is also necessary for an analysis of each death in prison to be carried out in order to consider what lessons may be learned for the prison establishment. In this respect, prisons should systematically be provided with the conclusions of autopsy reports.

The CPT highlights deficiencies in the staffing situation at Brians 1 Prison and deplores a campaign of intimidation directed by some prison staff against senior managers at that establishment. As regards discipline, the CPT welcomes a commitment to review punishments imposed to ensure that they more closely accord with the disciplinary offences of inmates. At the same time, it would be preferable to lower the maximum period of solitary confinement permissible under national law to 14 days as a disciplinary punishment for a single incident. The CPT also comments that supervisory judges appeared merely to certify the decisions of the prison administration and not to examine the proportionality and appropriateness of the measures. It requests that this information be transmitted to the Inspection Services of the State Judicial Council (*Consejo General del Poder Judicial*).

### *Prison establishments for women*

At the outset, the CPT sets out the importance of developing an alternative prison policy oriented toward women's particular biological and gender-specific needs and vulnerabilities. The Catalan regional authorities should take active steps to develop a gender specific approach towards women prisoners. When developing new approaches to gender sensitive risk assessment and the classification of prisoners, account should be taken of the fact that women generally pose a lower security risk than men.

Further, the CPT recalls that women prisoners have a higher prevalence than men of mental illness, drug dependency and self-harm, and that many are victims of sexual and other gender-based violence. Hence, the rules regulating the admission process should contain gender specific provisions for women and screening upon admission should identify any vulnerabilities. Such an approach was not in evidence at the time of the visit, and the CPT recommends that the admission procedures at Wad-Ras, Brians ,1 Ponent and other prisons accommodating female inmates take into account the gender-specific needs of women prisoners. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison and ensuring that such information is considered in the drawing up of a care plan for the woman in question.

In the course of the 2018 visit, the vast majority of women prisoners met stated that they were treated correctly by prison staff but a few allegations of physical ill-treatment and excessive use of force were received at Brians 1 and Ponent Prisons. Appropriate measures should be taken to upgrade the skills of prison staff in averting crises and defusing tension and in safe methods of control and restraint. Regarding the use of mechanical fixation, the concerns raised above apply equally to women prisoners. Women met in Brians 1 and Ponent Prisons who had been fixated face down were clearly distressed by the whole experience and yet in none of the cases examined had there been a proper debriefing following the termination of the measure. Further, several of the women to whom the measure of fixation had been applied had serious mental health disorders.

For women prisoners subject to a closed regime and accommodated in a DERT, there is a need to provide a specifically tailored range of educational, recreational, sport and workshop activities in line with the provisions of Circular 02/2017. As regards the ordinary regime in the three women's establishments visited, the material conditions could be considered generally adequate although there is a need to reduce the occupancy levels at Wad-Ras Prison. Further, the basement cells in this prison were dilapidated and filthy as well as being unsafe, and should no longer be used to accommodate prisoners overnight. In respect of the regime, there was good out-of-cell time but more needs to be done to develop the range of non-gender-stereotyped purposeful activities available to female prisoners. At Brians 1 Prison, the lack of differentiation, resulting in all types of prisoner being mingled together regardless of their needs and the challenges they posed, contributed to a sense of insecurity and fear, and should be addressed. On the positive side, the CPT found that the mother and baby unit at Wad-Ras Prison represented good practice.

Health care services available to women prisoners were generally of a good standard. The CPT is interested to learn more about the plans underway to put in place a more intensive programme for women's health. For women with a mental health disorder accommodated in the "polyvalent unit" in Wad-Ras Prison, the CPT recommends that they should be transferred to a psychiatric institution. If it is necessary to accommodate them in the prison for short periods, the "polyvalent unit" should be staffed by mental health care professionals who can provide support and occupational activities for the women. The CPT noted that in the prisons visited, cutting and other forms of self-harm were prevalent among women inmates and it recommends that a policy on preventing and reducing instances of self-harm of women prisoners be adopted and instituted in all establishments. Further, women who self-harm or who are at risk of self-harming should be afforded the necessary support by staff; that is, they should always be dealt with from a therapeutic standpoint and not a punitive one.

In all the prisons visited there was mixed-sex staffing which, as a rule, the CPT supports. Nevertheless, all custodial staff working with women prisoners should receive gender-specific training and greater efforts should be invested to increase the overall ratio of female prison officers and especially of female prison officer managers.

Contacts with the outside world are generally good within Catalan prisons. Nevertheless, given that women prisoners are far more likely than male prisoners to be the primary carers for any children they might have, the CPT considers that the prison administration should modernise their approach to this issue, including by examining the possibility for prisoners, notably foreign nationals, to maintain contact with their families through using Voice over Internet Protocol (VOIP) and of being able to make calls to mobile phones from prison. Further, in light of the high number of foreign national women prisoners, every effort should be made to offer these women the possibility to be transferred back to their countries of origin to serve their prison sentence.