



## **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 14 to 28 September 2021**

The Spanish Government has requested the publication of this response. The CPT's report on the September 2020 visit to Spain is set out in document CPT/Inf (2021) 27.

Strasbourg, 9 November 2021



## **INFORME**

SUBJECT: Contribution to the observations in the Report on the CPT visit to Spain (14-28.09.20).

ADDRESSED TO: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

DATE: 04.10.21

### **1.- INTRODUCTION**

On the occasion of the visit to Spain by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which took place from 14 to 28 September 2020, and in response to the request made by the Chair of the Committee in his letter of 29.03.21, Spain's contributions to the observations made by the Committee in the final report drawn up on the occasion of the aforementioned visit are listed below.

These contributions have been submitted by the following management centres:

#### **Ministry of the Interior**

- Directorate General of Police
- Directorate General of the Guardia Civil
- Directorate General of Coordination and Studies (Subdirectorato General of Personnel Inspection and Security Services).
- General Secretariat of Penitentiary Institutions.

#### **Ministry of Justice**

- Directorate General for International Legal Cooperation and Human Rights.

#### **Ministry of Social Rights and Agenda 2030**

- Directorate General for the Rights of Children and Adolescents.

#### **Regional Government of Andalucía**

- Directorate General for Juvenile Justice and Cooperation.

#### **Ombudsman**



## **2.- CONTRIBUTIONS TO THE COMMENTS OF THE CPT**

### **1.-The CPT invites the Spanish authorities to review the budgetary resources allocated to the National Preventive Mechanism. Pg.12.**

With regard to the issue of the absence of a specific budget, the National Preventive Mechanism (NPM) wishes to highlight the advantages in terms of independence derived from the fact that this budget is established directly by the legislative branch, without the participation of the other branches of government. This is a guarantee against possible attempts to restrict the NPM's capacity to act.

On the other hand, the level of specification of the Ombudsman's budget (Service 05 of the General Courts Section) in the general State budget is already sufficiently detailed, and an analysis of the successive budgets of the Ombudsman since the NPM was set up reveals that, within the scenario of budgetary containment common to this entire period (now overcome), measures have been adopted to ensure the availability of resources and even to gradually increase the human resources of the NPM, both staff and external technicians.

### **2.-The CPT would be grateful if the Spanish authorities could clarify the interpretation of Article 496 of the Criminal Procedure Code (CPC), which seems to imply that police custody should not last more than 48 hours, whereas Article 520 of the CPC and Article 17(2) of the Constitution refer to a maximum period of 72 hours for police custody. Pg.13.**

Firstly, it should be noted that the wording of the above-mentioned precepts is as follows:

- Article 496 of the Criminal Procedure Act. CHAPTER II: Detention

Any private individual, authority or judicial police officer who arrests a person by virtue of the provisions of the preceding articles, must release them or hand them over to the judge nearest to the place where the arrest was made within twenty-four hours of the arrest.

If he delays the handing over, he shall incur the responsibility established in the Criminal Code, if the delay exceeds twenty-four hours.

It should be noted that, although the CPT refers in its comment to a period of 48 hours, the provision refers to a detention period of 24 hours, without prejudice to the fact that criminal liability for exceeding this period occurs when the delay exceeds 24 hours.

- Article 17.2 of the Spanish Constitution: Preventive detention may not last longer than the time strictly necessary to carry out the investigations aimed at clarifying the facts, and, in any case, within a maximum period of seventy-two hours, the detainee must be released or placed at the disposal of the judicial authority.

- Article 520 of the Criminal Procedure Act. CHAPTER IV: Exercise of the right to a defence, the assistance of a lawyer and the treatment of detainees and prisoners.

- Detention and provisional detention shall be carried out in the manner that least harms the person, reputation and assets of the detainee or prisoner. Those who order the measure and those responsible for its implementation and subsequent transfers shall ensure the constitutional rights to honour, privacy and image of the detainee or prisoner, with respect for the fundamental right to freedom of information.



- Pre-trial detention may not last longer than the time strictly necessary for the conduct of investigations to establish the facts. Within the time limits established in this Law, and in any case within a maximum period of seventy-two hours, the detainee must be released or placed at the disposal of the judicial authority.
- The police report shall state the place and time of the arrest and the time when the detainee is brought before the judicial authority or, where appropriate, released.

In this respect, it should be pointed out that the Constitutional Court considers that there are two time limits for detention, one of which is relative and the other absolute. With regard to the first, there is unanimous agreement that the a priori time limit for detention should be the minimum time limit for carrying out the investigations aimed at clarifying the facts.

Regarding the question raised by the wording of the aforementioned precepts of the Criminal Procedure Act, the doctrine generally considers that the maximum period of detention that should be applied is 72 hours. This is because the law dates back to 1882, when Article 496 was drafted, while Article 520.1 was drafted after the entry into force of the Spanish Constitution and literally reproduces Article 17.2 of the Constitution. It is therefore understood that Article 496 of the Criminal Procedure Act is tacitly repealed. Similarly, both the Constitutional Court and the Supreme Court unanimously and uniformly consider the 72-hour time limit to be applicable.

**3.-The CPT considers that, as a matter of principle, the possibility of imposing solitary confinement should be completely eliminated from Spanish law. Pg.14.**

Organic Law 13/2015, of 5 October, modified the Criminal Procedure Act and the regulation of incommunicado detention and imprisonment, which has a regulated nature and cannot be applied discretionally. Specifically, it prevents incommunicado detention from being agreed de facto and as an exception due to the seriousness of the facts under investigation and confers legal and constitutional guarantees to the person concerned.

The Spanish legal system does not resort, therefore, to exceptional legislation (that which involves the suspension of fundamental rights for all citizens for a period of time) but, on the contrary, applies a special regime for specific cases, with a specific purpose - to prevent new crimes or aggravation of their consequences - under strict judicial and prosecutorial control, through the minimum possible restriction of their procedural and material rights and with specific additional safeguards.

The Criminal Procedure Act, in order to protect the integrity of the victims or witnesses of criminal acts, as well as to avoid seriously affecting the criminal investigation, establishes, with all the guarantees (rights of the detainee and of the criminal procedure), the possibility for the judge to exceptionally authorise the incommunicado detention of the detainee, in accordance with Article 527 in relation to Article 509, when any of the following circumstances apply:

- (a) Urgent need to avoid serious consequences that may endanger the life, liberty or physical integrity of a person; or
- (b) Urgent need for immediate action by the investigating judges to avoid seriously compromising the criminal proceedings.



Unlike the legislation prior to the aforementioned 2015 reform, which imperatively established the suspension of the basic rights of the incommunicado detainee or prisoner during the period of incommunicado detention, the restrictions of each of these rights have been made optional ("may"). This allows for a more specific modulation to the circumstances of the case.

In the new regulation, therefore, it is established that:

- (a) It may be agreed that your lawyer shall be appointed ex officio;
- (b) It may be agreed that you are not entitled to a confidential interview with your lawyer;
- (c) It may be agreed that he may not communicate with all or any of the persons with whom he has the right to do so, except with the judicial authority, the Public Prosecutor's Office and the Forensic Doctor;
- (d) It may be ordered that the detained person shall not have access to the proceedings;
- (e) It may be agreed that the detainee's lawyer shall not have access to the proceedings, except for the essential elements to be able to challenge the legality of the detention.

The duration of incommunicado detention shall be 5 days, extendable for a further 5 days in the case of terrorist offences, but it is important to note that the establishment of a maximum period does not imply that it must be exhausted. Detention will last for the time strictly necessary for the urgent practice of the necessary diligences aimed at avoiding the foreseen risks.

In order to carry out the incommunicado detention of the detainee, it is necessary, in accordance with the aforementioned article 509 of the Criminal Procedure Act, to avoid the dangers resulting from the knowledge of the state of the investigation by outsiders, favouring the evasion of justice by those guilty of or involved in the crime under investigation, or the destruction or concealment of evidence.

On the other hand, this need for incommunicado detention to achieve this purpose derives from the special nature or seriousness of certain crimes, as well as from the subjective and objective circumstances involved, so that all of this can make it essential for the investigation to be carried out with the utmost secrecy/secret. On the other hand, the agreement of incommunicado detention must state the reasons for it and in no case may it be decreed with respect to minors under 16 years of age.

This weighing of the appropriateness of the incommunicado detention measure to achieve the intended purpose established in the Criminal Procedure Act, as well as the essential nature of its adoption, is carried out by the judge, thus providing greater guarantees, control and supervision of the criminal process and, therefore, of the detainee's rights.

Following the reform, there can be no restriction on the right of the detainee's family members to know without delay the fact of the deprivation of liberty and the place of custody where the detainee or prisoner is being held at any given moment; a right which, in general and without restriction, is guaranteed in art. 520.2 e) of the Criminal Procedure Act, allowing them and the detainee himself to appeal to a court (habeas corpus) to determine without delay the legality of the detention.

The only limitation is the right to communicate by telephone with a third party of their choice, which is generally recognised for all detainees in article 520.2 f) of the Criminal Procedure Act.



However, this limitation, which can only be granted when there is a need to avoid a serious risk to the life, liberty or integrity of a person or to avoid seriously jeopardising the criminal proceedings (art. 509 of the Criminal Procedure Act), can only be granted when there is a need to avoid a serious risk to the life, liberty or integrity of a person or to avoid seriously jeopardising the criminal proceedings (art. 509 of the Criminal Procedure Act).

Therefore, in the current regulation there is no such thing as secret detention, since even in the case where family members and relatives are temporarily (up to a maximum of ten days) unable to communicate with the person deprived of liberty, they must always be informed of the fact of the detention and the place where the detainee is at any given moment.

The guarantees introduced to control situations of incommunicado detention express the State's commitment to respect human rights. The investigation of the most serious crimes, such as the fight against organised crime or the phenomenon of terrorism, requires investigative tools to compensate for the clear disadvantage in which the victim, society and the state itself are placed.

#### **4. The CPT reiterates its recommendation to prohibit the application of solitary confinement to all persons under 18 years of age. Pg.14.**

The general legal regulation of incommunicado detention is found in articles 509 and 527 of the Criminal Procedure Act (Royal Decree of 14 September 1882), following its amendment by Organic Law 13/2015, of 5 October, amending the Criminal Procedure Act to strengthen procedural guarantees and the regulation of technological investigation measures.

These changes respond to the implementation of Directive 2013/48/EU of 22 October 2013 of the European Parliament and of the Council on the right to legal counsel in criminal proceedings and in European Arrest Warrant proceedings, and on the right to have a third party informed at the time of deprivation of liberty and to communicate with third parties and consular authorities during deprivation of liberty. This means that the new incommunicado detention regime must comply with Article 47 of the European Charter of Fundamental Rights, in accordance with Article 51 of the European Charter itself.

Article 509.4 of the Criminal Procedure Act establishes that in no case may minors under 16 years of age be subject to incommunicado detention. With regard to those over 16 years of age, it is necessary to maintain the aforementioned measure of incommunicado detention given the proven participation of persons of this age in particularly serious crimes.

There is also a wide range of regulations that develop this period of police detention, namely Instruction of the State Secretariat for Security, 11/2017, on the "Protocol for police action with minors", which specifies the prior knowledge and control of the Public Prosecutor's Office for the incommunicado detention of minors over the age of sixteen; and Instruction of the State Secretariat for Security 4/2018, on the "Protocol for Action in the Areas of Custody of Detainees of the State Security Forces and Corps", which provides that the custody of such minors shall be carried out in suitable premises and separate from the rest of the detainees.

#### **5.-The CPT reiterates its position that all detainees should be able to meet with a lawyer in private, from the beginning of their detention and thereafter as necessary.(Pg.14).**

Organic Law 13/2015, of 5 October, amending the Criminal Procedure Act for the strengthening of procedural guarantees and the regulation of technological investigation measures, establishes an amendment to section 5 of Article 520 of the LECr as follows: "The



authority that has the detainee in its custody shall immediately inform the Bar Association of the name of the person designated by the detainee to assist him/her for the purposes of locating him/her and transmitting the professional assignment or, where appropriate, shall notify the request for the appointment of a duty solicitor." This management is reflected in the Official Book of Telephoneme and by means of auxiliary diligence in the police report, as well as in the official record books, which, regulated in the Instruction of the Secretary of State for Security, 14/2018, have been digitalised by means of the computer application (DILISES), which guarantees that the actions of the State Security Forces and Corps (Policía Nacional and Guardia Civil) related to citizens who are in police custody or who are simply subject to any police action, are registered and subject to periodic supervision by independent bodies such as the Ombudsman or the Public Prosecutor's Office. This gives police action an extra element of compliance with the legal system.

Furthermore, it is established that "the appointed lawyer shall go to the detention centre with the utmost haste, always within a maximum period of three hours from receipt of the request. If he/she does not appear within this period, the Bar Association shall appoint a new duty solicitor who must appear as soon as possible and always within the time limit indicated".

The CPT's position is therefore fully in line with the will of the national legislator and with police practice. Since the aforementioned legal provisions are, of course, compatible with the rules issued by the State Secretariat for Security, such as:

- Instruction 4/2007, of the State Secretariat for Security, on the application of the optional protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment.
- Instruction 12/2007, of the State Secretariat for Security, on the behaviour required of members of the FCSE to guarantee the rights of persons detained or under police custody.
- Instruction 4/2018, of the State Secretariat for Security, approving the update of the "protocol for action in the custody areas of detainees of the FCSE".
- Instruction 14/2018, of the State Secretariat for Security, regulating the official record books.

**6.- The CPT recommends that the Spanish authorities ensure that all police stations follow COVID-19 protocols and that all police officers and detainees are provided with the necessary personal protective equipment. Pg.14.**

Royal Decree 734/2020 of 4 August, which develops the basic organic structure of the Ministry of the Interior, designates the Inspection of Personnel and Security Services (IPSS) as the body responsible for "exercising the competences in matters of occupational risk prevention granted to it by Royal Decrees 179/2005 of 18 February on occupational risk prevention in the Guardia Civil and 2/2006 of 16 January, which establishes rules on occupational risk prevention in the activity of the officers of the Policía Nacional".

Thus, following the declaration of the health emergency, the Ministry of the Interior issued Order INT/226/2020, of 15 March, which established the criteria for action by the Security



Forces and Corps in relation to Royal Decree 463/2020, of 14 March, declaring a state of alarm for the management of the health crisis situation caused by COVID-19.

Both the Directorate General of the Policía Nacional and the Guardia Civil developed the content of this internal order internally, including rules for intervention and self-protection, in accordance with the recommendations issued by the competent health authorities, in order to preserve the safety of citizens and members of the security forces themselves.

It should be noted that these instructions compiled the recommendations when intervening with a citizen, making arrests and treating detainees in police stations, guaranteeing, at all times, compliance with the rights set out in article 520 and, in particular, the right to be examined by the forensic doctor or his legal substitute and, failing this, by the doctor of the institution where he is being held, or by any other doctor in the State or other Public Administrations, in case he considers that he may be affected by the COVID-19 disease.

Likewise, the distribution of protective material was established, as well as the corresponding disinfection and cleaning measures in the police facilities (common areas, cells, mattresses, blankets, etc.) during the detainees' stay there. The units were also equipped with disposable shackles, masks and gloves in order to avoid contamination. With regard to the vehicles used for the transfer of detainees, it was established that they must be cleaned with disinfectant products after use.

In the course of these actions, if in rare instance a lack of COVID-19 protection material ever occurred, it was an isolated and exceptional situation, and nowadays the supply is totally guaranteed.

**7.-The CPT would like to be informed about any investigation that has been carried out into cases i, ii, iii, iv, vi and vii above. In addition, I would like to be informed of the investigative steps that have been taken in relation to case i.(Pg.17).**

Case i: Atestado nº12043/20, Cª Moncloa-Aravaca (26/09/20) atestado 17269/20 de GRUME.

Minor (HE) arrested in Casa de Campo. CPT had a confidential interview with him in the GRUME cells: he reported multiple kicks, punches and blows to the whole body with the defence while lying face down on the ground, after being reduced and shackled on his back.

Acting officers went to a youth hostel in Casa de Campo at the request of the staff as one of the minors (HE) was aggressive and had assaulted the Coordinator. On arrival, the minor insulted the police officers and encouraged the other minors present to do the same, even attacking one of the officers. He was reduced and taken to the Moncloa district police station, hitting the police vehicle on the way and banging his head against the wall when he arrived at the police station, with the intention of self-harming, and had to be reduced again.

The minor was treated by SAMUR at the police station, with the result of a "bump on the forehead and grazes on the left elbow and back", according to the medical report. Treatment was carried out on the spot.



Subsequently, on his arrival at the GRUME, the minor declined to be assisted by a forensic doctor when his rights were read out, and again declined this possibility during the examination, which was carried out in the presence of his legal guardian and, by telephone, the lawyer assigned to his defence, in the presence of four of the members of the CPT who were present in the room during the examination.

At the start of the examination, the minor spontaneously stated that he had been assaulted by the police, and was immediately informed by the officer in charge, in the presence of his legal guardian and his lawyer, of his right to report the incident after his release, although the minor expressed his wish not to make a statement and subsequently left the premises, and there is no record of any subsequent complaint having been lodged to that effect.

Case ii : Atestado nº 3108/20, Cª Provincial de Valencia (20/09/20).

According to the CPT, a person (AEK) alleged that he had refused to allow six police officers to search his café in Valencia at around 4.00 a.m. on 22 September 2020, but that when he and his eight friends had left the premises he had been asked to go to the police station as he could not produce any identity documents. At the police station, the police officers allegedly raised the issue that he had refused them access to his café and one of them told him that he was going to be fined for not wearing a mask. AEK replied that he "didn't care" and apparently took out the money required to pay the fine, whereupon the police officer pushed him against the wall and punched him in the face. Other officers grabbed his arms, twisted them and put him in tight shackles. At 6:00 a.m. he was taken to the Zapadores centre after which he was transferred to an emergency medical centre. The CPT doctor observed shackle marks on both wrists and a subconjunctival haemorrhage in the left eye when AEK was interviewed about 10 hours later.

It is recorded in the case file that AEK was taken to the police station for identification purposes and, once there, he began to become increasingly agitated and excited, punching the wall with his left hand, to the point where he lunged at one of the officers and had to be restrained, actively resisting by kicking, punching and spitting. After his arrest, he was taken to a health centre for medical treatment. A few hours later, during his stay in police custody, he was assisted a second time, at his own request.

Case iii: Atestado nº 2748/20, Cª Provincial de Valencia (26/08/20).

According to the CPT, a person (PSM) reported that when he had been arrested in a park in Valencia on 26 August 2020, he had obeyed an instruction from a police officer to stand up and put his hands in the air. However, while he was standing with his hands in the air, a second officer approached him from behind and struck him with his fender on the right side of his rib cage, knocking him to the ground. Subsequently, he was shackled and taken to the Zapadores centre. At 4 p.m. the following day, complaining of pain, he was taken to the hospital where an X-ray revealed a fracture of ribs number 6 and 9. The medical report did not reflect the cause of the injury.

The statement reflects that the subject was intercepted at 14:00 hours in a park after attempting to rob a supermarket with a knife. At the moment of intercepting and disarming him, the detainee fell to the ground, hitting a bench of the street furniture, and was immediately taken to a health centre to receive medical assistance. Hours later, at around 17:30 hours on the 26th, he received medical assistance again at his request during his statement, and was taken to a hospital and then returned to the police station until he was brought before the court.



Case iv: Complaint no. 1894/20, Valencia Provincial Court (06/08/20).

According to the CPT, a person (SM), arrested at home on 8 August 2020 and taken to the Plaza de España police station in Valencia, alleged that when he was being taken to an office, still shackled from behind, he was thrown to the ground and kicked and punched in the body and head. He was subsequently taken to the Zapadores centre, where he saw a doctor who noted: "pain in left ribs, bruised ribs, head injuries".

After consultation with the Headquarters of Policía Nacional in Valencia, the detainee did not show any physical damage when he was taken to the police station. He was subsequently transferred to the health services while in custody, as he had self-injured himself inside his cell.

Case vi: Atestado nº 1384/20, Cª Provincial de Valencia (11/06/20).

According to the CPT, A foreign national (AQ), with little knowledge of Spanish, alleged that on 11 June 2020 he had been arrested by plainclothes police officers and that, on the ground, he had had a gun pointed at his head and had been hit several times on the body with a truncheon. He stated that he was placed with eight other suspects in front of a wall and forced to kneel while being shackled from behind. Subsequently, he was taken around the corner and multiple punches were inflicted on his body by several officers; two other suspects were also allegedly treated similarly. After a period of approximately six hours kneeling and shackled, all suspects were taken to the Zapadores Policía Nacional station in Valencia. Subsequently, he was taken to hospital and received treatment.

The CPT's delegation interviewed another person in a separate module of Valencia Prison (Picassent) who described witnessing AQ being ill-treated by the police.

After consulting the Headquarters of Policía Nacional in Valencia, they reported that at the time of his admission to the cells, the detainee did not show any physical impairment. He was transferred to the medical services later, while in custody, as he had self-injured himself in his cell. The medical report was sent, together with the proceedings, to the Duty Examining Magistrate's Court of the judicial district of Catarroja.

Case vii: Complaint no. 1157/20, Valencia Provincial Court (21/05/20).

According to the CPT, a person (AMG) arrested in the street in Valencia on 21 May 2020 alleged that, during transport to the police station, the police stopped the vehicle and took him out of the car. They claimed that he was armed with a knife and allegedly threw him to the ground, shackled him from behind and hit him several times with a hard object on the back of his head, forehead and nose. Subsequently, he was taken to the Nueva Fe hospital where, shackled and in the presence of two officers, he was treated for his injuries. According to the emergency medical report, AMG had alleged that the police had hit him on the head. The medical examination revealed a superficial wound on the forehead and an incised-contuse wound requiring four staples in the scalp, as well as a nasal contusion. Upon admission to Picassent Prison in Valencia, the doctor took note of the injuries in support of his allegations and the Head of Service informed the Director that AMG claimed that his injuries had been caused by the police.



After consultation with the Superior Police Headquarters of the Valencian Community, they reported that the arrest took place after a chase and physical confrontation with citizen security forces.

**8.-The CPT recommends that, in the future, the Spanish authorities ensure that all police stations in the country are obliged to store all their CCTV footage for a minimum of 30 days to ensure that any allegations of ill-treatment made against law enforcement officers in areas covered by the cameras can be verified and the allegations dismissed or further investigated. Pg.18.**

CCTV for video surveillance in custody areas is described in Instruction 11/2015 of the State Secretariat for Security, which approves the "technical instruction for the design and construction of detention areas".

On the other hand, Instruction 4/2018 of the Secretary of State for Security approves the update of the "Protocol for action in the custody areas of detainees of the State Security Forces and Corps". It stipulates that the recordings will be kept for thirty days from the time they are captured, although it should be taken into account that, as established in the aforementioned Instruction 11/2015, it will not be applicable in those facilities that lack the technical availability for their conservation during this period, until the necessary budget allocation is available for their extension or renewal.

**9.-The CPT recommends that the Minister of the Interior and the Chiefs of the Policía Nacional and the Guardia Civil send a strong message that ill-treatment of detainees is illegal, unprofessional and will be subject to appropriate sanctions. This message should be reiterated at appropriate intervals at the level of regional police directorates. In addition, the relevant authorities must ensure that an effective investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their managerial responsibilities. The corollary of this is that law enforcement officers are sufficient in number and adequately resourced to carry out their duties in a professional manner. Pg.19.**

The Ministry of the Interior maintains close and permanent vigilance in this area, which is articulated and disseminated through multiple and diverse channels. In this regard, there is an extensive body of legislation that clearly establishes the guidelines to be followed in police actions.

The dissemination and internalisation of this body of law is carried out through the different training actions that are given both for entry into the police forces and those aimed at updating knowledge, professional promotion, specialisation and advanced studies.

The Inspection of Personnel and Security Services (IPSS) of the Ministry of the Interior is the body responsible for following up on complaints against National Police and Civil Guard officers in the exercise of their duties and when they may violate the rights of persons in their custody. Such a complaint automatically triggers an investigation and follow-up of the case by the IPSS, guaranteeing all regulatory provisions, both through criminal and disciplinary proceedings.

There is even an established complaints and suggestions procedure for investigating behaviour which, without being criminally relevant, could affect the quality of the service provided by the police forces. If a citizen, through a complaint, brings to our attention an event that may constitute a violation of his or her human rights that has the characteristics of a crime, it is automatically referred to criminal proceedings.



Finally, it should be noted that work is underway within the State Secretariat for Security to set up what will be called the National Office for Guarantees of Human Rights of the State Security Forces and Corps (FCSE). Likewise, specific instructions are planned to be issued to increase the capacity of the computer application on which all complaints from citizens who allege that their fundamental rights have been violated during a police action must be recorded.

In addition, in september 2019 Policía Nacional run the National Bureau for Human Rights and Gender Equality, comprising two dedicated Offices: The National Office for Human Rights and the National Office for Gender Equality.

The mandate of National Bureau of Human Rights and Gender Equality, concerning Human Rights, is focused on designing policies, screening the current situation and taking actions to assess this issue accurately, facing a multidisciplinary context regarding law enforcement mandate from different levels of commitments and responsibility.

This planning means to increase and reinforce the trust among civil society in our law enforcement agents. In this context, the National Office for Human Rights particularly tackles four key fields:

- Human Rights of persons subjected to detention or imprisonment.
- Victims of crimes as well as other people acting in the background of law enforcement and its impact on Human Rights.
- Foster best practices in the context of Human Rights, emphasizing the need of law enforcement mandate to be carried out within a framework of professional ethics: current status and challenges ahead.

**10.-The CPT recommends to the Spanish authorities that, when it is considered essential to handcuff a person, handcuffs should in no case be excessively tight and should only be applied for the time strictly necessary. Furthermore, detained persons should not be handcuffed to fixed objects. The CPT recommends that such a practice be avoided, given the potential for causing unnecessary pain to the person concerned and the risk of injury in the event of an accident. Pg.19.**

The legal basis of the security measure of handcuffing is to be found in article 525 of the Criminal Procedure Act, which prescribes its temporary nature, limiting its duration to the time strictly necessary, and the justification of the need to carry it out.

The aforementioned instructions 12/2007<sup>1</sup> and 4/2018<sup>2</sup>, reserve their respective rules 9 to include the fundamental premises on police procedure in the immobilisation of the arrested person.

They expressly state that the officer who carries it out must assess the appropriateness of its application, taking into account factors such as the characteristics of the offence and the attitude of the detainee, in order to avoid escape, external aggression or self-harm), requiring

<sup>1</sup> Instruction 12/2007, of the SES, the behaviour required of members of the FCSE to guarantee the rights of persons detained or in police custody.

<sup>2</sup> Instruction 4/2018, of the SES approving the update of the "protocol for action in the custody areas of detainees of the FCSE" and repealing Instruction 12/2015.



that this immobilisation be carried out by restraint on the wrists of the detainee, on the back or from the front, adapting it to the special situation of the person and avoiding unnecessary suffering. The immobilisation of fixed objects is not envisaged.

However, exceptional circumstances shall be taken into account that make it advisable to reduce or modulate this measure, such as in the case of women in an advanced state of pregnancy or persons with a malformation or physical impediment.

With regard to transfers of persons in custody, Spain considers the recommendations contained in the Guidelines for the Transport of Detainees of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (June 2018. CPT / Inf (2018) 24).

**11.-The CPT reiterates its recommendation that police officers should be regularly reminded of these basic principles, including through practical training exercises. In addition, any use of force by law enforcement officials should be properly documented (description of the events; any injuries sustained; whether the person arrested was taken to hospital, etc.). Pg.19.**

Article 5 of Organic Law 2/1986 of 13 March 1986 on Security Forces and Corps (FCSE) sets out the basic principles of action of its members:

- Compliance with the legal system, in particular:

- a) To perform their duties with absolute respect for the Constitution and the rest of the legal system.
- b) To act, in the performance of their duties, with absolute political neutrality and impartiality and, consequently, without any discrimination on grounds of race, religion or opinion....

- Treatment of detainees, in particular:....

- c) Shall safeguard the life and physical integrity of persons detained or in their custody and shall respect the honour and dignity of the persons concerned.
- d) They shall comply with and observe with due diligence the formalities, deadlines and requirements demanded by the legal system, when proceeding to the detention of a person...".

It is therefore Organic Law 2/1986, on which all regulatory developments in this area are based, and which is widely disseminated and explained in the field of the FCSE, in the training cycles, both for entry into the different scales and categories, and in the system of permanent updating of all intervention protocols of all units, and also in those specialisation and/or advanced training courses where subjects or training modules related to actions with detained persons are taught in the syllabus.

With regard to actions where it is essential to use force in the practice of arresting people, these must be reflected and documented in the police report.



In the aforementioned report, a report is included which, in the event of the use of force, will be accompanied by the corresponding medical reports. Always under the supervision and control of the investigating judicial authority, which will have to know, as soon as possible, these actions, in accordance with article 496 of the Criminal Procedure Act:

With regard to the recommendation to record and document any vicissitude occurring during the detention and custody of the detainee, it should be noted that for this purpose, there are official registry books for the custody of detainees, in compliance with the international commitment acquired by Spain with the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, made in New York on 20 December 2006. This registration system was already implemented by the FCSE prior to this Convention.

In addition to the above, the latest update of these procedures has been carried out through the aforementioned Instruction 14/2018 of the State Secretariat for Security, which has proceeded to transform the traditional physical registry books into computerised instruments that increase the capacities of supervision of these actions and thus transparency and accountability. The examples of incidents that are indicated as the object of annotation are expressly recorded as obligatory entries in the aforementioned registry books.

**12.-The CPT considers that the experience of other countries shows that the provision of body-worn video cameras to law enforcement officials and their systematic use during any incident represents an additional safeguard against abuse by officials, as well as a protection against unfounded allegations of ill-treatment. The Committee would welcome comments from the Spanish authorities on this matter. Pg. 20.**

The Ministry of the Interior does not have information on the results and experiences of the use of recording systems on police personnel in other countries. The assessment of the incorporation of these instruments in police procedures should be the result of a thorough analysis of their compatibility with the current regulatory framework on the use of mobile video cameras and the treatment of recordings from the perspective of personal data protection regulations.

However, it should be noted that the use of cameras and systematic recording does not seem to be compatible with the purposes and criteria of the current regulatory framework. In this respect, Article 17 of the recent Organic Law 7/2021, of 26 May, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offences and the execution of criminal sanctions, establishes the regulation of the recording of images by the Security Forces and Corps by means of mobile devices, establishing a system of authorisation conditional on the nature of the possible events susceptible to filming, adapting the use of these devices to the principles of processing and proportionality, prohibiting these authorisations from being granted in any case on an indefinite or permanent basis, being granted for a period of time appropriate to the nature and circumstances derived from the specific danger or event, for a maximum period of one month, extendable for a further month.

**13.-The CPT recommends that the Spanish authorities reiterate to law enforcement officials their obligation to inform all detainees of their rights and that detainees should be allowed to keep a copy of the information sheet on their rights while in police custody. In addition, foreign detainees who do not understand Spanish should be promptly provided with the services of an interpreter and should not be asked to sign statements or other documents without such assistance. They should also be provided with written information on the rights of detainees in a language they understand. Pg.**



22.

Article 520.2 of the Criminal Procedure Code (Ley de Enjuiciamiento Criminal, CPC) specifically establishes the obligation to inform detainees of their rights immediately:

"2. Any detained or imprisoned person shall be informed in writing, in simple and accessible language, in a language they understand and immediately, of the facts attributed to them and the reasons for their deprivation of liberty, as well as the rights to which they are entitled and especially the following:..."

Likewise, there are numerous instructions for action that highlight the obligation to comply with due diligence in such action, among others, the following stand out:

**- Criteria for the Practice of Diligences by the Judicial Police of the National Commission for the Coordination of the Judicial Police - Detention and Information on Rights. General Doctrine...Requirements...** "g) The detainee shall be informed in writing, in simple, understandable and accessible language, in a language he/she understands and immediately, of the following facts attributed to him/her and the reasons for his/her deprivation of liberty.... A brief summary of the facts, their provisional criminal classification; The list of evidence from which the detainee's participation in the act can be deduced,..... Subsequently, the detainee, in accordance with the provisions of article 520 of the Criminal Procedure Act, is informed of the rights to which he is entitled..."

**- Instruction of the State Secretariat for Security, 12/2007 on the conduct required of members of the State Security Forces and Corps to guarantee the rights of persons detained or in police custody.** "Third: Rights of the detainee. "In order to fully guarantee the rights which, by virtue of the provisions of articles 118 and 520 of the Criminal Procedure Act, the detainee has from the very beginning of the arrest, members of the State Security Forces and Corps shall take into account the following: 1. Once the arrest has been carried out, the detainee shall immediately be informed - in the language and manner that is understandable to them - of the catalogue of their rights contained in article 520.2 of the Criminal Procedure Act..."

The aforementioned legal framework, and its regulatory developments, guide police action with respect to detainees and the special obligation of officers to immediately inform detainees of their rights, which are widely disseminated and explained in police training courses within the FCSE.

On the other hand, article 520.2 LECrim establishes that the information sheet on the detainee's rights may be kept in the possession of the detainee for the duration of the detention.

However, when there are reasons of risk and/or danger to the detainee's own integrity, in accordance with article 5.3 of the LOFCS, "b) They shall ensure the life and physical integrity of the persons they detain or who are in their custody", this document shall remain at the disposal of the detainee, in the custody of the police officer.

In this sense, this is set out in the Criteria for the Practice of Proceedings by the Judicial Police:

Detention and Information on Rights. General Doctrine...Requirements..." l) The detainee shall be allowed to keep the written statement of rights in his/her possession



for the duration of the detention, in a manner that is compatible with the physical security of his/her person during the stay in police custody. Where such compatibility does not allow the detainee to keep the written statement of rights in his possession, it shall remain at his disposal, for the duration of the detention, together with his personal effects".

In relation to foreign detainees and the support of interpreter services, within the framework of the aforementioned regulations, it is also foreseen to provide prompt and effective interpreter assistance, which in any case will depend on the availability and proximity of interpreters and the geographical and orographical circumstances of the journey to the place of detention. In the meantime, a written translation of the detainee's legal document is available in the most common foreign languages in Spain (English, Arabic, French, German, Italian, Romanian, Russian, etc.).

**14.-The CPT recommends that foreigners (and any other person) in police custody be allowed to notify their family or a third person of their choice of the fact of their arrest, even if these persons live abroad (e.g. by making a free phone call). Pg. 22.**

The Criminal Procedure Code (CPC) provides in Article 520.2.e), f) y g) as follows:

"(e) The right to be informed, without undue delay, of his or her deprivation of liberty and the place of custody where he or she is being held at any given moment, to the relative or person of his or her choice. Foreigners shall have the right to have the above circumstances communicated to the consular office of their country.

(f) the right to communicate by telephone, without undue delay, with a third party of his choice. This communication shall take place in the presence of a police officer or, where appropriate, the official designated by the judge or the public prosecutor, without prejudice to the provisions of Article 527.

(g) The right to be visited by the consular authorities of his country, to communicate and correspond with them".

In its development of the aforementioned legal precepts, in the Criteria for the Practice of Proceedings by the Judicial Police, the following is determined with regard to detention and the informing of detainees of their rights:

"g)...6... "The detainee shall be informed that the call will be made from the official telephone. He/she shall be asked to identify the caller and his/her place of residence and to provide the caller's telephone number. The call will be made by the Judicial Police, who will inform the caller where the call is being made from, the identity of the person who wishes to communicate with him/her and will ask him/her if he/she wishes to take the call. The maximum duration of the call will be five minutes..."

**15.-The CPT would like to receive confirmation that in such caState Secretariat for Security, the family (or a third party) of each child must be informed separately by the police of the fact of the arrest and the child must be informed individually that such notification has taken place. Pg. 22.**

This observation is based on interviews conducted by members of the CPT at the GRUME premises in Madrid with nine minors who had been arrested in the same intervention. The



CPT states that the records did not show that each family had been contacted individually by the police when reporting the arrest.

Consultation of the Madrid JSP - GRUME showed that, on the day of the CPT's visit, case number 17286/GRUME was being processed, with nine minors arrested for burglary. In the proceedings, the relatives of all the minors were informed of the fact of their arrest and place of custody, with the telephone number of the parent appearing in each of the proceedings, and the positive result of these calls, although all nine communications were recorded with the same telephone number. It is confirmed that the relatives of the nine minors were informed separately and that the calls were made in their presence.

**16.-The CPT recommends the Spanish authorities to take further steps to ensure that the right of access to a lawyer is fully effective in practice, taking into account these observations. Pg. 23.**

The Criminal Procedure Code (Ley de Enjuiciamiento Criminal, CPC) states in Article 520:

"(c) The right to appoint a lawyer, without prejudice to the provisions of section 527(1)(a) and to be assisted by him without undue delay. In the event that, due to geographical remoteness, it is not immediately possible to obtain the assistance of a lawyer, the detainee shall be provided with telephone or video-conference communication with the lawyer, unless such communication is impossible".

Thus, unless there is a justified cause, the detainee's rights (information and knowledge) are immediately read to the detainee, and legal assistance is provided by notifying the corresponding Bar Association. In this sense, the promptness of the request for legal assistance will prevent dead or opaque spaces to make such assistance effective, being irrelevant the forecast of the short or short stay of the detainee in police custody, in view of a prompt submission to the judicial authority.

This observation is based on interviews conducted by members of the CPT at the GRUME premises in Madrid, in this case with five minors who had been arrested during the same intervention. The CPT states that, at the time of the visit, they had not yet met a lawyer more than eighteen hours after the arrest.

It should be noted that the practice of proceedings with detained minors begins with the presentation by the corresponding indicative in the GRUME duty service and ends with their being placed at the disposal of the Minors' Public Prosecutor's Office or, where appropriate, released with or without charges at the disposal of the legal guardians.

Once the appearance for the presentation of the detained minor has been formalised, he/she is again informed in writing of his/her rights and the notification to the Bar Association is completed. From that moment on, the lawyer, whether private or ex officio, is authorised to go to the GRUME premises and meet with the minor before the police statement. However, the Bar Association usually does not send the lawyer until the parents or legal guardians of the detainee have presented themselves. Therefore, the period of time that elapses from the time a minor is detained until he/she is interviewed by his/her lawyer does not depend exclusively on the Policía Nacional.

In this case, it should be added that GRUME police personnel make significant efforts to process the reports in the minimum time necessary from the time of arrest, with a legal limit of



twenty-four hours, during which they have to coordinate actions with other institutions such as the Juvenile Prosecutor's Office, the Bar Association and the legal guardians themselves.

With regard to adult detainees, the CPT report mentions that the officers interviewed confirmed that it was common practice to schedule the appointment with the lawyer so that he or she would be present only at the time of recording the formal statement. In particular, long periods between the time of arrest and the interview with the lawyer were detected at the Seville Provincial Police Station, where they observed that one Spanish detainee made his first statement at the police station 39 hours after arrest and that only in one case, out of the 93 detainee records analysed in Seville, did he show that he had received legal advice during an interview with his lawyer, less than 90 minutes before his first appearance before the judge.

In this regard, the Provincial Police Station of Seville has reported that the report on the first detainee reports on the investigation carried out to clarify a burglary in an inhabited home, in which the three perpetrators were identified and part of the stolen property was recovered. The investigation was carried out within the legal timeframe established by the L.E.Cr. and there were numerous investigative measures (such as ocular inspections, viewing of images, intervention and search of vehicles, carrying out entries and searches in three homes and taking witness statements) which fully justify the postponement of the taking of a statement from a detainee until it was considered appropriate to question him on the information obtained.

With regard to the second point, it should be noted that the detainee's right to a confidential interview with a lawyer, prior to the taking of a statement, is in all cases and without exception, and in no case is it governed by criteria that do not correspond to the wishes of one of the two parties.

Furthermore, the CPT's report notes that, in Seville, the specific time at which the bar association or private lawyer was contacted, and at what time a specific lawyer was appointed, was not indicated in the arrest records (register-book and custody file of the detainee). In this regard, it should be noted that any steps taken in the course of proceedings with persons deprived of their liberty, including all those relating to their legal assistance, are duly noted in the police report.

**17.- Measures should be taken to ensure that lawyers can always meet privately with their clients in police stations. Pg. 23.**

The Criminal Procedure Code (CPC) states in Article 520. 6 d) that:

"6. The assistance of the lawyer shall consist of:

...d) To have a confidential interview with the detainee, even before a statement is received by the police, the prosecutor or the judicial authority, without prejudice to the provisions of article 527 ...."

In development of this legal provision, this practice is also included in the following regulations:

**Criteria for the Practice of Diligences by the Judicial Police**, Detention and Information of Rights. General Doctrine...Requirements... "3...The assistance of the lawyer shall consist of:...Interviewing the detainee in private, even before receiving a statement from the police, unless incommunicado detention has been judicially agreed



or requested by the Judicial Police. All communications between the detainee and his/her lawyer shall be confidential.

**18.-The CPT recommends that the Spanish authorities, in their application of the provisions of Article 520 (2) "i" of the CPC, strictly comply with the following principles: Pg.24.**

**-A request by a detained person to see a doctor must always be complied with; it is not for police officers, or any other authority, to filter such requests;**

**-All medical examinations of detained persons conducted in a police establishment or civilian hospital must take place outside the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of sight of police personnel. In addition, the placing of handcuffs on detainees during the medical examination should be based on an individual risk assessment;**

**-Continuity of supply of necessary medication, such as OAT and chronic use medication, is ensured through mandatory and proactive provision of the necessary prescription in contact with the competent health authorities for prescription.**

The Criminal Procedure Code (CPC) states in Article 520. 2 i) the following:

"(i) The right to be examined by the forensic doctor or his or her legal substitute and, failing that, by the doctor of the institution where he or she is, or by any other doctor dependent on the State or other Public Administrations."

In development of this legal provision, this practice is included in:

-Instruction 12/2007, of the Secretary of State for Security, on the conduct required of members of the Security Forces and Corps to guarantee the rights of persons detained or in police custody. It stipulates that officers must "adopt the necessary measures to guarantee the right of the detainee to be examined by the forensic doctor, his or her legal substitute or, failing that, by the doctor of the institution where he or she is being held, or by any other doctor dependent on the State or other Public Administrations".

-Instruction 4/2018, of the Secretary of State for Security, on the Protocol for police action in the Custody Areas for Detainees, in reference to Medical assistance and supply of medication, determines in section 4.h) that in cases where the detainee requires medical assistance, they shall be examined by medical personnel as soon as possible, where the physician shall proceed to the appropriate prescription of the medication needed by the detainee. In the event that the prisoner is carrying medication, this shall be kept and guarded, and in the same way it shall be supplied in the event of a medical prescription.

Police presence during the examination or the use of means of restraint during the examination are exceptional circumstances due to the dangerousness and/or high risk of escape of the detainee, and are carried out, where appropriate, by judicial order or after an individualised examination and assessment by the custody officer, who weighs factors such as the characteristics of the offence, the detainee's attitude and the circumstances of security risks (detainee's personnel, attending physician and custody officers) or of escape, in order to determine whether or not to apply the use of restraint measures.



**19.- The CPT notes once again that the legislation does not guarantee the right of a detained person to have access to a doctor of his or her choice. In the CPT's view, allowing detained persons to consult a doctor of their choice is important for continuity of care and may provide an additional safeguard against ill-treatment. The CPT reiterates its recommendation that this right be introduced. Pg. 24.**

As indicated above, the Criminal Procedure Code (CPC), in Article 520.2(i), provides for the right of the detainee to be examined by the forensic doctor or his or her legal substitute and, failing that, by the doctor of the institution in which he or she is being held, or any other doctor employed by the State or other public authorities.

In this way, the right of the person deprived of liberty to receive the medical assistance and care they require is guaranteed, guaranteeing the privacy of their person, as well as the impartiality and objectivity of the relevant medical reports.

Likewise, this authority may determine the frequency of the medical visits it deems necessary, either by a forensic doctor or by several if necessary. In any case, Article 527 of the Criminal Procedure Act (CPC) states that "medical examinations of detainees whose right to communicate with all or some of the persons with whom they have the right to do so is restricted shall be carried out at least twice every twenty-four hours, according to medical criteria".

**20.- The CPT recommends that the Spanish authorities take steps to ensure that, in future, the "chain of custody and incidents" section of the detainee register and custody record provides a complete and accurate account of all significant events occurring during the time a detainee is in police custody. Particular attention should be paid to accurately recording the time when a bar association or private lawyer is contacted, the time when a lawyer is officially appointed and the time(s) when a lawyer actually attends the police station. All contacts between (or on behalf of) a detainee and other third parties should also be fully and accurately recorded in the chain of custody and incidents section of the custody register. Pg. 25.**

Instruction of the State Secretariat for Security, 4/2018 provides that the detainee's exits from the cell, whether temporary, in order to carry out some kind of action (statement-taking, line-up examination, entry and search, medical examination, etc.), or definitive, must always be authorised by the Instructor of the proceedings, and recorded, in real time, in the corresponding custody record of the detainee.

Likewise, all the proceedings and steps taken, from informing the detainee of their rights, the interview with their lawyer, or telephone communication with them, with a family member or with a third party, as well as any others that may occur, must be recorded in the police report. This report will be handed over, together with the detainee, to the judicial authority, thus placing police action under their control and supervision with regard to their diligence in guaranteeing the rights of the detainee.

On the other hand, it should be noted that all Policía Nacional and Guardia Civil log books are currently digitalised and personnel receive the necessary training for their correct completion, as well as the different instructions regarding the completion of log books, in order to carry out a rigorous and scrupulous management of documentary procedures.



The recording procedures on the Detainee Custody and Record Book are subject to the provisions of Instruction of the State Secretariat for Security 14/2018. There is a real and determined commitment on the part of this (SES), as well as the FCSE (Policía Nacional y Guardia Civil), to achieve the most exact compliance and with this, the rigorous recording of all actions carried out on the person who is the object of police custody.

In addition to the Book of Registration and Custody of Detainees, some of the aforementioned actions, as well as others related to them, are detailed in the telephoneme books, in addition to the fact that they must be incorporated by means of diligences in the police reports that are instructed and sent to the judicial authorities and the Public Prosecutor's Office.

**21.- The CPT would like to receive more information on the possibility of the PCC being amended, among other things, to create the function of "custody officer" in police detention areas. Pg. 25.**

The current Instruction of the State Secretariat for Security, 4/2018, which approves the update of the "protocol for action in the custody areas of detainees of the FCSE", already identifies the figure of the "head of custody" as responsible for ensuring the proper state of conservation and cleanliness of the facilities, as well as the conditions in which the custody service is carried out.

The heterogeneity of the different police units and staff, both in terms of size, characteristics and volume of activity, does not allow for the identification of specific and exclusive services for the custody of detainees, tasks for which all FCSE personnel are trained. Work is currently underway to update Instruction 4/2018, which specifies the responsibilities and duties of the head and custody personnel.

**22.- The CPT recommends that the Spanish authorities introduce electronic recording (i.e. audio and/or preferably video) of all police interrogations. Pg. 26.**

Instruction of the State Secretariat for Security, 4/2018 on the performance in the Custody Areas of Detainees, establishes that these shall have video-surveillance and recording systems, which allow viewing in the light conditions of their premises, and that in the Guidelines issued by the State Secretariat for Security for the design and construction of Detention Areas, it also establishes, in sections 5. 10.1 and 13.3<sup>3</sup> also provides for recording throughout the detainee's stay in these police facilities, where most of the procedures related to detainees are carried out (overnight stay, accompaniment, review, line-up examinations, etc.).

In any case, the recordings must be made in accordance with the instructions of the judicial authority.

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<sup>3</sup>**5.10.1. Technical Security Installations.** The Detention Area shall have the necessary control and surveillance systems to guarantee its security and that of all its occupants...".

**13.3. Closed Circuit Television Installations.** The purpose of these shall be to provide the Detention Area with the necessary video and audio surveillance means to control the different areas of the building, preventing dangerous situations from arising. This installation will cover the main doors, accesses for Security and corridors of the Detention Area... Video surveillance cameras will also be installed in all cells and in the Isolation Room (following the recommendations of the Ombudsman dated 27.01.2011). Where justified, cameras will also be pre-installed in: Review Room, Interrogation Room, Statement Taking Room, and rooms...of Recognition and Identification..."



**23.-The CPT reiterates its recommendation to the Spanish authorities to ensure that all new police custody facilities include in their design access to natural light, as well as an outdoor courtyard for persons detained for more than 24 hours. Pg.28.**

Instruction 11/2015 of the of the State Secretariat for Security on the design and construction of detention areas", establishes the technical criteria that must be taken into account in the planning, design and execution of newly built detention areas, as well as in the rehabilitation, refurbishment, extension or adaptation of existing ones, in all police facilities.

In this sense, section 6 of the aforementioned instruction regulates access to natural light as follows:

"Health and habitability conditions (acoustic, hygrothermal, lighting, etc.) appropriate to the expected level of occupancy and the length of stay of users shall be guaranteed, taking into account, among others, the following aspects: indoor air quality, air conditioning, lighting and continuity of electricity supply. In this regard, it is considered necessary to introduce natural lighting and ventilation in all spaces and rooms not used exclusively by detainees, where it is feasible for security reasons".

Since the entry into force of the aforementioned instruction, refurbishment and improvement works are being undertaken as needs arise and budget availability permits.

On the other hand, section 13.6.2 of the same instruction, called "windows", states:

"As a general criterion, natural lighting and ventilation shall be sought in the rooms of the detention area that are not for the exclusive use of detainees (neither cells, detainee toilets or isolation rooms), nor in the corridors of immediate access to them. When the area is located on a semi-basement floor, windows shall be provided in the upper section of the façade".

**24.-The CPT recommends that measures should be taken in all detention facilities to ensure that artificial lighting is of sufficient brightness to enable detainees to read, that ventilation systems work effectively and that all cells are equipped with a call bell. Measures should also be taken to keep the cells in Seville (Blas Infante) and Madrid (Centro) in a clean and decent state of repair. Pg.28.**

As indicated above, Instruction of the of the State Secretariat for Security, 22/2015 on the design and construction of detention areas", establishes the technical criteria to be taken into account in the planning, design and execution in newly built detention areas, as well as in the refurbishment, reforms, extensions or adaptations of existing ones, in all those police facilities.

With regard to the level of artificial light in the cells, this instruction includes the technical criteria necessary to guarantee the conditions of habitability and lighting healthiness.

With regard to the rest of the observations, the Western Andalucía Police Headquarters (Seville headquarters) informs that the Architecture Department of the DGP has currently drafted the project for the execution of the refurbishment works of the dungeons of the Blas Infante police complex, scheduled for the first half of 2022. It is currently in the tendering phase and the execution period is estimated at twelve months.



As for the cleaning and disinfection of the detention areas in the police facilities, it is reported that this service is the subject of a public tender, open and public, and the technical specifications set out the conditions for the execution of these services, in accordance with compliance with health recommendations and ensuring the healthiness of both detainees and members of the security forces, especially in the current framework of the health crisis caused by COVID-19.

**25.- Urgent measures are required in Algeciras Police Station and other police establishments to ensure that cells do not have ligature points. In addition, clear protocols, accompanied by relevant training, on the identification and management of vulnerable prisoners at risk of self-harm or attempted suicide should be in place in all security force detention facilities. Such protocols should include the provision of tear-proof clothing and blankets and the installation of CCTV in cells and increased direct supervision. Pg.28.**

The CPT mentions two suicides at Algeciras Police Station in early 2020 (January and June), by hanging, using shreds of a blanket tied to the bars of the cell doors. During the September visit, it was observed that these cells were still being used in the same conditions and that they did not have CCTV or a buzzer. Moreover, there was no specific screening procedure for vulnerable detainees in the cells and no anti-tear clothing to be provided to vulnerable detainees. The CPT calls for urgent measures to ensure that cells do not have ligature points.

The CPT further requests that a protocol be established to identify and manage vulnerable detainees at risk of self-harm or attempted suicide, with training for all staff on duty in detention areas. Such a protocol should include provision of tear-proof clothing for detainees, tear-proof blankets, installation of CCTV and increased direct supervision of such detainees.

The construction of the Algeciras Local Police Station took place in 2007 and, although it is relatively new and of good quality in terms of materials and facilities, it predates Instruction of the State Secretariat for Security, 11/2015. For this reason, the Heritage and Architecture Area of the Economic and Technical Division is aware of the need to carry out a reform to install call buttons, whose action will be carried out as soon as there is budget availability.

With regard to the binding points observed on the doors of the cells visited by the committee, these have already been corrected by the maintenance company by welding metal plates.

With regard to the provision of clothing and anti-tear blankets, on 22 September 2020, a batch of eighty new blankets was allocated to replace the blankets that had been in place up to that point and which may have been in poor condition. In addition, and in this regard, contacts are being made with the General Secretariat of Penitentiary Institutions to initiate the purchase of clothing and tear-proof blankets for detainees.

Finally, it is noted that on 1 June 2020, the Head of the Security Brigade of the Local Police Station of Algeciras published an internal Service Order establishing the obligation to determine, when a detainee is admitted to the cells, whether or not there is a risk of self-harm. It establishes that the risk must be assessed as High, Medium or Low depending on



the circumstances at the time, as well as the state of agitation or nervousness in which the detainee is, comments made or knowledge of a history of similar events.

When the risk of self-harm is Medium or High, it is established that the detainee will be placed in cell number 1, which is more visible and closer to security personnel, and this circumstance will be recorded in the Detainee Register and Custody Book.

Subsequently, on 8 September 2020, a Protocol of Action with Detainees in the Algeciras Police Station was established, which in section 3.2.1. "Entry of detainees into the cells", letter j), indicates that detainees who are presumed to be susceptible to self-harm should be placed in cells number 1 and 2, first in the corridor, for better surveillance.

Furthermore, section 3.2.2. "Admission and stay of detainees in cells" establishes the need to maintain strict surveillance and security measures for all detainees to guarantee their physical integrity and prevent possible self-harm, establishing, given that the cells do not have CCTV cameras, rounds and inspections every 20 minutes by security staff.

Detainees at risk of self-harm shall have items on the food tray that could be used for self-harm or for tearing blankets to shreds removed (section g), and in the event that signs of self-harm or suicidal behaviour are detected in a detainee, in addition to being subject to greater control and surveillance, measures shall be taken to expedite the police proceedings as much as possible.

Finally, point 6 of the Protocol states that the personnel in charge of custody should be adequately trained in the necessary techniques to fulfil the obligation to guarantee the physical integrity of detainees.

**26.-As regards the cells used to hold children, the CPT recommends that they be equipped with CCTV as a safeguard against ill-treatment and as a complementary measure to monitor their state of well-being while in detention. (P.28).**

Reference is made to the information indicated in this respect in paragraph 7 of this report. With regard to the installation of CCTV in all cells in the ACUDE areas, it is planned that the necessary data network points will be installed in 2021 in those police stations that do not yet have them, and the Telecommunications Area has instructed the territorial IT delegations to, in the installation of these data network points, to include two points outside the cells (one for the cameras and the other for the intercoms) and all the necessary points, both in the route taken by detainees within the facilities and in those other places suggested by the Ombudsman and required by Instruction 11/2015 of the of the State Secretariat for Security.

For this reason, this year a new file is being processed for the acquisition of CCTV and intercom equipment, which will be provided to the territorial ICT delegations so that they can proceed with their installation.

**27.-The CPT recommends that the Spanish authorities make every effort to limit local overcrowding and, in particular, to ensure that standard prisons (with 1,008 cells) have an occupancy level of one person per cell, unless there are specific requests or reasons for a cell to be shared by two prisoners. When the number of persons in a module rises well above one person per cell, the conditions of detention are adversely affected. Pg.29.**



As the CPT notes, the public policies put in place to reduce the prison population have proved effective, leading to a steady decrease in the number of inmates over the past ten years and, consequently, to a reduction in the level of occupancy of prisons. This means that, as a general criterion and unless there are specific treatment-related reasons, the prison system can provide solitary confinement in a cell to any person who requests it.

However, it should be noted that in the Spanish prison system, the cells of the residential departments, which are between 10 and 13 square metres in size, are designed to accommodate two people. It is a penitentiary architecture specifically designed to facilitate coexistence between the people it houses and to promote their participation in activities (educational, sporting, cultural, work-related, etc.), with the architectural layout of the different rooms being similar to that of any community in free life. In contrast, the Spanish system only provides for accommodation in individual cells in exceptional cases of maladjustment, dangerousness or serious disruption of coexistence,

In any case, as indicated above, the current level of occupancy of penitentiary centres allows any person who wishes to do so, and in the absence of specific circumstances that make it inadvisable, to remain alone in a cell, either in the establishment where he or she is held if there are vacant cells or, failing that, in another nearby establishment that has them.

Likewise, persons deprived of liberty are, as a general criterion, in prisons close to their place of residence and social and family environment, unless there are specific procedural or penitentiary reasons, such as the fact of having open cases and being held in the centre closest to the judicial authority handling them or having the exceptional regime of first degree applied.

**28.-The CPT would welcome comments from the Spanish authorities on the issue of the internment of ETA-affiliated prisoners, in the light of the above observations. Pg.30.**

Following the announcement by the terrorist group ETA on 20 October 2011 of the definitive cessation of the armed struggle and its self-dissolution on 3 May 2018, the Spanish Government has considered a change in prison policy towards its members to be appropriate. To this end, and always based on the principle of scientific individualisation in the execution of custodial sentences, decisions have been assessed and adopted regarding the classification and destination of these persons, which have led to a substantial change in their geographical distribution and living arrangements.

Thus, as of 17 June 2021, 192 persons belonging to this group remained in prison. Of these, 26 were women and 166 were men. The two autonomous communities with the highest number of inmates were the Basque Country and Castilla León, with 48 and 44 persons respectively. Of these, the Basque Country had six women and Castilla León four. This was followed by Cantabria (24 persons), La Rioja (24), Aragón (18), Navarra and Asturias (10 each), Andalucía (6) and Madrid (8).

If we evaluate the geographical distribution by distance from their Autonomous Community of origin, the situation offers us the following comparative panorama with respect to the situation prior to the arrival of the current executive:



Por ubicación geográfica a 25/06/2018			Por ubicación geográfica a 17/06/2021		
	Número	%		Número	%
En prisiones vascas	8	3,3	En prisiones vascas	48	25,0
En prisiones hasta 200 km	24	10,0	En prisiones hasta 200 km	125	65,1
En prisiones a más de 200 km	44	18,3	En prisiones a más de 200 km	13	6,8
En prisiones a más de 400 km	165	68,5	En prisiones a más de 400 km	6	3,1
<b>Total</b>	<b>241</b>	<b>100</b>	<b>Total</b>	<b>192</b>	<b>100</b>

Finally, with regard to the living arrangements of those who are in pre-trial detention or the degree of classification of those who have already been sentenced:

Por régimen de vida a 25/06/2018					Por régimen de vida a 17/06/2021				
	Preventivos	Penados	Número	%		Preventivos	Penados	Número	%
Cerrado	7	205	212	88,0	Cerrado	0	8	8	4,2
Ordinario	0	28	28	11,6	Ordinario	4	166	170	88,5
Abierto	0	1	1	0,4	Abierto	0	14	14	7,3
<b>Total</b>	<b>7</b>	<b>234</b>	<b>241</b>	<b>100</b>	<b>Total</b>	<b>4</b>	<b>188</b>	<b>192</b>	<b>100</b>

**29.-The CPT would like to receive an update on the effects of the COVID-19 pandemic in Spanish prisons until 1 June 2021, both for staff and prisoners. Pg.31.**

Regarding the impact of Covid-19 on the prison population, as of 1 June 2021 the epidemiological analysis shows the following data:

- Total number of diagnoses confirmed by PDIA's (2,116 inmates): the incidence rate in II.PP. was 45 per thousand inmates, 1.7 times less than in the general population (78 per thousand inhabitants).
- Most of the reported cases were asymptomatic, 82% of which were detected by contact investigation and 14% with mild symptomatology and were treated in the prison itself.
- Mortality due to COVID-19 (9 inmates): the rate in II.PP. was 0.19 per thousand inmates, 9 times less in II.PP. than in the general population (1.7 per thousand inhabitants).
- Serious patients requiring hospitalisation (76 inmates): the rate was 1.6 per 1,000 inmates, 5 times less than in the general population (8 per 1,000 inhabitants).
- Of the 71 prisons, 10 prisons reported no cases (14%) and 18 prisons reported between 1 and 2 cases (25%).

As of 30 June 2021, vaccination coverage stood at 96% of inmates with at least one dose of vaccine and 84% with full vaccination, with vaccination refusal standing at 3.6%. Preventive measures are currently being maintained depending on the incidence and vaccination coverage of the general population and the evolution of the incidence of the new variants in our country, as well as the rest of the non-pharmacological measures.

With regard to prison staff, the epidemic derived from the SARS-CoV-2 coronavirus generated a new risk in the work environment of the Penitentiary Institution, framed in Royal Decree 664/1997, of 12 May, on the protection of workers against risks related to exposure to biological agents during work, which can affect health and non-health environments, susceptible to causing serious damage to health.



Due to the extreme ease of transmission of the virus, it was necessary to carry out a Risk Assessment of all workplaces against the risks generated by SARS-CoV-2, evaluating the risk of exposure in accordance with the guidelines and recommendations formulated by the health authorities.

To protocolise this situation, the Occupational Risk Prevention Department drew up an initial assessment dated 27/03/2020 and subsequently made three modifications to adapt it to the evolution of the disease, both at epidemiological level and to the scientific knowledge that has emerged about the SARS-CoV-2 coronavirus; the INSST methodology was followed, as well as the action procedure for occupational risk prevention services in the event of exposure to SARS-CoV-2.

The scope of application includes all public employees of the General Secretariat of Penitentiary Institutions, with special emphasis on particularly sensitive workers.

In February 2020, in view of the potential scale of the COVID-19 infection, all the work centres of the General Secretariat of Public Institutions were asked for an updated stock of Personal Protective Equipment (PPE) in order to ascertain the current stock and place orders centrally according to needs. Once this information was received, a redistribution between centres was ordered so that all could meet the needs until equipment was sent centrally, which has been done since 20/03/2020 to date.

The number of confirmed cases of prison staff from the beginning of the pandemic until 01/06/2021 has been 1828, with the following two tables showing the global data by Covid-19 referring to public prison staff.

The first table shows the total number of cases divided into two blocks, the first from the start of the pandemic until 21 June 2020, and the second from the end of the first State of Alarm (22 June/2020) until 1 June 2021.

The second table shows the distribution of cases by the different Prevention Services and, like the previous one, it is divided into two blocks.

Table 1

Casos Globales Covid-19 desde marzo/2020 a 01/06/2021								
	Casos confirmados		Casos recuperados		Casos activos		Fallecidos	
	H	M	H	M	H	M	H	M
Estado de Alarma	201	77	197	77			4	
Del 22/6/20 al 17/6/2021	1.075	475	1.040	459	34	16		1
<b>Total</b>	<b>1.276</b>	<b>552</b>	<b>1.237</b>	<b>536</b>	<b>50</b>			<b>5</b>



Table 2

ZONAS SP	Casos durante el estado de alarma			Casos desde el 22/06/2020 a 01/06/2021				DATOS GLOBALES COVID-19		
	Confirmados	Recuperados	Fallecido	Confirmados	Recuperado	Fallecido	Actual	TOTAL Confirmado	TOTAL Recuperado	TOTAL Fallecido
Galicia y Asturias	14	14	0	77	73	0	4	91	87	0
Madrid	54	54	0	260	255	0	5	314	309	0
Castilla la Mancha y Extremadura	42	41	1	148	144	0	4	190	185	1
Castilla y León	71	70	1	210	203	0	7	281	273	1
País Vasco, Cantabria y Navarra	4	4	0	65	62	0	3	69	66	0
Levante	42	41	1	262	260	0	2	304	301	1
Canarias	5	5	0	34	32	0	2	39	37	0
Andalucía oriental y Melilla	18	18	0	142	137	0	5	160	155	0
Andalucía occidental y Ceuta	18	18	0	260	241	1	18	278	259	1
Aragón y La Rioja	10	9	1	92	92	0	0	102	101	1
<b>Total</b>	<b>278</b>	<b>274</b>	<b>4</b>	<b>1550</b>	<b>1499</b>	<b>1</b>	<b>50</b>	<b>1828</b>	<b>1773</b>	<b>5</b>

As for the number of public prison employees vaccinated against Covid-19, as of 30 June there were 20,760 (85% of the total number of staff) and of these, 6,200 had completed the vaccination schedule, a process that has continued during the months of July and August and is expected to be completed for the remainder.

**30.-The CPT wishes to be informed of the outcome of this disciplinary procedure and of the criminal investigation relating to this case. Pg.36.**

Once the documentation and images relating to the events of 9 September 2020 in Madrid VI Prison were sent to the judicial authority on 17 September 2020, Court no. 1 of Arganda del Rey agreed to initiate proceedings for misdemeanours 992/2000, and likewise, by order of the Undersecretary of the Interior, a formal disciplinary correction file number 2020/22 was opened against the seven officers implicated in these events.

On 24 November 2020, the inspector in charge of the case referred the proceedings carried out up to that time to the court in case the facts could constitute a crime under article 533 of the Penal Code, stating that the accused in this administrative disciplinary procedure allegedly committed ill-treatment and falsification of documents. Consequently, by virtue of the provisions of article 94.3 of the Basic Statute of the Public Employee and article 23 of the General Regulations for Civil Servants of the General State Administration, it was agreed on the same date to suspend the processing of the case until it was clarified, through the courts, whether the facts constituted criminal liability.



According to information from the competent court on 27 July 2021, after receiving statements from the accused on the 24th and from witnesses on the 28th, both in June 2021, the proceedings have been transferred to the Public Prosecutor's Office and a report is awaited.

Therefore, at the moment, the administrative disciplinary proceedings are suspended until a judicial decision is handed down, and the judicial criminal proceedings are being processed.

With regard to the dysfunctions observed in the video surveillance system of the Seville II CP, the new management team of the centre has adopted measures to guarantee access to the rooms on the technical floors of the modules where the camera servers are located, which previously did not have locks, only and exclusively to persons expressly authorised by the Management of the centre.

To reiterate that the prison administration's Management Centre has been insisting on transmitting to all prison staff its total rejection of any physical or verbal abuse of persons deprived of their liberty. Such behaviour is not tolerated under any circumstances but, on the contrary, is dealt with disciplinarily and criminally, as appropriate, until it is eradicated. For this reason, prison management is repeatedly reminded of its obligation to ensure the proper treatment of inmates, to promote staff training as a preventive measure, to exercise closer supervision over their actions in the event of incidents occurring, to control the proper completion of documentation relating to the use of coercive means, of reports of ill-treatment, assistance reports for injuries, etc., as well as guaranteeing their referral to the appropriate judicial authorities and an effective investigation of all complaints.

In this regard, on 17 March, a document was sent to the management of all the centres containing clear guidelines for action in three cases that affect the investigation of any complaint or situation of mistreatment of which they become aware. Specifically, it addresses:

- The participation of the Duty Court of facts that could constitute a crime;
- The referral of assistance reports for injuries issued by prison health personnel;
- It develops a specific protocol for action in matters of ill-treatment.

A copy of this document is attached (ANNEX I).

Likewise, in addition to the measures being adopted to improve the skills of prison staff in the handling of conflictive situations, there are plans to improve the training of prison inspection service staff in order to be more effective in the preventive work of supervision that is regularly carried out on the performance of the centres and to improve the way in which complaints of alleged ill-treatment by prison staff are investigated.

Specifically, the Sub-Directorate General for Penitentiary Analysis and Inspection, the department of the General Secretariat of Penitentiary Institutions responsible for carrying out investigations, is carrying out an in-depth review of the protocol for action in this area, with the aim of assessing and making the necessary changes to ensure that such investigations are truly effective and that any case of excessive use of force or ill-treatment does not go unpunished.

Also aware of the importance of video surveillance systems as a safeguard against ill-treatment, as a general criterion the new instruction provides for them to cover all areas or rooms of common use and accesses to penitentiary establishments, as well as specifically



providing cameras with image and sound recording in certain rooms, such as those where the means of coercion are stored, those used for full body searches, observation cells or those used for prolonged mechanical restraint. In this framework, the new instruction that will regulate this matter from September 2021, also provides for the adoption of measures to ensure its proper functioning and use by prison staff, avoiding improper manipulation.

**31.-The CPT recommends that the Spanish authorities reiterate to prison staff the clear message that physical ill-treatment, excessive use of force and verbal abuse of prisoners is not acceptable and will be dealt with accordingly. The management of each prison should demonstrate greater vigilance in this area by ensuring the regular presence of prison directors in the detention areas, their direct contact with prisoners, the investigation of complaints lodged by prisoners and improved training of prison staff. Steps should be taken to ensure that documentation on the use of force is accurately completed. Allegations of ill-treatment, as well as any other credible information indicating ill-treatment, should be referred immediately to the appropriate duty court and be subject to effective investigation. Pg.38.**

**32.-The CPT recommends that appropriate measures be taken to improve the skills of prison staff in handling high-risk situations without the use of unnecessary force, in particular by providing training in crisis avoidance and de-escalation and in the use of safe methods of control and restraint. In addition, prison staff should be under closer supervision by management and receive special training in control and restraint techniques for prisoners with suicidal and/or self-harming tendencies (see also paragraph 113). Pg.38.**

**33.-Following the CPT's 2016 periodic visit to Spain, the General Secretariat of Penitentiary Institutions (SGIP) adopted a new Instruction (Service Order) 08/16 which, inter alia, provides for the creation of a specific register of allegations of ill-treatment in each prison. However, it is regrettable that the Instruction, after noting that complaints of ill-treatment have been progressively decreasing, states that "such complaints are residual, less frequent and usually filed as unfounded". This unfortunate wording detracts from the need to ensure that an effective complaints system is in place to investigate alleged acts of ill-treatment and undermines the good intentions promoted by the Instruction. The CPT trusts that the Instruction will be reissued with revised introductory wording. Pg.38.**

**34. The CPT recommends that the Spanish authorities ensure that investigations into alleged ill-treatment of prisoners by prison officials are carried out effectively. To this end, supervisory judges or investigators should carry out their own investigation of the facts, including interviewing the victim, the witness and the alleged perpetrators. Pg.39.**

**35.-The CPT recommends that CCTV systems in all prisons in Spain be fully operational as a safeguard against ill-treatment, taking into account the requirements set out in this section. Pg.40.**

As a general criterion for action, scrupulous respect for the rights, fundamental or otherwise, of all persons held in penitentiary establishments of which they are not expressly deprived, presides over the actions of the Penitentiary Administration for the fulfilment of the constitutional purposes entrusted to it: the detention and custody, as well as the re-education and social reintegration of those who are sentenced.



In order to guarantee the effectiveness of this criterion, the Spanish prison system has various control mechanisms that supervise the actions of the administration. These are both external controls, such as those exercised by the judicial bodies and, specifically, the Prison Supervision Courts, which have been specifically assigned this purpose, or institutions such as the Ombudsman, the National Mechanism for the Prevention of Torture, etc., as well as an internal control instrument which is articulated through its own inspection department, whose purpose is to exercise control over the legality of its actions and the detection and correction of any deviations which may occur.

There is no complacency or tolerance of any situation of abuse or mistreatment, and the prison administration is firmly committed to eradicating and prosecuting such conduct. This commitment is known to the management teams and staff of the penitentiary centres, who are aware of the rejection and forcefulness with which they act in the event that they become aware of such acts.

As indicated in the letter previously sent to the Committee, although situations of abuse or mistreatment are very exceptional in the Spanish prison system, the fact that occasionally there are some episodes means that it remains a priority objective to eradicate them and to redouble efforts to prosecute behaviour which, on the other hand, tarnishes the magnificent performance of the more than twenty-three thousand people who work in prisons.

For this reason, apart from the control that the judicial authorities carry out over prison activity and the implementation in all penitentiary centres of action protocols that affect the good treatment and respect for the rights of persons deprived of their liberty, following the Committee's visit the General Secretariat of Penitentiary Institutions addressed the review of the established procedures for supervising the performance of penitentiary centres with the aim of making them more effective, both to eradicate existing malpractice and to encourage working dynamics in the centres that would generate a good social climate for the maintenance of respectful and correct relations between all the people in the centres, both workers and inmates.

Specifically, the Subdirector General for Analysis and Inspection has implemented various lines of action, aimed fundamentally at identifying these conducts and any circumstances that may be favouring them, while guaranteeing an adequate investigation of them, with absolute transparency in the management of complaints of mistreatment, and a forceful action to correct them. In this same sense, the items on ill-treatment that are evaluated in the general inspections that are carried out on a programmed basis of the centres have been extended, a general register on complaints of ill-treatment has been set up to facilitate the monitoring and investigation of all of them and, from the beginning of this year 2021, the images of all the applications of the coercive means of mechanical restraint of prolonged duration that are carried out are being reviewed.

In addition, to the rules of action already in place (concerning the registration and follow-up of complaints of ill-treatment, Service Order 1/2018 of 8 February, the procedure for the application of the coercive means of mechanical restraint, Instruction 2/2018, the due completion and forwarding to the Judicial Authority of the injury reports, Instruction 14/1999 and Reminder of the legal duty dated 1 July 2019), it is worth adding the drafting of an action protocol on how to proceed in the event of complaints of ill-treatment and the issuing of injury reports, sent to the centres on 17 March, and the forthcoming publication of a new instruction that will regulate the video-surveillance systems of the centres.



With regard to the three prisons in which the Committee received credible complaints of physical abuse, Castellón II, Madrid VII and Seville II, immediately after the visit the Secretary General of Penitentiary Institutions agreed, as already indicated in the previously submitted report, to carry out an inspection visit which also revealed the existence of signs of such conduct, either individually or in specific work groups, which led to a reorganisation of their management teams. The purpose of this reorganisation was to remove from their posts those managers who were not working together to achieve the common objective of eradicating negative patterns in these establishments, and also to ensure that all actions carried out in them are carried out within the framework of the law, with full respect for the rights of persons deprived of their liberty who are not affected by the court ruling.

Since then, monitoring and support has been provided to the management teams of these centres, exercising specific supervision over their actions in specific areas, such as those related to regimental incidents and disciplinary proceedings, application of coercive means, processing of injury reports, development of treatment programmes, etc. to enable changes in the working dynamics of their staff or, failing this, to assess the adoption of new measures aimed at this purpose and to enable a good social climate that favours the development and participation in activities in order to achieve the aims of re-education and reintegration of the persons interned therein.

With regard to the amendment of Service Order 08/2016, which, following the CPT's previous visit in 2016, set up a specific register of complaints of ill-treatment in each prison, it should be noted that it has already been revised by Service Order 1/2018 and that, in turn, the latter is currently being updated in order to protocolise and standardise the content of the aforementioned register in all penitentiary establishments.

**36.-The CPT reiterates its recommendation that the Spanish authorities ensure that all prison healthcare staff are made aware of their obligation to record and report any allegations of ill-treatment which they receive and are provided with the necessary training to do so. Furthermore, the CPT reiterates that it would be desirable for photographs of injuries to be taken and included in the prisoner's medical file. Furthermore, for monitoring purposes, it should be possible to retrieve disaggregated data on injuries sustained by prisoners in a particular establishment. Pg.41.**

**37.-The CPT recommends that all persons admitted to prison with injuries should be properly documented and recorded. The results of each examination, including the prisoner's statement and the doctor's observations, should be made available to the prisoner and, if requested, to his or her lawyer. Pg.42.**

**38.- In addition, existing procedures should be reviewed to ensure that whenever a doctor records injuries that 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 is immediately and systematically brought to the attention of the competent prosecutor, regardless of the wishes of the person concerned. Health-care personnel should advise detainees of the existence of the reporting obligation and that sending the report to the competent court is not a substitute for lodging a complaint in the appropriate form. Health professionals (and the prisoners concerned) should not be exposed to any form of undue pressure or reprisals from management when carrying out this duty. Pg.42.**

As regards the systematic recording of injuries by prison health services and their preventive role in ill-treatment, the injury report is currently a document included in the digital medical



record (OMI application), the structure and completion of which is adapted to the recommendations of the National Preventive Mechanism for the Prevention of Torture. It is a protocol which, in order to be printed, requires all fields to be filled in, the first of which refers to the "Statement of the events giving rise to the assistance" and specifically states "as referred to by the patient".

All prison healthcare professionals have sufficient knowledge and training to duly complete such a document, but in addition, the section of the medical record in which the protocol for completing the injury report is accessed includes access to the "Manual for use of the injury care protocol", which clearly indicates the steps to be followed in order to issue the report. For its part, the instruction regulating health documentation, I 14/99, already established the obligation to specifically provide the person in custody with a copy of the aforementioned document.

In any case, the actions to be followed for the due completion and processing of the injury reports are the subject of continuous reminders both to the medical services and to the management of the centres, with the reminder of legal duties dated 1 July 2019 being of particular note, which was sent to all centres in general.

On the other hand, the last edition of the training course "Rasupi and therapeutic optimisation" given during the current year and aimed at prison medical and nursing staff, included in its programme a subject on medical-legal aspects of healthcare in prison, in which there was also a section dedicated to injury reports, in which everything related to the importance of their due completion, obligatory nature, applicable regulations, etc. was addressed.

With regard to the taking of photographs of injuries, although they are not considered to be an essential element for their proper documentation, which can be done through the detailed description of the ailments and injuries that doctors observe in their patients, they can be a clarifying and useful element for the authority that has to take a decision in this respect. For this reason, the possibility will be studied of using them as a support for injury reports and incorporating them into the digital medical record (OMI).

With regard to the possibility of having data on the injuries suffered by inmates in a specific prison, the OMI application already allows the extraction of such data. In the section corresponding to "admission to the prison" and under the heading "data of interest", reference is made to the presence or absence of injuries and the need to fill in the injury report in the event that injuries are found.

It can therefore be concluded that all medical and health staff in prisons are aware of the importance of filling out the injury report rigorously and in all its aspects, specifically the section dedicated to recording the account or statements of the person assisted, which is essential in order to be able to properly judge the plausibility between what has been referred to and the injuries that may be found.

Also aware of the importance of the role of health personnel in matters of ill-treatment, the management of the centres has been urged to redouble their efforts to ensure that whenever a person is admitted, whether or not they have been previously attended to by health services outside, they are seen by the medical service and any injuries they present, or in their absence, are duly documented, as well as ensuring that the injury reports they issue are immediately forwarded to the competent judicial authority.



**39.- The CPT would like to be informed of the exact procedures for investigating any case of alleged ill-treatment of a prisoner by a prison officer once it is brought to the attention of the supervisory judge or the duty court, in particular as to which body is responsible for carrying out the investigative acts. In addition, he would like to receive information on the seven judicial convictions (including the sentences imposed) and the six disciplinary cases (facts of the cases and penalties imposed). Pg.42.**

The prison administration, once the facts have been reported to the judicial authority, places itself at its disposal to respond to any requests or requirements sent to it, but, not being its competence, it is unaware of the investigation procedure established with the State Security Forces and Corps to clarify what has happened.

With regard to the information requested on the seven judicial and six disciplinary proceedings indicated, the information is provided in the attached document (ANNEX II).

**40.-The CPT recommends that the management of the establishments visited, as well as that of all other prisons in Spain, ensure that orderlies are not only carefully selected and properly trained, but that they are also adequately supervised by staff to ensure that they do not abuse their positions. Furthermore, orderlies should not perform nursing tasks, such as distributing medicines or checking requests for consultations with a doctor. The CPT wishes to be informed of measures taken to address these issues. Pg.43.**

As regards the question concerning allegations of abuse by some inmates of others, the so-called orderlies, which the CPT received in certain departments housing particularly vulnerable inmates (infirmary or modules housing inmates with mental or learning disabilities), all prison staff are aware of the need to exercise continuous and adequate supervision over inmates assigned to such ancillary care duties in order to prevent them, either through lack of training or lack of personal qualities, from abusing those who are particularly vulnerable. Obviously, under no circumstances may they be assigned and carry out the tasks of prison workers: neither the distribution of medication, nor any control over the requests of other inmates, nor, of course, the imposition of any punishment.

Having said this and having reminded in general the management of all the centres of the duty to avoid such abuses, urging them to carry out an adequate selection and training of the inmates who carry out the aforementioned auxiliary duties, to inform that specifically in module 14, (PAIEM) of the CP Castellón II, the following actions have been implemented for this purpose:

1. Order from the Directorate indicating the appropriate manner of operation of the module.
2. Distribution of modules and departments among the different Heads of Service and members of the management team in order to ensure closer supervision of the same, especially in those modules in which a treatment programme is carried out or where there are particularly vulnerable inmates.
3. Although medication has always been distributed by health staff, due to the fact that it is administered in directly observed treatment, TDO, emphasis has been placed on the presence of the official during its delivery by the nursing assistants, just as it has been indicated through the aforementioned Management Order that the list of inmates



requesting medical assistance for common ailments (inclusion in the list for psychiatric care is determined by the medical services) has to be drawn up by the module official.

4. Continuous training of the support inmates in the PAIEM module in the handling of psychiatric inmates by the health staff and by the psychologist of the module.

5. Continuous supervision of the inmates who work as PAIEM orderlies, in order to avoid dysfunctions in their duties.

6. Daily meeting of the manager/officer in charge of the module with all inmates and orderlies.

7. The weekly meeting held in the module will be attended (as far as possible) by: psychologist, lawyer (currently there is only one, who will be joined by a second if her temporary incapacity is reversed), social worker, educator, sports instructor, teacher, nurse (there are only 9 and the vacancies have been left vacant in the last transfer competition) and social educator. At the moment it is not possible to have a doctor, as there are only three doctors for the whole prison, so there is only one per day.

8. Daily meeting in the late morning, attended by the management, those in charge of respect modules and the PAIEM module and the Head of Services in order to keep proper control of the functioning of these modules.

**41.-The CPT recommends that whenever strip-searching is deemed necessary, it should be carried out in a manner that limits embarrassment and preserves the dignity of the person, as described above. Pg.43.**

With regard to the considerations made on the practice of full body searches, Article 68 of the Prison Regulations, it should be noted that since 9 March 2005, when a "protocol for action" in this area was sent to all centres, there has been a clear regulation that determines the way in which these searches should be carried out, avoiding in any case the exposure of total nudity to prison staff and for which the provision of gowns was envisaged. They may also, as noted, be carried out in parts (first from the waist up and, once this part is dressed, undressing from the waist down), but always, given the exceptional nature of such a measure, after issuing an individualised order (issued by the director, deputy director or head of services) stating the specific reasons on which such a measure is based, of which the person concerned is informed, indicating the rights to which he or she is entitled. Once the search has been completed, the person concerned is also given a copy of a document stating the result of the search and all the circumstances relating to it, as well as the identity of the official who carried it out.

In order to facilitate the supervision of this exceptional measure, which undoubtedly involves interference in the privacy of the person, the centres keep a specific record of these full body searches and must report them to the Prison Supervision Court. In addition, full body searches are one of the indicators that is subject to analysis and supervision during the general inspection visits carried out by the prison administration itself.

Finally, in order to reinforce good practice in this area, prison administrations have been urged to review with the Heads of Service in their daily offices any full body search orders that may exist, noting or correcting any dysfunctions that may exist.



**42.-The CPT reiterates its recommendation that the ordinary regime internment cells in "standard" penitentiary centres such as Castellón II, Madrid VII (Estremera) and Seville II should only be for individual use as long as the sanitary annexe is not fully compartmentalised. Furthermore, it recommends that measures be taken to maintain and improve the common areas of the modules, and that prisoners be provided with a personal locking space in the common areas to store their belongings during the day. Pg.44.**

As indicated at the beginning of this report, the cells in the residential departments of the penitentiary centres, which correspond to the architectural model known as "type centre", are between 10 and 13 square metres in size and have been designed for the accommodation of two persons, with a sanitary annexe, which is not totally separate, where the shower, washbasin and toilet are located.

Given that it is not feasible to undertake work that totally separates the sanitary annexe from the rest of the cell and that the Spanish penitentiary system has seen a significant reduction in its prison population, at this time and as a general criterion, it is able to provide a cell for individual use to any person who requests it. However, this may involve transfer to another centre where there are vacant cells and may therefore be more detrimental or reviled by the person concerned than sharing a cell, as it entails greater distance from his or her family or social environment.

On the other hand, both the central services and the penitentiary establishments themselves try to attend to all their needs, specifically the maintenance and improvement (providing furniture and fitting out the spaces) of all the installations and facilities, including the common areas of the departments.

Some establishments already have spaces in the common areas of the departments for inmates to store their belongings during the day. This measure is assessed and implemented in each establishment taking into account the physical characteristics of the departments, the space available to them, as well as the profile of the inmate population they house. In any case, given that they cannot become spaces of impunity for storing stolen or prohibited objects, always in such a way that prison staff have the possibility of accessing such spaces at any time.

**43.-The CPT recommends that efforts be redoubled to improve the range of activities available in prisons within their modules and to improve the small gymnasiums. Pg.45.**

**44.-The CPT would like to be informed of the actual number of prisoners who carried out work, educational, professional, socio-cultural and sporting activities during the month of June 2021 in the Penitentiary Centres of Castellón II, Madrid V, Madrid VII and Seville II. Pg.45.**

**45.-To ensure that the Individualised Treatment Programme (ITP) meets the needs of the prisoner, the CPT recommends that the development and review of the ITP should be carried out with input from the prisoner and that the ITP should be more oriented towards specific activities to help the prisoner prepare for reintegration into the community. Pg.46.**

Participation in activities by inmates in prisons is a priority for the penitentiary administration and in this sense, the Spanish penitentiary system is configured through the planning of an individualised intervention model or individualised treatment programme (PIT), depending on



whether the person is in custody or in prison, which, from the moment of admission, takes shape with a view to drawing up a specific programme of activities, which meets their needs and interests.

Thus, prison intervention and treatment is articulated through the participation of inmates in activities of various kinds, therapeutic in the strict sense, occupational, occupational, educational, cultural, sporting, recreational, etc., which are developed and offered in prisons.

Undoubtedly, the challenge is to ensure that each person participates in those activities that individually facilitate their reincorporation into society and therefore, with this objective in mind, the professionals in the treatment teams and treatment boards of the centres plan the individualised treatment programme for each of them. However, as recommended, an attempt shall be made to give greater prominence to the person in question, both in its design and in its development and evaluation, so that it really constitutes an effective working tool for their reincorporation into society.

Obviously, the restrictions imposed to avoid and limit the impact of the Covid 19 pandemic in prisons initially led to a drastic reduction in the activities on offer, and although work has subsequently been done to resume their development, the irregular evolution of the pandemic means that the health authorities continue to adopt restrictive measures to contain the outbreaks that continue to arise and therefore, to date, it has not been possible to resume normal activities in all penitentiary establishments.

Therefore, as noted, in order to avoid the interrelation of persons resident in different departments and thus reduce the risk of contagion and spread of the coronavirus in a centre, an attempt has been made to compensate for the reduction of activities in common and which are carried out in general use facilities with the reinforcement of the offer of activities inside the modules, renewing and increasing as far as possible the resources and spaces in them destined for occupational workshops and gymnasiums.

Specifically, with regard to the activities available in the penitentiary centres of Castellón II, Madrid V, Madrid VII, and Seville II, as requested, a report is attached regarding those carried out during the month of June 2021 and the actual number of persons who have participated in them (ANNEX III).

**46.-The CPT recommends that the Spanish authorities ensure that staff maintain clear supervision of prisoners in respect modules and do not allow prisoners to "discipline" other prisoners. In addition, the management of Madrid VII (Estremera) and other prisons should be more proactive in visiting respect modules to reassure prisoners that making a complaint will not have an adverse effect on their stay in the module. It should also be made clear to all staff that prisoners' religious beliefs should be respected and that prisoners should not be treated in a degrading manner because of their religion, especially with regard to their right to prayer, fasting and pastoral care. Pg.47.**

In general, the respect modules are set up as an internal segregation unit in prisons where inclusion is voluntary and implies the acceptance of rules of conduct:

- In the personal area concerning hygiene, clothing and care of their room.
- In the area of the environment in the care and cleanliness of common areas.



- In the area of interpersonal relations, all the interactions of the subject with other inmates and with the different prison workers.
- The area of activities regulates the schedule of activities of each inmate.

There are at least the following structures for the participation of inmates in the management of the module

- General Assembly of all inmates in the unit
- The Assembly of Managers, which meets at least once a week.
- The Reception Commission and the Coexistence Commission.

The active participation of the inmates in the activities is one of the fundamental pillars of the functioning of the module which, through self-responsibility and a certain degree of self-management, allows them to experience the module and its rules not as "something imposed", but as "something of their own".

With regard to respect for the religious beliefs of the inmates, it should be pointed out that in general this is a peaceful issue in the centres, which is perfectly regulated in terms of individual practice and pastoral care by the accredited representatives of the religious denomination. This fundamental right, as in life in freedom, is known by all staff and scrupulously respected by the prison administration, which has no record of any complaint or denunciation that shows that inmates are being violated or treated in a degrading manner for this reason in any penitentiary centre.

Specifically, with regard to the organisation of the respect modules in Madrid VII Prison, the "task groups" for the maintenance and cleaning of the different common areas of the module are organised, under the supervision of the educator, on a weekly rotational basis, with the inmates in charge of one area of the module each week. Thus, respect modules 4 and 7 have 9 work groups, each made up of 5 or 6 inmates and a person in charge who, among others, has the function of organising the tasks and orienting the new arrivals. The fact that the tasks to be carried out rotate and that the members of each group vary from one group to another helps to avoid any form of pressure.

On a weekly basis, the technical team carries out an evaluation of all the people in the module, taking into account the daily evaluation carried out by the security staff serving in the module, which must be documented and also serves as an indicator of the functioning of the department.

With regard to module 7, the daily presence of the educator in this module makes it possible to control and supervise the activities of the inmates, facilitating their monitoring. On a weekly basis, he meets with the members of the activities committee in order to check that the inmates do not carry out the scheduled daily activities and, on a monthly basis, he draws up a list of the activities carried out by all the inmates and the attendance of each one of them.

The educator continuously supervises the work carried out by the different commissions in the respect modules in order to stimulate the ability to manage and encourage communication among the inmates.



Likewise, the coexistence commission, whose objective is to ensure peaceful and orderly coexistence among the residents, promoting tolerance and mutual respect, informs the technical team of any intervention it carries out.

Undoubtedly, the best method to prevent inmates who have more responsibility in this department from abusing or taking advantage of other inmates is the active presence of prison professionals and staff. In this sense, the active and daily presence of the educator in the module is essential, both to be aware of the incidents that occur first hand and to ensure that all inmates who wish to have access to him or her have access to the module. There is also direct contact between the educator and the staff of the module in order to detect any incident or abuse that may exist in the module in order to solve it.

For its part, the centre's management team is in constant communication with all the members of the technical team and tries to attend to their demands and those of the inmates, regarding the improvement of the module or specific personal demands. However, they are trying to be more involved in the life of the department, attending the assemblies or the meetings that are held with their families (which it is hoped they will soon be able to resume).

Finally, as a pilot project, a suggestion box has been installed in Module 7, an anonymous and secure space for all residents in the module to express themselves freely without revealing their identity. The box will be opened periodically, initially every month, although this period may be modified depending on the use made of it. Suggestions are read one by one by the technical team in order to formulate proposals for improvement based on their content. These proposals will be commented on in the module's discussion spaces, and the modifications that they may entail will be recorded. Anonymity is expected to encourage the free participation of the inmates, who will be able to express complaints and explain what they really think about the functioning of the department.

**47.-The CPT recommends that all concrete exercise yards in closed regime modules and special departments should be equipped with a means of rest and provided with some visual stimuli. In addition, the metal grids covering the yard should be removed. Pg.48.**

As indicated above, as of 30 July 2021, the number of persons deprived of liberty in closed regime in the centres constitutes only 1.1% of the total prison population. Specifically, 503 men out of 44,640 and 33 women out of 3,536. However, even though this is an exception in the Spanish prison system, the Prison Administration does not cease to continue to focus on promoting the development of activities and programmes specifically aimed at them given that, due to the more limited living conditions in which they find themselves, it is aware that they require a more direct and intense intervention in order to favour and appreciate some process or positive evolution.

The exceptional nature of these departments means that only those persons who have shown a manifest lack of adaptation to the ordinary regime, objectified in repeated misbehaviour and lack of respect for the rules governing any orderly coexistence, or extreme dangerousness, are assigned to them.

This profile, of unsuitability or dangerousness, of the persons in closed regime obviously means that in these departments there is greater conflict and that it is necessary to maximise security measures and controls. Security reasons have an impact on the design, distribution and provision of the common areas of the department. Thus, although the cells follow the same model as those in the rest of the residential modules, security reasons make it advisable



for the courtyards to have a mesh covering them which, due to its structure, allows sunlight to enter and does not generate a sense of enclosure, but prevents people from climbing the walls and getting out of them or from receiving prohibited objects that are thrown, especially in view of the increasingly frequent use of drones.

This does not prevent us from encouraging any action that contributes to making the courtyards or other rooms in these departments more welcoming and sensorially pleasant for their users. In this sense, the teams of centres will be encouraged to study and carry out actions to decorate their walls, to provide safe equipment (such as elements to sit on) that favour rest and stimulate social relations, etc. These actions have already been implemented in some centres, where murals have been created or walls have been painted with colours to create visual sensations that are more pleasant than those that can be generated by a concrete wall.

**48.-The CPT recommends that the Spanish authorities build on the provisions of Instruction 12/2011 by assigning to each closed regime module and special department a dedicated full-time multidisciplinary team, composed of educators, psychologists and social worker. The team should develop more detailed individual treatment plans for each prisoner and should increase its direct interaction with them through motivational interviewing. There should also be greater involvement of a sports instructor. Pg.50.**

**49.- Furthermore, the CPT reiterates its recommendation that all formal interactions in consultation rooms and classrooms between staff and prisoners in closed and special departments should be conducted directly and not through metal bars or screens. Where there are security concerns, it would be preferable for an additional member of staff to be present in the consultation room. In this context, staff were unable to explain how a prisoner's alleged "dangerousness" manifested itself and there was no detailed risk assessment on file and no plan for how risk factors are addressed to reduce them and enable the prisoner to return to a more normal life. Steps should be taken to ensure that such a risk assessment, together with a plan to address the risk factors, is in place for prisoners considered dangerous within the prison. Pg.50.**

**50.- Furthermore, the CPT considers that the introduction of a personal officer scheme for first degree prisoners would provide an additional means of communication and, if done well, would enable problems to be identified and addressed before they lead to conflict. The CPT would welcome the Spanish authorities' comments on this matter. Pg.50.**

The assessment of dangerousness or maladjustment is multidisciplinary, by the professionals of the technical teams and Treatment Boards, through the individualised study of the circumstances of the person and their conduct. Their criminal and mainly penitentiary background is studied, assessing their participation in very serious incidents such as aggressions against other people, as well as the evaluation of their personality, but in any case, always objectively and based on the circumstances expressly listed for this purpose in the penitentiary legislation. On the basis of this assessment, the intervention with the person is planned, an individualised treatment programme (ITP), specifying the specific elements to be addressed and treated in order to reduce said dangerousness and progressively prepare them for their incorporation into life in the ordinary regime.

The technical teams are aware of the obligation and the need to always involve the person concerned in any study or decision that they are going to adopt, which is essential in order to achieve their involvement and fulfilment of the final objective of reintegration. Under the



direction of the head of the treatment sub-directorate, the teams organise themselves and distribute functions among their members, and it is not considered necessary to establish a general obligation that, once formed as such, before submitting a proposal to the Treatment Board, they must always hold a face-to-face meeting with the person concerned.

In any case, the persons participating in the closed regime programme are seen regularly by the members of the team, so that they are aware of their evolution and have a fairly reliable opinion formed on a constant basis, whether or not it is their turn to be reviewed. As for the rest, they are intervened with on an individual basis and although less frequently, they are visited and attended to on a weekly basis or whenever they request it, and are always seen by the team members when their situation is reviewed.

With regard to the specific intervention carried out in these departments, the intervention programme drawn up for this purpose is aimed at designing a model of execution and adjusting the general treatment programmes to the regimental needs in order to achieve their progressive adaptation to the ordinary regime and to carry out a detailed programme of activities of all kinds, in which the following participate

The figure of the "mentor officer" mentioned by the CPT is already being used in the framework of the closed regime programme; for example, in Castellón II Prison, every second inmate is assigned two officers on opposing guards, while in Sevilla II Prison, for example, the number of staff is under study and awaiting the resolution of the staff transfer competitions, which will make it possible to stabilise the staffing levels.

In any case, it should be noted that, as with the rest of the programmes and activities, participation in the closed regime programme or in any activity carried out in this department is voluntary, with some of the persons assigned to it being reluctant to participate and even to go out into the yard, which requires specific motivational work with them, sometimes without positive results, and that for those persons who have gone through the programme, once they have progressed, a follow-up is carried out to support their reintegration into the ordinary regime.

One of the basic principles of this programme is the daily activities that must be planned, as well as the presence or close monitoring of these activities by the professionals of the multidisciplinary team assigned to this department. Although it would be desirable for this team to dedicate its entire working day to the same, it is totally unfeasible given the human and professional resources available in the treatment area in penitentiary centres and, therefore, the need for them to also attend to other inmates in compliance with the various functions entrusted to them. It should also be noted that the prison administration has a very small number of sports monitors (not even in all the centres), which makes it impossible at this time to meet the recommendation made to assign a professional in this speciality to these departments.

In any case, the management and teams of the prisons with closed regime departments are aware of the need to promote the intervention and development of activities in them and, in general, they are making an effort to devote more resources and time to the persons held in them.

Thus, for example, in Castellón II P.C., although the professionals who make up the first degree department team must be in charge of other modules, more than half of their working day is devoted to this module, except for the jurist, who, being one for the entire centre, has a more limited involvement.



In Madrid VII prison, the number of psychology professionals makes it impossible for them to devote their entire working day to this department, but they do at least try to devote a large part of their time to those departments that require more attention and assistance, although each one attends to the inmate population of five modules. For their part, the three lawyers divide up the 19 modules of the centre, the social worker manages another module in addition to the closed regime and only the educator works full time in this one.

In Seville II prison, although they do not have a full-time team, the educator and social worker do spend a large part of their working day in this module, as they only run one other department in which very few inmates reside.

**51.-The CPT recommends that the Spanish authorities take steps to ensure that no prisoner is held in solitary confinement. Where it is not considered possible for a prisoner to interact with other prisoners, prison staff should make additional efforts to ensure that the prisoner has at least two hours of meaningful human contact each day. In addition, such prisoners should be provided with increased contact with a psychologist and other treatment staff. Pg.51.**

**52.- Further to the information received on 19 January 2021 concerning prisoner VD, the CPT would like to receive an update on his current conditions of detention. Pg.51.**

**53.-The CPT recommends that, given the profile of the prison population, the health care team and, in particular, psychiatrists, should assess in greater detail the mental health status of each prisoner held in a closed regime module and special department. Where necessary, the support of a qualified interpreter should be sought. Pg.51.**

Although as a general criterion the interaction of the professionals of the team with the persons in closed regime is carried out directly, without physical barriers, exceptionally and given the profile of some inmates or the specific situation of alteration in which they find themselves, prudence advises non-direct contact or, where appropriate, this is demanded by the professionals themselves, who need to be able to carry out their work with total guarantees for their personal safety. It should be noted that some inmates living in this restrictive regime are characterised by a lack of impulse control, the use of violence as a means of resolving conflicts and, in some cases, by the presence of various psychopathologies. In this context, monitoring through grids aims to facilitate the professional's care, while protecting him/her from any incident and the serious consequences it may entail.

Among the most significant contacts that people in closed regime have every day, the one with a member of the team stands out, even if the time they can devote to it is limited. In addition, the separation by galleries in these departments allows them to go out into the courtyard and share leisure or other types of moments with other companions with whom they have a good relationship, participating in the cultural, sporting, etc. activities that are programmed. Finally, the role of the security staff should be highlighted in this area, as they do spend their working day in these departments and therefore, the contact they maintain with the people assigned to them is of great importance in the process of normalising their behaviour, constituting an essential source of information for improving intervention with them.

As for the current conditions of the inmate Francisco Julián V. D., who at the time of the visit was classified in the first degree of treatment, a modality of life in Article 91.3 of the R.P., in the C.P. Sevilla II, after having been changed to the modality foreseen in article 91.2 of the R.P. and transferred to the C.P. Madrid VII in January 2021 in order to, if possible, try to work



on the re-establishment of family ties that would also serve as motivation for the normalisation of his behaviour, he has subsequently not been able to make further progress in this direction.

Since 23 September 2020 and at the request of the inmate, he has been the subject of a study by the Central Prison Observation team, he has been monitored to assess a relaxation of the first degree living regime, in accordance with the provisions of art. 100.2 of the R.P., or even a progression to second degree, given that, despite showing an attitude contrary to the administration, in March of this year he maintained a better behaviour, consenting to take his medication directly observed. However, in July 2021, a relapse in violent attitudes and misbehaviour can already be seen in him, resorting in his interpersonal relations (with prison staff and other inmates) to the use of authoritarian, hostile and even aggressive language, refusing any kind of collaboration to advance in the normalisation of his behaviour. Therefore, although he will continue to be monitored by the Central Prison Monitoring Centre, due to the spiral of confrontation and misconduct into which he had fallen in Madrid VII CP, in August 2021 he was transferred to the CP of A Coruña (Teixeiro), where he remains in first degree of treatment.

To conclude on this matter, it should be pointed out that the Spanish prison administration is well aware that certain persons, due to their profile, require greater support and monitoring of their mental health during their stay in this restrictive regime. To this end, all staff working in these departments are encouraged to participate and become involved in the monitoring and intervention with the persons residing in them, and specifically, the psychology professionals and health team in all the centres, as well as, if available, the specialist psychiatrist. In order to facilitate the understanding of prison staff and professionals with foreign inmates in these and other departments, a system of simultaneous telephone interpretation is currently being tested in some prisons.

**54.-The CPT recommends that the Spanish authorities ensure that all prisoners placed in first degree are provided with clear and prompt information about their placement and the means to appeal their placement. In addition, it recommends that all placement reviews include a face-to-face meeting between the prisoner and the prison technical team before any recommendation is made to the treatment board. Pg.52.**

**55.-The CPT would welcome comments from the Spanish authorities on the proposal to introduce a meaningful review after the first year of imprisonment rather than a pro forma quarterly review for prisoners sentenced for specific offences to long prison sentences, when it is clear that such prisoners will clearly spend at least the first few years of their sentence in Grade 1 before they have a realistic chance of being reclassified to Grade 2. Pg.52.**

In general, all classification and assignment decisions (whether or not they are first-degree decisions) issued by the General Secretariat of Penitentiary Institutions systematically list the grade and modality in question, the possible appeals that may be lodged to challenge them and before which bodies, as well as the footnote on which the inmate is notified. They are all reasoned and, in the case of those applying the more restrictive first-degree regime, contain a truthful and specific account of the facts justifying the decision. This does not mean, however, that the decisions to maintain the prisoner in this situation are not very detailed, which is why a more individualised and specific statement of reasons will be given.

The length of the sentence imposed is always a factor to be taken into account when planning the intervention with the person and, specifically, when studying prison classification, but in no way can the assertion be shared that certain inmates will clearly spend, at least, the first years



of their sentence in first degree or closed regime (given the totally exceptional nature of the same) and therefore, the current provision for a quarterly review of their situation should not be eliminated either.

These quarterly reviews allow the members of the teams to delve deeper into the causes that have led the person to such a situation, assessing their attitude and abilities to face it, in order to provide them with some indicator to get out of such a situation and provide them with the necessary tools to do so. Therefore, at any time, the individualised study carried out by prison professionals may lead to a change in their situation.

**56.-The CPT reiterates its recommendation that the Spanish authorities end the practice of mechanical fixation of prisoners to a bed for regime (security) reasons. Such a measure can only be carried out for medical reasons and in a medical environment. Pg.55.**

**57.-The CPT Recommends that certain safeguards around the current application of the measure, such as limiting its duration to minutes, be strengthened in order to accelerate progress towards the complete abolition of this practice. In particular, the Spanish authorities should take immediate steps to:**

- introduce stricter criteria for the use of the measure;
- limit its duration to minutes rather than hours and immediately stop the measure when the prisoner is no longer in acute crisis;
- ensure that a member of staff not only continuously and directly supervises the prisoner but also interacts with him or her verbally;
- to end the practice of forced medication of prisoners in mechanical restraints;
- to institute a proper debriefing session for staff and, more specifically, for the prisoner, after each fixation measure, and to feed back the results into the management of the measure. Pg.55.

**58.-The CPT would like to receive information on the application of the mechanical fixation measure from 1 January to 1 September 2021, broken down by prison visited and including: gender, duration, reason for the application of the measure and whether the prisoners concerned had a mental illness and/or had recently self-harmed or attempted suicide. It would also like to receive the total number of times that the measure of mechanical fixation of the regime was used during this period in all Spanish prisons. Pg.56.**

As indicated in the letter sent last January to the Committee, Instruction 3/2018, which establishes a protocol for action in this matter, has led to a drastic reduction in the application of this coercive measure and especially in prolonged mechanical restraint with straps (18 in total last June).

Therefore, although it is true that it is necessary to stress the need to train staff in its application and to be extremely rigorous in the completion of registers and communication to the Prison Supervision Court, the evolution observed is considered positive and the same line of work continues to be pursued, maintaining and demanding, even more so if possible, maximum zeal and rigour in the application of this type of coercive measure, exercising direct



supervision of its application in order to ensure that it is truly exceptional, for strictly specified reasons, for the minimum time necessary, in proportion to the situation caused, with the authorisation of the Director and with the immediate knowledge of the Prison Supervision Court and the central services of the Prison Administration. Permanent review and motivation of the maintenance of the measure, which are considered necessary and sufficient elements to ensure that it is applied correctly and in the established circumstances and terms.

In this context, although a review of the current protocol was considered, in order to further clarify some concepts or to specify the actions of the different professionals in its application, the same basis of safeguarding the life and physical integrity of the person for the application of this measure in the regulatory and health sphere, at this time, after such a review was postponed due to the priority management of the health crisis, the drastic reduction in its application and the serious problems currently encountered in filling medical posts in penitentiary centres, for reasons of expediency, it is not considered advisable to make any changes to the aforementioned instruction for the time being, aware that the current conditions do not allow a strictly medical environment to be guaranteed for its application.

This does not prevent us from continuing to insist on the appropriate supervision of this measure by medical staff who, although they cannot always attend immediately to each and every situation that may give rise to its application, try to do so with the utmost immediacy and, in any case, with due medical attention whenever a person is causing injury to him/herself or suffering from mental problems. In both cases, since it is not always easy to find safe and appropriate alternatives to restraint, restraint is only applied and/or maintained when indicated by health staff, who determine the guidelines for action to be taken by other prison staff.

With regard to the safeguards adopted to reinforce the guarantees surrounding the application of this measure, it should be noted that, as already indicated in this letter, since January 2021 the prison inspectorate has been carrying out a review of all applications of prolonged mechanical restraint and, in addition, the area in charge of internal security in prisons is constantly monitoring and supporting the management teams in order to provide them with strategies that allow them to reduce its application without affecting the good order and security of the prisons.

Finally, and as requested, a report is attached regarding the application of this measure from 1 January to 1 September 2021 in the centres visited, broken down by centre and reason (ANNEX IV), as well as the total number of times this measure was used in all the centres in the same period.

**59.-The CPT recommends the Spanish authorities to proceed immediately with the preparation of the transfer of prison healthcare to the national health service, as provided for in Law 16/2003. In this respect, the CPT would like to receive, in due course, a copy of the action plan drawn up for the transfer. Pg.56.**

**60.-The CPT recommends the Spanish authorities to take immediate steps to bring existing practice into line with these principles and to promote their application in all prisons. Pg.57.**

Since the entry into force of Law 16/2003, of 28 May, on Cohesion and Quality of the National Health System, which provides in its sixth additional provision for the integration of prison health services into the National Health System and their transfer to the Autonomous Communities (CCAA) within a period of 18 months, the Prison Institution has repeatedly requested its compliance.



This process does not depend exclusively on the prison administration, as it must be carried out with the express will and acceptance of each of the parties. The willingness of the General Secretariat of Penitentiary Institutions to make the transfer of health services and functions to the Autonomous Regions effective has been clearly demonstrated over the last few years, during which various actions have been carried out with them in order to promote the transfer process.

Specifically, since July 2019, the current Secretary General of Penitentiary Institutions has sent a letter to all the Regional Ministers of Health of the Autonomous Regions requesting a meeting with each of them to address this matter, which has led to contacts being resumed, although, due to the pandemic situation, they have been interrupted in many cases.

At the present time, July 2021, the current situation in the Autonomous Regions is as follows:

- Autonomous Community of Navarre: once the transfer process was completed, on 2 June 2021 the transfer of the competence of prison health to it took place (Royal Decree 494/2021, of 6 July, on the transfer of functions and services of the State Administration to the Autonomous Community of Navarre in the field of prison health),
- Government of the Balearic Islands: this General Secretariat has sent the necessary documentation to the Subdirector General for Bilateral Relations with the Autonomous Communities of the Ministry of Territorial Policy and Public Function.
- Government of Aragon, Regional Government of Andalusia, Autonomous Community of Castilla La Mancha and Galicia: collaboration agreements on healthcare, telemedicine and interoperability of digital medical records are being processed, prior to the transfer of functions.
- Autonomous Community of the Canary Islands and Generalitat Valencia: after meetings with both Regional Ministers of Health in July and September 2019, respectively, preliminary documentation for the transfer was sent to them without receiving a reply.
- Government of Cantabria: in October 2019, the Regional Ministry of Health replied that it was not interested in assuming the competencies for the time being.
- Regional Government of Extremadura: in September 2019, the Regional Ministry of Health was informed that it must express its willingness and disposition to the Ministry of Territorial Policy, replying in October 2019 that this administration should be the one to communicate this. Having spoken to the DG of Autonomous and Local Cooperation of the Ministry of Territorial Policy, they commented that it should be the Autonomous Community itself that expressly states its willingness.
- Rest of the Autonomous Regions. (Asturias, Castilla y León, La Rioja, Madrid and Murcia): they have not responded to the request for a meeting.

We will continue to make representations to all of them to try to achieve the transfer provided for in the Law.

On the other hand, the regulatory provision that any person to whom a measure of provisional solitary confinement or a solitary confinement sanction is to be applied (Articles 72 and 254 respectively of the Prison Regulations) must be seen by a doctor, is a guarantee of



safeguarding their rights, given that a report is issued on the existence of physical or mental illnesses, both pre-existing and acquired during solitary confinement, to prevent such a situation from aggravating or damaging their health and integrity.

In the case of its application as a means of coercion (Article 72 of the Regulations in relation to Article 45 of the General Prison Act), the urgent and exceptional nature of the situation that normally requires this measure means that the medical assessment is not carried out beforehand but immediately after its application. In this assessment, the existence of medical reasons preventing such a measure and the presence or absence of injuries are established as a guarantee and prevention of any ill-treatment.

However, in the case of isolation sanctions, the medical examination is always carried out prior to the start of compliance with the sanction, as this action is planned, not urgent, and must be repeated daily to monitor their physical and mental health for the duration of the sanction and is repeated daily to detect the medical examination is always carried out prior to compliance with the sanction.

**61.-The CPT recommends that the Spanish authorities take steps to address the current shortage of doctors, including any measures to make prison work more attractive, such as the abolition of 24-hour shifts. Pg.57.**

**62. The CPT recommends that the Spanish authorities take steps to strengthen health care teams in all prisons visited to ensure that, as a minimum, each standard prison with an inmate population of around 1,000 has at least 20 nurses, including nurses with mental health qualifications. Vacancies for general practitioners should also be filled. Staffing levels should be adjusted if the number of prisoners in an institution increases significantly. Pg.58.**

Prison administration staff, which includes health care staff, belong to the General State Administration and are regulated by the same legal regulations that affect this group. The remuneration system is set out in Royal Legislative Decree 5/2015, of 30 October, which approves the revised text of the Law on the Basic Statute of the Public Employee, the amount of which is established in the General State Budget Law of each year.

In general, health staff in the service of the Autonomous Communities receive substantially higher salaries than prison staff, and this obviously makes it difficult to recruit such staff for the prison system.

On the other hand, due to their peculiarities and the service they have to provide to the public, prison administration staff are not subject to the timetable instructions of the General State Administration and are governed by their own rules which establish special timetables. Specifically, in compliance with European and national regulations and in an attempt to make work in prisons more attractive for healthcare staff, various types of healthcare guards have been established: physical presence (24-hour guard duty at weekends and on public holidays and from Monday to Friday from 22:00 hours to 8:00 hours on weekends and public holidays and from Monday to Friday from 22:00 hours to 8:00 hours on weekends and public holidays): 00 hours to 8:00 hours the following day, with subsequent time off), localised (where doctors only come to the centre if there is an emergency) and mixed (localised duty from Monday to Friday and physical presence on weekends and public holidays). At the same time, the possibility of other proposed timetables is envisaged, provided that they are approved by the appropriate Subdirectorate General.



In addition, these staff are allowed to accumulate in one day the working day corresponding to another in order to be able to take more days off and avoid travelling to the centres.

However, there is a real problem in the area of prison human resources in general and health care in particular, which is influenced by certain factors such as:

- The type of patient and the service that has to be provided, with total attention all hours of the day and every day of the year.
- The geographical location of the centres and their distance from major urban centres. This means that in remote centres, if the number of staff allows it, physical presence shifts have to be carried out regardless of the population to be attended because, given the distance, an emergency could have a fatal outcome as assistance is delayed until the health personnel arrive.

Twenty-four-hour on-call duty occurs exclusively on Saturdays, Sundays and public holidays, and not only is this not a problem but, on the contrary, it is preferred by healthcare staff over on-call duty. For this reason, the prison administration is not currently contemplating the abolition of 24-hour overtime shifts, a system which, moreover, is inherent to healthcare activity in all public and private structures and is chosen by the majority of prison professionals in those cases where it is voluntary, constituting, in fact, a positive human resources management tool.

In the current situation of staff shortages, especially in the medical corps, the duty system is adapted to each situation and to the requests submitted by the centres, in order to guarantee the quality and continuity of care and the distribution of staff schedules in accordance with regulations and the law.

The organisation of health services in terms of timetables and the permanence of medical and nursing staff in the centres is regulated in Instruction I-7/2019, the text of which is attached in the part relating to the working day and timetable of the health area. Thus, it can be seen that there are different modalities of timetables and shifts depending on the characteristics of the centres, number of inmates and/or staffing, ANNEX V.

The RPTs for nursing staff in penitentiary centres vary according to the characteristics of the centres, from the 22 posts that an establishment such as the Valencia CP has, to the 2 that the Social Integration Centres have, with the usual average number of posts being between 10 and 13, a number of staff that can be considered adequate as long as the posts are covered.

The General Secretariat of Penitentiary Institutions is making every effort to cover the needs for healthcare staff in its penitentiary centres. Thus, the latest Public Employment Offers (OEP) approved for the bodies in the health area have been:

OEP	PLAZAS CONVOCADAS MEDICOS/AS	PLAZAS CONVOCADAS ENFERMEROS/AS	PLAZAS CUBIERTAS MEDICOS/AS		PLAZAS CUBIERTAS ENFERMEROS/AS	
			H	M	H	M
2018	35	45+25	3	8	8	38
2019	40		2	4		
2020	40	51	SIN CONCLUIR		SIN CONCLUIR	



In the case of doctors, the problem lies in the fact that not enough candidates apply, for the reasons given above; for example, in the 2019 OEP, despite having called for 40 vacancies, only 5 candidates have passed the selection process. As far as nursing staff are concerned, the situation is not as serious, but it is clear that the number of candidates who take part in the processes organised by the IIPP is subsidiary to those of other institutions.

To alleviate these shortcomings, the call for selective processes for the appointment of interim medical staff has been requested, which are governed by more flexible procedures and which should help to alleviate the serious deficit of this staff:

- On 25 March 2020 a call was published in the BOE for the selection of 40 interim civil servants for the Cuerpo Facultativo de Sanidad Penitenciaria, with the 40 interims being appointed on 19 June 2020.
- On 30 October 2020, another call was published in the BOE for the selection of 40 interim officials for the Prison Health Corps, with 25 interim officials being appointed, and other appointments have recently been made under the same process.

Furthermore, we have explored with the Civil Service authorities, belonging to the Ministry of Finance and Public Function, the legal possibility that retired health personnel, who have voluntarily sent us their request, could be incorporated into active service in some way, even if only to carry out part of the ordinary or extraordinary working day.

In view of the above, it should be pointed out that the General Secretariat of Penitentiary Institutions does not cease to seek alternatives which, within its competencies, allow it to have sufficient health personnel to guarantee quality assistance to inmates in the penitentiary centres under its control, while awaiting the success of the processes of transferring said personnel to the Autonomous Communities, which are the ones that provide health care to the general population, specialised care to prisoners and convicts and, by mandate of Law 16/2003, of 28 May, on the cohesion and quality of the National Health System, should also have assumed, from its entry into force, primary care in penitentiary centres.

With regard to specific training in mental health, prison staff in general and health staff in particular, have, within their continuous training programmes and more specifically in the selective courses that form part of the initial selection processes, express training in mental health, with the accreditation of courses in this area constituting specific merits in the transfer competitions for these staff.

Thus, for example, in order to fill positions in the Corps of Prison Nurses, the following topics on mental health are included in the syllabus:

"39. Assessment and nursing care for drug addicts. Detoxification, detoxification and harm reduction programmes. Strategies for the prevention of toxic habits: alcohol, tobacco and drugs. Mental and behavioural disorders due to substance use. Nursing action. Social and health consequences of drug use.

40. Assessment and nursing care of persons with neurological and nervous system problems: stroke, epilepsy, multiple and lateral amyotrophic sclerosis, coma and others. Nursing procedures and techniques. Coma. Assessment scales. Emergency treatment. Nursing action.



41. Assessment and nursing care of persons with mental health problems of organic origin: Alzheimer's disease and other dementias. Mood disorders: anguish/anxiety, hypochondria and depression. Assessment of the family and social situation. Support for the main caregiver and family. Prevention and control of suicide risk. Suicide in the prison environment. Nursing intervention.

Nursing assessment and care of people with personality and adaptive disorders. Assessment scales. Analysis of the family and social situation. Support to the main carer and family. Nursing intervention.

Nursing assessment and care of people with schizophrenia and other psychotic disorders. Assessment scales. Treatment. Approach in a crisis situation. Therapeutic immobilisations (medication, mechanical) Nursing intervention. Comprehensive care programme for the mentally ill in the prison environment (PAIEM).

44. Assessment and nursing care for people with problems of coping and tolerance to stress, family, post-traumatic situations (aggressions, loss and bereavement). Approach in crisis situations. Behaviour modification techniques, cognitive therapy, communication enhancement, relaxation, adaptation".

Training in mental health is also regularly considered within the scope of all the training actions offered by the prison administration itself to healthcare staff, such as the latest edition of the RASUPSI AND THERAPEUTIC OPTIMISATION course given online in May 2021, which was attended by a large number of participants, including medical and nursing staff.

**63.-The CPT reiterates its recommendation that measures should be taken in the prisons visited, as well as in all other Spanish prisons, to ensure that prisoners can contact the health care service in a confidential manner, for example by means of a message in a sealed envelope and in mailboxes dedicated exclusively to health staff (or by the introduction of an electronic request system or kiosk). In addition, prison officers should not attempt to filter requests to consult a doctor. Pg.59.**

**64.-The CPT recommends that prison officers and health staff should be reminded that all medical examinations of prisoners should take place outside the hearing and - unless otherwise requested by the doctor concerned in a particular case - out of sight of prison officers. P.59.**

As far as access to health personnel is concerned, it should be noted that this is not restricted or delayed by the fact that requests for care from inmates are dealt with by the staff on duty in each department.

The request for a consultation is normally made by the staff of the unit, but they do not examine, ask questions or assess the reasons for the inmate's request, but simply register it and forward it to the medical service for consultation. This is a purely administrative procedure which in no way compromises confidentiality, nor does it entail any delay in care. In fact, this procedure is conceptually comparable to the work carried out by the administrative staff of health centres in charge of managing users' appointments.

For its part, the request for urgent care, which is also requested by the person concerned through the department's civil servants, given its urgent nature, is immediately passed on to the health service of the centre and it is the latter, depending on its availability and criteria, which determines the immediacy of the care.



In this sense, it should be pointed out that the number of health personnel available in the centres and the system of localised medical shifts in most of them means that care cannot always be provided immediately after the request is made. However, in no case can this delay be attributed to the civil servants, who diligently process the requests for assistance that they receive.

In any case, all persons deprived of liberty may at any time submit a request or communication to any professional or functional area of the centre, whether health or other, in a sealed envelope, without it being necessary to adopt any new measure for this purpose, the system for receiving requests or written submissions being duly set up in the centres.

With regard to the confidential nature of the medical examination, although in general the communication or meeting between doctor and patient does not take place in the presence of any official, exceptionally there are cases in which such a presence is necessary to guarantee the safety and integrity of the healthcare personnel.

In this sense, following a serious regulatory incident, the medical examination may involve a situation of risk for the doctor and/or nursing staff, who have to attend to the person deprived of liberty in a situation that can be considered extreme, due to the aggressiveness and dangerousness that is evident. It is the doctor himself who may sometimes need the presence of civil servants to safeguard security and to be able to guarantee medical assistance at times, as has been pointed out, which are absolutely exceptional.

**65.-The CPT recommends that the Spanish authorities ensure that this approach is adopted at Valencia Picassent Prison. Equally, the CPT would like to be provided with an update on the status of the UTE in the three prisons mentioned above, especially as regards the number of persons in each programme, staffing levels and activities offered as from 1 June 2021. Pg.60.**

Intervention in the field of drug addiction in prisons is approached from a comprehensive perspective, taking into account both the characteristics of the drug-dependent population in prison, their therapeutic and reintegration objectives, and the adoption of measures to prevent the entry and trafficking of drugs into prisons.

Within the framework of this general intervention plan, set out in Instruction 3/2011, and of the risk and harm reduction care programmes, the methadone treatment programme is included, which, under the responsibility of the prison health team, consists of prescribing and dispensing the appropriate dose of methadone. This obviously requires an assessment by the healthcare staff and, specifically, in the digital medical record (OMI) in the drugs section, there is a specific sheet on the methadone administration protocol that must be filled in by the doctor and which contains all the data relating to the programme. In addition, in the same drugs section there are also two more sheets that must be filled in if methadone is used as a treatment for detoxification and/or detoxification.

Therefore, it is obvious that medical assessment and evaluation is essential for admission to the programme and dispensing of methadone and, although there has been no evidence of dysfunctions in this area, as recommended, the Valencia CP (medical service and management) has been reminded of the need not to deviate from the approach provided for in its internal regulations.



On the other hand, with regard to the group intervention programme carried out in the so-called Therapeutic and Educational Units (UTEs), as a general premise, it should be pointed out that in these departments, the surveillance officers carry out tasks that go beyond their duties as security personnel, also involving themselves in administrative or treatment-related tasks, acting as tutors for the persons carrying out the programme.

Likewise, with regard to the activities offered in the UTEs, it should be noted that the current operating model of these units no longer considers it necessary to configure them as an alternative form of compliance and outside the rest of the prison departments, but rather that their residents can maintain contact with people from other departments and therefore participate in the activities that are programmed in general in the centre depending on the planning of the intervention that they have in their PIT.

In general, and due to the fact that a large part of the population of the centres has already been vaccinated, there are plans to extend the range of activities on offer for everyone and, in particular, to be able to resume the scheduled outings that were carried out within the framework of these programmes.

In the penitentiary centres visited, the situation of the UTEs is as follows:

- UTE CP Castellón II.- It houses 23 inmates, as of 1 June 2021, with the multidisciplinary team in charge of this department being made up of an educator, social worker, psychologist, lawyer, health personnel, surveillance guardians and a teacher from the adult education centre.

Apart from the individual and/or group therapeutic actions and interventions inherent to the programme, this department does not offer specific activities, and the inmates who are in it participate in the general activities offered by the centre according to their individualised treatment programme.

Depending on the activity, these are coordinated by a specific staff member or professional. Thus, activities such as the vegetable garden and video forum or the relapse prevention programme and self-help group are carried out by the educator and the psychologist, the thread and sewing workshop by the teacher, stretching by Prison Pastoral volunteers, while sports activities in groups or in the sports centre, board games, reading or choir are carried out by the department's staff, who are responsible for coordinating and providing the material resources necessary for their development.



	LUNES	MARTES	MIERCOLES	JUEVES	VIERNES	SABADO	DOMINGO
<b>MAÑANA</b>							
9:30-11:00	ESTUDIO/LECTURA	ESTUDIO/LECTURA	DEPORTE EN GRUPO	CORO (cada 15 días)	JUEGOS DE MESA	LIMPIEZA DEL MÓDULO	LIBRE
		PREVENCIÓN DE RECAIDAS		Alternativa			
11:30-13:00	TALLER COSTURA/TALLER DE HILO	TALLER INGLES	GRUPO AUTOAYUDA	VIDEO FORUM	ESTIRAMIENTOS	REUNIÓN DE LOS SABADOS POR GRUPOS	LIBRE
	Alternativa	Alternativa	Alternativa		Alternativa		
<b>TARDE</b>							
	HUERTO	FUTBOL	Alternativa	GRUPO AUTOAYUDA	POLIDEPOTIVO	LIBRE	LIBRE
	Alternativa			Alternativa			

- UTE CP Madrid VII.- As of 1 June, there are 33 people in the programme, 30 men and 3 women, forming a mixed department. The programme's multidisciplinary team is made up of surveillance officers (five), a psychologist, a lawyer, a social worker and an educator-coordinator, headed by the deputy director of treatment.

At present, the workshops and activities that are carried out are: language workshops, English and French, creativity, health education, video forum and occupational workshop, all of which are carried out by staff of the surveillance officers who have accredited training, in addition to the relapse prevention programme and the therapeutic groups that are carried out by all the members of the technical team of the UTE. Also, since July, they have been able to go to the swimming pool and the rugby school has resumed.

This, apart from the regulated educational activities that, like the rest of the prison population of the centre, the people in this department can take when the school year starts soon.

	LUNES	MARTES	MIERCOLES	JUEVES	VIERNES
<b>MAÑANA</b>					
9.30-11:00	ESCUELA	ESCUELA	DEPORTE G1	ESCUELA	ESCUELA
11.00-12:00	ESCUELA	TALLER	DEPORTE G2	TALLER	TALLER
12:00-13:00	ESCUELA	Grupo TERAPÉUTICO	DUCHA	Grupo TERAPÉUTICO	OCIO
<b>ASAMBLEA</b>					
<b>TARDE</b>					
17:00-18:00	DEPORTE OBLIGATORIO	DEPORTE OBLIGATORIO	DEPORTE OBLIGATORIO	DEPORTE OBLIGATORIO	DEPORTE OBLIGATORIO
18:00-19:00	DEPORTE VOLUNTARIO	DEPORTE VOLUNTARIO	DEPORTE VOLUNTARIO	DEPORTE VOLUNTARIO	DEPORTE VOLUNTARIO
19:00-19:20	DUCHA	DUCHA	DUCHA	DUCHA	DUCHA



However, at weekends the schedule of activities varies, leaving time for cleaning the cells, outings to the general sports centre, programmed leisure and free time provision.

- UTE CP Sevilla II, with a total of 43 inmates on 1 June 2021, on the 30th of the same month it housed 50 inmates. This therapeutic module has a very consolidated technical team, with great involvement in the programme, made up of an educator, psychologist, social worker, occupational monitor and civil servants.

All the professionals attend a weekly assembly held on Thursdays and are committed to supervise and tutor a weekly assigned therapeutic group (at least once a week). In total there are 4 therapeutic groups that make up the total number of inmates in the UTE and, in turn, there is an inmate in charge who is the coordinator of each therapeutic group and who also meets with them at least twice a week.

In relation to the weekly calendar, from Monday to Friday there are three compulsory activities in the mornings and afternoons, which are: school / mandalas workshop / gym / playground sports / music and marquetry workshop; while at weekends the activities are voluntary. Each activity has an assigned leader who monitors attendance and participation. A dance and body expression workshop has also been set up and is carried out in the module itself.

Apart from these regular activities, others are organised on an ad hoc basis, such as the poster competition to raise awareness of the risks of overdose, the socio-labour orientation workshop, the cinema activities or the use of the swimming pool or gymnasium of the socio-cultural module twice a week.

	LUNES	MARTES	MIÉRCOLES	JUEVES	VIERNES
<b>MANANA</b>					
9:15-10:00	MEDITACION	MEDITACION	MEDITACION		MEDITACION
	+	+	+		+
	EXPRESION CORPORAL	EXPRESION CORPORAL	EXPRESION CORPORAL		EXPRESION CORPORAL
	( Todo el modulo)	( Todo el modulo)	( Todo el modulo)		( Todo el modulo)
10:00-10:30	ECONOMATO	ECONOMATO	ECONOMATO	ECONOMATO	ECONOMATO
10:30-11:30	1º ACTIVIDAD	1º ACTIVIDAD	1º ACTIVIDAD	1º ACTIVIDAD	1º ACTIVIDAD
	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)
11:30-12:30	2º ACTIVIDAD	2º ACTIVIDAD	2º ACTIVIDAD	2º ACTIVIDAD	2º ACTIVIDAD
	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)
13	COMIDA+ Descanso	COMIDA+ Descanso	COMIDA+ Descanso	COMIDA+ Descanso	COMIDA+ Descanso
<b>TARDE</b>					
17:00- 17:30	ECONOMATO	ECONOMATO	ECONOMATO	ECONOMATO	ECONOMATO
17:30- 18:30	ACTIVIDAD	REUNION GRUPOS	ACTIVIDAD		ACTIVIDAD
	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)		(Marquetería/ Mandalas/Deporte/Lectura/ Música/)	REUNION GRUPOS	(Marquetería/ Mandalas/Deporte/Lectura/ Música/)
18:45	CENA y DESCANSO	CENA y DESCANSO	CENA y DESCANSO	CENA y DESCANSO	CENA y DESCANSO



**66.-The CPT recommends that the Spanish authorities take steps to significantly increase psychiatric staffing in each prison visited. Each of these prisons should have the FTE of at least one psychiatrist and Valencia prison (Picassent) even more, given its size and the existence of a psychiatric annex. In addition, each of these prisons should have at least one full-time clinical psychologist working with prisoners with mental disorders. Pg.61.**

**67.-The CPT recommends the Spanish authorities to take measures to ensure that the modules housing PAIEM prisoners provide these persons with the appropriate care and treatment they require. To this end, the Spanish authorities should increase staff resources for the PAIEM programme and provide a structured programme of beneficial activities for prisoners, as highlighted in the previous observations. Pg.62.**

**68.-The CPT would like to be informed of any new developments in the delivery of the PAIEM programmes in the Castellón II and Seville II Penitentiary Centres, as well as in the Madrid V Penitentiary Centre. Pg.62.**

**69.-The CPT recommends the Spanish authorities to increase the availability of beds in psychiatric care centres for prisoners with mental disorders requiring continuous and/or acute psychiatric treatment and care. Pg.62.**

**70.-The CPT recommends that the Spanish authorities take appropriate measures to transfer forensic psychiatric patients held in prison to a suitable health facility where they can receive appropriate treatment for their mental disorders. Furthermore, judges should be informed that prison is not a suitable environment for these patients and that sending them to a penitentiary establishment that is incapable of providing adequate care is detrimental to both the patient and the prison. Pg.63.**

The prison administration does not have any specialist psychiatrists in the job descriptions of the penitentiary centres and therefore, psychiatric care for the prison population is provided by prison medical staff, who have a general knowledge of psychiatry, through the community mental health services on the outside and, where appropriate, in person by specialists in psychiatry who come to the centres by virtue of collaboration agreements with community resources or by contracting their services.

Therefore, whenever a prison doctor considers that a patient requires psychiatric care, he or she refers the patient for appropriate attention by the community mental health services (like any free citizen) or, where appropriate, by the consultant psychiatrist who consults in the centre. This does not preclude the immediate referral to the emergency psychiatric services of the community hospital of reference in the case of urgent care.

Specifically, in the centres visited, the current situation is as follows:

- In the CP Castellón II it does not have on-site psychiatric care (neither does the other penitentiary centre in the province) and it is provided by the General Hospital of Castellón by means of telemedicine once every 15 days. They attend between 3 and 5 inmates per consultation at the most, referred by the medical service of the centre.

The need for on-site psychiatric care in the two centres in this province is an issue that the prison administration has been insisting on, having held several meetings with the competent authorities but without satisfactory results to date.



- The C.P. Madrid VII has, for some time now, opted to tender a contract for the provision of this service through an external company specialising in psychiatry, with the contract stipulating a minimum service of 3 consultations per month. Referral to such a specialist is made by the centre's medical service which, in the event that such assistance is deemed urgent, refers the patient directly and immediately to the psychiatric emergency services of the reference hospital.
- In Sevilla II prison, medical-psychiatric care is also provided by a professional from outside the prison, which is paid for out of the prison's budget.

Due to various circumstances and mainly due to its location, far from large urban centres, this centre has serious difficulties in finding medical personnel willing to work in it, and for this reason, given the voluntary termination of the psychiatric professional who provided this service, the new management team of the centre has dedicated time and made a significant budgetary effort to be able to maintain weekly psychiatric care for the inmate population. However, this does not prevent us from trying to increase this care as far as possible.

- The C.P. Madrid V has 2 external consultant psychiatrists who each come to the centre one day a week. One of them is specifically dedicated to the psychiatric care of mentally ill inmates in the infirmary (9 inmates in June 2021), as well as inmates in the isolation module who require psychiatric treatment (23 inmates under psychotropic treatment in June 2021). For his part, the second consultant attends to the general modules, in which 28 inmates with major mental pathology are located in June 2021.

Bearing in mind that these inmates do not have a security measure for complete or incomplete exemption, i.e. they are not inmates who require psychiatric internment and that, if they were free, they would be attended by outpatient resources, it can be concluded that for inmates with major mental illness, given the frequency with which psychiatrists attend, these patients have the possibility of being seen at least once a month by a specialist, a frequency at least equal to or greater than that which they would receive if they were free.

On the other hand, that people with a mental illness who need treatment and ongoing psychiatric care should not be held in a prison but should be cared for in an appropriate health centre is undoubtedly a criterion shared by the prison administration, which, as indicated below, also shares the view that their stay in a prison should be the same as that of a psychiatrist, also shares the view that their stay in a closed health care facility, such as a prison psychiatric hospital, also contributes to an increase in the institutionalisation of patients with mental disorders in prison and the breakdown of their support networks, making it difficult for them to return to their family and social context.

Based on these premises, the reality of having people with mental disorders in prisons has led to the development and implementation of a programme that addresses their care in prison, the PAIEM programme. This programme does not aim to become a comprehensive solution to the problems posed by mental illness, but it does attempt to deal responsibly during the person's stay in prison with the detection of mental illness, the best rehabilitation and appropriate referral to community care resources when appropriate.

The aim of the programme is therefore the detection, diagnosis and treatment of all persons suffering from a mental disorder, to improve their quality of life, and to facilitate social reincorporation and appropriate referral to the appropriate health-care resource.



In order to tackle this intervention, a multidisciplinary team is to be set up comprising at least health personnel, psychologists, social workers and educators, as well as seeking the collaboration of other professionals and the support of NGO personnel working in this field, and the provision of material resources and specific or common activities for its development.

As has occurred with the rest of the programmes and activities carried out in prisons, although little by little and with ups and downs, efforts are being made to return to normality (the situation prior to the pandemic), the extraordinary health situation that has been experienced since March 2020 and due to Covid 19 has had a significant effect on the development of this programme, as there are no external collaborators and the activities in which several people participated have been suppressed/reduced.

Regarding the specific situation of this programme in Castellón II CP, which is carried out in a specific department, apart from reiterating that the new management of the centre has adopted measures to avoid any possible abuse of the inmates who collaborate with the centre's staff in carrying out auxiliary activities, as well as for their training, In terms of human resources, it should be pointed out that the multidisciplinary team, which is permanently made up of a psychologist, social worker, educator and nurse, is occasionally joined by a jurist, sports monitor or teacher, as well as other professionals, both from the centre and from outside, who collaborate in the performance of activities.

Thus, the centre staff carry out activities such as: walking school, bicycle rides on the football pitch, activities in the sports centre, puppets, vegetable garden, cinema forum, recreational games or memory reinforcement. For their part, the collaborating entities:

- AMBIT, Art Therapy and Psychosocial Intervention, as well as going periodically to hold interviews with inmates who lack outside support to support them on their leave and release, given that they carry out the "Bridge Programme" in an open regime.
- IDEM, for the first time this year, has carried out animal-assisted therapy in the centre, with PAIEM inmates and others, and is expected to resume this activity in September.
- Pastoral Penitenciaria, a relaxation workshop.

The following activities are also planned to begin soon:

- The training of "health agents" with UTE inmates by the health staff in order to resume, once these inmates are trained, their weekly visits to the PAIEM module on a weekly basis to interact with the inmates of this module, thus avoiding their isolation.
- Training on the management of people with psychiatric pathologies to the PAIEM module's orderlies by the health staff.
- Therapeutic intervention by the psychologist according to an itinerary coordinated with the Deputy Director of Treatment.

In relation to the development of this programme in the Seville II CP, although prior to the pandemic the inmates included in this programme mainly resided in modules 11 and 12 of the centre, the need to assign them to the fulfilment of health quarantines of inmates arriving at the centre meant that they had to be placed in other departments and that they were attended to in these by the multidisciplinary team of the programme.



However, with the start of the new academic year in September, the programme is expected to resume its normal operation, establishing a weekly planning and timetable of the activities to be carried out, as well as the participation of external collaborators from the ASPAD organisation, belonging to the Provincial Liberation Federation, which will develop a workshop on basic skills for daily life with patients with dual pathology, which will have an impact on the improvement of their social skills.

At the Madrid V CP, although it is hoped to be able to resume soon the activities suspended due to the pandemic, mainly those carried out by collaborators from external entities such as the Asociación Perros y Letras and Ampara, the multidisciplinary team made up of staff from the centre (two educators, two psychologists, two social workers, a doctor, psychiatrist, lawyer) under the coordination of the deputy director of treatment has maintained the monitoring and intervention activities in psychosocial rehabilitation, either through face-to-face or remote meetings, as well as sports (tennis).

As previously indicated, the General Secretariat of Penitentiary Institutions shares the recommendation that forensic psychiatric patients should not be housed in prison but in a suitable health centre where they receive treatment for their mental disorder and that they should not remain unnecessarily in a closed health resource, such as prison psychiatric hospitals, given that this only contributes to the institutionalisation of the patient, to the breakdown of their support networks, making it difficult for them to return to their family and social context.

Likewise, the fact that prison is not a suitable environment for these patients is undoubtedly also known by the judicial authorities who, within the framework of current criminal legislation and in the absence of adequate resources, decide to place them in a penitentiary establishment.

Along these lines, on 7 May 2021, the General Secretariat of Penitentiary Institutions sent to the Vice-President and Regional Minister for Equality and Inclusive Policies of the Generalitat Valenciana a list of persons admitted to the Alicante Penitentiary Psychiatric Hospital in order to, after studying their circumstances, to be able to determine which intermediate structures or existing mental health resources in the Autonomous Community would be the most suitable to accommodate them until the end of their sentences, without the need to remain inside the HPP of Alicante, (see attached letter as ANNEX VI). In this context, it should be noted that the aforementioned establishment in Alicante has proposed a change of measure for several inmates with security measures to be served soon and who do not present a risk to the community, while awaiting judicial rulings.

In general, it should be pointed out that the Autonomous Communities are very reluctant to take on people in psychiatric penitentiary establishments with security measures in community resources.

-The enforcement of custodial security measures is carried out by the prison administration both in ordinary penitentiary centres and in the two prison psychiatric hospitals (hereinafter HPP) in Alicante and Seville, it not being feasible, due to a question of availability of places, for all persons subject to such measures to be able to serve their sentence in HPP.

The places that the HPPs can offer are scarce in relation to the total number of security measures imposed, and this dysfunction leads to the profile of patients to be admitted to them



being those who are unfit or semi-unfit with serious mental illness, who present a high risk of violent behaviour and who, consequently, require high levels of restraint.

In this situation, the assignment of patients subject to a measure of internment in a psychiatric or rehabilitation centre is carried out, as set out in Instruction 19/2011 on compliance with security measures under the jurisdiction of the prison administration, in accordance with the following guidelines:

- In cases in which the situation of inimputability is included in the sentence, an HPP is set as the destination, taking into account a geographical distribution of proximity of the HPP with respect to the penitentiary centres that house the inmate. However, on some occasions, when the measure is of very short duration, the sentencing court or tribunal is asked to consider the possibility of serving the sentence in the ordinary penitentiary centre in order to avoid separation from the family, and it acts in accordance with its decision.
- In cases in which the sentence applies a situation of semi-imputability, if the person is already in an ordinary penitentiary centre, the sentencing court or tribunal is asked for the possibility of serving the imposed security measure there, mainly to avoid the internment in the HPP of patients whose main disorder is drug addiction, personality disorder or intellectual development disorder. In any case, the decision determined by the judicial authority is complied with. It should be noted that, in general, ordinary prisons have implemented the Comprehensive Care Programme for the Mentally Ill (PAIEM) and that in all of them, the health care and prevention programmes include intervention with drug addicts, which includes detoxification, detoxification and methadone maintenance sub-programmes.

**71.-The CPT would like to be informed about the procedures and tools used to identify prisoners with learning disabilities and whether there is a need to increase the capacity of the two departments. Pg.64.**

This specialised care department for inmates with learning disabilities at Madrid VII CP, module 14, has a multidisciplinary team made up of the technical team (lawyer, psychologist, educator and social worker), the prison warders and staff from the NGO Plena Inclusión (two psychologists one day a week).

The assignment of people to the department is determined either because they have an officially accredited intellectual disability, by means of the relevant certificate, which is being processed, or, in their case, even if they are not in either of the two previous situations, the person presents a deficit of intellectual and/or adaptive abilities that are compatible with a possible intellectual disability.

As indicators, the following should be noted:

- Manifestation by the person, or evidence in their prison record, of having served a custodial security measure in a special centre.
- Statement by the person, family or other institutions, on the existence of a certificate of handicap or disability, economic benefits, studies in special schools or being in a situation of incapacity.
- Clinical history that presents biological factors, such as infections, problems in childbirth, etc., that have affected the normal maturation process of the person, with intellectual sequelae or intellectual disability.



- Present deficits in intellectual skills such as: poor language, poor verbal comprehension and expression, poor thinking content, illiteracy and inability or difficulty in performing basic operations such as addition and subtraction.
- Deficits in adaptive skills in different contexts and/or activities of daily prison life such as:
  - Naivety and lack of insight
  - Being abused or mistreated
  - Being manipulable, potentially engaging in risky behaviour
  - Lack of understanding of prison rules and their consequences.

The procedure for detection and discharge to the specific module shall take place at one of the following times:

- Admission from another penitentiary establishment:

In the case of penitentiary centres in which there is no module of care for intellectual disability, if the person has been considered unimputable or semi-imputable and a custodial security measure is applied to him/her, his/her transfer shall be agreed at the request of the centre in which the person is. The transfer proposal shall be accompanied by a report justifying their inclusion in the specific treatment module.

- Detection and inclusion at the time of admission to the centre:

The professionals (whether they are surveillance officers, members of the Technical Team or medical staff) who detect a possible case of intellectual disability on admission of an inmate, whether or not there is a certificate of intellectual disability, shall inform the sub-directorate of treatment for its assessment by the multidisciplinary team of the module and, if appropriate, its inclusion in the same.

- Detection after admission:

When any professional of the penitentiary establishment, either by direct observation of the behaviour or by any other means, considers that the person could be susceptible of presenting intellectual disability, he shall communicate it to the subdirector of treatment, who in turn shall inform the multidisciplinary team for its assessment.

If it is from another centre, the transfer proposal will be accompanied by a report justifying its inclusion in the specific treatment module and it will be the General Secretariat of IIPP who will determine whether or not it meets the discharge criteria for its corresponding transfer.

If possible, Plena Inclusión professionals will travel to the penitentiary centre of origin to assess the inmate's profile and justify, if necessary, the transfer to the CP Madrid VII for inclusion in the specific treatment module.

With regard to the procedures for the assessment of intellectual disability, this assessment involves both the collection of information from the inmate and his family environment, as well as from the social agents with whom he has had contact at the different times established in the previous sections. The main method of collecting information will be the individual interview for the collection of socio-demographic, family, work, educational, health, consumption of toxic substances, psychological, penal and penitentiary data. The intelligence tests considered relevant are those such as the K-BIT (Kaufman Brief Intelligence Test) and,



in addition, other indicators that are taken into consideration for the evaluation and inclusion in this department are those of intellectual disability.

In any case, in order to develop and improve the procedures for the detection of possible cases of inmates with intellectual disabilities, as well as their inclusion in the specific treatment module, we are working on the following aspects:

- In the training and awareness-raising of prison professionals on the specific needs required by the prison population with intellectual disabilities, as well as on the described procedures that allow for the early detection of this type of population and, consequently, to offer them appropriate treatment care.
- In the increase of human resources to allow a more specialised attention, given that currently the penitentiary professionals in charge of the specific module for people with intellectual disabilities are in charge of other modules and programmes of the establishment.
- In valuing the opening of specific treatment modules for people with intellectual disabilities in other centres throughout the national territory, which will allow people with intellectual disabilities interned in them to maintain their family roots, a very relevant circumstance for social reintegration and especially significant in this population whose support needs are even greater.

**72.-The CPT would like to be informed of the measures being taken to ensure that all prisons are fully staffed with prison officers and treatment staff. Pg.64.**

**73.- The CPT would like to be informed about the on-the-job refresher training and additional training provided to prison officers on communication skills once they have started working in a prison establishment. Reference is also made to the recommendations in paragraph 50 above on restraint and control training for prison officers. Pg.64.**

The RPTs of prisons are, in general, oversized in relation to the inmate population to be served; the reason for this is that they were drawn up at a time when occupancy was much higher than it is today.

In spite of this, in certain centres there may be a lack of staff for some posts, either due to circumstances such as retirements, transfers to second activity (assignment of a job that does not imply a direct relationship with inmates to officers in the surveillance area who, having met certain requirements, have reached 57 years of age), distance from urban centres, which means that in the periods between competitions there may be a lower number of staff than desired. It also happens that there are centres, such as the aforementioned Castellón II, which due to their location are not in great demand by civil servants of all Corps and their posts have to be filled with new personnel who prefer to choose other destinations as soon as they can compete, which leads to a high turnover which is undesirable but very difficult to avoid and even more difficult to reverse, as it is a consequence of the statutory rights of public employees.

In any case, in relation to the request for specific information on the coverage of educator posts in the CP Castellón II, the RPT of the centre, sized for a prison population of 1800 inmates, includes 18 staff and responds to a ratio of 1 educator for every 100 inmates, today there are 13 staff and 940 inmates, which means a ratio of 1 educator for every 72.3 inmates.



The public employment offers approved annually by the Government serve to alleviate the vacancies that arise, although after years of economic crisis in which many fewer vacancies have been announced than have become available due to retirements (note that the average age of IIPP civil servants exceeds 50 years and in some Corps 55), access to posts in other Administrations, leaves of absence for particular interests, etc., the gradient has been reversed, with the number of vacancies being reduced to a minimum of 50, On the other hand, the figure of deconcentration of posts is used to adapt the RPTs of the centres to the effective occupation they have, which allows certain posts to be increased in centres with more interns and decreased in those with more vacancies, without altering the total number of active civil servants.

In order to try to alleviate the excessive rotation of staff in some centres, of which Castellón II is a faithful exponent, more flexible timetables have been authorised by means of service instructions from the Secretary General of the IIPP, which, for example, allow for the accumulation of working days of several days, This means that the civil servants assigned there who voluntarily wish to avail themselves of these measures can reduce the number of trips to the centre and have more free time, in an attempt to make these destinations more attractive in competitions and to ensure the loyalty of those who are assigned to them on a mandatory basis after passing the selection processes.

With regard to the training of prison staff, the following is a list of training activities for staff between 2017 and 2020 relating to:

- a) On-the-job refresher training.
- b) Communication skills training.
- c) Training on means of control and restraint.

	AÑOS 2017 a 2020 (*)					
	Nº EDICIONES	Nº HORAS	Nº ALUMNADO			
			SELECCIONADO		CERTIFICADO	
			H	M	H	M
FORMACIÓN INICIAL (todos los cuerpos penitenciarios)	65	6.459	1.612	1.752	1.608	1.749
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	93	2.325	1.929	692	1.135	416
HABILIDADES SOCIALES, INTERACCIÓN PERSONAL Y RESOLUCIÓN PACÍFICA DE CONFLICTOS	48	985	1.124	525	553	127
NIVEL BÁSICO PARA LA PREVENCIÓN Y RESPUESTA ANTE CONDUCTAS AGRESIVAS EN EL DESEMPEÑO LABORAL (PEAFA)	171	1.197	4.033	848	3.061	630
FORMACIÓN DE FORMADORES DE EDUCACIÓN EN SALUD MENTAL	2	40	17	41	17	39
EDUCACIÓN EN SALUD MENTAL	129	903	2.851	1.221	1.879	870
FORMACIÓN DE FORMADORES EN PROCEDIMIENTOS DE ACTUACIÓN ANTE INCIDENTES REGIMENTALES Y PROTOCOLOS DE SEGURIDAD (NIVEL BÁSICO PEAFA)	3	75	67	13	65	10
FORMACIÓN DE FORMADORES EN PROCEDIMIENTOS DE ACTUACIÓN ANTE INCIDENTES REGIMENTALES Y PROTOCOLOS DE SEGURIDAD (3º NIVEL PEAFA)	2	50	52	6	49	6
<b>TOTAL</b>	<b>513</b>	<b>12.034</b>	<b>11.685</b>	<b>5.098</b>	<b>8.367</b>	<b>3.847</b>

(\*) El año 2020 se ha visto afectado por la situación socio-sanitaria generada por el COVID 19, por lo que muchas acciones formativas presenciales se debieron suspender al no ser factible su reconversión en entorno virtual.



The first section of initial training is included because it is the action of insertion in the prison environment, which contains the basic activities and procedures for personal interaction with the prison population. All the Corps receive training on the following subjects: human rights, interpersonal relations and social communication skills, code of ethics of the prison administration, public policies on equal opportunities and prevention of gender violence, procedures for dealing with violent actions at work and prevention of occupational hazards. Specific training is also provided on European standards and the Nelson Mandela rules, as well as European deontological guidelines in the penitentiary field.

The rest of the courses included affect the two subjects of interest: social communication skills, peaceful conflict resolution, de-escalation procedures and containment through the correct use of coercive means.

Below is a list of all the decentralised training activities that have been carried out in the centres visited during the period 2017-2020.

CASTELLON II				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	06/11/2017	06/11/2017	25
JORNADA PRÁCTICA SOBRE MANEJO DE EXTINTORES Y USO DE EQUIPOS DE RESPIRACION AUTONOMA (ERA)	5	09/11/2017	09/11/2017	17
SISTEMA DE IDENTIFICACIÓN AUTOMATIZADA (S.I.A.)	20	13/11/2017	16/11/2017	18
SALUD MENTAL	7	07/11/2018	07/11/2018	22
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	06/11/2018	06/11/2018	22
DEFENSA PERSONAL Y UTILIZACION CORRECTA DE MEDIOS COERCITIVOS	25	20/10/2019	23/10/2019	25
EDUCACION EN SALUD MENTAL	7	13/11/2019	13/11/2019	22
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	28/10/2019	28/10/2019	23
<b>TOTAL</b>	<b>85</b>			<b>174</b>



MADRID V				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	09/10/2017	27/10/2017	18
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	14/11/2017	14/11/2017	25
SALUD MENTAL	7	16/11/2017	16/11/2017	22
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	01/03/2018	01/03/2018	25
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	15/10/2018	19/10/2018	17
HABILIDADES SOCIALES. COMUNICACIÓN E INTERACCION	20	22/10/2018	29/10/2018	21
SALUD MENTAL	7	07/11/2018	07/11/2018	25
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	05/11/2018	05/11/2018	22
EDUCACION EN SALUD MENTAL	7	06/11/2019	06/11/2019	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	05/11/2019	05/11/2019	23
JORNADA PRACTICA SOBRE MANEJO DE EXTINTORES Y USO DE EQUIPOS DE RESPIRACION AUTONOMA (ERA)	5	26/10/2020	26/10/2020	7
<b>TOTAL</b>	<b>124</b>			<b>229</b>



MADRID VII				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
SISTEMA DE IDENTIFICACIÓN AUTOMATIZADA (S.I.A.)	20	13/02/2017	16/02/2017	12
SISTEMA DE IDENTIFICACIÓN AUTOMATIZADA (S.I.A.)	20	20/02/2017	23/02/2017	11
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	16/10/2017	20/10/2017	13
HABILIDADES SOCIALES, COMUNICACIÓN E INTERACCIÓN PERSONAL	20	23/10/2017	26/10/2017	21
SALUD MENTAL	7	06/11/2017	06/11/2017	20
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	07/11/2017	07/11/2017	17
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	19/02/2018	19/02/2018	24
SALUD MENTAL	7	14/11/2018	14/11/2018	19
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	16/11/2018	16/11/2018	19
JORNADA PRACTICA SOBRE MANEJO DE EXTINTORES Y USO DE EQUIPOS DE RESPIRACION AUTONOMA (ERA)	5	07/10/2019	07/10/2019	11
EDUCACION EN SALUD MENTAL	7	06/11/2019	06/11/2019	23
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	30/10/2019	30/10/2019	21
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	19/10/2020	23/10/2020	11
<b>TOTAL</b>	<b>164</b>			<b>222</b>



SEVILLA II				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
EXTINCIÓN DE INCENDIOS Y EVALUACIÓN DE CENTROS DE TRABAJO	30	28/05/2017	30/06/2017	11
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	06/11/2017	08/11/2017	20
SALUD MENTAL	7	08/11/2017	08/11/2017	17
JORNADA PRÁCTICA SOBRE MANEJO DE EXTINTORES Y USO DE EQUIPOS DE RESPIRACIÓN AUTÓNOMA (ERA)	5	14/11/2017	14/11/2017	16
SISTEMA DE IDENTIFICACIÓN AUTOMATIZADA (S.I.A.)	20	14/11/2017	15/11/2017	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	16/11/2017	16/11/2017	23
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	21/02/2018	21/02/2018	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	14/11/2018	14/11/2018	25
HABILIDADES SOCIALES, INTERACCION PERSONAL Y RESOLUCION PACÍFICA DE CONFLICTOS	20	12/11/2019	14/11/2019	25
EDUCACION EN SALUD MENTAL	7	04/11/2019	04/11/2019	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	05/11/2019	05/11/2019	25
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	19/10/2020	23/10/2020	14
<b>TOTAL</b>	<b>167</b>			<b>248</b>



VALENCIA				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
JORNADA PRÁCTICA SOBRE MANEJO DE EXTINTORES Y USO DE EQUIPOS DE RESPIRACIÓN AUTÓNOMA (ERA)	5	31/10/2017	31/10/2017	22
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	06/11/2017	06/11/2017	22
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	07/11/2017	07/11/2017	23
HABILIDADES SOCIALES, INTERACCIÓN PERSONAL Y COMUNICACIÓN E	20	09/11/2017	14/11/2017	22
SALUD MENTAL	7	16/11/2017	16/11/2017	26
SALUD MENTAL	7	17/11/2017	17/11/2017	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	26/02/2018	26/02/2018	23
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	02/03/2018	02/03/2018	25
SALUD MENTAL (1ª edic.)	7	05/11/2018	05/11/2018	25
SALUD MENTAL (2ª edic.)	7	09/11/2018	09/11/2018	25
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO (1ª edic.)	7	12/11/2018	12/11/2018	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO (2ª edic.)	7	16/11/2018	16/11/2018	25
DEFENSA PERSONAL Y UTILIZACION CORRECTA DE MEDIOS COERCITIVOS	25	14/10/2019	18/10/2019	24
EDUCACION EN SALUD MENTAL (1ª edic.)	7	05/11/2019	05/11/2019	25
EDUCACION EN SALUD MENTAL (2ª edic.)	7	07/11/2019	07/11/2019	23
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO (1ª edic.)	7	04/11/2019	04/11/2019	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO (2ª edic.)	7	06/11/2019	06/11/2019	22
<b>TOTAL</b>	<b>148</b>			<b>404</b>



HOSPITAL PSIQUIATRICO ALICANTE				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
SISTEMA DE IDENTIFICACIÓN AUTOMATIZADA (S.I.A.)	20	16/10/2017	20/10/2017	21
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	07/11/2017	07/11/2017	23
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	15/10/2018	29/10/2018	16
HABILIDADES SOCIALES, INTERACCION PERSONAL Y RESOLUCION PACIFICA DE CONFLICTOS	20	01/10/2019	04/10/2019	18
EDUCACION EN SALUD MENTAL	7	31/10/2019	31/10/2019	25
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	05/11/2019	05/11/2019	25
<b>TOTAL</b>	<b>86</b>			<b>128</b>
HOSPITAL PSIQUIATRICO SEVILLA				
CURSOS (2017 - 2020)	Nº Horas	Fecha inicio	Fecha final	Nº Alumnos
JORNADA PRÁCTICA SOBRE MANEJO DE EXTINTORES Y USO DE EQUIPOS DE RESPIRACIÓN AUTÓNOMA (ERA)	5	07/11/2017	07/11/2017	24
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	09/11/2017	09/11/2017	22
HABILIDADES SOCIALES, COMUNICACIÓN E INTERACCION PERSONAL	20	16/11/2017	19/11/2017	23
DEFENSA PERSONAL Y UTILIZACIÓN CORRECTA DE MEDIOS COERCITIVOS	25	15/10/2018	19/10/2018	25
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BÁSICO	7	05/11/2018	05/11/2018	24
EDUCACION EN SALUD MENTAL	7	29/10/2019	29/10/2019	20
PREVENCIÓN Y RESPUESTA ANTE SITUACIONES CONFLICTIVAS. NIVEL BASICO	7	06/11/2019	06/11/2019	25
<b>TOTAL</b>	<b>78</b>			<b>163</b>

74.-The CPT recommends that the Spanish authorities should review the time limits for the hearing of alleged disciplinary offences and for the application of disciplinary sanctions in order to ensure that the link between the offence and the sanction is maintained, and that it serves the maintenance of good order in the prison.Pg.66.

In addition, where prisoners are transferred to another prison following an alleged disciplinary offence and no disciplinary sanction is imposed for several months, procedures should be in place to review the application of any disciplinary sanction in the light of the prisoner's behaviour. Pg.66.

75.-The CPT reiterates its recommendation that the Spanish authorities act to ensure that no prisoner is held continuously in solitary confinement as a punishment for more than 14 days. If the prisoner has been sentenced to solitary confinement for a total of more than 14 days, there should be a break of several days in solitary confinement at



**the 14-day stage, during which the prisoner should have the possibility to associate with others and participate in activities. Pg.67.**

**In addition, supervising judges should be aware of the harmful effects which may result from placing a prisoner in solitary confinement as a disciplinary punishment for more than 14 days. Pg.67.**

**76.-The CPT considers that a single incident should not give rise to more than one disciplinary punishment of solitary confinement and that any offence committed by a prisoner which may require more severe sanctions should be dealt with through the criminal justice system. P.67.**

**77.-The CPT recommends the Spanish authorities to ensure that acts of self-harm are no longer subject to disciplinary punishment in prisons. Persons who self-harm or who are at risk of doing so should always be treated from a therapeutic and not a punitive point of view. Pg.67.**

The Spanish prison system has a disciplinary procedure which duly guarantees the rights of inmates, establishing fixed time limits which means that, sometimes, it takes longer than desired, but in any case, always providing for the existence of a correspondence between the offence committed and compliance with the sanction in order to satisfy the aim of maintaining good order in the prison.

To this end, current prison legislation generally provides for the possibility of reducing sanctions, Articles 42.6 of the LOGP and 256 of the R.P., and even the suspension of the effectiveness of solitary confinement sanctions, Articles 43.2 of the LOGP and 255 of the RP "whenever circumstances make it advisable".

Therefore, even if the person subject to disciplinary proceedings has been transferred to another centre after the offence was committed, it is considered that the current regulatory framework adequately guarantees the maintenance of the link between the offence and the sanction, providing the procedure for correcting any dysfunctions that may arise through the reduction and suspension of sanctions.

In any case, having highlighted the state of alarm decreed by the Spanish Government due to the pandemic, from March to June 2020, the considerable delay in the processing of disciplinary proceedings in some penitentiary centres, one of the aspects to be emphasised in the periodic meetings held annually with the management of all the centres will be the need to establish procedures that guarantee the maintenance of the link between offence and sanction, which is essential for the offender to become aware of the reproach that his or her misbehaviour entails, as well as to contribute to the good order of the establishment.

As regards the sanction of solitary confinement in a cell, the duration of which in principle may not exceed 14 days but which, exceptionally and on account of a series of offences, may be extended to 42 consecutive days in the event of several offences involving this sanction (Article 42 of the LOGP and Article 236 of the RP), as has already been reported on previous occasions, as has been reported on previous occasions, it should be reiterated that in these cases prior approval of the Prison Supervision Court is required and that, unless expressly indicated otherwise by the person concerned, compliance is interrupted after 14 days, allowing one day to elapse before resuming compliance with the remaining days.



However, in accordance with the Committee's recommendation to establish a longer period of suspension, a communication will soon be sent to all centres indicating that, as a general criterion, they should allow three days to elapse before resuming compliance. This suspension requires the consent of the person concerned, who will be able to participate in activities and lead an ordinary life during this period.

It should also be reiterated that the penitentiary administration maintains its intention to promote the reform of the General Penitentiary Organic Law in order to adapt it to the new reality of Spanish society, in matters such as equality of women or transsexual persons, and to improve certain aspects of it, giving, for example, legal coverage to disciplinary infractions currently still regulated in the Penitentiary Regulations of 1981, R.D. 1201/1981, of 8 May. It is in this context of reform that all the issues raised regarding the disciplinary regime are expected to be addressed.

As regards the disciplinary treatment of self-harm, the General Secretariat of Penitentiary Institutions is fully aware that acts of self-harm are dysfunctional conduct which, regardless of their underlying motivation, must be dealt with from a therapeutic point of view, and for this reason, in various Service Orders it has urged those in charge of penitentiary establishments to adopt this perspective. Specifically, the order issued in November 2020 states that all cases of incidents resulting in self-harm shall be included on a personal and individual basis among the matters to be dealt with in the regular meetings of the various technical teams, for the purposes of knowledge of the case, study and assessment of the situation. In this regard, it should be noted that a psychological intervention manual for suicidal and self-harming behaviour is being drawn up and will be sent to the centres to facilitate their approach.

In the monitoring of the cases reported as suicide attempts during the past year and the first months of this year, to observe whether such acts were accompanied by disciplinary sanctions, it is evident that such behaviour is exceptional and not a consequence of self-harm in itself, but of concurrent violent behaviour such as aggression, insults, damage to property or possession of prohibited objects. The fact that the majority of self-harm is classified as manipulative does not, in most cases, lead to any disciplinary sanction.

At present, the sectoral meetings held with the deputy directors of treatment of the centres are already expressly stressing the above points. Likewise, the training of prison staff in the area of surveillance in control and containment skills in situations of self-harm and suicide attempts is already foreseen during initial training for access. However, there is a shared need to increase and continue to focus on awareness-raising and training in this area.

Therefore, in order to give greater support to the requirement made to the centres and to achieve an effective therapeutic and non-punitive approach to these behaviours, it is planned to deal with this matter at the next annual meeting with the management of all the centres, to be held in October 2021, who will be instructed and urged to this effect.

**78.-The CPT would welcome comments from the Spanish authorities on this matter. In addition, I would like to receive a breakdown of disciplinary punishments in Castellón II Prison for the first half of 2021 according to the criteria of Articles 108 (very serious misconduct), 109 (serious misconduct) and 110 (minor) and the punishments imposed under Article 111 of Prison Regulation 1201/1981. Pg.68.**

The comparison of the disciplinary sanctions imposed in this centre with other establishments of the same characteristics, size and profile of the prison population during the first nine months of the past year 2020, does show a slightly higher number. Likewise, the monitoring of



the data relating to the first months of this year also showed the same trend and therefore, from the central services of the prison administration together with the new management team of the centre, is working to identify all the factors that may be influencing this circumstance, among these, the possible poor performance patterns of prison staff.

Specifically, the data requested relating to offences and penalties imposed in the Castellón II CP during the first half of this year are as follows:

- Disciplinary offences from 01/01/2021 to 30/06/2021

CENTRO	FALTA M.GRAVE	FALTA GRAVE	FALTA LEVE	TOTAL
Castellón II	328	559	1	888

- Sanctions imposed, from 01/01/2021 to 30/06/2021

CENTRO	111A	111B	111C	111D	111E	111F	TOTAL
Castellón II	423	7	0	0	457	1	888

**79.-The CPT reiterates its recommendation that the Spanish authorities should allow all visits to take place as a rule in open conditions and that visits in closed cabins should be restricted to those cases where justified for security reasons. Pg.68.**

**80.-The CPT recommends that while COVID-19 restrictions on family visits remain in place, greater efforts should be made to ensure that all prisoners are offered a videoconference call instead of an open visit. In addition, the CPT would like to be informed of the rules in force in Spanish prisons for foreign prisoners and those Spanish prisoners imprisoned at a long distance from their homes to be able to hold conversations with their families via Voice over Internet Protocol (VoIP). Pg.68.**

The Spanish penitentiary system is based on the premise that every person admitted to a penitentiary establishment continues to form part of society, from which he or she is temporarily separated but is expected to return. For this reason, in order to favour the maintenance of ties and links with people on the outside, family or friends, the legislation regulates an extensive system of communications, both in person and by telephone or post.

The system focuses on promoting face-to-face communications, taking special care to enable direct contact with the family in suitable spaces, for which purpose prisons have specific rooms or facilities for intimate communications, with partners and children under the age of 10 or other family members.

Obviously, communication is always more enriching and satisfactory for the communicating parties if it takes place in direct contact or in "open conditions", but it would be impossible to satisfy in this way, with the existing resources and infrastructures, the provisions on oral communications currently established in prison legislation, article 42 of the R.P.: a minimum of two communications per week of at least twenty minutes' duration, with the possibility of accumulating them in a single visit, with a maximum of four people.

As with the rest of the activities, face-to-face communications in penitentiary centres, which were held weekly and monthly in all centres, have been altered by the exceptional health situation of the pandemic, and in order to alleviate this situation, the use of telephone devices



was introduced which, via the internet, allowed inmates to continue to maintain contact with their families or friends.

These solutions, implemented at the time during the period of the state of alarm decreed by the government (March to June 2020), have been maintained subsequently and, depending on the epidemiological situation at any given time, centre and territory where it is located, have been combined with the resumption of communications by telephone or face-to-face as provided for in the legislation.

**81.-The CPT recommends that the Spanish authorities reiterate to the supervising judges the importance of their role of impartial and independent control of prison practices and, to this end, the need for them to visit the accommodation units, especially the closed modules and special departments, within a prison. Pg.69.**

**82.- The CPT requests the Spanish governmental authorities to transmit this recommendation through the appropriate channels to the Inspection Services of the General Council of the Judiciary. Pg.69.**

The Penitentiary Administration shares the need for the Penitentiary Supervision Courts to visit and know all the departments of the penitentiary centres in order to carry out an adequate supervision, thus being able to notice in situ possible dysfunctions or to verify the legality of their actions beyond the documents or communications sent to them.

With regard to the transmission of the recommendation to the Inspection Services of the General Council of the Judiciary, a copy of the communication of the same by the Ministry of Justice is attached as Annex VII.

**83.-The CPT recommends to the Spanish authorities that, due to the small number of prisons accommodating women, they should introduce additional compensatory measures for women prisoners to facilitate their possibilities to maintain contact with their families. Furthermore, the COPT recommends that the above comments be taken into account in the development of a gender-specific approach towards women in prison. Furthermore, it wishes to receive a copy of the report on women in prison being prepared by the SGIP and to be informed of any new strategy adopted thereafter. Pg.70.**

**84.- The CPT recommends that the Spanish authorities take active steps to develop a gender specific approach towards women prisoners. Furthermore, this approach should take into account that women generally pose less of a security risk when developing any risk and needs assessment that takes into account the gender and classification of prisoners. In addition, if women are to be held in predominantly male prisons, there should be separate prison management for women prisoners within the overall management of the establishment with a specific prison complement (see paragraph 135 below). Pg.71.**

In Spain, women in prison represent only 7.3% of the total prison population (3,536 as of 30 July 2021), and therefore, with men making up the vast majority of inmates, prisons are predominantly male-dominated spaces, which do not always have places for women.

So far, the negative consequences of this situation have been dealt with on an individual basis, assessing the specific circumstances of each woman in order, where appropriate, to try to compensate for the distance by adopting measures that favour contact with her family. Aware that sometimes it is not possible to deal with some cases properly, work is being done



to find new measures or alternatives to increase resources for women, but contrary to what is recommended, the creation of a network of small custody centres for women throughout the country is not contemplated, an alternative that is neither viable nor is it considered to have a favourable or positive impact in itself on the process of social reintegration of women.

The prison administration has always kept a special eye on the management of women prisoners and, aware that they tend to pose less of a risk to security and the maintenance of good order in the centres, the control measures and classification reflect the fact that this circumstance is being taken into account. Thus, it can be seen that the male population has greater access than the female population to living regimes that entail greater freedom, currently 10 points higher (more than 31% of women are in an open regime, while in men it is 20%).

However, in a structured manner, the General Secretariat of Penitentiary Institutions began last year to review all its activity with the general objective of implementing a specific gender focus, a process in which it is immersed and which it combines with the actions required by its responsibilities for the maintenance and proper development of services, benefits and prison management.

Specifically, after carrying out a study on the situation of women in prison in the second half of 2019, the process was set in motion to promote and coordinate the implementation of specific measures in this area, with the Secretary General sending a letter to the management of all centres on 16 March 2021, urging them to detect and eradicate any situation of inequality that women were suffering, while promoting positive discrimination actions to compensate for such inequalities.

Subsequently, and with the aim of developing the guiding principles of equality policies in the penitentiary sphere, both with regard to the people who work there and to the persons deprived of liberty or subject to a measure, the Department of Equality of the General Secretariat of Penitentiary Institutions was constituted by resolution of 26 May 2021. In the specific area of execution of prison sentences and alternative measures, the Service Order of the Director General of Penal Execution and Social Reintegration dated 22 June, provides guidelines to prisons on the strategy to be followed to achieve the objectives set.

Copies of the above-mentioned documents are attached:

- Report on the situation of women deprived of their liberty in the Penitentiary Institution (ANNEX VIII).
- Letter from the Secretary General to the management of all the centres, (ANNEX IX).
- Resolution establishing the Department of Equality of the General Secretariat of Penitentiary Institutions, (ANNEX X).
- Service Order 6/2021, of 22 June, of the General Directorate of Penal Execution and Social Reinsertion, of the General Directorate of Penal Execution and Social Reinsertion (ANNEX XI).

To conclude by reiterating that, while not ceasing in our own efforts and in the search for external resources to collaborate in this work, the process of implementing the gender perspective in all the activities, programmes and training actions in which the prison administration is immersed is a progressive one.

**85.-The CPT recommends that the Spanish authorities reiterate to prison staff the clear message that physical ill-treatment, excessive use of force and verbal abuse of prisoners is not acceptable and will be dealt with accordingly. Pg.71.**



**86.-The CPT would like to be informed of the measures taken at Madrid VII Prison to prevent harassment. Pg.72.**

In this matter, to reiterate the commitment of the General Secretariat of Penitentiary Institutions previously expressed for the detection and correction of any conduct of abuse or ill-treatment, physical or verbal, towards persons deprived of liberty, reinforcing for this purpose both the internal supervision mechanisms and the training of staff in strategies for peaceful conflict resolution.

With regard to situations of harassment between inmates and specifically, with respect to the incident that occurred in Module 9 of Madrid VII Prison, although the facts referred to are not known, the management of the centre has implemented measures to address this problem in terms of both prevention and correction. Thus, working habits and activities that facilitate interpersonal relations and more fluid communication between women and with the staff are favoured, in order to generate a climate of trust that facilitates the reporting of this type of situation, the surveillance staff and members of the technical team are instructed and urged to be alert and carry out an early detection of such situations, and actions will be taken immediately to put an end to such a situation, protecting the victim and correcting the perpetrator.

**87.-The CPT recommends the Spanish authorities to develop admission procedures in all prisons housing women prisoners to take into account the gender-specific needs of women prisoners. This should include the detection of sexual abuse or other forms of gender-based violence inflicted prior to admission to prison and ensure that such information is taken into account in the development of a care plan for the woman concerned. In addition, steps should be taken to ensure that the admission procedure is always carried out in a thorough manner. Pg.73.**

As part of the process of including a gender perspective in all prison activity, all prison professionals are already taking into account the peculiarities of being a woman in the process of admission to prison.

While it is true that current prison legislation and, specifically, the current Prison Regulations of 1996 only contain gender-specific provisions for women when dealing with pregnant women or women with children, it is also true that the prison legal system is based on a criterion of individualisation of the intervention with all persons deprived of their liberty, which means that an analysis of the specific needs of each of them on admission is carried out and of all the circumstances or factors involved.

Therefore, regardless of the fact that a future revision of prison legislation may include gender-specific provisions in the processes and activities it regulates, the professionals of the teams are already collecting data on women admitted to prison regarding their personal, family or other circumstances (pathologies, medical treatment, dependencies, family relationships, etc.), and drawing up their individualised treatment programme on the basis of this information.

On this basis, the protocols and structured admission interviews in the social, psychological and health fields are currently being adapted to expressly include and record specific questions such as the existence of a previous history of sexual abuse or other forms of gender-based violence. This is the reason for the modifications introduced and those planned to be included both in the computerised information management tools, such as the HELENA application in the social sphere and in the health sphere, the digital clinical history or OMI. It is



also envisaged that such information will not only be collected on admission, but will also be made available later, through follow-up interviews, with the family, participation in equality workshops or any other favourable situation.

In the same vein, the recent Service Order 6/2021 on "fundamentals for the implementation of the gender perspective in prison enforcement", includes among the measures to be developed by each centre:

- That "protocols, interview reports on admission, as well as those relating to the suicide prevention programme, should specifically and uniquely include those aspects that are especially prevalent among women in prison. Specifically, aspects such as: being a victim of gender violence, or other forms of violence, prostitution, addictions, homelessness, single parenthood, immigration, belonging to ethnic groups, minorities, or any other situation of vulnerability, must necessarily be included and taken into account throughout their prison itinerary".
- That "specific attention should be paid to the needs of women who are in a situation of special vulnerability (women with addictions, mental illness, disability, migrants, victims of violence, single-parent families or others), and specialised resources should be sought to deal with such situations".

An important source of information for the detection of possible situations of abuse in the intimate partner environment is the consultation of the VIOGEN database, which collects situations of victimisation based on reports to the security forces. This consultation should be carried out on a regular basis at the time of admission and in this way, check with the women the validity of the situation of abuse, if there are convictions against the accused or pending trials, access to the economic and social resources foreseen in Organic Law 1/2004, on comprehensive protection measures against gender violence, if there are multiple victimisations, etc. This type of consultation is expressly contemplated in the procedures established for prison social work professionals.

It should also be noted that a specific treatment programme has been designed for intervention during the internment of women victims of gender violence, or at risk of being so, the Ser Mujer.es programme, which is being implemented in all centres and is being extended in terms of the number of inmates taking part.

With regard to the specific actions of Avila Prison, aware of the importance and repercussions of the first moments of a woman's entry into prison, they have an admissions protocol that allows them to adopt the appropriate measures to try to mitigate or reduce the impact. To this end, this protocol includes preventive measures designed for this purpose and specific strategies for detecting situations of suicide risk, symptoms compatible with mental illness, as well as indications that the inmate may have been a victim of sexual abuse or any form of violence. As stated in the protocol, two lines of action can be distinguished:

- A course of action immediately after entry into prison, during which the inmate remains in the admissions department. This covers the first hours of her stay in the centre and is where the initial study of her needs and shortcomings is carried out. This initial assessment will allow the most appropriate decision to be taken regarding the internal separation (module assignment), as well as detecting possible risk situations in which the inmate may find herself and taking the corresponding measures to try to manage or solve them. The members of the technical team and the medical doctor intervene at this point, as established by prison regulations.



- A second route, whose incidence is more prolonged in time, covering at least the first month after her admission, when the inmate is already located in one of the centre's modules. During this observation period, the deficiencies and needs that have been initially detected are objectified and assessed more specifically, expanding or modifying the information gathered. Likewise, the adaptation of the inmate to the module in which he/she has been placed and to the institution in general is analysed. The members of the technical team are the main ones in charge of carrying out this type of assessment, with the figure of the educator being of particular importance, in addition to the observation work carried out by the internal surveillance officers.

Both actions come together to enable us to draw up the Individualised Treatment Programme (ITP) or the intervention programme for women, whether they are convicted or remand prisoners, which will be reviewed every six months, coinciding with the grade reviews.

**88.-The CPT recommends that all prisoners receive an information leaflet on the functioning of the prison. Pg.73.**

**89.-The CPT recommends that the outdoor exercise yards of the green and yellow wings be equipped with a means of rest and shelter from the sun or rain. In addition, the yards should be less austere. Pg.74.**

**90.-The CPT recommends that the Spanish authorities develop the provision of activities for women prisoners in order to offer them paid work and vocational training programmes to assist their reintegration into the community. The CPT would like to be provided with an update on the number of women participating in targeted activities as of 1 June 2021, both at Avila Women's Prison and Madrid VII Prison. In addition, prisoners in a closed regime wing should not be denied access to all activities because they do not wish to participate in a particular activity. Pg.74.**

**91.- Weekly activity sessions are organised for women with a mental illness and for women on the PICOVI violent behaviour programme, but other programmes, such as the therapeutic activity of walking stray dogs, have been suspended. The CPT's delegation was also surprised to learn that in an all-women's prison it was not possible to run the structured programme "Being a woman", which was intended to cover, inter alia, issues of economic independence, self-esteem, assertiveness, contraception and mental health. The reason was the difficulty of finding a closed group of up to 15 women who could enrol together in the programme for 18 months. This approach seems rather formalistic and the CPT considers that there should be a degree of flexibility to be able to run the programme with a slightly smaller group and perhaps on a modular basis in segments of six or nine months, if feasible. The CPT would welcome comments from the Spanish authorities on this issue. Pg.75.**

In accordance with prison legislation, Articles 21 and 52 of the Prison Regulations, on admission to a prison establishment, all inmates receive written information on their rights and duties, the prison regime, disciplinary rules and the means of submitting requests, complaints and appeals. Specifically, this obligation is articulated through the delivery of the information leaflet "Prison step by step", published in the most representative languages, and an extract of the internal rules of the specific establishment in question (which includes the most significant aspects relating to regimental timetables, communications, etc.) in the admissions department, in addition to the availability of several copies of these rules in their entirety and of the prison legislation in the Library of each establishment.



Avila Prison consists of a number of modules which, rather than being numbered, have been identified by colour, a fact which has been shown to have a positive influence on the atmosphere and feeling inside the prison.

The red and blue departments are the ordinary modules of the centre, the latter being a highly demanding respect module. The green module houses the women in closed regime (first degrees) and the yellow module houses the nursing department, sanitary isolation cells and observation cells.

Despite the fact that fewer women live in the green and yellow modules, it is still particularly important to try to create a suitable climate that does not constantly remind one that one is in prison. For this reason, in the closed regime module, thanks to the collaboration of the Red Cross, an occupational workshop will begin in September to paint the walls of the courtyard so that, with the help of a professional, the women can participate in its decoration and give it greater warmth. Likewise, in order to ensure that the courtyards are also used as a rest area, several wooden benches have been installed in the green courtyard, both in the uncovered area and in the roofed area of the courtyard. This model has been replicated in the two courtyards of the yellow module, installing the corresponding bench in each one.

With regard to the activities offered to inmates classified in the first degree of treatment or with the application of Article 10 of the General Prison Organic Law, there are two different groups in the centre, depending on whether or not the inmates wish to participate in the specific treatment programme for first degree inmates.

If they do, they sign a behavioural contract committing themselves to comply with the rules of the programme (to attend all programmed activities with an active and positive attitude, being able to be absent only when justified; to behave correctly and positively towards staff, professionals and other inmates; not to have disciplinary sanctions; not engaging in violent behaviour; and maintaining proper cleanliness and hygiene both personally and in their cells and common areas) and accepting that repeated non-compliance may result in temporary (fifteen or thirty days, depending on the seriousness of the incident or if it is a second expulsion) or definitive expulsion from the programme.

The aim of this system is to generate a sense of responsibility and commitment in the inmates, in the understanding that this learning process is essential both for them to be able to behave in a way that is adapted to the ordinary regime and for their subsequent reincorporation into the community environment. For these reasons, the inmates included in the programme must participate and regularly attend the activities offered (gardening workshop, occupational workshop, cinema-forum, library, sports centre) as well as the intervention programmes that are carried out, unless there is a justified cause. In all cases, these activities are programmed taking into account the abilities and attitudes of each one.

In the event that an inmate does not wish to participate in the first degree programme, in the hours that the regulations foresee for going out to the yard or carrying out activities, they are offered and may participate in educational activities, such as school, sports or occupational activities, albeit apart from those included in the programme.

The motivation of the inmates to participate in the centre's activities, whether they are work-related, training or educational, is a challenge that the centre's professionals face on a daily basis, trying to encourage participation at the beginning, as well as working to ensure that it is maintained in the long term.



Given the characteristics of the centre and the number of inmates it houses, the offer of training or professional qualification courses is somewhat limited, due in part to the fact that these are assigned according to the number of inmates present in the centre. Nevertheless, the objective of improving and reinforcing the educational, training and employment level of the inmates is vehemently pursued, both through the granting of rewards based on their score in the quarterly assessment of activities, and directly through the work of the technical team in pushing and motivating each of them.

Focusing more specifically on the data, in the field of education, in the academic year 2020-2021, a total of 52 inmates have enrolled in basic level, preparation of free tests for graduation and basic skills in Spanish language, which represents 61.9% of the prison population of the centre. However, throughout the academic year there have been several situations of absenteeism and some of these inmates have not successfully completed the academic year.

With regard to vocational training courses, in July of this year a food handler's course was successfully given to 13 inmates and a 150-hour course on "auxiliary kitchen activities" is planned for the end of this year, beginning of next year, and a course on "basic data and text processing operations and preparation of documentation", also lasting 150 hours, is expected to begin in the last quarter of 2021.

In terms of work activity, 22 inmates have a paid job at the centre in the workshops of cooking, baking, laundry, commissary, cleaning, office delivery and library.

With regard to participation in gender-specific actions, it should be noted that last May, in collaboration with the Ávila City Council, a workshop on equality and gender violence was held with the participation of 18 inmates from the respect module, since for health reasons due to Covid-19 it was not possible to form a group of students with women from different modules.

The contents of this workshop partly overlap with some of the units of the Ser Mujer.es programme (construction of gender identities, myths of romantic love, gender-based violence and prevention and resources for victims of gender-based violence) and this circumstance, together with the existing limitations on mixing inmates from different modules, led to the decision to postpone the start of the programme to September 2021.

The completion of the Being a Woman programme is considered a priority for any of the inmates of the centre, although it is especially relevant in some case in which the woman has had complicated experiences or even suffered situations of abuse or mistreatment, and the programme is essential to provide them with tools that will allow them to avoid exposure to such experiences or, if necessary, to face them with the appropriate resources.

As for the activities offered at C.P. Madrid VII to the women inmates, there are currently four fixed activities: volleyball, handicrafts, sewing and step, to which a video forum will be added in September, where films of interest to the inmates will be shown.

There are currently 82 women in the following departments:

- In respect module: 47 representing 57.3% of the total.
- In the conventional module: 27, representing 32.7% of the total.
- In UTE: 3 representing 3.6% of the total.
- In nursing: 5 representing 6% of the total.



With regard to participation in activities as of 1 June 2021, it should be noted:

- Labour: 41 women have a job in productive workshops (paid) according to the following distribution:

- Commissary: 3 women and one imminent vacancy.
- Subalterns: 2 women hired.
- Office: 6 women occupying these posts.
- Cleaning (Communications, outside and Poly 1). 7 women recruited.
- Laundry: 11 women, 1 vacant post imminently to be filled.
- Bakery: 11 women, one vacant post of imminent occupation.

- Functional assignments (unpaid activity):

- Auxiliaries treatment activities (orderlies in team support functions): 2 persons.
- PPS nursing support assistants: 2 persons.
- PPS support assistants: 16 people.
- Toilet cleaning assistants: 3 people.
- Dining room cleaning assistants: 5 people.
- Communications cleaning assistants: 3 people.
- Gymnasium cleaning assistants: 1 person.
- Module cleaning assistants: 6 persons.
- General cleaning assistants: 32 persons.
- Laundry distribution assistants: 1 person.
- Dependent unit assistants: 3 persons.
- Module library assistants: 1 person.
- Gallery cleaning assistants: 5 persons.
- Office assistants: 1 person.
- Hairdressing assistants: 1 person.
- Recycling assistants: 2 persons.
- Yard cleaning assistants: 3 people.
- Window cleaning assistants: 2 people.
- Module cleaning manager: 2 people.
- Occupational workshop cleaning: 2 people.

- Therapeutic women:

- 15 women in the official programme of the General Secretariat "Ser Mujer".
- 4 women in therapeutic module (UTE) 1 woman was released in the middle of the month.
- 47 women in coexistence/respect programme.
- Pilgrimage of the missionary (CONCAES) 9 people.
- Methadone maintenance programme: 4 people.

- Sports: Due to the pandemic and restrictions for health reasons, there have been no monitored sports outings. The sport they practice is done in the gyms of the module in an autonomous way. In the UTE, women do the same activities as men in all areas, including sports. Once the population has been immunised, the women will resume the outings with each of their modules, 4 different outings and also an outing for multi-sports activities on Wednesdays.



- Cultural and occupational activities:

- Radio workshop: 10 women.
- Threads: 30 women.
- Dance: 10 women.
- Marquetry: 6 women.
- Cooking: 11 women.
- Sewing: 36 women.
- painting on different surfaces: 16 women
- origami: 26 women
- Sculpture with clay: 10 women.
- Origami: 27 women.
- Cultural dissemination activities:
- Film screenings: 40 women.
- Conferences: 12 women.
- Theatre performances: 14 women.
- Cultural competitions: 1 woman.
- Library: 6 women readers-18 loans.
- Reading encouragement workshop: 6 women.

- Educational:

- UNED 2 inmates enrolled.
- Non-university education: 15 inmates finished the course (School of different levels and literacy programmes and Spanish for foreigners).

Finally, it should be noted that in general all the inmates participate in several activities simultaneously, starting and stopping in some cases in the same month.

**92.-The CPT wishes to receive confirmation that a permanent solution has been put in place for the provision of general practitioner services in the Women's Penitentiary Centre of Avila and that a deputy director of health has been appointed. Pg.75.**

**93. One outstanding issue was that GPs from the private clinic had not been granted unimpeded access to the primary health and local hospital records of those held in the prison, which had a negative impact on continuity of care. This had not been an issue until December 2019, when the prison's general practitioners had been employed by the Home Office. The CPT would like to receive confirmation that this issue has now been resolved. Pg.75.**

**94.-At the time of the visit, 50 of the 70 women were receiving some form of psychotropic medication. This situation naturally leads to intimidation which, once detected, often results in the most vulnerable inmates having to take their medication under supervision rather than in possession. The CPT considers that many of these prisoners could reduce their dependence on psychotropic medication, or even discontinue it, if the prison were to engage a clinical psychologist to provide psychotherapy sessions. Pg.76.**

**It was also unfortunate that there was no PAIEM programme, as a distinct unit with a uniform approach could not be established. This meant that women with a mental**



**disorder were held in the Red Module and, although the prison management took their mental health into account when disciplinary offences were committed, not always by imposing a sanction, this created friction with the other women in the module. The CPT would welcome comments from the Spanish authorities on these two issues. Pg.76.**

**95.-The CPT recommends that the Spanish authorities adopt a policy of prevention and reduction of self-harm by women prisoners and that it be introduced in all establishments, and that women who self-harm receive the necessary support from staff. People who self-harm or who are at risk of self-harming should always be treated from a therapeutic rather than a punitive point of view. Pg.76.**

**In addition, in light of the prevalence of incidents of self-harm by women prisoners, staff working with women prisoners should be specifically trained to identify and interact with women who are at risk of self-harm or suicide attempts, with an emphasis on de-escalation and relationship building rather than containment and isolation. Pg.76.**

**96.-The CPT recommends that the Spanish authorities cease tasking prisoners to act as permanent monitors of other prisoners who are at risk of committing an act of self-harm or suicide and that this task be entrusted to trained staff members. Pg.77.**

Given the characteristics of the Ávila CP, the centre's list of posts does not include the post of deputy medical director, although it does have a post for a doctor, which is currently filled. In turn, a contract has been established with the Santa Teresa de Ávila clinic, through which a total of three doctors come to the penitentiary centre for medical consultations, both on daily days and on weekend shifts.

With regard to the nursing staff, there are four nurses, who are able to attend to the needs of the inmates more than adequately, with a fairly high nurse-to-inmate ratio, and five auxiliary nurses who complete the centre's health service staff.

The centre's healthcare team does not have access to medical records from outside, which to some extent hampers its capacity but does not depend on the prison administration, which has repeatedly shown its willingness to facilitate the interrelation with public health systems.

The incidence of mental illness among women prisoners and their correct treatment undoubtedly facilitates the prison administration's work of reintegration. Therefore, intervention with these inmates is based on the need for specific and individualised detection, prioritising early diagnosis and subsequent treatment in order to achieve an improvement in their quality of life and personal autonomy that will facilitate their reincorporation into society in the future.

In order to respond to these objectives, in March 2021 a multidisciplinary mental health team was set up at the centre, made up of both intrapenitentiary staff (doctor, nurse, psychologist, educator, social worker, lawyer) and extrapenitentiary staff from the FAEMA association.

Through monthly meetings held with the deputy director of treatment, the actions to be followed by the different professionals have been defined and coordinated, as well as sharing and asState Secretariat for Securitysing the evolution of each inmate on an individual basis, thanks to the implementation of the system of tutors, according to which each professional of the centre tutors one or more inmates of the programme, thus becoming their professional of reference.



The identification of inmates with mental illness can be carried out at any time and by any worker who detects symptoms or behaviour compatible with a possible mental disorder. In these cases, they will inform one of the professionals who make up the multidisciplinary Mental Health Team.

Along these lines, a training course on mental health is planned for the centre's staff, aimed at identifying the prodromal signs that indicate that an inmate has a pathology of these characteristics. Likewise, with the collaboration of the FAEMA association, information sessions are held in which the main keys to dealing with inmates with mental illness are reviewed.

The centre currently has 6 women included in this programme, with dual pathology or who have behavioural symptoms that interfere with their integration into prison life, each of whom has an individualised Rehabilitation Plan drawn up which includes the shortcomings detected and the strengths or skills that are appreciated, designing objectives accordingly, which are reviewed on a quarterly basis.

As for the specific possibility of providing this centre with a clinical psychologist, it should be pointed out that all penitentiary establishments have psychologists in their list of jobs, civil servants of the Higher Corps of Penitentiary Institution Technicians, where psychology is one of their specialities, their functions being regulated in Article 282 of the Penitentiary Regulations of 1981, which remains in force in this part as a Resolution of the Management Centre, by mandate of the 3rd TD of the current Penitentiary Regulations, approved by Royal Decree 190/1996, of 9th February.

Jobs are regularly advertised on an annual basis, except in 2012 and 2013, when there was no public job offer, but in which advertisements do not require a specialisation in clinical psychology.

With regard to the treatment of self-harm, it should be noted firstly that the procedure for action in suicide prevention is being revised to introduce a gender perspective.

A specific guide is being drawn up that considers the specific risk factors for both genders, based on a study of the scientific literature on this subject, with the aim of raising awareness of the need to pay attention to these factors and modify preconceived ideas that may lead to insufficient attention being paid to self-harming behaviour by women. The way of experiencing and dealing with problematic and traumatic situations also justifies a differential therapeutic approach in both genders, developing, for example, the ability to ask for help in men and reducing the internalisation of guilt in the case of women. The guide expressly points out the relevance of a history of violent victimisation that could lead to a traumatic predisposition, which could lead to other violent acts against oneself.

As for the figure of the support inmate, he/she has undoubtedly become one of the most useful resources in different prison intervention programmes and, to a greater extent, in the suicide prevention programme. Its functionality is basically focused on providing social support through accompaniment and listening, as well as collaborating in the early detection of problematic behaviour or situations that may be more difficult for prison professionals to access.

As its name indicates, it is limited to providing support to the person, being an auxiliary function that in no case replaces the action of the professionals. However, within this framework, it is true that it entails a high degree of personal involvement and, therefore, a



significant emotional toll. For this reason, attention has repeatedly been drawn to the need for prison management teams to pay due attention to them, establishing appropriate incentives and shifts that allow them to rest. In any case, it should be stressed that their role is one of accompaniment and support, of presence in particularly sensitive areas and at particularly sensitive times, but never of supervision.

Therefore, the situation referred to by the Committee in cell 8 of the yellow module of the Ávila CP, where a support inmate was between two glazed cells simultaneously observing two other inmates, would not be in accordance with the aforementioned function, unless it was a matter of urgency and therefore temporary, although accompaniment should always be limited to a single person. In any case, this matter has been discussed with the management of the centre in order to assess the action taken in this matter and to correct any dysfunction that may be occurring.

All the staff of Ávila CP are involved in the early detection of any indication that women may be in a situation of risk to their life or health, participating actively by getting to know them and observing their behaviour. Once an inmate has been identified as being at risk, she is evaluated by one of the centre's psychologists and by the doctor; all of these evaluations serve as a basis for the management to adopt, if necessary, any of the following preventive measures:

- Inclusion in "special surveillance": this category includes inmates when at some point something strange or different from their usual behaviour has been detected or, due to their characteristics (background, state of mind, type of offence...), it is considered necessary for them to be under greater surveillance by the internal surveillance officers. They have to fill out a monitoring sheet, in the morning and in the afternoon, where they record the activities in which the inmate has participated, whether she makes telephone calls, how she relates to the other inmates, whether she is hostile, whether she maintains adequate hygiene in the cell, etc.
- Issuance of a cell accompaniment order: when any professional detects that a female inmate is emotionally disturbed or that some circumstance has occurred in her environment that could affect her (accident, death of a family member, etc.) without there being a risk of her life being threatened, a management order is issued for the inmate to remain accompanied in her cell by a support inmate. This accompaniment is maintained until the circumstances that led to its application disappear or the psychologist and doctor recommend its cessation.
- Inclusion in the Suicide Prevention Protocol (PPS): when any professional in the centre detects that an inmate may be at risk of engaging in self-harming behaviour, the psychologist and doctor carry out an assessment, on the basis of which a management order is issued agreeing to her inclusion in the PPS. Depending on the risk assessed, these inmates may continue in their original module with a support inmate, or they may be transferred to the infirmary and occupy an observation cell that allows for greater surveillance by the staff.

As in all the centres, the support inmates in this one are one of the key figures in the programme and, in accordance with what has already been explained, a review of their functions has been carried out to ensure that they only carry out accompaniment tasks, a very important task but which in no case replaces the monitoring and supervision of prison staff, who are responsible for such actions.



In any case, their role of support and accompaniment at particularly sensitive times (closing times in cells) requires that they receive appropriate training. Every twelve to eighteen months, a course for support inmates is given by the centre's psychologists; in July 2021, one was held in which five inmates participated, but in addition, sessions are held to remind them of their functions or to raise doubts with them in order to reinforce and support them in their work.

Once an inmate is discharged from the programme, her situation continues to be studied at ordinary sessions of the Treatment Board after one month, three months, six months and one year, in order to be able to continue analysing her evolution. Similarly, all inmates included in the protocol or those whose inclusion is being considered are studied monthly by the Board of Directors in ordinary sessions.

Any self-harm, whether or not it has a clear self-harming purpose, is a risk in itself and a warning that must be heeded. In this sense, the centre's Board of Directors carries out a monthly assessment of all self-harming behaviour that has occurred during that period, whether or not it has led to the inclusion of the inmate in the suicide prevention protocol. Likewise, in addition to the health staff attending to the injuries she presents, the inmate is assessed by one of the centre's psychologists to try to discern whether the behaviour is a response to a dysfunctional coping with a situation of stress or frustration, a call for attention or if it is really a behaviour with a self-harming purpose and, as such, should be included in the PPS. However, regardless of the purpose of the behaviour, the motives that have led to it are addressed at a psychological level, detecting this motivation and subsequently working on it. Furthermore, as of August 2021, the Treatment Board will also deal with all self-harm that occurs on a monthly basis so that all members are more aware of such events and can become even more involved in the adoption of adoptive measures.

Finally, it should be noted that in no case will these behaviours be dealt with in a punitive manner.

**97.-The CPT recommends that all custodial staff working with women prisoners receive gender specific training. In addition, the overall ratio of female prison officers to male prison officers working in women's prisons and detention units, and especially the number of female prison directors (Head of Services), should predominate. The CPT would like to receive a breakdown of these ratios both for women's prisons and for Modules 9 and 10 of Madrid VII Prison. Pg.77.**

**98.-The CPT recommends that access to Voice over Internet Protocol (VoIP) technologies continue to be made available to foreign women prisoners and to other women whose families live at a great distance from the prison in which they are held. Pg.78.**

With regard to staff in women's prisons or departments, the regulatory treatment of custodial staff needs to be distinguished from that of other staff.

1. With regard to the Corps of Penitentiary Institution Assistants, Organic Law 3/2007, of 22 March, for the effective equality of women and men, in its thirtieth additional provision, extinguishes the male and female scales of the Corps of Penitentiary Institution Assistants, integrating its officials, in their entirety, into the Corps of Penitentiary Institution Assistants, which is configured as a single corps, with no differentiation in access or performance of posts on the basis of sex.



In addition, Royal Decree 1836/2008, of 28 November, which establishes criteria for the application of the integration of the extinct male and female scales of the Corps of Penitentiary Institution Assistants adopts several measures:

The services are organised in accordance with the principle of non-discrimination on grounds of sex in public employment, although guaranteeing the preservation of the right to dignity and privacy of the persons interned, in such a way that civil servants of the same sex as the persons subject to action carry out tasks in which these rights could be affected.

- The RPT of each centre shall include in the surveillance area as a minimum reserve, a number of posts to be filled by civil servants of the same sex, with this number not exceeding 40% of the total number of surveillance posts. On the other hand, in the daily services, a minimum of one post per shift and module shall be assigned, taking into consideration the operational capacity of internment of these, for their mandatory performance by civil servant staff of the same sex as the persons interned, being finally the Head of Services the one who, in a specific circumstance, may entrust the performance of activities that could affect the rights to dignity or personal privacy of inmates to available civil servant staff who meet the required sexual condition.

If we take stock of the application of the Organic Law on Equality in the process of unification of scales, we can affirm that:

- The unification of scales has meant an indisputable improvement for women, both with regard to access to the civil service and in their rights to professional promotion and administrative career; thus, in 2004 they accounted for 18.75% of the total number of civil servants, due to the fact that many fewer vacancies were called for in the female scale because the prison population of this sex was much lower than the male one, and in the present year 2021 the percentage had risen to 33.15%.

- In the selection processes relating to the Corps of Assistants, the percentage of successful candidates is very even between the sexes, although there is a certain tendency in favour of women, and there is no gender limitation in the selection of posts, which is done exclusively on the basis of the number of places obtained in the competitive examination. The same happens in transfer competitions, where posts are awarded according to the merits justified by each applicant, and a scale is also applied without gender distinction in those cases in which it is necessary to provisionally cover a post.

- Only in the most responsible posts corresponding to the Corps of Assistants, among which are those of Heads of Service, is there a certain discretion on the part of the administration when it comes to filling them provisionally, but only with regard to the final choice between the three candidates who obtain the best scores, without any discriminatory proposals in favour of male candidates having been found.

- In spite of what has been said, it is true that there are more male than female Heads of Service, and this is due to the fact that these posts are filled through a system of competition, where the merits of each candidate are valued, one of them being seniority, which is very important; Until the unification of scales, the number of male civil servants was much higher than that of women and this ratio, although it has softened, continues to be maintained, so that there are more male applicants for these posts and with greater seniority, which leads to a substantial increase in the possibilities of obtaining them compared to women.



- As it is a single Corps, all its officials, whether men or women, have the same duties and carry out the same jobs, except for those who continue to hold the same post they had before the unification of scales and therefore maintain their rights intact, and are allowed, as long as the service is not compromised, to carry out their duties in posts that do not have direct contact with inmates of a different sex from their own. This right is not respected when they obtain a new post, and on some occasions there are complaints from female officers for performing services in departments with male inmates.

The following table shows a breakdown of the number of staff in the Corps of Assistants by sex in the three women's prisons and in the Madrid VII prison

CENTROS	FUNCIONARIOS/AS				JEFES DE SERVICIO		
	RPT	H	M	EFFECTIVOS	M	H	TOTAL
ALCALÁ DE GUADAÍRA- MUJERES	128	64	51	115	3	7	10
ÁVILA	164	69	79	148	4	6	10
MADRID I - MUJERES (ALCALÁ DE HENARES)	253	84	117	201	3	6	9
MADRID VII (ESTREMEIRA)	503	272	213	485	2	8	10

Specifically, the CP Madrid VII currently has 344 staff members of the Corps of Assistants assigned to surveillance work, of whom 196 are men and 138 women, and as for the head of services, this is made up of 10 staff, 2 of whom are women.

In the distribution of staff and services, the presence of one female staff member in each department is always guaranteed in the modular complex 9/10 of the centre, which is intended to house women, and the rest of the staff may be male or female. As a minimum, during the holiday period, 3 staff members work in this modular complex: 2 women, one for each module, and a third in the cabin, who may be male or female, although this number rises to 4 staff members during normal periods.

2. With regard to the other corps of the penitentiary administration (Superior Technicians, Special Faculty, Nurses), the presence of women is not only a long-established reality, but in some of them they are even in the majority, as is the case in the health corps, where they make up 59.70% of the staff.

In the Special Corps of IIPP, which has posts with direct functions in the area of surveillance, it is less, as for more than 30 years its posts have only been advertised through internal promotion, so that only civil servants from the Corps of Assistants have gained access to it, and consequently, the majority male presence in the latter has been extended to the Corps to which it was promoted, a cause added to those indicated for the higher number of male personnel in posts of responsibility directly related to surveillance. At the date of issuing this report, 678 members of this Corps were serving in centres dependent on the General Secretariat of the IIPP, of which 16.08% (109) were women.

These Corps, fundamentally the first two, are responsible for the management posts in the various penitentiary establishments, which are filled by the procedure of free appointment,



where the appointment, although respecting the principles of merit and capacity, is discretionary and in these cases, the presence of women is much higher.

At the present time, of the 85 existing posts of Director of penitentiary establishments, women account for 34.12%, with a very significant advance in the search for parity in the last year; in this sense, it is worth remembering that at the beginning of 2018 only one woman was directing a centre of the so-called "type".

If we look at the posts of Deputy Director of penitentiary establishments, of which there are 272, women occupy 44.49%.

In addition, initial training on equal opportunities and prevention of gender-based violence will be reviewed to update and extend it, courses on intervention with a gender perspective and affective-sexual diversity will be included, and the detection of situations of special vulnerability will be strengthened.

With regard to communications, the prison administration is well aware of the impact of women entering prison on family ties, which acts as a very important destabilising factor. For this reason, the maintenance and strengthening of these family ties is a basic objective of prison intervention from the outset.

If under normal conditions women in prison are faced with economic impediments, physical remoteness or time availability when trying to maintain their family and interpersonal relationships, the exceptional health situation of the pandemic and its consequences has further complicated this situation.

In the CP of Ávila and with the aim of reducing the negative effects as much as possible, from the first moment that special communications were suspended due to the incidence of Covid-19, the number of calls was increased and video calls via mobile devices were established, measures that have been extended and refined over time and are currently in force:

- The implementation of "video-kiosks" in the ordinary modules, which allow inmates to make video calls with their families, being one of the pioneering centres in their implementation.
- The use of mobile telephone devices to make video calls from the admissions department, currently aimed at inmates who lack financial means or when there are technical difficulties in the "video-kiosks". In this line, two video calls per month are granted to all inmates who do not have an income, increasing the number to three in the case of foreign inmates.
- In addition, the Disciplinary Commission also awards video calls as rewards for extraordinary work, meritorious marks or at the proposal of the Treatment Board for positive quarterly progress in the performance of activities.

**99.-The CPT considers that forensic psychiatric establishments, such as PPHs, should enjoy full institutional and functional separation from the prison administration, given the different ethos and staff profile that characterise penitentiary establishments. Preferably, in the CPT's view, PPHs should be under the responsibility of the National Health System. The Committee would welcome comments from the Spanish authorities on this issue. Pg.81.**



The prison administration shares the view that the dependence of the forensic psychiatric hospitals on the National Health System would affect their welfare character. However, this is a decision that goes beyond its sphere of competence and, given the reluctance of the Autonomous Communities to transfer patients from a hospital dependent on the Penitentiary Institutions to another dependent on the same, it does not appear to be a real alternative to be taken into account in the short term.

Consequently, as a general criterion, persons declared unimputable and sentenced to a security measure are transferred to the two psychiatric hospitals dependent on the penitentiary administration, Seville and Alicante, unless, for very exceptional reasons and in agreement with the public prosecutor's office and the court on which they depend, this measure is considered to be counterproductive for the evolution of their illness, due to the brevity of the sentence and/or the geographical distance from their family and therapeutic environment.

**100.-Furthermore, by examining the relevant CCTV footage of the use of restraints, the delegation discovered a case of ill-treatment of a patient at the PPH in Seville. On 21 July 2020, this patient was subjected to slapping and punching by a member of the security staff both at the time of his restraint and during mechanical fixation with straps to a bed in a fixation cell in module 2. Once informed, the Hospital Director reported the case to the SGIP. An internal investigation was launched, the deputy director of security was dismissed for failing to report the facts, and the matter was referred to the duty judge to look into the criminal aspects of the case. In addition, by communication dated 19 January 2021, the CPT was informed by the SGIP that disciplinary proceedings had been initiated in respect of the nine staff members who had witnessed the ill-treatment and who had failed to report it. The CPT would like to receive an update on the status of the above-mentioned judicial investigation, as well as on the disciplinary proceedings. Pg.82.**

**101.-The CPT recommends that the Spanish authorities reiterate to the prison officers of the Alicante and Seville Psychiatric Prison Hospitals that all forms of ill-treatment of patients, including the excessive use of force in restraining an agitated patient, are unprofessional and unlawful and will be subject to appropriate sanctions. Pg.82.**

**102.-The CPT recommends that the tasks assigned to prison officers in forensic mental health facilities be reviewed, as well as the training provided to all staff in such facilities (see also para. 162). Pg.82.**

With regard to the ongoing administrative and judicial proceedings in relation to the incident of ill-treatment of a patient, which occurred on 21 July 2020, in the Seville Penitentiary Psychiatric Hospital (HPPS), to inform:

- As a result of the Preliminary Information 130/2020 carried out by the penitentiary inspection, from which the alleged disciplinary responsibility of nine officials assigned to the HHPS was deduced, the Undersecretary of the Interior, on 23 October 2020, ordered the initiation of proceedings and the referral of the proceedings to the court that was hearing the same facts.

This procedure is currently suspended until the judicial proceedings are resolved, in accordance with the provisions of article 94.3 of the Basic Statute of the Public Employee and article 23 of the General Regulations for Civil Servants of the General State Administration.



- The 17th Preliminary Investigation Court of Seville, which is currently hearing the procedure Diligencias Previas 1571/2020 for these events, reports that the investigation continues, with only one of the nine civil servants under investigation being charged for the alleged commission of an offence of unnecessary rigour under article 533 of the Penal Code and a minor offence of injury under article 147.2 of the Penal Code.

On the occasion of the detection of such serious conduct, apart from the proceedings initiated and the immediately agreed change in the sub-directorate of security of the establishment, the management team has been carrying out continuous training and supervision of the actions of the staff with the aim of generating work dynamics that favour the relationship and good treatment of patients, thus contributing to the consolidation of good professional practices as an effective instrument to prevent any excess, abuse or bad treatment and, where appropriate, to facilitate their knowledge and correction by those responsible for the centre.

The functions of prison staff are set out in regulations and in various instructions issued by the General Secretariat of Penitentiary Institutions. Although there are no major differences in terms of supervision depending on whether the service is provided in an ordinary centre or in a psychiatric hospital, the regime of the latter is perfectly determined, as set out in articles 183 to 191 of the current Prison Regulations, which configure these units as therapeutic spaces, It should be remembered that they are not convicted prisoners, but are serving custodial sentences once they have been declared unfit or partially guilty and, in the case of remand prisoners, are at the disposal of a judicial body which has ordered their custody and expert assessment in such establishments.

The regulation of the Penitentiary Regulations of the Psychiatric Units is sufficient for the management teams of these units to be able to decide, as they have been doing, how to arbitrate the surveillance and custody services, as well as all other services. In fact, as the Committee itself points out in its report, the care provided is generally correct, including the immediacy with which incidents that occur among patients are dealt with, which is even more important if we remember that by mandate of article 188.3 and 4 of the R.P., neither the ordinary disciplinary regime nor the use of coercive means, as set out in articles 72 et seq. of the same legal text, is applicable.

In any case, aware that training is a key element in knowing how to handle conflict situations that may arise in these establishments, reducing the aggressiveness or violence that patients may present and always contextualising the use of coercive means from a health point of view, it is planned to focus on the training of the staff assigned to them in order to provide them with strategies and skills for this purpose.

**103.-The CPT recommends that, pending the relocation of psychiatric patients to the new establishments in Valencia and Alcalà de Guadaira, efforts should be made to provide patients in the Alicante and Seville PPHs with material conditions conducive to their treatment and well-being. It should be recalled that this implies, first of all, providing sufficient living space per patient, as well as adequate lighting, heating and ventilation, keeping the establishment in a satisfactory state of repair and meeting general hygiene requirements. Attention should also be paid to the decoration of patient rooms and recreational areas. Bedside tables and cupboards would be highly desirable, and patients should be allowed to keep certain personal items (photographs, books, etc.). It is also important that patients have a lockable space in which to store their belongings; the lack of such a facility may affect the patient's sense of security and autonomy. Pg.84.**



**104.- Furthermore, he recommends to the Spanish authorities to strictly respect the above principles in the course of the planned construction and refurbishment of future forensic psychiatric establishments. It also wishes to be informed of the precise timetable for the construction and commissioning of these new establishments. Pg.84.**

**105.-The CPT Recommends that the Spanish authorities ensure that the food supplied to patients in the Alicante and Seville PPHs is distributed at an appropriate temperature. Pg.84.**

One of the objectives of the General Secretariat of Penitentiary Institutions is to improve the living conditions of persons deprived of their liberty and, specifically, of those held in the two prison psychiatric hospitals in Seville and Alicante.

Within this framework, the construction of a new psychiatric hospital in the Valencian Community, "Siete Aguas", which would replace the current HPP in Alicante, is envisaged. However, as it is necessary to previously modify the Penitentiary Centre Amortisation and Creation Plan (PACEP) in order to complete its construction, and as we are currently still working on it, it is not possible at this time to provide data on a non-final project and to venture a date to begin its development.

Taking into account the regulatory framework and the purpose of the internment of people in these establishments, the design of this facility is taking into account the contributions made from the field of architectural psychology with the aim of taking advantage of the psycho-social impact that the spaces produce on behaviour and emotions, in such a way that the design itself can favour therapeutic intervention.

The intention is that everything in this new centre will serve the purpose of favouring the practice of rehabilitation and psychosocial integration programmes, allowing the development of different treatments to achieve the progressive integration of the patient and the recovery of his or her capacities, taking into account the situation of internment agreed by the judicial authority.

That prison psychiatric care facilities, such as the one in Siete Aguas, can be used as healing elements and replace the old and obsolete buildings, where people with mental pathologies or illnesses are currently housed. These new resources should make it possible to work from the first day of admission to provide these people with the reintegration capacities that will allow them to leave the institution as soon as possible, complying with the security measures, but also with the therapeutic measures that the judicial authority has imposed in a sentence.

This same purpose is guiding the penitentiary administration with regard to the Seville HPP, which is scheduled to close once the necessary refurbishment and rehabilitation work has been carried out on the premises of the current Alcalá de Guadaira Women's Penitentiary Centre, where the new centre will be located.

As in the case of Siete Aguas, this architectural project is still in the development phase, it is not yet completed, and therefore no date can be given for its start-up.

With regard to the living conditions of the patients in the current Seville Penitentiary Psychiatric Hospital, it should be noted that the architectural design of the rooms was initially intended for a two-bed occupancy. However, a few years into the hospital's operation, occupancy



increased substantially and the rooms had to be converted to accommodate 3 and 4 beds, with a consequent reduction in personal space.

This year it is planned to renovate the beds and tables in the rooms. So far, 100 beds and tables have already been replaced, and the rest will be replaced in the remainder of the year. The rooms, like the cells in ordinary prisons, have a space for storing clothes and belongings in the form of "shelves or shelves made of brick and painted". Enclosing these spaces with doors and a locking system would require a significant investment, which is not planned for the time being.

With regard to air conditioning, it should be noted that all the rooms and common areas of this centre have centralised heating and air conditioning, which has undoubtedly made it much easier to cope with the high summer temperatures over the years of the Hospital's operation.

As for the natural lighting in the rooms, although it is determined by the size of the building's windows, in order to increase it, the glass panes of all the windows, which were already deteriorated due to the passage of time, have been replaced with more translucent methacrylates. Similarly, the glass in the door peepholes has been replaced with a highly transparent polyurethane material. These changes, as well as contributing to greater visibility, also contribute to better air conditioning insulation.

In terms of artificial lighting, all the lights in the rooms (175 places) have been replaced by LED hospital lights. These lights are fitted with sockets and a double lighting system, strong and weak, the latter being used for night rounds to prevent patients from waking up and to see if they are well.

All the curtains in the centre, which were somewhat opaque and unaesthetic, have also been replaced with more transparent and cheerful ones, and before the end of the year, all the hospital rooms are to be painted, including the doors, and the doors of the interior bathrooms, which are quite deteriorated, are to be replaced.

With regard to the fact that the design of the common areas, rooms and courtyards are unequivocally prison-like and narrow, it can only be affirmed that the structure of the Hospital, in itself, is prison-like from its initial construction. Based on this reality, constant efforts have been made to "soften" this rigidity and give it a less prison-like appearance. Efforts have been made to beautify the common areas, making them more habitable, specifically, the following actions have been carried out in the dining room-refectory and courtyards:

- All the tables have been replaced, some of them with multi-purpose tables and the rest with anchored dining tables. All the chairs have also been replaced.
- All the dining rooms were painted and LED lighting was replaced. The walls were decorated with green patterns and a green wooden frieze was put on the middle part of the tiling.
- All the "grilled windows" in the dining room of the four modules have been replaced by white galvanised iron sliding windows without grilles, which has contributed to improving the image of this space and the view of the courtyard. The access doors to the courtyard have also been changed. These changes have enabled the dining room to be better insulated from changes in temperature and, above all, to gain in luminosity, giving it a more pleasant appearance.



- The entire façade of the building has been painted, including all the courtyards. The four courtyards have been tiled with a stone frieze in very light colours (two of them in shades of blue, another in pearl grey veined and another in shades of green) and the ceramic mural of "Guernica" in the courtyard of module 1 and the mural painting in the courtyard of module 3 have been restored.

- All the existing planters have been replanted. And the number of benches has been increased.

All these changes are helping to considerably reduce the prison-like appearance of the communal areas.

On the other hand, five access doors have been motorised and changed, the two in the centre and the one leading to the laundry and the courtyard leading to the garden, for white galvanised iron, giving a cleaner and more aesthetic appearance. Also, the polyurethane panels provide better insulation from the cold and heat in the different rooms.

In the transit areas, all the corridors have been painted and all the access gates to the modules have been restored and painted.

In the gymnasium, a complete refurbishment has been carried out: wooden flooring, painting of walls, change of LED lighting, complete remodelling of the toilet and shower. In addition, almost all the machines in the gym have been replaced with new ones. It is also being decorated with shirts of professional football teams signed by their players and photographs of our indoor football team, in different sporting events.

For its part, the radio has been enlarged to better isolate it from the cabin and has been soundproofed with special panels.

As for the centre's large outdoor sports field, it is an essential space for the daily life of the patients, as most of the therapeutic and occupational activities are carried out there. It has a basketball court, an athletics track, a petanque court, gymnastic apparatus in a bio-healthy park, a vegetable garden, a summer library, a therapy room, a large garden area for strolling and a covered ambiguous area which has had a sprinkler system installed this year so that it can be used in summer with the high temperatures. In addition, the slate paths in the garden have been paved and the access gate has been replaced by a green iron gate, which is much more pleasant and in keeping with a garden area.

It is also hoped that the budget will allow for the replacement of the roofs that are deteriorated in order to avoid rainfall and to have better cold-heat insulation, and to raise the kitchen area that has been unused for some 20 years and to fit it out as an indoor therapy and occupation area for the winter months, which is what the centre lacks the most.

With regard to the temperature at which the food is supplied, the monitoring carried out to verify compliance with the provisions of Royal Decree 3484/2000 of 29 December, which establishes the hygiene standards for the preparation, distribution and trade of prepared meals, establishing that hot meals must be 65°C and cold meals 0-8°C, with cold meals being introduced at 0-6°C and both being transferred in isothermal containers, has not detected any dysfunction or irregularity whatsoever.

At the Seville Penitentiary Centre, in whose kitchen the food is prepared daily and from where it is transported to the hospital, the centre's staff cooks measure the temperature of each meal



with a kitchen thermometer, and the food is transported in isothermal thermos flasks without breaking the temperature chain.

The prison administration is not aware of, nor has it received any complaints from patients about this issue, the temperature of meals, either directly or through the Prison Supervision Court. However, vigilance is exercised to ensure that meals are always served at the appropriate temperature.

With regard to the living conditions in the HPP of Alicante, it should be noted that with the comprehensive reform that is being carried out in this centre, all cells will have their own shower and integrated furniture (table and shelves). It is also planned to convert the collective showers in these modules (which will no longer be necessary after the refurbishment) into storerooms with shelves in which the inmates' belongings will be stored in individualised hermetic boxes, which will help to maintain order in the cells and ensure that the inmates are sure that their belongings will be safe.

The medical and nursing consultations, common and recreational areas and the offices of treatment professionals in Module 1, which is the first to be put into operation after its refurbishment, are also awaiting new equipment, and the rest of the modules are expected to be fully equipped next year. The renovation of the equipment will mean a significant improvement in the conditions of habitability and coexistence of the aforementioned areas.

With regard to the conditions of the cells in the acute module, which the Committee considers to be austere, it is considered that they are adequate for their purpose, which is none other than the temporary confinement of patients in the acute phase, always under medical supervision and for the time necessary until they can return to a residential module. These cells, for patient safety reasons, can only have the minimum furniture and equipment necessary to avoid injury to the occupants. Occasionally, it is true that there are patients who are in this module for other reasons, but for these cases specific cells will be set aside, which will be equipped with furniture in similar conditions to those of the conventional modules.

As for the temperature of the food, the rations for the patients in this centre are prepared in the kitchen workshop of the Alicante Compliance Penitentiary Centre, which supplies them in isothermal trolleys three times a day, coinciding with breakfast, lunch and dinner times. The preparation of the menus and their medical supervision is carried out by the centre of origin, with the HPP taking on the function of distribution among the patients once the rations have been received. The food is transported in isothermal trolleys and in an isothermal lorry, driven by inmates of the "Irene Villa" Mothers' Unit.

It should be noted that the Alicante Compliance Prison, the "Irene Villa" Mothers' Unit and the Alicante HPP form part of the same prison complex.

In the Hazard Analysis and Kitchen Control Points (HACCP) drawn up by the Alicante Compliance Prison, it was found that hot rations leave the kitchen, in accordance with current legislation, at a temperature above 65°C and cold rations at a temperature below 8°C.

However, after several temperature measurements taken on receipt of the rations at the centre, it is observed that, on occasions, they do not reach the temperature they should (the hot rations arrive below 65° C and the cold ones above 8° C). Once it was detected that the problem lies in the transport of rations from the kitchen to the distribution to the different hospital modules, the critical aspects of the process were analysed, with the following conclusions:



- The isothermal lorry was not being used properly as, on many occasions, the doors were not closing properly.
- The doors of the isothermal trolleys open very easily during transport. The door latches are magnetic and do not have the strength to keep the doors closed during the vibrations of transport.
- The time that elapses from the time the rations are loaded onto the lorry until they are delivered to the hospital is excessive, as the rations from the CIS and the Mothers' Unit are distributed beforehand, and finally those from the Hospital, all of which are loaded onto the lorry at the same time.

Having evaluated the process and identified the aspects that could be improved, in coordination with the State Entity for Prison Work and Employment Training (EETPFE), the following solutions have been adopted:

- The EETPFE's food quality and safety department has drawn up a protocol for the transport of rationed food, taking into consideration the problems detected in our hospital.
- The Alicante Compliance CP is going to install locks on the doors of the isothermal trolleys to prevent them from opening during transport.
- If the above measure is not effective, the EETPFE management will be asked to purchase the necessary equipment to deliver the rations at the right temperature.
- An attempt will be made to optimise the truck's route to avoid too much time elapsing from the time it leaves the kitchen until the rations are delivered.

The three parties involved (EETPFE, CP Alicante Compliance and the Alicante HPP) are working together to improve the procedure for transporting and distributing the food and, if necessary, the three parties will adopt any new measures deemed necessary.

**106.-The CPT recommends that the Spanish authorities seriously consider a much needed paradigm shift in the treatment of forensic patients based on the above principles. Pg.85.**

**107.-The CPT recommends that the Spanish authorities review the treatment offered to patients with treatment-resistant schizophrenia in the light of the above observations. Pg.86.**

**108.-The CPT recommends that prescriptions for regular medication of antipsychotics and benzodiazepines at the Seville PPH be reviewed in the light of the above comments. Preferably, standard medication protocols for both regular and emergency medication for forensic patients should be adopted nationally. Pg.86.**

**109.-The CPT recommends that the Spanish authorities introduce, both in law and in practice, the requirement to seek a second psychiatric opinion (i.e. from a psychiatrist who is not involved in the treatment of the patient in question) in any case where a patient does not consent to the treatment proposed by the facility's doctors. This should apply equally to patients who are not capable of giving informed consent even if their guardian consents to the treatment, as well as to those who have capacity but do**



not consent). In addition, patients should be able to challenge a compulsory treatment decision before an independent authority and should be informed in writing of this right. Pg.86.

**110.-The CPT recommends that further efforts be made to provide all patients in the Alicante and Seville PPHs with a structured daily programme of therapeutic and rehabilitative activities, based on their individual needs and capacities. In this regard, consideration should be given to broadening the scope of individual psychotherapeutic interventions, in order to involve a larger proportion of patients and better adapt to their needs. Pg.88.**

As recommended by the Committee, the prison administration also considers it appropriate for the competent authorities and professionals in the field (Ministry of Health, General Council of the Judiciary, Autonomous Communities, forensic experts, judges, etc.) in Spain to study a change of paradigm in the treatment of forensic patients.

Apart from this, in the penitentiary field, penitentiary psychiatric hospitals are, as indicated in the General Penitentiary Organic Law, special centres where the care character prevails. However, apart from what is regulated in articles 183 to 191 of the Penitentiary Regulations, these centres do not have specific regulations that clearly differentiate them from ordinary centres for serving sentences, and this circumstance leads to an important role conflict in terms of the tasks requested by the regime and security area and the therapeutic needs of psychiatric patients.

In this sense, in order to adapt these centres to the treatment and rehabilitation of persons subjected to a custodial security measure, it is necessary to undertake important changes such as:

- Facilities far removed from the concept of a penitentiary centre, where the elements of security and containment would be those strictly necessary (more serious caState Secretariat for Security), giving priority to friendly architecture (rooms and common areas) and large green spaces. This is the premise with which the new Psychiatric Penitentiary Hospital of Siete Aguas is being designed.
- A different configuration of the RPT of these centres, in which the allocation of therapeutic and care staff (psychiatrists, psychologists, nurses, occupational therapists, auxiliary nurses and orderlies) is a priority. These professionals would be responsible for all care, including continuous supervision of patients (as is done in any closed mental health facility). The surveillance officers could be adapted to the functionality of a rapid security control group, in cases where their intervention is required. All of this, with a specific training plan for all professionals.
- Adequate regulatory development that configures prison psychiatric hospitals in their operation as true care centres.

Currently, both the HPP in Seville and the one in Alicante are establishments with their own management team and staff, and are autonomous in their management. They are special centres with their own autonomy that depend on the General Secretariat of Penitentiary Institutions.



In both centres, the professionals strive to provide due attention to each of the patients, carrying out an individualised assessment of their clinical needs and from a multidisciplinary approach, programming with them the objectives to be achieved.

This approach to the treatment of patients is carried out in a comprehensive manner, encompassing the medical/psychiatric areas, the areas of psychology, occupational therapists and educators, and also integrating the surveillance officers as agents in the care process. An Individualised Rehabilitation Programme is drawn up for all patients, in which agents from all professional areas are involved.

However, the human resources available at each centre have a substantial impact on this care. Thus, while the HPP in Seville has numerous vacancies in the care area and only one psychologist and two occupational therapists, the HPP in Alicante has substantially improved its staff of doctors, psychiatrists, psychologists and nurses (except for the number of clinical assistants) and is in a better position to provide an individualised approach.

As regards the treatment offered to patients, as a general criterion, the prison health authorities consider that the assessment or not of a particular pharmacological indication should be made on the basis of individual clinical consideration and by means of a rigorous clinical analysis of each patient in accordance with the professional judgement of the physician. Likewise, some of the secondary symptomatology that a patient may present may depend on the degree of severity of his or her underlying pathology, which may require the administration of doses appropriate to that situation and the consequent increase in possible side effects, which must be assessed by the physician using risk-benefit criteria.

Along the same lines, in both PPHs, the psychiatric care of all patients, including those with disorders resistant to the usual treatments, as in the case of some types of schizophrenia, is the responsibility of the specialist psychiatrists, who have a wide therapeutic arsenal and who, under their strict professional criteria with total responsibility and freedom of prescription, make the choice of the most appropriate drug in each case.

With regard to the Committee's specific considerations on the treatment and care of mental health in both HPP, the following should be reported:

-The clear signs of overmedication (i.e. slurred speech and uncontrolled movements) that were seen in several patients at the HPP in Seville can now only be seen in one patient and are not due to his treatment, but to the cerebral sequelae of a craniocerebral trauma he suffered in 2000, consisting of a post-traumatic cerebellar syndrome with ataxic gait, mixed tremor in the upper and lower limbs and dysarthria; His treatment, prescribed by his neurologist, consists of anticonvulsant medication which he tolerates well; this has not prevented him, despite the functional limitations of his disorder, from obtaining his compulsory secondary education diploma this year, nor has he had any epileptic seizures. No other patient currently has symptoms such as those described, although one has dysarthria due to a phoniatric problem.

To verify this, the psychiatrists of the HPP in Seville carried out a screening in July 2021 using the Side Effects Scale (Udvalg für Kliniske Undersogelser, UKU)<sup>4</sup>, adapted and validated from the original version. The most frequent side effect is weight gain, which is found in 11% of patients (including 3 out of 5 patients taking clozapine),

<sup>4</sup> Original version: Lingjaerd UG, Ahlfors P, Bech SJ, Dencker K, Elgen The UKU side effect rating scale. Acta Psychiatr Scand 1987; 76 (Suppl 334): 1-100



followed by erectile dysfunction (5.11%). The remaining side effects, whose causal relationship with the medication is considered possible or probable, in almost all caState Secretariat for Security of mild intensity, some moderate and none severe, were: tremor, constipation or psychic dependence (4.8%); asthenia or somnolence (3%); increased salivation (2%), all in clozapine treatment; difficulty concentrating or hypokinesia (1.37%); and finally, isolated caState Secretariat for Security (0.6%) of difficulty concentrating, dystonia, akathisia, polyuria/polydipsia or gynaecomastia. This systematic screening can be replicated by any external observer deemed appropriate and, in fact, the psychiatrists of the HPP of Seville will carry it out periodically in the search for excellence in the reduction of secondary medication, an objective to which they have always been committed. Another measure implemented by the psychiatrists at the Seville HPP is the proactive search for QTc interval prolongation, which is described in a long list of drugs, by performing electrocardiograms at least every six months.

- Regarding the fact that 74% of patients were regularly prescribed benzodiazepines at the Seville HPP, which is unlikely to be justified on the basis of their diagnoState Secretariat for Security and presentation, given that benzodiazepines are mainly indicated for the treatment of anxiety disorders and insomnia, some reflections are in order.

In Spain, according to data from the Ministry of Health (10 October 2020), one in ten people take benzodiazepines on a daily basis, making Spain one of the countries in the European Union with the highest consumption; it is therefore a group of drugs widely used in the general population.

As for the patients in this centre, although it is true that the most frequent primary diagnosis is psychotic disorders (60%), it is also true that many of them have comorbid adaptive disorders such as anxiety or insomnia, which can be explained in the context of the difficulties of people with severe mental disorders to assimilate issues such as deprivation of liberty, separation from their loved ones, change in living habits or the characteristics of the offence. In these patients, with whom individual and group psychotherapy is regularly carried out, benzodiazepines help to alleviate anxiety symptoms and help patients to fall asleep. They also reduce the likelihood that a patient may commit suicide in this anxious-depressive situational context. Nevertheless, psychiatrists at the HPP in Seville always prescribe benzodiazepines by asState Secretariat for Securitying the balance between risks and benefits in each patient individually, and modulating doState Secretariat for Security following the principle of the minimum effective dose, aware that they may be subject to misuse; in fact many patients tend to request higher doState Secretariat for Security than they really need, a request that is not acceded to, trying instead to provide patients with the necessary information regarding health education.

Regarding the treatment offered to patients with treatment-resistant schizophrenia, refractory schizophrenia, a term also accepted by the international literature, its definition is not determined by whether or not they receive a certain dose of antipsychotic but depends on other criteria, such as the absence of remission in the evolution of successive treatments with different antipsychotic regimens. We therefore understand that the clinical and therapeutic guidelines established in the professional guidelines should be followed. In this regard, on 4 October 2017, the Spanish Agency for Medicines and Health Products AEMPS published an informative note on "Clozapine and the modification of the patient monitoring programme" which establishes the periodic analytical controls for patients under treatment



Based on these guidelines, HPP professionals report encountering a difficulty and an impediment to their administration:

- The difficulty is that, although it is not explicit in the law that written informed consent is compulsory for the prescription of clozapine, the psychiatrists of the HPP in Seville do consider it necessary as a fundamental part of good medical practice based on the interpretation of Law 41/2002 regulating patient autonomy and the rights and obligations regarding information and clinical documentation, since among the possible adverse reactions of this drug are serious and potentially lethal situations such as agranulocytosis and convulsions. Given that these are patients with a diagnosis of resistant schizophrenia, many of them are legally or de facto incapacitated and it is necessary to obtain the written informed consent signature of the responsible relative or guardian, which is sometimes complex and time-consuming.

- The impediment, which also exists in the other inpatient units of the community mental health network, consists of the patient's active refusal of treatment with clozapine. This refusal is often the result of several factors, such as the patient's lack of awareness of illness, refusal to undergo the necessary analytical tests, or poor tolerance of less serious but very common side effects, particularly hypersalivation and weight gain. The psychiatrists at HPPs offer clozapine treatment to all those patients in whom they consider it is indicated, always with a careful individualised assessment and considering the balance between risks and benefits, trying to make them understand the convenience and indication of this drug by carrying out frequent health education interventions, insisting on it sometimes for years, but the patient's refusal remains firm. Although the treatment is offered whenever it is considered indicated, the refusal rate is very high.

Given the refusal of patients to take clozapine, combinations of antipsychotic drugs are certainly used as an alternative treatment, always following the criterion of the minimum effective dose for each patient, which in some cases can be high but well tolerated. Psychiatrists use Stahl's Essential Psychopharmacology manual (4th edition)<sup>5</sup> as a reference, which considers as possible alternatives, in case of refusal of treatment with clozapine or failure of this treatment, seeking D2 receptor occupancy above 60% using standard doses of two antipsychotics at the same time (antipsychotic polypharmacy) or high doses of an antipsychotic in selected cases of resistance to treatment, violence or aggression if it is clearly beneficial.

- Regarding the recommendation to establish uniform protocols at a national level for the use of emergency/rapid tranquillisation medication or regular prescriptions of antipsychotics and benzodiazepines, we must take into consideration that, since health is a competence transferred to the Autonomous Communities, it is the different Health Departments that establish the appropriate protocols to which the doctors in the centres adjust, since there is no clinical difference that justifies a different action depending on the physical environment in which the care is provided.

With regard to the specific prescription of antipsychotics, it is not considered necessary to generate protocols that differ from those that already exist in the context of public health, although in this case the differentiated profile of some of our patients, such as the greater risk

<sup>5</sup> Stephen M. Stahl. Handbook of Essential Psychopharmacology, 2015 (4th ed), 218-216.



of violence and aggressiveness, may require specific interventions such as those formulated in Stahl's Essential Psychopharmacology manual (4th edition)<sup>6</sup> already mentioned. The good use of the recommendations of a protocol includes the need to follow the recommendation according to the needs of each individual patient and for this reason an individualised treatment programme, and not a standardised programme, is carried out.

- With regard to voluntariness and consent to treatment, which, as indicated, can only be qualified as free and informed if it is based on complete, precise and comprehensible information about the patient's condition, the proposed treatment and its possible side effects, as well as the possibility of withdrawing it at any time, Once the existing dysfunctions have been solved, the actions in both centres are being scrupulously adjusted to the provisions of Law 41/2002, regulating patient autonomy and the rights and obligations regarding information and clinical documentation, specifically article 8 thereof, and this circumstance is duly recorded in the patient's clinical history. A model of informed consent from both centres is attached (ANNEX XII).

We do not agree with the statement made regarding the lack of freedom of patients at both centres to oppose medication without facing consequences, considering that such statements can only be due to a distorted interpretation on the part of the patients. In no case is there any coercion or punitive threat towards the patients, and depriving them of outdoor exercise certainly is not.

Therapeutic measures are adapted to the clinical and treatment situation of each patient, as well as to the indications given by the judicial authority on certain issues, such as exits. We understand that if a patient diagnosed with schizophrenia, without awareness of the illness, decides to abandon his or her antipsychotic treatment, it is part of our duty (as set out in Law 41/2002) to inform him or her of the potential consequences of this decision. Among these, of the risk of decompensation involved in abandoning the antipsychotic treatment, as well as of the deteriorating course of his illness and the decrease in his chances of recovery in subsequent relapse. State Secretariat for Security, according to the model set out by Nasrallah (2010)<sup>7</sup>, as well as, where appropriate, the obligation to inform the judicial authority of the non-compliance with the pre-established conditions for the enjoyment of therapeutic outings.

- Regarding the recommendation to introduce, in legislation and in practice, the obligation to request a second psychiatric opinion when a patient does not consent to the treatment proposed by the HPPs' doctors, it should be noted that the regulatory development of Law 16/2003, of 28 May, on the cohesion and quality of the National Health System in the Autonomous Communities of Andalusia<sup>8</sup> and Valencia<sup>9</sup> does not include this circumstance among those in which a second medical opinion may be requested. Likewise, this procedure does not appear as contemplated in Recommendation NO.REC(2004)10 of the Committee of Ministers on the protection of human rights and dignity of persons with mental disorders, which

<sup>6</sup> Stephen M. Stahl. Handbook of Essential Psychopharmacology, 2015 (4th ed), 218-216.

<sup>7</sup> Henry A. Nasrallah. Research Review. A More Rational Paradigm for Treating Schizophrenia. 2010.

<sup>8</sup> Decree 127/2003 of 13 May establishing the exercise of the right to a second medical opinion. Order of 23 August 2004, developing Decree 127/2003 of 13 May.

<sup>9</sup> Decree 86/2009, of 19 June, of the Consell, which regulates the right to a second medical opinion in the Valencian Public Health System.



in its chapter III develops involuntary internment in psychiatric centres, and involuntary treatment, for mental disorders<sup>10</sup>.

When a patient does not agree with the treatment offered by the centre's professionals, whether it refers to organic or psychiatric pathology, article 212.3 of the Prison Regulations establishes the possibility that inmates may request private medical services from professionals outside the prison administration at their own expense.

It should be noted that an information guide for patients is currently being drawn up at the Alicante HPP, which clearly reflects the right to challenge any treatment with which they do not agree.

- With regard to the measures to be adopted to provide all patients in both centres with a daily programme of therapeutic and rehabilitation activities, in accordance with the provisions of Article 189 of the Penitentiary Regulations, the centre will have a General Programme of Rehabilitation Activities that describes the therapeutic action of the centre, both in relation to the activities carried out inside and outside the centre, either by professionals from the penitentiary institution or by collaborating personnel from external entities.

The development of these activities has been, logically, diminished by the outbreak of the Covid-19 pandemic, which has required measures of social distancing, reduction of capacity, limitations on the entry of external professionals and the impossibility of going outside. However, we are now in a process of recovery of normality in terms of the rehabilitation activity of these centres.

The multidisciplinary team, in addition to proposing the General Programme of Rehabilitation Activities to the Board of Directors on an annual basis, draws up an Individualised Rehabilitation Programme (IRP) for each patient, in which the deficiencies and needs of each patient are evaluated (in order to be able to intervene in them), the personal skills they present (in order to strengthen them), the objectives to be worked on during their stay at the centre and the proposal of therapeutic activities aimed at achieving the objectives set. This PIR is evaluated at each periodic review of the patient by the multidisciplinary team so that it can be adapted to the patient's needs.

The activities programmed for each patient in their PIR, previously agreed with the patient, are set out in a document that is reviewed every fortnight by the treatment team and given to the professionals in the monitoring area for their information and follow-up.

All patients have a daily programme of therapeutic and rehabilitation activities, based on their individual needs and capacities, within the possibilities that the human and material resources of each centre allow.

Extending the scope of individual interventions to involve a greater number of patients requires to a large extent an increase in the number of professionals dedicated to this, and although work is being done to reinforce the care staff at these centres, certain deficiencies, such as the

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10 Council of Europe, Committee of Ministers Recommendation NO.REC(2004)10 of the Committee of Ministers to member States concerning the protection of the human rights and dignity of persons with mental disorder and its Explanatory Memorandum.



fact that the HPP in Seville only has one psychologist in the RPT, make it very difficult to increase this number.

In this regard, it is worth highlighting the dedication and great work that the only professional psychologist in this centre has been carrying out to meet the demand, currently being a therapist in a group programme on sexual aggression (PIES programme, a pilot programme of the General Secretariat of Penitentiary Institutions for people with disabilities or serious mental disorders who are serving prison sentences for crimes of sexual aggression), therapist in a relaxation workshop/Mindfulness, co-therapist, together with the teachers of the centre, in a European educational project ERASMUS PLUS Escape of therapeutic dance (ILUSION-ARTE), collaborator in the programme of attention to intellectual disability in the centre developed by a psychologist of an external entity (Aprose/Plena Inclusión), as well as carrying out an average of 65/70 individual interventions per month.

To summarise what has been said about the treatment and care of patients, it should be stated:

- That one of the objectives of prison health care is to provide socio-health care in similar conditions to that of the population not deprived of liberty, and from this point of view, the multiple clinical circumstances must be adjusted by a doctor in accordance with good medical practice.
- That the prison administration promotes training courses also aimed at these professionals that stimulate excellence and procedures for continuous improvement in health care, but just as community health does not have a single protocol for exclusive use for all hospital and non-hospital care centres for the mentally ill, whether at regional, national or supranational level, it is not considered appropriate to adopt a standard medication protocol at national level in the penitentiary field for both regular and emergency medication for forensic patients.
- In prison psychiatric hospitals, treatment with clozapine is offered to all patients with resistant schizophrenia in whom it is considered indicated, taking into account the balance between risks and benefits on an individual basis; but, given the high level of rejection of this drug, scientifically endorsed therapeutic alternatives are implemented following the principles of beneficence and the criterion of the minimum effective dose of each treatment.
- That, after screening at the HPP of Seville with a validated scale, the most frequent side effects attributable to psychotropic drugs are weight gain (11%) and erectile dysfunction (5.11%), the others being below 5% and usually mild or moderate.
- That the prescription of benzodiazepines is carried out in the context of situations of anxious adaptive disorders or insomnia, always with criteria of prudence and minimum effective dose, which contributes to improving the quality of life of many patients and reducing the risk of suicide as far as possible.
- That prison psychiatric care should be governed by the same laws and guidelines as the rest of the hospitalisation units of the National Health System, with whom convergence should be sought; establishing normative distinctions in these aspects could favour divergence and even stigmatisation.



- That therefore, the practice regarding the voluntary nature of treatment, informed consent and making a second asState Secretariat for Securityment available to the patient should be in line with the provisions of external, non-penitentiary psychiatric hospitalisation units.
- That having sufficient specialised human resources is necessary to increase and improve the adaptation of rehabilitation and therapeutic activities to the specific care needs of each patient, thus achieving greater involvement of these in their therapeutic process.

**111.-The CPT recommends that the Alicante and Seville PPHs be integrated into the electronic systems of the local health authorities. Pg.89.**

Considering the need to integrate the HPPs into the electronic systems of the Community's health authorities, it should be noted that the Alicante HPP is already integrated into the computer systems of the Community's health network, thus guaranteeing continuity of care for patients once they have been treated in the extra-prison hospital of reference.

The coordination established allows access to the hospitalisation network through the ORIOM application, to the laboratory through GESLAB, and to primary care, ABUCASSIS.

At the HPP in Seville, the computer systems are not integrated, and so far only the centre's deputy medical director has been given access to the computer system of the outside healthcare network, which he can consult in person.

**112. The CPT recommends that the Spanish authorities take urgent steps to increase staffing levels at the Alicante and Seville PPHs. In particular, the presence of psychiatrists, psychologists and occupational therapists should be urgently increased. Pg.90.**

**113.-The CPT recommends the Spanish authorities to replace a significant number of prison officers with nurState Secretariat for Security with specialised training in both the Alicante and Seville PPHs. Pg.90.**

**114.-The CPT recommends that the SGIP adopt specific training modules for staff destined to work in PPHs, focusing in particular on modern principles of forensic psychiatry, such as risk asState Secretariat for Securityment, treatment settings for forensic patients and the effectiveness of psychological and pharmacological interventions. Pg.90.**

The General Secretariat of Penitentiary Institutions is making a great effort to increase the number of staff in these centres, although in the case of doctors, both general practitioners and psychiatrists, the same problem ariState Secretariat for Security as has already been analysed in the ordinary centres, the lack of candidates for the posts on offer, and the same applies to nursing staff.

At the present time they have the following staff:

- H.P.P. of Alicante: 2 psychiatrists, 4 doctors, 1 deputy medical director, 1 deputy nursing director, 1 nursing supervisor, 9 nurState Secretariat for Security and 3 psychologists, as well as 20 auxiliary nurState Secretariat for Security and 18 orderlies. Of the 7 budgeted Occupational Therapist positions, 6 have been filled.



- H.P.P. of Seville: 2 psychiatrists, 1 doctor, 1 assistant medical director, 1 assistant nursing director (vacant), 2 nursing supervisors, 2 nurses, 1 psychologist, as well as 17 auxiliary nurses and 18 orderlies. There are also 2 occupational therapists on the staff.

With regard to the possibility of replacing prison officers with nursing staff with specialised training in these centres, the General Penitentiary Organic Law 1/1979, of 26th September, obliges the Penitentiary Administration to have the necessary and duly qualified staff for the performance of the functions entrusted to it, who have the status of civil servants, with the rights, duties and incompatibilities regulated by the general legislation of civil servants of the State Administration; that their selection and, where appropriate, promotion, be regulated by the same procedures established for all civil servants of the General State Administration and, furthermore, that before commencing their work, prison staff receive specific training, both theoretical and practical, in the appropriate official centre to be determined.

It also establishes that psychiatric centres are special establishments within penitentiary establishments, where the necessary common tasks, as in other establishments, are part of the ordinary duties of prison staff, which cannot be carried out by any other staff, such as, among others, detention and custody.

The number of staff and personnel, where appropriate, is calculated in order to be able to provide standardised coverage of the services, i.e. taking into account the specific nature of the HPPs.

This means that there are certain functions which, by legal mandate, correspond to the surveillance officers, without prejudice to the health personnel carrying out their own functions, without the two having to interfere with each other; what is more, they can carry out their strictly health tasks more safely with the collaboration of surveillance personnel who, as has already been said, carry out functions strictly adapted to these special units where health care is paramount, to which they are subordinate.

In short, it is not considered possible, except with a major legislative change, for surveillance functions to be carried out by nursing staff in general, without prejudice, it should be stressed, to those activities of a strictly health-related nature that such staff normally carry out.

With regard to providing specific training for the staff working in these centres, it is indisputably important that the staff working in them have adequate specific training, taking into account the particular profile of the patients housed in them.

So far, the training offered to newly recruited staff in both centres (both custodial and treatment) has been the same as for other staff employed in the regular prison establishments, with the general training modules including topics related to the treatment of mentally disordered patients and de-escalation issues. However, both HPPs have adopted their own ad hoc training courses, which are given to newly recruited staff and focus specifically on the challenges of dealing with psychiatric patients, de-escalation techniques and manual control of agitated patients.

Therefore, with regard to the recommendation to adopt specific training modules for staff assigned to work in HPPs, focusing in particular on modern principles of forensic psychiatry, such as risk assessment, treatment settings for forensic patients and the effectiveness of psychological and pharmacological interventions, it should be noted that



this is the training strategy that has been followed for staff assigned to HPPs: The same general training on mental health and later, in the centres themselves, specific training on "Strategies for dealing with the mentally ill", as well as recycling activities.

However, future training plans will include these courState Secretariat for Security on an ongoing basis, covering all the aspects indicated by the Committee in order to ensure that staff working in HPPs are properly trained to work with people with mental illness.

**115.-The CPT recommends that the Spanish authorities ensure that the management of the PPH in Seville take urgent measures to comply with the principles set out in paragraph 85 when a bed attachment measure is applied to a patient. Pg.92.**

According to prison legislation, article 188.3 of the R.P., "the use of coercive means is an exceptional measure, which may only be admitted on the indication of the physician and for the minimum time necessary prior to the effect of the pharmacological treatment indicated, and the dignity of the person must be respected at all times. Even in caState Secretariat for Security where it is medically considered that there is no alternative to the application of the aforementioned means, the measure must be promptly brought to the attention of the judicial authority on which the patient depends, with documentary transfer of the medical prescription".

Within this regulatory framework, the application of means of restraint to HPP patients is a therapeutic alternative that is used as a last resort in situations of behavioural alterations that may present a risk of injury to the patient himself, to third parties or to prevent material damage to the environment that may also entail a risk to integrity. It responds to a need for containment once other ways of de-escalation have been exhausted, in the face of a behavioural alteration with manifest psychomotor agitation.

All immobilisations have a therapeutic purpose and are strictly medically indicated, and are kept for the minimum time necessary, under the direct supervision of medical personnel.

It is therefore within the scope of professional ethics and good medical practice to apply it, and under no circumstances should such a remedy be used as a punitive measure.

In this sense, and contrary to what was expressed by some patients at the HPP in Seville, it is in no way applied for the commission of acts such as stealing objects; although it is possible that after taking away the object that a patient has stolen, he/she may react with an episode of psychomotor agitation and this may be the reason for the restraint.

As for the use of the toilet during restraint, the rooms where mechanical restraint is carried out have toilets and in caState Secretariat for Security where the state of agitation permits, the patient uState Secretariat for Security them. However, if the patient remains agitated, a hospital plastic bottle or wedge is offered.

With regard to the administration of medication by force while under restraint, the doctors generally obtain the patient's prior consent or, failing this, judicial authorisation for the forced administration of treatment, although, when the urgency of the situation so requires, the court is subsequently informed.

**116.- The CPT recommends that the Spanish authorities reiterate to the supervisory judges the importance of their role as an impartial and independent control of practices in the PPH and not as an approving authority. In particular, the Committee requests that the Spanish authorities transmit this recommendation through the appropriate**



**channels to the Inspection Services of the General Council of the Judiciary. In addition, meetings between patients and the competent supervising judge should always be held in private. Pg.93.**

With regard to the transmission of the recommendation to the Inspection Services of the General Council of the Judiciary, a copy of the communication of the same by the Ministry of Justice is attached in ANNEX VII BIS.

**117.-The CPT welcomes this fact and recommends that the Spanish authorities take steps to remove the horizontal bars placed in front of each cell window in the Alicante and Seville HPPs.Pg.93.**

With regard to the possibility of removing the horizontal bars from the cell windows, in the Seville HPP all rooms in general have a window that is divided into five vertical panels of equal size, at least two of which are hinged to allow ventilation. They do not have any additional security features, such as bars or grilles. However, some of the windows are located in vulnerable security areas of the centre, as they are located at very low heights on passable roofs, or in areas close to or with easy access to roads outside the hospital grounds, which is why over time they have been reinforced with a metal lattice, which does have horizontal bars (although they are not very thick). On other occasions, the need has arisen to have anti-vandalism rooms to prevent damage to patients themselves or to other people; in these caState Secretariat for Security, the windows have also been reinforced. Specifically, of the total of 76 rooms in the centre, only 14 have security elements added to the window, and given that their removal in all of them could undermine the security of the centre, the possibilities of adapting them room by room will be carefully evaluated, especially those that have been reinforced for anti-vandalism reasons.

With regard to the asState Secretariat for Security'sment of their removal as a measure for the prevention of self-harming behaviour and suicidal tendencies, the necessary action guidelines will be studied by the different professionals involved, so that patients included in the suicide prevention protocol (occupying a single room) are not assigned a room with horizontal security elements added to the windows, unless, due to the unavailability of free single rooms, there is a need to occupy them.

For its part, in the Alicante HPP, when the comprehensive reform that is being carried out is completed, the bars on the windows of all the cells of the residential modules will be vertical. With regard to the cells in the acute module, at the moment the bars are horizontal, but procedures have already begun for the replacement of these windows with vertical bars, which can also be opened for ventilation of the cells and have a vandal-proof locking mechanism. This refurbishment is expected to be completed in September 2021.

**118.-The CPT recommends that the authorities ensure that the need for continued detention in prison mental health facilities is subject to regular substantive reviews. The patient should be informed in writing of the outcome of these reviews; if the patient concerned agrees, such information should also be provided to his or her lawyer or other representative. Pg.94.**

In accordance with the provisions of Article 187 of the Prison Regulations, the multidisciplinary team of these centres reviews the patient's situation every six months at the latest (sometimes scheduled earlier), issuing a report on his or her condition and evolution. This report is submitted to the Prison Supervision Court, which refers it, together with its opinion, to the



sentencing Judge or Court in accordance with the provisions of articles 97 and 98 of the Criminal Code.

The decision adopted by the sentencing Judge or Court regarding the decision to maintain, decree the cessation, replace or suspend the security measure of internment imposed in accordance with Article 97 of the Criminal Code is based on an adversarial procedure which must necessarily include the participation of the patient himself and his legal representative and whose decision must be notified to the patient, in due time and form, by the judicial body that adopts it, with an indication of the appeal that may be lodged if appropriate. These notifications are generally made by a judicial agent who is present at the centre.

In general, all decisions adopted by the multidisciplinary team in relation to a patient are communicated to the patient in writing, with the sole exception of those specific and duly justified caState Secretariat for Security in which, by unanimous decision, it is considered appropriate not to notify the patient for therapeutic reasons. Such notifications are made in a reasoned manner, trying to use language that the patient can easily understand. Likewise, the patient is also notified in all cases the decisions of the judicial authorities regarding periodic reviews, except those that expressly and with reasons to the contrary.

At the time of admission, in addition to the information provided in writing, the professionals of the team provide them with information about the environment in which they arrive and the approach to their therapeutic process. Subsequently, whenever they request it, they are verbally informed of the process followed in relation to decision-making and the deadlines for this and, in any case, for the review of their situation, they are personally seen by the different professionals at the centre, who must draw up the appropriate reports.

It should also be mentioned that in the meetings held fortnightly or monthly by the multidisciplinary team at the HPP in Seville and Alicante respectively, in which the surveillance staff participate, the most common day-to-day issues of the patients are dealt with, which favours a better knowledge of their evolution, needs or deficiencies.

With regard to the notification of the lawyer or his representative, the decisions of the multidisciplinary team are not notified to them because they are only proposals that are submitted to the corresponding judicial authority for the appropriate decision to be taken. These are notified to lawyers and representatives within the legally established deadlines and in the legally established manner. However, this does not prevent them from being provided with information about the evolution of their client if they so require.

**119.-The CPT recommends that the management of the Alicante and Seville PPH strictly comply with the principles set out in paragraph 153 in relation to the current practice of coercing patients to accept medication. In this respect, the provisions of the Patients Act no. 41/2002 should be strictly complied with in practice, also with regard to forensic patients subject to a security measure. Pg.95.**

**120.- Furthermore, I would like to receive information on the new procedures implemented in both PPS in terms of the proposed training for professionals, the standardised information leaflets on the proposed treatments and the consent forms to be signed by patients. As far as legally incapacitated patients are concerned, the consent of guardians with regard to prescribed medication should always be sought and recorded in writing for all interventions. Pg.95.**



The fact that there is some dysfunction in the interpretation of the consent to be obtained from the patient or his legal guardian to the administration of the treatment can in no case lead to the assertion that they are subject to continuous coercion to force them to accept the medication. Patients are always clearly and truly informed on admission that, having been sentenced to a security measure by the judicial authority, they are admitted to the centre for the assessment, diagnosis, stabilisation and establishment of a pharmacological treatment in accordance with the pathology of the patient. Explaining to them that there is an obligation to propose a treatment in accordance with their pathology. In the case of pharmacological treatment, it is explained to them in a clear and real way, according to their capacity of understanding, together with the possible side effects of the drugs.

In accordance with the provisions of Law 41/2002 and in accordance with the instructions sent from the General Secretariat of Penitentiary Institutions to the management of both centres, no coercion whatsoever may be exercised on patients to take medication, which they may voluntarily waive, and this fact is recorded in their digital history.

Both centres have an informed consent form which is attached to the digital record signed by the patient, a copy of which is attached as ANNEX XIII. In the case of legally incapacitated patients, authorisation for treatment is requested from the mandatory guardians.

In cases of involuntary treatment and in the event of urgency or need to safeguard the patient's physical integrity, the judicial authority on which the patient depends shall be notified. In the event of requesting such judicial authorisation or to the guardians, in the case of legally incapacitated patients, such a request is recorded in their digital medical records.

Both centres have a digital medical record model with individualised access and non-transferable access codes, with the patient having the right to access the content of their medical record.

**121.-The CPT recommends that the Spanish authorities take steps to instruct the competent supervisory courts covering the Alicante and Seville PPHs on the need to provide a written acknowledgement to patients about their complaints, even when their content and subject matter appear to be clearly unfounded. Pg.96.**

With regard to the transmission of the recommendation to the Inspection Services of the General Council of the Judiciary, a copy of the communication of the same by the Ministry of Justice is attached in ANNEX VII.

**122.-The CPT recommends that an information leaflet, available in an appropriate range of languages, setting out the centre's routine and patients' rights, including information on legal aid, admission review (and patients' right to challenge admission), consent to treatment and complaints procedures, should be prepared and given to all patients on admission, as well as to their relatives. Patients who cannot understand this booklet should receive appropriate assistance. Pg.97.**

Currently in the Alicante Psychiatric Prison Hospital, upon admission, the inmate is given an information leaflet in which he/she is informed of the periodic reviews of his/her situation by the Multidisciplinary Team, as well as the periodicity and the process to be carried out for these reviews. This information leaflet has been drawn up taking into account the specific circumstances of the mentally ill, using language adapted to these circumstances.



**123.-The CPT recommends that the Spanish authorities strengthen the supervision of the activities of the security guards at the juvenile detention centre "La Marchenilla". In addition, a clear message should be sent to security guards to use only the minimum force required if it is exceptionally necessary to physically restrain agitated juveniles. Appropriate initial and refresher certified training on the application of de-escalation measures and appropriate manual restraint techniques should be provided to all security guards operating in the juvenile detention centre "La Marchenilla". Pg.100.**

The Conserjería de Turismo, Regeneración, Justicia y Administración Local de la Junta de Andalucía, through this Directorate General competent in the matter, accepts the recommendation on the reinforcement of the supervision of the activities of security professionals in Andalusian centres, with the aim that they use only the minimum force required in exceptional cases to physically restrain agitated minors, in accordance with what is regulated in art. 55.3 of the Regulations of Organic Law 5/2000, which establishes that: "The use of means of restraint shall be proportional to the intended purpose, shall never be a disguised sanction and shall only be applied when there is no other less burdensome way to achieve the intended purpose and for the time strictly necessary".

As stated by GINSO, with regard to the behaviour of security personnel and sudden control and restraint interventions, the security personnel who intervene during the adoption of the means of restraint undergo continuous training courses in order to be trained and recycled to work with young people and to apply the control and restraint measures appropriately and in accordance with the law. Likewise, the training is in accordance with Organic Law 5/2000 of 12 January, the regulations that develop it and Instruction 2/2019 of the Directorate General for Juvenile Justice and Cooperation (Training Plan for workers included in the Annual Activity Plan of the CIMI la Marchenilla for the year 2020 is attached).

With regard to the cases mentioned in paragraph 177 of the CPT's report, the information provided by the Association for the Management of Social Integration GINSO, the entity responsible for the management of the "La Marchenilla" centre, is as follows:

- "i) In an intervention carried out on 2 November 2019, where the minor alleges that security staff slapped him, it is found that it is the minor who assaults the coordinator of educators and the intervening security staff, with both reports of injuries being reported to the Duty Court, the injuries described by the CPT being suffered by centre staff (they are included in the injury report attached to the documentation already submitted) and not by the minor.
- ii) In an intervention carried out on 9 September 2020, in which reduced mechanical restraint was applied, specifically in a first period from 23:15 hours to 23:40 hours and a second period from 00:21 hours to 00:46 hours. This restraint is very reduced in time and therefore it is considered that the erosions observed do not appear to be a consequence of the use of the means of restraint, rather these would be caused by the struggle and agitation that he presented during the transfer to the Residential Area of Special Security Characteristics (ZRECS), as reflected in the medical report that was sent.
- iii) In the intervention carried out on 24 April 2020, the contusion to the knee was the result of the struggle, when he tried with a wet floor warning sign to attack the security staff, being intercepted by the educator and another minor, and it was necessary to adopt physical restraint, which was essential and proportionate to overcome the active resistance of the minor and get him to stop his attitude".



See ANNEX XIII

**124.-The CPT recommends that, in addition to the Instituto de Menores "La Marchenilla", the Spanish authorities take action to make all juvenile detention centres in Spain less prison-like. In particular, in residential housing units, metal bars across bedroom windows should be removed, and fixed metal furniture and reinforced metal doors should be replaced. Pg.101.**

Certainly, this Directorate General of Juvenile Justice and Cooperation considers that the facilities of the "La Marchenilla" Centre respond to the beginning of the entry into force of Organic Law 5/2000, of 12th January, regulating the criminal responsibility of minors, which agreed that minors over 16 years of age would be incorporated into the juvenile justice system, prior to which these young people were incarcerated in the adult penitentiary system. This population was characterised by its high level of conflict, which meant that the centres that were created had facilities in which security was paramount, similar to the prison model. In spite of this, the intervention models are characterised by having socio-educational and therapeutic programmes suitable for juvenile offenders.

However, 20 years after the entry into force of Organic Law 5/2000 of 12 January 2000, the Autonomous Community of Andalusia has been adapting and creating new resources for the execution of custodial measures with more child-friendly facilities, in which the architectural design of the buildings favours the centre's educational project. In this way, Andalusia has detention centres with educational and non-coercive designs, which guarantee the integration of minors, without forgetting security (for example, the new Odiel centre (Huelva) created in 2016 and the Genil centre (Granada) inaugurated in March 2021). All the centres have educational projects that work on personal development, as well as the social, family and work integration of minors based on positive models for integration. The observation made by this CPT in relation to the facilities of the "La Marchenilla" Centre, which this Department shares, will be remedied, as far as possible, by urging the managing body to adopt the necessary measures to ensure that the modules of this resource resemble a home and reduce the negative impact of the current facilities.

The Association for the Management of Social Integration GINSO, the entity responsible for the management of the centre "La Marchenilla", has reported on this issue:

"In relation to the rest area of the minors, their bedrooms try to be spaces where the minor can have a restful sleep and disconnect during the periods destined to it. In this sense, they have all the comforts of habitation in relation to the entry of natural light, regulated temperature and continuous ventilation. The items that make up these rooms are a bed, mirror, wardrobes with compartments for personal clothing, table and chair and a corkboard with which to personalise your room, with photos, drawings, family memories, etc.

This rest area has to combine, on the one hand, its eminent function as a personal area destined for seclusion and intimacy, with a security function, which means that the materials must be resistant and made of anti-vandalism elements, and the absence of dangerous or potentially dangerous elements is essential.

We must refer in relation to the rooms, that depending on the phase in which the minor is, within the programme of socio-educational intervention and interior separation, when they are in phases of greater personal autonomy, the minors may have access to television, Play-Station, and other behavioural reinforcers that may be proposed by the minors in the Module Assembly". See ANNEX XIII.



**125.-The CPT calls on the Spanish authorities to amend Article 55 of Royal Decree 1774/2004 and to abolish the reduced and prolonged mechanical restraint of children. Furthermore, minors placed in temporary isolation in the specific cell of the ZRECS should no longer have their mattresses removed during the day. Pg.104.**

The means of containment in the field of juvenile justice are regulated in article 59 of Organic Law 5/2000, of 12 January, regulating the criminal responsibility of minors, and in article 55 of Royal Decree 1774/2004, of 30 July, approving the Regulations for the development of this organic law. Both rules are State-owned, their regulation, modification or suppression being outside the competences of this Autonomous Community.

As indicated by the CPT, the Autonomous Community of Andalusia, following the contributions of the "Guide to good practice in mechanical restraint (custodial centres)" of the Spanish NPM, as well as others arising from visits to CIMI by the Andalusian Ombudsman for Minors or the NPM itself, on 4 September 2019, issued Instruction 2/2019, of the Directorate General of Juvenile Justice and Cooperation, on the procedure to be followed for the application of the measure of containment with mechanical restraint in detention centres for juvenile offenders in Andalusia. This instruction guarantees respect for the rights and indemnity of users and provides legal certainty for the professional. As issues to be highlighted, it gives relevance to medical intervention, requiring the presence of a medical practitioner prior to the application of the means of restraint to report on the existence of contraindications to this practice, as well as a health control during and after the application of the restraint. It also includes alternative measures to mechanical restraint, consisting of dialogue and de-escalation by trained and qualified personnel.

However, recently (pending publication in the Official State Gazette), the Spanish Parliament passed the Law on the Protection of Children against Violence, which includes an amendment to Article 59 of Organic Law 5/2000 of 12 January, which reads as follows:

"Article 59. Surveillance and security measures.

1. The internal surveillance and security measures in the centres may entail, in the manner and with the frequency established by regulation, inspections of the premises and facilities, as well as searches of persons, clothes and belongings of the minors interned.
2. Only such means of restraint as may be established by regulation may be used to prevent acts of violence or injury to themselves or to other persons by persons complying with the measures provided for in this Act, to prevent acts of escape and damage to the facilities of the centre or in the event of active resistance to the instructions of the staff of the centre in the legitimate exercise of their duties. The restraint of the wrists of the person serving a detention measure with approved equipment shall only be admissible, on an exceptional basis, provided that it is carried out under strict protocol and that less harmful measures cannot be applied.
3. Mechanical restraint consisting of securing a person to an articulated bed or to an object fixed or anchored to the premises or to movable objects shall be prohibited.
4. The application of restraint measures shall require, in all cases in which force is used, the physical examination of the inmate by a medical doctor within a maximum period of 48 hours, and the corresponding medical report shall be drawn up.



5. The measures of restraint applied in the centres must be communicated immediately to the Juvenile Court and to the Public Prosecutor's Office. Likewise, they shall be recorded in the Incidents Register Book, which shall be supervised by the management of the centre and in the individualised file of the minor, which must be kept up to date".

Given the new State regulation, this Department of Tourism, Regeneration, Justice and Local Administration, with the aim of acting with the maximum legal guarantees in the application of the means of restraint, is going to consult the Government of Spain, through the competent Ministry in matters of justice, so that it may report on the application of the means of restraint (procedures, professionals,...) and, specifically, what approved equipment is permitted for the restraint of the wrists of minors serving judicial measures in internment centres.

On the other hand, it should be noted that, in 2018, within a complaint filed by the Andalusian Ombudsman, it was agreed by this Directorate General that the "La Marchenilla" Centre, in relation to compliance with the disciplinary measure of separation from the group, should not proceed with the removal of mattresses and that the staff of the centre, during general opening hours, should carry out individual educational activities.

The Association for the Management of Social Integration GINSO, the entity responsible for the management of the "La Marchenilla" centre, reports with regard to the observations made by the Committee in relation to the use of means of restraint in the CIMI "La Marchenilla":

- "During the first nine months of 2020 (until 26 September 2020) 24 prolonged mechanical restraints applied to 13 minors and 48 reduced restraints applied to 20 minors were adopted, in the latter the number is increased because the same ones that we have counted as prolonged before have been reduced in most cases, so it is the same adoption and not new ones.
- As for the application of injectable medication, we refer to the report dated 4 December 2020<sup>11</sup>.
- As for the removal of the mattress, it is not removed except in situations of intentional destruction of the mattress or in situations where its misuse is detrimental to the safety of the child".

See ANNEX XIII

**126.-The CPT recommends that the principle of medical confidentiality of medical examinations of juveniles at the "La Marchenilla" juvenile detention centre be respected, in accordance with the relevant Spanish national legislation. Pg.104.**

The management of the centre informs that "Instructions have been given to ensure that medical consultations are carried out in conditions that do not compromise the child's right to privacy, with security personnel remaining outside the medical consultation room, the door of which remains closed".

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<sup>11</sup> To clarify that the report referred to by the Centre regarding the application of injectable medication referred to the situation of a specific minor and literally stated the following: "...In relation to psychiatric treatment, we inform that it has been prescribed and supervised in terms of its periodicity, dosage, mode of administration etc, by the psychiatrist of reference of the centre, in coordination with the socio-educational team and with the informed consent of the parents".



See ANNEX XIII

**127.-The CPT recommends that the Spanish authorities take steps to put an end to the use of solitary confinement as a disciplinary punishment for juveniles, which should include amending the relevant legislation accordingly. Pg.106.**

The disciplinary sanction of removal from the group is set out in Article 60 of Organic Law 5/2000, of 12 January, which establishes:

"3. The only sanctions that may be imposed for the commission of very serious misconduct shall be the following:

a) Removal from the group for a period of three to seven days in cases of evident aggressiveness, violence and serious disruption of coexistence.

b) Removal from the group for a period of three to five weekends (...)

4. The only sanctions that may be imposed for the commission of serious misconduct shall be the following:

(a) The same as in the four cases in the previous section, with the following duration: two days, one or two weekends, one to fifteen days, and one month respectively.

(...)

6. The sanction of separation shall mean that the minor shall remain in his or her room or in another room of similar characteristics to his or her own, during the centre's timetable of activities, except for attending, where appropriate, compulsory education, receiving visits and having two hours of time a day in the open air.

With regard to promoting the suppression of solitary confinement as a disciplinary sanction for minors and the necessary modification of the relevant legislation, this Management Centre informs that Organic Law 5/2000, of 12th January, regulating the criminal responsibility of minors, and Royal Decree 1774/2004, of 30th July, approving the Regulations for the development of this organic law, are the responsibility of the State.

The Directorate General for Juvenile Justice and Cooperation, bearing in mind the content of this sanction, is going to urge the "La Marchenilla" Centre to ensure that the sanction of separation from the group is carried out with the maximum guarantees, with socio-educational intervention always prevailing.

However, with respect to this recommendation, the Association for the Management of Social Integration "GINSO", has informed this Management Centre:

"Group separation measures are applied only for the purpose of contributing to safety and orderly coexistence and stimulating the sense of responsibility and the capacity for self-control of the minors subject to this measure. While serving the sanction of separation from the group, the minor enjoys 2 hours in the open air in the same yard as the other minors, in order to have the same means of rest and physical exercise equipment as his peers, but unaccompanied. The exclusively and austere designed playground referred to by the CPT is no longer used; at the time, it was only used for children with special characteristics that could lead to escape from the centre. Likewise, while serving his sentence of separation from the group, he receives the visits provided for in the Regulations implementing Organic Law 5/2000, as well as



individual activities to be carried out. He is visited daily by the psychologist, who reports to the director on the physical and mental health of the minor".

"With regard to the observation made about the minor transferred on 1 October 2020 to a Hospital in Malaga, it is reported that in order to ensure that he could receive the psychosocial care and support he needed in the future and in an environment appropriate to his characteristics, this Centre took all the necessary steps to guarantee his well-being. Thus, on 16 October 2020, the allocation of a place in the "San Juan de Dios" Care Centre in Malaga was obtained, where he currently resides, adopting the dynamics of the same, according to conversations that this Centre continues to hold with his parent".

**128.-The CPT recommends that the Spanish authorities modify the current practice of body searches to bring it into line with the above precepts. Pg.107.**

In accordance with the Guidelines of the Directorate General of Juvenile Justice and Cooperation, dated 29 June 2017, on the organisation and operation of detention centres for juvenile offenders in relation to the recommendations of the Ombudsman, in section 3 INTEGRAL SEARCHES, it states:

"In order to carry out a full search, prior authorisation must be requested from the director of the centre and there must be prior urgent notification to the juvenile judge or juvenile judge on duty and to the public prosecutor on duty, with an explanation of the reasons that make such a search advisable. It must be carried out in the presence of an educator and a security guard of the same sex as the minor, and the results of the search must be communicated to the juvenile or duty judge, and its practice and results must be recorded in documents.

When a full body search is carried out, not all clothing should be removed at the same time; for example, the child should be allowed to remove clothing above the waist and put it back on before removing the rest of the clothing.

The search will be considered comprehensive if the child is required to remove all clothing, even if in succession, or is allowed to keep underwear on and is provided with towels or dressing gowns as a means of preserving his or her privacy.

Practices such as forcing minors to do squats or push-ups in the registers are not acceptable."

The Association for the Management of Social Integration GINSO, has reported on this issue as follows:

"In relation to the CPT's observation on the carrying out of strip searches, it is reported that according to Protocol 20 - of the La Marchenilla centre - on inspections of premises and dependencies of the centre and searches of persons, clothes and belongings of minors held therein, these are carried out in the following manner:

- In order to preserve the nudity of the minor, he/she will be invited to cover him/herself with a sheet or towel, previously arranged for this purpose.
- When a full search is conducted, not all clothing shall be removed at the same time, e.g. the child should be allowed to remove clothing above the waist and put it back on before removing the rest of the clothing".

See ANNEX XIII



**129.-The CPT would like to know more about the specific training activities proposed and implemented in respect of security staff, in particular on issues such as de-escalation techniques and manual control in respect of agitated minors (see paragraph 178). Pg.107.**

The Association for the Management of Social Integration GINSO points out:

"As for the specific training applied to the staff of the centre (Coordinators, tutors, educators, technical team), several training actions have been given during 2020, (technical team) various training actions have been given during the year 2020, such as the course on verbal, non-verbal-emotional actions such as the course on verbal, non-verbal-emotional restraint and de-escalation techniques, aimed at 97 professionals of the centre and given between 8 October 2020 and 31 December 2020.

On the other hand, security personnel, during 2020 and until 2021, have received various refresher and recycling courses on security surveillance and refresher courses on security surveillance, covering both defence and de-escalation techniques and manual control with regard to agitated minors, with special emphasis on how to act with respect to special emphasis on how to act when adopting the means of restraint".

See ANNEX XIII Bis

**130.-The CPT recommends that the telephone entitlement of juveniles detained at "La Marchenilla" Juvenile Detention Centre be increased to four telephone calls per week. Pg.108.**

The Association for the Management of Social Integration GINSO reports:

"Regarding contact with the outside world, currently the number of calls minors can issue weekly is 4 calls and can be increased to 5 based on the token economy system (good behaviour, supervisor, best of the week etc.). From the outside world they receive 2 calls per week, independently of the corresponding weekly visits."

See ANNEX XIII

*NB: the appendices have not been published.*