



REPORT OF THE CATALAN MECHANISM FOR THE PREVENTION OF TORTURE DECEMBER 2017

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

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Síndic de Greuges de Catalunya

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I. INTRODUCTION

1. INTRODUCTION

This report details the activity carried out by the Catalan Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment (CMPT) in 2017. This is the seventh such report presented to the Parliament of Catalonia, pursuant to the terms of Article 74 of Law 24/2009, of 23 December, on the Síndic de Greuges (the Catalan Ombudsman).

A total of 47 visits have been made to different facilities this year, a figure similar to those of prior years (50 visits in 2016, 45 in 2015). Most of the visits were made to police stations, mainly the various local police facilities that have detainee custody areas, which have been the object of a specific follow-up effort this year. The team also visited seven penitentiary centers, two more than last year, one of which (the Brians One Women's Penitentiary Center) was visited on two occasions, as well as the Penitentiary Ward of the Hospital of Terrassa.

Visits were also made to six youth and adolescent detention centers (juvenile justice, therapeutic, and intensive education or educational activity centers), in addition to two visits to the City of Justice premises, where the team detected the presence of unaccompanied minor immigrants in unacceptable conditions. The latter facility has been the focus of special attention, given its unsuitability per se as a site for the lodging of unaccompanied minors who should be under protection.

This unsuitability has been accentuated over the past year, due to the extraordinary prolongation of stays and the conditions of this facility, attributable to a shortage of shelter capacity to cover the higher numbers of unaccompanied minors arriving in this country.

As reiterated in the reports published in prior years, the CMPT has a standardized action protocol that takes in account the specific considerations of each type of center subject to its supervision. Before the visit, the Team decides on the aims of

the visit and the methodology to be used. Visits can be made at any time, without prior warning, and the liberty deprivation facilities chosen by the Team are inspected, especially those where there is the greatest risk of abuse, such as restraint rooms or, in penitentiary centers, special departments.

Considering that many of the facilities housing persons deprived of liberty have been visited by the CMPT on one or several occasions in recent years, visits now tend to focus not so much on the already-known functional aspects of these places, but on confidential interviews with persons deprived of freedom.

From the inspection of the facilities and the interviews conducted, the Team comes up with the most relevant observations, and the conclusions and recommendations that must be conveyed to the Administration responsible for the visited center. Furthermore, once it receives the response from the Administration, the content is evaluated to either close the case, or if necessary, request additional explanations or make later follow-up visits.

In this year's report, aside from the information sheets that outline, for every center visited, the main observations and conclusions drawn by the Team, and also the recommendations derived therefrom, two studies are presented. These are the result of the visits made by the Team and the research carried out by members of the CMPT Advisers Council and the Catalan Ombudsman himself. These considerations center on two topics of unique importance in the penitentiary realm:

1. Adolescents in protection or liberty deprivation centers. Adolescents housed in protection or juvenile justice centers are one of the most vulnerable social groups that the CMPT has come to know in its facility visit and supervision activity. In the monographic analysis offered this year, and as already done during the seminar held to pay tribute to torture victims, an effort is made to accentuate their vulnerability and the attention and intervention needed for their recovery.

These adolescents often display behavior marked by a rejection of the intervention. They can also act inappropriately toward themselves and their surroundings, a result of having suffered shortcomings or abuse over the course of their lives. In the study presented, emphasis is placed on the need to intervene in a multidisciplinary, coordinated fashion, while also establishing a bond of trust. The requirement for appropriate material and human resources is also stressed.

2. Local Catalan police departments' detainee custody duties. Since 2014, the CMPT has recommended that local police forces not exercise detainee custody duties, but that they make use of the existing agreements to transfer these individuals directly to a PG-ME (Policía de la Generalitat-Mossos d'Esquadra - Autonomous Catalan Police) facility. Within the framework of the visits made this year, the Mechanism repeats that all local police custody areas that do not have material detention conditions that are respectful of detained persons' rights, or those in which it is impossible to achieve full compliance with their rights according to the latest version of Article 520 of the Criminal Procedure Act, must be closed immediately. As for the rest of them, municipal authorities must determine whether it is efficient to maintain such facilities. In any event, it is necessary to prevent the victimization of detainees in a double liberty deprivation stay at the hands of the police prior to their being brought before the investigating judge.

This year's report tells of the definitive closure of Barcelona's Model Prison, as well

as the compliance status of the main general recommendations made in last year's report, along the methodological lines begun with the Report. Along these lines, the report informs on the continued training efforts relative to the Istanbul Protocol in the health realm, and the follow-up of recommendations contained in last year's report regarding female detainees' rights and special closed-regime departments (on which, furthermore, a Parliamentary task force has debated and the Directorate General of Penitentiary Services has issued new instructions). The report also features improvement proposals for PG-ME facilities and detention processes, on the City of Justice detention area (on which the Catalan Ombudsman has given his opinion as regards the situation of minors under protection) and last, the new instruction from the Autonomous Ministry of Labor, Social Welfare and Families on involuntary admissions into geriatric centers, in line with the recommendations made in 2015.

In the institutional realm, especially noteworthy were the celebration for the fifth consecutive year of the International Day in Support of Victims of Torture, as mentioned previously, and the participation by members of the CMPT in several national and international training activities.

The final section of the report is devoted to general conclusions that take up the key recommendations developed this year over the visits to incarceration centers.

II. ADOLESCENTS UNDER WARDSHIP AND DEPRIVED OF LIBERTY: THEIR RIGHTS, THEIR RECOVERY

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1. Introduction¹

One of the main actions of the Síndic de Greuges de Catalunya (Catalan Ombudsman) and of the Catalan Mechanism for the Prevention of Torture is the supervision of protection and juvenile centers as regards adolescents who present a behavioral disorder, which may or may not be associated with mental illness.

It is often found that the intervention being carried out is highly conditioned by the characteristics of the resource, not always that which the child or adolescent needs, but the one that is available, the staffing and training of professionals and the shortcomings of other areas of the welfare state, specifically the educational and health care systems, to meet these adolescents' educational and mental health needs.

Therefore, given the sum of all these factors, at times these adolescents with mental and behavioral disorders can be prescribed too many medications (the Administration does not tend to question the prescription of medications), or in the educational interventions, the weight of disciplinary action with greater or lesser guarantees, is greater than what the adolescent needs for their recovery.

Through their interviews with the adolescents and professionals, and after reviewing their clinical records, the Mechanism has found that polypharmacy with psychopharmaceuticals is often used for conduct control of these adolescents and, in specific cases, the side effects of these drugs, such as excessive sedation, are evident. This could be indicative of overmedication. Many interviewed professionals agree on the importance of psychotherapy with adolescents and on the fact that, in all likelihood, a more robust intervention would reduce the number of pharmacological prescriptions.

As for the prescription of antipsychotic drugs as psychopharmacological restraint mechanisms in cases of agitation or aggressiveness, although at most facilities this is only done in exceptional circumstances, and some do not even use them, it has been found that in some centers such prescriptions are used systematically. It must not be overlooked that restraint of any type, including that of a pharmacological nature, is to meet the therapeutic objective of controlling behaviors that represent a risk to the individual themselves or to others, and not as punishment. They must be the last resort, used only when absolutely indispensable. Therefore, the systematic prescription of antipsychotics as a restraint measure must be avoided. An evaluation of every specific case must be carried out, always under medical supervision and with follow-up of the measure from a health care standpoint.

There is solid evidence that demonstrates individuals' higher risk of suffering mental disorders if they have experienced adversities during childhood. *Adversities during childhood* refers to: sexual abuse, physical abuse, psychological mistreatment, parental negligence, parental death and bullying.

The children and adolescents in Catalonia under the wardship of the DGAIA (Directorate General for Childhood and Adolescence Services) have suffered adversities during their childhood that in very general terms, and regardless of the clinical-phenomenological or symptomatic manifestations, can be understood as primary and continued traumatic experiences, that have had consequences of varying magnitude on their psychological development, on the organization of their emotional and relational realm, and that have affected their capacity to modulate emotions and make sense of their own emotional experience: their thinking and mentalization capacities.

It is key that the individuals who conduct the day-to-day care of children and adolescents understand the specific psychological reality of each child or

¹ This section is based on the paper presented by Mark Dangerfield at the Day in Support of Victims of Torture on June 26, "Adolescents Under Wardship and Deprived of Liberty: their Rights, their Recovery" and in the article he authored afterward for the Catalan Ombudsman's Office.

adolescent with whom they relate, as well as the impact of the adversities that they have suffered on the organization of their emotional and relational lives. Often these children prove themselves to be unskilled at interpersonal relationships, and they end up triggering a response from the adult that is the opposite of what they need. For this reason, adults have the responsibility to understand and respond to these relational difficulties in the best possible way, to offer the young people a relationship that is different from what they have suffered in their closest family setting, as well as offering them the maximum possible containment for the suffering and desperation they have been through.

The ongoing relationship between the protected children and the professionals responsible for them is a determinant factor to minimize the psychopathological consequences of the adversities a person has been through in their childhood. That is why it is essential to ensure continued training and supervision of educators and other professionals working at the various DGAIA centers.

2. Adversities during childhood: consequences on children

In 2014, the World Health Organization (WHO) presented alarming statistics regarding their calculation of the abuse suffered by children in Europe. The WHO stated that of a census of 190 million children in Europe, 18 million suffered sexual abuse, 44 million were victims of physical abuse and 55 million received psychological abuse. This means that 30% of the children in Europe suffer some kind of abuse, without accounting for parental neglect which, according to different studies, is always high (Dangerfield, 2012 and 2016; Varese et al., 2012) and also causes severe psychopathological consequences. These statistics are reason enough for concern, but more alarming still is the WHO's assertion that 90% of abuse cases are never detected.

It is known that sexual abuse, mistreatment and neglect suffered during childhood are very frequent experiences among individuals that later develop severe

mental health problems. Zsuzsanna Jakab, WHO Regional Director for Europe, stated in 2013: "It is time to recognize child maltreatment as a public health concern, and not solely a criminal justice and social issue."

In 2016 the Catalan Ombudsman published a report on sexual abuse in Catalonia, concluding that child sexual abuse is underdetected, and decried the shortcomings in the measures in place to fight it. Most abuse takes place in the family setting, and is sustained over time. This way, sexual abuse of children is extremely difficult to diagnose.

There is also clear evidence that adverse events experienced in childhood are insufficiently explored in the realm of mental health.

Likewise, a number of authors of essentially clinical studies put forth the hypothesis on transgenerational transmission of predominant relationship patterns in family dynamics. There are many elements that support the hypothesis that growing up in a relational environment marked by neglect, with major emotional shortcomings and intense emotional suffering is associated with a higher risk of developing relationship patterns that reproduce these pathological relationship styles, with a significant increase in the psychopathological, social and often vital risk.

This is the drama of transgenerational transmission of relational trauma; if a person has suffered severe adversity in their childhood without having received suitable, sufficient help, it is highly probable that they will not have the internal resources necessary to offer a minimally safe emotional relationship to their children, with the consequent impact on the development of their capacities for mentalization and a higher psychopathological risk being faced by their children.

To be able to protect and care for another, it is necessary to have internalized experiences of relationships with caretaking figures of reference who are minimally good and reliable. An individual

must feel hope in human relationships as something reliable, and the possibility to trust someone who can help them. If not, history repeats itself: for an adolescent or adult who has known no other option in this life, the world is not reliable, and becomes a hostile setting, a place in which they survive with a psychological armor that sustains them, but that hides an enormous fragility and emotional deficits.

The shortcomings in parents' mentalization capabilities causes them to be inept at deep emotional relationships, with major difficulties in their ability to manage their own emotional lives, and consequently, relationships with others, and with their children, with whom they have reproduced the patterns of negligence or abuse that have led to the intervention of the DGAIA to protect the minors.

Mentalization is a process by which individuals attempt to make sense of the world around them, by attributing mental states to themselves and others. This enables the individual to predict and understand their own behavior, that of others and interpersonal relationships.

3. Minors under wardship of the DGAIA: population at high psychopathological risk

Adversities suffered in childhood by minors under wardship often configure a higher risk of behavioral disorders and self and hetero-destructive behaviors: the impossibility of having an empathetic relationship with at least one person, with whom there is a basic level of trust, of a good relationship, and with whom there is regular contact and the possibility of ready support in case of need; not feeling socially bound to other human beings that provide a feeling of belonging and identity are factors that heighten a person's sense of despair and a tendency toward destructive actions.

A minor's solitude and isolation are a serious pathogenic source. That is why the presence or absence of a trusted person, with a resilient relationship, determines the degree to which the adversities suffered will affect the minor. It should not be overlooked that this relationship of trust must be as stable,

constant and continued as possible, something that unfortunately is not always feasible in DGAIA centers, due to the frequent changes of each minor's referent professionals.

Often, the minor's intense unease and suffering cannot be contained or elaborated; it can only be evacuated:

- On the body: by self-harm, suicide attempts, somatization, conversion symptomatology.
- Acting in external reality: behavior disorders, hetero-destructive actions.
- This gives rise to at-risk mental states (ARMS) or clinically objectifiable psychotic decompensation.

Likewise, the consequences of minors' severe shortcomings in mentalization capacity in relation with the adversities suffered during childhood imply

- Greater difficulty in understanding their own emotions.
- Greater difficulty making sense of other persons' behavior.
- More anxiety, anger and despair.
- Greater presence of persecutory feelings and fear of losing the persons closest to them.

But one of the feelings that is a source of a more intense suffering and greater risk of self and hetero-destructive actions is feeling bad, feeling destroyed from within.

4. Health care and healing implications of the minors under wardship

Due to the aforementioned shortcomings in mentalization capacity, these children have a greater tendency to lose control and act inappropriately or violently in situations marked by a lack of emotional control.

Therefore, a fundamental objective in treating minors under the wardship of the DGAIA would be to offer them relationships as stable and continued as possible with a single professional, who must take an

active role in building a bond of trust, and from this point forward, actively help the minor develop better mentalization capabilities.

This professional must be able to attend to the minor's emotional needs, with all of the complexity this implies due to the traumatic relational experiences they have lived through. In the context of these daily treatment relationships, an effort must be made to help them organize better abilities to make sense of their own emotional and relational lives.

One of the greatest difficulties of working with these children is that all too often they do not believe that anything good can come from a relationship with another human being, and they trust the protection, social service or mental health network even less. As it stands, service providers of the Catalan public health care network continue to ask young people of this profile that they have sufficient emotional and relational resources to adapt to what this network can offer them. Yet the question should be what has to change in the network and the protection and care system to reach these minors who do not expect anything good from a relationship with another human being.

5. A fundamental concept: epistemic trust

A concept developed by Fonagy to understand what all human beings need to establish reliable, valuable human relationships is that of epistemic trust (Fonagy & Allison, 2014). Epistemic trust is a special type of trust in which there predominates a feeling that human knowledge and human information communicated by other human beings is reliable.

Fonagy explains that in the relationship of any professional with minors this trust is based on the knowledge that the minor has about the fact that the professional is connected with authenticity and empathy and that they fundamentally understand the minor's suffering. This empathetic connection is what allows the minor to feel that they can trust in whatever the professional will offer in terms of knowledge.

It is what will allow the minor to learn about themselves through the mind of someone in whom they trust. This theory is derived from the experimental work of Gergely, Csibra and others (Gergely, 2005) on the social construction of subjective identity.

In thinking about the profile of adolescents severely neglected throughout their childhood, it can be understood that in their relational history the experiences of neglect have led them to a close down this learning pathway, as their capacity to learn through emotional experience with others has been damaged.

This is a fundamental obstacle, as it configures the initial relational scenario described previously in which not only does the adolescent not ask for help, but may even actively reject it. In such cases, it can frequently happen that the professional or the team who works with the minor try to find a way to introduce some change into the youth's way of thinking, when the first thing that should be asked is what has to change in the professional to reach this minor who does not expect anything good from a relationship with an adult.

Minors can operate in a very destructive way, and at times it seems that they do not learn from relationships or from health care providers, even though they are offered something, such as very good ways of functioning. But they can be helped enormously if they manage to have a relationship experience with someone who really tries to put themselves in their shoes. It is important to remember that a minor should not be forced to pay attention to the adult by means of punishment, yelling or force. It is a matter of truly trying to put ourselves in their place.

6. A severe problem: the vast quantity of professionals

As has been discussed, human relationships are fraught and difficult for a minor who has suffered adversities during childhood and has been taken out of their family environment. Keeping up just one relationship with a professional is already complicated enough; the problem is that in the protection system relationships with multiple professionals will have to be established.

This is true not just regarding the facility where they live (CA [medical shelter], CRAE [educational activity residential centers] or CREI [intensive educational residential centers]) but also with the professionals from the numerous departments intervening in their case (EAIA [Children's and Adolescents' Affairs Unit], EVAMI [Child Abuse Assessment Teams], EFI [Children's Affairs Functional Team], CSMIJ [Childhood and Juvenile Mental Health Center], social workers, pediatricians, juvenile justice officers, secondary school staff, etc.).

This proposal of relationships is directly contraindicated for these adolescents precisely because of their severe difficulties in maintaining them. It is highly probable that it will make the minor relive the neglect experience they have suffered in their family relational environment.

One of the main problems in residential centers (IJzendoorn et al., 2011; McCall, 2013; Vorria, Ntouma & Rutter, 2015) is the high turnover among staff members: different shifts, days off, changes of group, temporary workers, holiday time, etc. The result is an excessive number of different professionals with whom the minor has a relationship over the time they spend in an institution. Given their fragility and vulnerability, this generates a scenario that only complicates the prognosis.

For this reason, it is important to make coordination efforts, conduct joint activities and establish referent figures, so that adolescents perceive intervention in the most integrated way possible.

Along these lines, mention must be made of the AMBIT project², which proposes a change of emphasis: from the classic model of a care network made up of many teams and numerous professionals around the minor, to a model in which the minor establishes only one relationship with a referent professional, or keyworker, who will be in charge of establishing relationships with the rest of services and integrating their contributions to the minor and their family.

The keyworker occupies the central role around which the relationships with the rest of services are organized and articulated. This way the minor has to maintain a single relationship, though it is more intensive and continued, with a single professional. Keyworkers also take a very active role in establishing the most secure bond possible with the minor, as the key to stimulate, repair or maintain the function of mentalization in a young person is the development of a secure bond with a trusted figure.

7. Measures to improve care for adolescents proposed by the Catalan Ombudsman

In recent years the Catalan Ombudsman has proposed measures to improve the care given to adolescents in the protection system, in line with the content discussed above:

Provision of a figure of reference for protected minors (Report on Rights of the Child 2015)

The Catalan Ombudsman believes it necessary to guarantee the assignment of a reference professional to the minors protected by the DGAIA (Directorate General for Childhood and Adolescence Services), as such a guarantee would help generate a space of continuous listening to the protected child or adolescent, and obeys the need to know the real and individual state of each child or adolescent. This must enable the making of administrative decisions suited to every situation and oriented to covering the needs of every child or adolescent.

Regarding this issue, the Catalan Ombudsman's Office has been informed that for cases in which the child or adolescent is staying with extended family, the professional from the CAAU (Children's and Adolescents' Affairs Unit) is in charge of their follow-up; when the "La meva família m'acull (My Family's Hosting Me)" program is activated, the follow-up of the child or adolescent staying with extended family is responsibility of the professionals from the

² AMBIT – Adaptive Mentalization Based Integrative Treatment– (Bevington et al., 2012; Bevington et al., 2015; Bevington et al., 2017) is a mental health care project based on mentalization for teams who work with at-risk youths presenting multiple and complex difficulties. It has been developed by professionals of renowned international prestige from the Anna Freud National Centre for Children and Families in London. Dr. Dangerfield is spearheading its implementation in Catalonia. AMBIT is an innovative approach that integrates the interventions of mental health, teaching and social services to offer direct help to at-risk youth who have major difficulties forming a bond with ordinary health care services, and that proposes an active effort for the youth to form a bond with a single professional, or keyworker.

Extended Family Integration Service. If the child is placed with a foster family, the reference professional belongs to the Family Integration Collaboration Organizations (FICO) established by the Catalan Institute of Foster Care and Adoption. Last, children and adolescents who are staying in centers may address their homeroom teacher or the center director.

Overall, the aim of assigning a figure of reference is so that the child or adolescent, during their time in the protection system, has a person who they can trust, and to whom they can turn at any time over the years. That is why the Catalan Ombudsman believes that the “keyworker” should not be linked to the protection measure in force, but should instead be a person who belongs to the DGAIA, with the objective of avoiding changes, and guarantee that there is just one reference figure.

The reference professional must be a person with first-hand knowledge of the itinerary that the child or adolescent will take within the protection system and that ensures that the administrative decisions taken are all aligned and serve the child’s best interest.

Guarantee occupational and training conditions for educator staff (2017 Report on Rights of the Child):

For the appropriate fulfillment of educators’ tasks, it is necessary to:

- Revise the number and profile of the professionals that are necessary in each of the centers according the needs detected and expressed by the professionals themselves and evaluations of psychosocial risks; set the number of professionals, their category and occupational compensation and review, if necessary, the ratios set by the portfolio of social services.
- Provide professionals with the training and supervision necessary to properly

conduct their work, with the coverage required at all times by other professionals for the duties carried out as corresponds to their post at the center.

- Guarantee the participation of professionals in the operation and organization of the centers, and equip the teams with technical spaces for reflection and management.
- Develop and implement a mental health treatment and care model for children and adolescents treated in the protection system, guaranteeing the presence of support specialized in mental health in all residential childhood and adolescence protection services, as stipulated in the Integral Care Plan for Persons with Mental Disorders and Addictions 2017-2019, strengthening the roles of protection professionals in cases that are complex to approach.
- Guarantee the professional indemnity for educators who, in their role as guarantors of children’s rights in centers, report any possible violations of rights or irregularities that have been detected.

Guarantee sufficient conditions and size of centers (2017 Report on Rights of the Child):

In the same line, suitable conditions of protection centers must be guaranteed, which is why:

- It is necessary to properly plan and organize the protection system and the provision of residential centers to guarantee compliance with the standards of residential quality required for a stay in a center to reproduce, to the highest degree possible, the conditions of family life that make it possible for the child or adolescent to have harmonious and stable growth, so that living groups be small, and every child or adolescent have a social education tutor and co-tutor of reference.

III. DETAINEE CUSTODY BY THE LOCAL POLICE FORCES OF CATALONIA

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1. Initial considerations

Visits to the detainee custody areas of the local police forces of Catalonia form part of the regular tasks of the Catalan Mechanism for Prevention of Torture Task Force. This year 21 local police stations have been visited, spanning the various police regions, including the Barcelona Municipal Police (la Guàrdia Urbana de Barcelona). Since 2011, over 80 local police stations have been visited, some on more than one occasion, even though not all of them had custody areas (detainee custody area, or DCA).

As a result of these visits, the 2014 Annual Report of the CMPT made the recommendation that, as a general rule, local police not exercise custody duties for detainees and that, in the case of arrest, using the relevant cooperation agreements, they directly transport such persons to the Mossos d'Esquadra station with competencies in their territory.

There were two essential reasons for this recommendation. First, many local police stations did not have custody areas that guaranteed respect for the minimum rights of detainees (absence of video surveillance, difficult access, etc.). Second, to the extent that judiciary police competencies essentially belong to the Mossos d'Esquadra, local police forces nearly always have to transfer the detainee to a facility of this law enforcement agency, so that the Police of the Generalitat - Mossos d'Esquadra (or PG-ME) formally bring the detainee before the judicial authority. Therefore, the detained person is made to pass through two police facilities, which penalizes them and unnecessarily prolongs their detention time.

As can be readily observed, the first consideration cannot be generalized (there are local police stations with impeccable custody facilities) and does have a solution, albeit oftentimes expensive and not immediate. The second consideration, on the other hand, is structural.

Following the recommendations of the CMPT, repeated in the 2016 Report, the Catalan Autonomous Ministry of Home Affairs sent a report to the Catalan Ombudsman's Office, followed up with a meeting between two members of the Task Force and the Director General of the Security Administration and the Deputy Director for Police Coordination of Catalonia, in May, 2017. In short, the Autonomous Ministry stated that the custody duties of local police forces are necessary when these police departments act as judiciary police (for example, in traffic violations or attacks against authority) or when they assume the delegated competencies of judicial detainee holding. But above all, because they relieve the Mossos d'Esquadra from having to perform custody duties for several hours, so that they can devote themselves to tasks with more added value. Other matters discussed were the distance that separates some local police stations from the closest PG-ME facilities, or the unquestionable fact that the decision of whether to have a local police force—and whether the police force is to have a detainee custody area—is exclusively up to every Local Council.

The entry into force of Article 520 of the Criminal Procedure Act brings forth a new element that must be taken into consideration when assessing the appropriateness of local police performing detainee custody duties. The mandatory character of legal assistance being provided within the three hours following detention, or the new right of the detained person to make a direct telephone call to the person of their choice to make them aware of their situation are responsibilities that correspond to any local police force that makes an arrest, and not all local police forces are complying with them correctly.

2. Legal grounds and efficiency of local police forces' custody duties

The local police forces that perform detainee custody duties do so based on firm legal grounds. Article 12.1 of Law 16/1991, on local police forces of Catalonia, states that local police forces can carry out the duties of judiciary police. Specifically, they may:

“b) Conduct, on their own initiative or by demand of the judicial authority, the

Prosecutor's Office or other hierarchical superiors, the initial proceedings for prevention and custody of detainees and the prevention and custody of the objects originating from a crime, or related with the commission thereof, of which they must furnish a report, in the legally-established terms, to the judicial authority or prosecutor's Office, pursuant to the regulations in force."

Law 10/1994, on the Police of the Generalitat-Mossos d'Esquadra also states that the force performs the duties of judiciary police "without prejudice to those that correspond to local police forces" (this is also stipulated in the aforementioned in Article 12.1).

Therefore, the performance of custody duties by local police forces is perfectly legal. Whether it is mandatory, efficient or provides all possible guarantees is another matter.

Along these lines, it is obvious that neither all local councils have local police forces nor do all of them keep detainees in custody. Specifically, according to statistics from the Catalan Autonomous Ministry of Home Affairs, of Catalonia's 948 municipalities, only 213 have a local police force. Of these, only 53 have custody areas for detained persons. This figure makes it clear that the Mossos d'Esquadra perform exclusive custody duties throughout Catalonia, with there being no need for custody facilities in every town and city. Further, it shows that over 150 Catalan local police forces, if they do make an arrest, transfer the detainee to a PG-ME station and there file the relevant incident report in conditions of utmost normality. Under no circumstances can it be considered that these local police forces are contravening their legal mandate. In fact, the CMPT has previously praised the practice of closing local police custody areas and updating procedural protocols with the PG-ME for this agency to take responsibility from the very beginning of the custody of persons detained by the local police.

On the other hand, and without prejudice to local police forces' legally exercising detainee custody duties, there must be an assessment of whether this procedure is

always the most efficient and respectful of these individuals' fundamental rights.

In other reports, the CMPT has made their position clear regarding the secondary victimization implied by a detained person's having to go through two police facilities before being brought to the judicial authority: two identifications and bookings, two searches, and if it takes place at night, interruption of night-time rest for transfer from one facility to another, etc. It is worth noting that the Task Force has not detected any case in which this transfer has led to the detention lasting more than 72 hours, but there have been cases in which the detention extends beyond the indispensable time period. It must not be overlooked that 72 hours is the limit for deprivation of liberty before being brought before the court. But the fundamental rule in Constitutional Law as refers to personal liberty is that "cautionary detention cannot be prolonged beyond the time strictly necessary for the performance of the investigation carried out to clarify the facts" (Art. 18 of the European Convention).

The hours that a detained person spends in a cell only for logistical reasons, that are not necessary for the investigations, could cause the deprivation of liberty to be considered an illegal detention. Arguments of an organizational nature cannot justify the sacrifice of a detainee's fundamental right for the deprivation of their liberty to not be prolonged more time than what is strictly necessary. In Judgments CC 224/2002, 165/2007 and 88/2011, it is concluded that disproportionate delays—such as an overnight prolongation—over the times for which transfers are planned cannot be justified for organizational reasons.

Aside from the guarantee-based considerations, there are also practical ones. Having a person in a local police station means having at least one police officer assigned to their custody. This has a direct repercussion on the general coverage of services that may arise in the meantime in the municipality, because in some cases—especially in small municipalities—only one patrol complement is staffed to meet these needs.

Notwithstanding these considerations, the CMPT is aware that there are operational circumstances that could make it inadvisable to close a local police custody area. This is the case, for example, when there is a long distance between the PG-ME station in their area, and neither force has enough personnel to make the transfer immediately. Among the visits made this year, it has been found that this was the case of Tordera (Pineda precinct) and Tossa de Mar (Blanes precinct), for example.

There are also local police forces, especially in the city of Barcelona, but also in other cities around the territory, where the annual volume of arrests is significant enough to justify the local police having their own facilities and the management of the detention by this force being a true relief for the Mossos d'Esquadra assigned to that municipality. On the other hand, when it is found, as has been the case on numerous visits this year, that a local police force keeps a custody area open but does not make more than 10, 20 or 50 arrests per year, it should not be complicated to protocolize with the Catalan Autonomous Ministry of Home Affairs the immediate delivery of detained persons to the PG-ME. This is the case of the local police of Lliçà d'Amunt.

Likewise, other reasons that have been cited to keep the custody areas of local police open are not very solid:

a) The judicial holding role attributed to local police forces by Law 7/1985, of April 2, regulating the local government, is now at practically token levels. Further, without a doubt, this can be done by the PG-ME stations.

b) The same can be said for the custody of persons detained by the local police in areas of their competence, especially traffic violations. On one hand, arrests with deprivation of liberty for such causes are extremely rare, and on the other, there are already local police forces (Ripollet) that, despite having a custody area and being responsible for bringing detained persons before the examining court, delegate custody to the PG-ME once the initial proceedings have been completed.

3. Material conditions of custody areas

As stated in the introduction, some local police custody areas in Catalonia suffer severe structural shortcomings that make their immediate closure advisable. This is the case of the Cubelles DCA. As observed in the visits made this year, the information sheets of which can be consulted in this report, there are often no video surveillance cameras or the cameras only offer partial coverage. It is also frequent for the admission into the custody area to be made with armed personnel, as there are no gun racks in the detention circuit, nor is it protocolized that officers must turn in their weapons before entering the custody area. This occurs in Blanes and Ripollet.

These shortcomings can usually be overcome with enough budget and political will. Other more serious and structural problems that the CMPT has found on their visits include:

- Presence of a single cell in the police station, which makes it impossible to separate by gender, age or reasons for investigation.
- Lack of ventilation in cells, very small ventilation installations, etc.
- Dangerous or inappropriate access to the custody area (for example, through the same space as is used for public service, or by narrow, steep stairways and even crossing areas of the police station containing potentially dangerous elements).

Information on each of these shortcomings has been sent to the relevant local council to be taken into consideration.

To the contrary, on their visits the Task Force has also found facilities in top conditions of safety and hygiene, such as those of Lloret de Mar or Castelldefels.

In the CMPT's view, an initial criterion that competent local councils should apply to advance toward closure of local police custody areas is the existence of facilities that have unresolvable shortcomings or that would require a major investment to be adapted. In any event, closure is also recommended when there is a PG-ME

station in the same or nearby municipality that could take responsibility for detained persons.

4. Detained persons' rights

On visits to local police made this year, as has occurred in prior years, the CMPT has been assured that the detained person's rights are read to them at the very beginning of their detention. This reading is often repeated once the police officers and detainee reach the police station.

Nonetheless, rights must not only be read or listed; it must also be possible to exercise them and they have to be respected. In this area, the practice of some local police forces is less than appropriate. With regard to notification of the arrest to the detained person's legal representative (or the relevant professional association), many local police forces acknowledge that they leave this to the Mossos d'Esquadra. This situation was found at the local police forces in Martorell and Llavanes, among others. Still and all, the local police forces who do make the notification state that, in any event, the legal assistance takes place on the PG-ME premises. Last, there are others, such as the Tordera police station, that distinguish between private and court-appointed attorneys. In the latter case, they admit that the legal aid takes place in the Mossos d'Esquadra facilities because attorneys do not have time to reach the local police station.

At this point, it is important to remember that there is a two-fold obligation with respect to legal assistance for detained persons. First, and this is nothing new, to inform the attorney of their detention or, if they lack an attorney, to inform the competent bar association. This notification must be made at the very beginning of the detention. There is no justification to delay this notification once the detained person is in the local police facilities, even if it is foreseeable that their stay there will be short.

Second, and here there has been a shortening of time periods, the defense of the detainee must provide them with assistance in a period not to exceed three hours from the time of their detention. When this period

was eight hours it seemed reasonable for local police forces to assume it would be done in the PG-ME station. But within the first three hours of detention it is highly probable that the detained person be exclusively in the custody of the local police and, therefore, it is foreseeable that the first legal assistance will be given in their facilities.

On another note, the CMPT found that the only right systematically exercised when the detained person is in the custody of the local police is the right to receive medical care. Nonetheless, the majority of local police forces visited admit that the medical consultation is done as an obligation imposed by the PG-ME to receive the detained person. In other words, it is done as a means to guarantee the physical conditions in which this individual arrives at the station, not as a right freely exercised by the detained person. Naturally, the medical visit is also carried out when the detained person asks for it, or when they are in a condition (whether or not it is attributable to their arrest) that requires it, but the PG-ME practice in some police regions of requiring medical visits in all cases distorts the sense of the detainee's right to be seen by a doctor.

Paradoxically, it is not unusual for this medical visit to take place immediately following the detention and just before the detained person is taken to local police facilities, which does not make very much sense, even from the perspective of safeguarding the different law enforcement agencies involved in the detention from liability.

Still on this point, it is worth noting that some local police forces have a more respectful approach toward the patient's right to privacy than the Directorate General of Police, and, along these lines, state that, as a general rule and if they do not detect flight risk or a violent attitude, they allow the medical visit to be conducted without police presence, pursuant to the standards of the Istanbul Protocol.

Last, regarding the rest of rights that are to be exercised from the beginning of the arrest (such as the personal telephone call) some local police forces visited this year admit

that they cannot be exercised in their facility, and they assume that the PG-ME will take responsibility for them. Specifically, on all of the visits made this year it has become apparent that, in the case of foreign detainees, the consulate is not notified of the detention although, according to information provided by local police stations, this is because the detained foreign persons prefer not to do it.

5. Recommendations

The CMPT addresses the local councils that have local police forces with detainee custody areas and the Catalan Autonomous Ministry of Home Affairs and makes the following recommendations:

- Close all of the local police custody areas that do not comply with the material

detention conditions that respect detained persons' rights.

- Close all of the local police custody areas that cannot ensure full compliance with detainees' rights.

- Evaluate the closure of the local police custody areas for reasons of efficiency and for the better guarantee of detainees' rights.

- In cases in which it is considered that the local police need to have a custody area, guarantee that the material and legal conditions of detention are respectful with the fundamental rights of detained persons.

- Not open new police stations with detainee custody areas, especially in municipalities where there is already a PG-ME station.

IV. CLOSURE OF BARCELONA'S “MODEL” PRISON

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After many attempts, the Centre Penitenciari d'Homes de Barcelona (Men's Penitentiary Center of Barcelona) has been permanently closed. On March 6 the last pretrial custody inmates entered the penitentiary. From that time on, there began the transfer of the inmate population to other centers of Catalonia, especially the Brians 1 Penitentiary Center, which became the new pretrial incarceration center of Barcelona. The permanent closure of the Model prison took place on June 8 of this year.

The Men's Penitentiary Center of Barcelona is one of the penitentiaries that has received the most visits from the Task Force of the Catalan Mechanism for the Prevention of Torture. The configuration of the center made it clear that it had been years since it complied with the optimum conditions for development of the Catalan penitentiary model. Therefore, the Catalan Ombudsman, in his reports to Parliament, has emphasized its deficient conditions of conservation and the problem of overcrowding. Furthermore, the CMPT and other international bodies have also decried the overcrowding problems, despite the fact that the inmate population has been significantly reduced over recent years. Likewise, from a security standpoint, and despite the technological investments made in recent years, the center's security systems did not meet the security criteria defined and applied at new penitentiary centers.

Despite it all, from the experience accumulated by this office through its recurrent visits to the center and the interviews with inmates and their family members, it became clear that the inmates did not wish to be transferred to other centers in the province of Barcelona. In other words, despite the structural shortcomings and the overcrowding problem it suffered—which had turned into an endemic anomaly—the inmates wished to remain there because of the center's operational dynamics, the relationships with penitentiary staff and closeness to families and lawyers.

In this context, and having received an avalanche of complaints following the announced closure of the center, trade unions

and employee councils of the Territorial Services of Barcelona made a final visit to the center with the aim of interviewing inmates, penitentiary guards, and members of the prison's administration, to determine whether they were making the movements of inmates and staff, and the time-line of actions planned until the closure.

The analysis of the information gathered, the complaints received, the interviews conducted and the information provided by the administration made it possible for the Catalan Ombudsman to confirm that the Men's Penitentiary Center of Barcelona is a facility that did not meet the optimum conditions in which to develop the Catalan penitentiary model, given that it would have required significant conditioning and maintenance expenses to remain in service.

It was also concluded that, although the decision to close it was necessary, it was taken hastily, without having determined the need to have another smaller pretrial center in the city of Barcelona.

The Catalan Ombudsman also believes that the various affected parties should have been taken more in consideration, specifically, the inmates and staff who render services there, in addition to the neighbors of the l'Eixample neighborhood who for years have been vying to have access to this space for social uses.

Last, the Ombudsman concludes that not having a pretrial custody center in the city of Barcelona will have an impact on the management of movements to judiciary or health care facilities, and the exercise of the right to defense.

Pursuant to these conclusions, a number of recommendations were sent to the Catalan Autonomous Ministry of Justice, among which the following were especially noteworthy:

In general terms:

1. That the city of Barcelona must assume its share of responsibility in the area of penitentiary facilities. For this reason, the new pretrial center must be built as soon as possible.

2. That, although there are plans to construct the new pretrial custody center in the Zona Franca district of Barcelona, given the urgency of building another new one as soon as possible, the Catalan Autonomous Ministry of Justice should ask the Spanish Administration for authorization to use the facilities of the Foreigners Holding Center in the Zona Franca, and house the pretrial inmates there, making the investments deemed opportune to adapt it, thus resolving the current lack of permits for the activity, and the establishment's security shortcomings.

In more specific terms:

3. That the inmates relocated to new penitentiary centers have continuity in the productive work or paid job post they occupied at the old facility.

4. That the budgetary allowance to cover inmates' family members' travel expenses be increased if needed.

5. That penitentiary centers reinforce the implementation of video conference rooms that guarantee confidentiality and allow lawyers to communicate with their clients from the respective bar associations.

6. That in any event a process of staff restructuring be guaranteed for the Model employees that takes in account their occupational and professional rights in accordance with the rest of public employees.

The Catalan Ombudsman is now awaiting a response from the Catalan Autonomous Ministry of Justice. In the meantime, the Director General of Penitentiary Services, in a working meeting held with the Catalan Ombudsman and his Deputy, explained the Reorganization and Development Plan for the Penitentiary Map of Catalonia following the closure of the Model, and the impact on other penitentiary centers.

To know the real level of affectation after the closure, the CMPT has visited CP Brians 1 (pretrial) and the pretrial departments of other prisons that have also received transfers of this type of inmates.

In the case of Brians 1, the team visited one of the modules (MR-2) with a maximum capacity of 192 inmates and that at the time of the visit (06/28/17) housed 185. The Task Force was informed that other modules have even greater capacity and that they were near the limit of their capacity. Eight inmates were also interviewed. It was concluded that the center's new orientation has taken place very quickly. In less than three months the inmate population has been completely renewed, with profiles and needs that are different from the population of prisoners serving sentences. Furthermore, in addition to the long-term stability and planning that could be carried out in a convict center, now the new contingency and constant turnover of a pretrial inmate center must be considered.

Brians 2 authorities stated that from the month of April they had received weekly transfers of 20 inmates from the Men's Penitentiary, which had led to an increase of occupancy from approximately 1,300 to 1,650 inmates. The day of the visit to the center (05/31/2017) more staff were expected to arrive, for treatment as well as guards, from the Men's Penitentiary of Barcelona. One of the most notable impacts is the conditioning of the second floor of the Infirmary (designed for inmates with psychiatric diagnoses) to admit inmates who were in the psychiatric infirmary of the Men's Penitentiary of Barcelona.

The visit to the Mas d'Enric Penitentiary Center coincided with its complete deployment, and the opening of all its modules. On the day of the visit to the center (09/12/17) prison officials informed the team that, like Brians 2, when the Model was being emptied there were some 20 weekly transfers, and that the correctional facility's area of influence had been enlarged to include the areas of Garraf and Penedès. Another consequence was that, to free up space at CP Brians 1, convicted inmates were transferred from Brians 1 to the Mas d'Enric Penitentiary Center.

On the other hand, officials stated that the closure was not accompanied by a movement of the necessary employees,

especially from the treatment area, coinciding with the summer, a time at which there are ordinarily fewer staff members as some are on holiday. For example, they stated that over the entire summer there was only one educator per module and four jurists. On the other hand, there were nine psychologists. As regards the workshops, they claimed that

the deployment had not had an impact on employment. To wit, before there had been two workshops and now there are four, which has made it possible to redistribute all of the inmates.

Aside from the visits, no complaints related with this subject have been received since the closure of the Model.

V. INSTITUTIONAL SCOPE

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Composition of the Team and Advisers Council

On February 13 of this year, the Catalan Ombudsman Committee of the Parliament of Catalonia ratified the appointment of David Bondia as a member of the Mechanism Task Force, to substitute Eva Labarta, who had filed her resignation in December of the prior year. David Bondia had been appointed by the Catalan Ombudsman following a unanimous proposal from the Advisers Council of the Mechanism. Therefore, since the month of February, 2017, the Task Force has been formed by the Catalan Ombudsman or the deputies he delegates to, José María Mena, David Bondia, Olga Casado and Mar Torrecillas.

Regarding the Advisers Council, the only change that has taken place is that of Esther Palmés, who sat on the council by delegation of the dean of the Barcelona Bar Association, Oriol Rusca. Following the election of Maria Eugènia Gay as dean of the Bar Association, Olga Arderiu was appointed by the Board to represent it on the Advisers Council.

Institutional relations

Throughout the year, several institutional meetings have been held to discuss matters of relevance for the Mechanism.

- On April 25, the Catalan Ombudsman, the general deputy and Mar Torrecillas met with the Director of Penitentiary Services, Amand Calderó, to discuss the closure of Barcelona's "Model" prison and the plan for relocation of inmates throughout the rest of the Catalan penitentiary system.

- On May 5, the general deputy and Mar Torrecillas met with the Director General of the Security Administration, Jordi Jardí, and Deputy General Director for Police Coordination of Catalonia, Begonya Curto, to discuss the Mechanism's recommendations with respect to the

custody areas of the local police forces of Catalonia.

- On June 13, the Catalan Ombudsman, the general deputy and Mar Torrecillas met with a delegation of the Sortu parliamentary group of the Parliament of the Basque Country, to share with them the experience of the Mechanism's operation in Catalonia, as a possible model for the Basque Country.

- On June 14, the Mechanism Task Force met with two members of the Cassandra group, a support organization for women incarcerated in penitentiary centers in Catalonia, formed by former inmates, to discuss the situation of women in Catalan prisons, as a follow-up of the CMPT's 2016 report.

- On October 16, the general deputy and Olga Casado met with the directress of Penitentiary Services of the ICS (Catalan Health Care Institute), Elisabeth Turu, and with Rafael Guerrero, to discuss training actions on the Istanbul Protocol and its application in injury reports issued by the health care system of Catalonia, in addition to the modifications in the protocol for use of restraints in the Catalan penitentiary system.

- On October 18, the general deputy and Mar Torrecillas met with the new directress of the Legal Medicine Institute, Aina Estarellas, with whom they discussed various aspects of the Mechanism's visits to the City of Justice.

On another note, within the framework of the Task Force's work on solitary confinement of special closed-regime departments organized by the Parliament of Catalonia, Olga Casado (February 21) and the general deputy (May 16) appeared to explain the Mechanism's position on these areas from a medical and legal point of view, respectively.

In relation with its relations with other administrations, the CMPT has addressed the Spanish Ministry of Home Affairs regarding police forces' restrictive interpretation of assistance to detainees, and specifically, with respect to the right to information in criminal proceedings

and the right to access the documents and other content of a case file.

The Catalan Ombudsman has also opened an ex-officio action against the Foreigners Holding Center (CIE) of Barcelona, in relation with the latest incident allegedly occurring there in which, according to the news media, a group of agents of the Spanish National Police committed repeated assaults against some 20 internees. Pursuant to the course followed in previous actions, the Spanish Ombudsman, the delegate of the Spanish government in Catalonia and the Spanish Ministry of Home Affairs have been notified regarding the case.

As in prior years, the attempts to visit the CIE in conditions compliant with international supervision standards have been fruitless.

Commemoration session for the Day in Support of Victims of Torture. Adolescents Under Wardship and Deprived of Liberty: their Rights, their Recovery

The session took place at the Catalan Ombudsman's headquarters on June 26, 2017. The presentation given by the Catalan Ombudsman focused on the role of the office as the Catalan Mechanism for Prevention of Torture, with the visits it makes to centers where minors are interned, either serving juvenile justice sentences or under wardship.

The next to speak was Noemí Pereda, professor of the Autonomous University of Barcelona and member of the CMPT Advisers Council. She outlined research results that demonstrate the higher prevalence of victimization among children and adolescents under wardship of the DGAIA (Directorate General for Child and Adolescent Affairs) who reside in centers, or the internees of juvenile justice centers, whether under guardianship or not.

The keynote speech was given by Mark Dangerfield, clinical psychologist at the University Institute of Mental Health of Ramon Llull University, who explained the difficulties found in the health care and social protection system in providing proper attention to adolescents with disruptive behavior and life paths marked by violence. He offered some guidelines to properly handle these difficulties, based on good and

coordinated multidisciplinary care, and the establishment of a reference "keyworker" who creates a bond with the adolescent. Chapter Two of this report is based on his presentation.

To close the event, the Deputy Ombudsman for the Defense of Children and adolescents spoke on the Mechanism's goal to carry out an analysis of the situation of adolescents in the wardship and justice system in this year's annual report.

Training

On February 17, a seminar addressed to health care professionals, especially doctors and professionals that habitually fill out medical injury and reports was held, with the title of Istanbul Protocol and Injury Report Seminar. The presentation of the content and scope of the Istanbul Protocol and its implementation through a new injury report was given by Olga Casado and the general deputy.

As a result of the seminar, the Autonomous Catalan Ministry of Health has opened a section on its website with resources to manage abuse and torture reports (http://canalsalut.gencat.cat/ca/detalls/article/maltractaments_i_tortura). An e-mail address (mcpt@sindic.cat) has also been provided for doctors to ask the Mechanism any questions they may have about this topic.

On May 26, the general deputy took part in the XI Congress of Young Lawyers of Catalonia with a presentation on the role of the Catalan Ombudsman and the Mechanism in penitentiary subject matter.

On October 6, Olga Casado participated in a training session for doctors on medical-forensic assessment in cases in which torture may be detected in individuals. It was given by the Legal Medicine and Forensic Sciences Institute of Catalonia.

On November 6, the Istanbul Protocol training cycle was concluded in Lleida. Addressed to health care providers of penitentiary centers, it had begun in the second half of the previous year. The session took place at the Mas d'Enric correctional facility, with the participation of Olga Casado and the general deputy.

VI. COMPLIANCE STATUS OF RECOMMENDATIONS MADE IN PRIOR YEARS

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VI. COMPLIANCE STATUS OF RECOMMENDATIONS MADE IN PRIOR YEARS

1. Rights of detained persons recognized within the framework of the EU

For yet another year, emphasis must be placed on one of the important shortcomings of the police custody circuit taken up in the Mechanism's recent annual reports and that refers to an incorrect interpretation of the European directive on the detainee's right to information.

This year, the Mechanism has continued to confirm the non-observance, in general terms, by law enforcement agencies of the need to interpret Article 520 LECrim in a manner that is compliant with Directive 13/2012 of EU, which includes conveying to the detainee and their defense (with the very restricted exceptions described in the Directive) the documentation justifying their detention, as a guarantee that the deprivation of their liberty is legally justified.

This non-observance has also been recorded by some attorneys who have contacted the Catalan Ombudsman to complain that in the course of their duties in a police station, they were not allowed physical access to the police proceedings.

Once again, the CMPT reiterates the need to come up with an interpretation that is compliant with the European directive, with the necessary cautions, to safeguard the sub judice rule and protect victims and witnesses.

In this vein, in response to the recommendation sent to the Directorate General of Police (DGP) that they prepare a new circular establishing the right of the detained person to obtain the materials and documents that have led to their detention, the DGP responded that, pursuant to the criteria agreed by the National Committee for Judiciary Police Coordination in relation with this right, the obligation of the police is to facilitate to the detained person and their defender certain specific information, but not access to the police proceedings.

The DGP believes that the PG-ME, law enforcement agencies and all other autonomous community police forces have

kept their operations within the content of the aforementioned agreement, and provide the detained person and their defender the above information, which is then incorporated into the Charter of Detainee Rights.

Furthermore, during visits, when the commanding officers on duty are asked about this matter, they provide information on the aforementioned circular, but they also state that when an attorney asks for access to the police proceedings, these do not exist yet because the officers are still carrying out investigative steps and preparing their report.

The DGP has also stated that the Catalan Autonomous Ministry of Home Affairs has addressed the president of the Supreme Court and the General Council of the Judiciary on this matter, and they have responded that allowing persons detained in a police station access to the police report is not compliant with the LECrim or the Directive 2010/13/EU, as the terms of these regulations refer to the elements of actions that are essential to challenge the legality of the detention.

Furthermore, they respond that having access to the police report would contradict the capacity that LECrim recognizes for the judicial authority to declare the total or partial secrecy of the proceedings. Last, they assert that the space on the detainee rights information sheet was made larger to describe the facts that have led to a detention.

To the contrary, this reasoning is considered insufficient by the Constitutional Court (CC) itself. Specifically, by the Second Chamber of the CC, which upheld the infringement of fundamental rights for a citizen whose attorney was denied access to the police report being prepared after their arrest by the Civil Guard, a situation that was not remedied later by the examining magistrate, who dismissed their habeas corpus plea.

The CC concluded that, from the constitutional perspective, Directive 2012/13/EU grants the right of access by the detained person and their attorney, to the materials in

the case file that are fundamental to be able to effectively challenge the legality of the detention.

It is worth noting that the Spanish Ministry of Home Affairs has not responded to this judgment, which was sent to it, along with the opinion of the CMPT and the Barcelona Bar Association on the matter.

All of this notwithstanding, the CMPT would like to underscore the opinion of one of the local police forces visited this year; the local police of Mont-roig del Camp, which, contrary to the majority of police forces visited, does allow the attorney access to the proceedings recorded in the police report when they request it.

2. Rights and guarantees of women in the Catalan penitentiary system

The CMPT's 2016 Report devoted, for the first time, a specific chapter to the women deprived of liberty in the penitentiary centers of Catalonia. It was a study on the status of the rights and guarantees of women in the penitentiary system, and their compliance with the best international regulatory standards. One of the main conclusions drawn is that, although in many aspects the situation in Catalonia is better than the international standards, a gender perspective must be added to its penitentiary policy and specific improvements must be implemented.

This year the CMPT Task force has revisited some of the penitentiary centers in Catalonia that have women's modules. The aim of the visits was a general follow-up on the recommendations made in 2016.

In the case of the Mas d'Enric Penitentiary Center, for example, following the last visit it was recommended to plan more activities for women to share with men. Considering that the module is small (with capacity for 64 persons), the center has decided to carry out mixed-gender artistic, sport and academic activities. Additionally, one of the recurrent complaints that arises from interviews with female inmates on the day of the visit is that they do not perform activities and, specifically, that they cannot go to the sport center. They also stated that there were some exercise machines for them

in the unit, but they were taken away. In light of this, it is necessary for the center to guarantee the organization of some physical activities for women in conditions equal to those of men, mixing genders if necessary.

Regarding the intervention programs for women, specifically in the area of gender, and addressed to women who have lived through or find themselves in situations of vulnerability, the Catalan Autonomous Ministry of Justice informed that it accepted the recommendation on the need to conduct a specific one based on this subject matter. Additionally, the correctional facility admits that it does not offer any, which is why it is necessary to carry one out, beyond the fact that in the individual treatment programs specific factors or needs are taken up that have to do with the gender perspective.

Another complaint recorded has to do with to the information provided to women on the center's internal regulations, and specifically, as they refer to operation of the laundry service. According to the interviews, they are not sure how much clothing they can send to the laundry, a recommendation that is conveyed to the center's administrators.

At the Ponent Penitentiary Center, one of the women interviewed stated that the situation had not improved since the previous visit. The only improvement had been the creation of a group of cultural organizers, in which inmates participate, that takes responsibility for proposing activities. To the contrary, the women interviewed admitted it was difficult to attend the activities programmed with a certain continuity, which explains why they were discontinued. Nonetheless, one change since the previous visit that inmates took a positive view of is that they have begun certain mixed activities with men.

That notwithstanding, a subject the female interviewees complained about was the lack of activities and intervention when in solitary confinement, either due to application of the first degree or because punishment is being applied. Complaints were also received on the psychological, and even physiological, effects that this prison regime has on women, considering that often there is only one woman serving a first degree sentence in the closed-regime unit

(DERT), which makes the confinement truly solitary. Therefore, it is confirmed that the closed-regime unit of the Ponent correctional facility is not prepared for an inmate to spend a prolonged period of time, beyond what is strictly indispensable to serve out a punishment.

In the case of Brians 1, the visit focused on the infirmary and the closed-regime unit (DERT). In the infirmary, there are many women with psychiatric pathologies, and some severe mental disorders. In the individual interviews held, it was found that many of them have spent some time in the DERT, although the UN Standard Minimum Rules for the Treatment of Prisoners prohibits application of solitary confinement measures when the inmate has some physical or mental disability that could be worsened under this prison regime.

Another finding was the lack of planned ongoing medical monitoring (especially of visits to the psychologist). Apparently, psychology appointments are only arranged on demand. In this context, it must not be overlooked that the Bangkok Rules stipulate that the mental health care needs of female inmates must be attended to through wide-ranging programs of health care and individualized rehabilitation.

In the realm of abuse, some inmates described episodes of verbal abuse and degrading treatment. The rest said they knew other female inmates who had allegedly suffered such treatment.

As for the DERT, the inmates interviewed all agreed that the treatment had improved over prior years, when they described having been victims of some type of abuse or mistreatment.

In terms of the disciplinary regime, they all considered the measure as punishment. Furthermore, those who had been subjected to restraint said they had been tied face-down over periods of many hours. In this context, the Bangkok Rules state that the usage of bodily restraint resources on inmates must be highly restricted and subject to a number of guarantees.

The inmates interviewed agreed with those of the Ponent Penitentiary Center DERT on the negative effects that come from spending

so many hours alone in a cell. This led some inmates, even some who had never before had such ideas, to consider injuring themselves at some time.

Another finding was the high prevalence of inmates with personality disorders and the fact that they generally have more trouble adapting to the rules. Additionally, women who have borderline personality disorder also have non-suicidal self-injury behavior, make suicide threats and other forms of violent conduct.

Last, a recurrent complaint among a majority of the women interviewed in all centers visited has to do with the prices of the CIRE shops. This is a topic on which for years the CMPT has reiterated its recommendation that the shops' prices be brought down to bring them into line with the economic capabilities of the inmates.

3. Application of solitary confinement in Catalan prisons

The 2016 CMPT Report devoted an entire chapter to analyzing the application of solitary confinement in Catalan prisons. Among other considerations, it was made clear that the Mechanism is in favor of restricting solitary confinement to situations of disruption or maladjustment that are thoroughly documented on an individual basis, case by case, without considering it sufficient to make generic references to extreme dangerousness or maladjustment of the inmate, but rather backing this diagnosis with specific data that justifies the adoption of the measure.

It also concluded that, once the first degree classification had been made, and as opposed to the current regime, the maximum number of hours allowed by the Penitentiary Regulations should be used for social and therapeutic treatment of the individual to minimize the risks of personal and psychological deconstruction.

On the other hand, the period of duration for the first degree (six months) as well as the obligation to review the measure three months after it is levied, are maximum periods that the penitentiary administration

can and must shorten as much as possible depending on the inmate's progress.

In this context, in June 2016, the director of Penitentiary Services presented an audit of the special closed-regime departments. The audit was to be the starting point to draw up an Emergency Plan, coinciding with the Task Force that had been created, precisely to analyze penitentiary solitary confinement.

To wit, on January 31, 2017, the Task Force on solitary confinement in the penitentiaries of Catalonia began its meetings in the Catalan Parliament. These sessions featured appearances of renowned experts from the medical and legal fields, such as the doctor Olga Casado (member of the CMPT Team), in addition to the participation of international experts, such as Juan Méndez (then the UN rapporteur for torture) and Mario Palma (former chair of the Committee for the Prevention of Torture of the Council of Europe), among other members of the Coordinating Committee for the Prevention of Torture. General deputy Ombudsman Jaume Saura appeared in representation of the Catalan Ombudsman to discuss the recommendations made by the CMPT in the last annual report (2016). Saura also referred to the case law of the European Court of Human Rights which under no circumstances condemns solitary confinement per se, unless it makes for complete lack of sensory and social communication.

In this framework, and as a result of the visits to penitentiary centers throughout recent years, this year the CMPT has especially emphasized the conditions and measures related with solitary confinement in Catalan prisons. After analyzing the data from 2016, it has been found that the percentage of inmates classified as first degree of the penitentiary system had remained constant, and that throughout 2017 the percentage had diminished.

The Catalan Ombudsman looks favorably on the emergency plan designed by the Directorate General of Penitentiary Services, which is theoretically being applied to the DERT's of Brians 1 Women, Brians 2 and Quatre Camins, and will be deployed throughout the rest of Catalan prisons until mid-2018. Specifically, as regards the limitation to 18 hours in the cell and the increased level of intervention in this system.

Nonetheless, the Ombudsman has reservations about the plan not responding to the possibility of reducing solitary confinement periods if the inmate justifies it, and to handle situations that, de facto, often come about with inmates accumulating consecutive regressions to first degree, and that can add up to years in this situation.

In the case of the Ponent DERT, there have been cases of women who described accumulating consecutive regressions to first degree, and even cases of finishing their sentences under this prison regime. Once released from prison, they described the difficulty of living in situations of normality, as they felt permanently afraid, and perceived everything as a constant threat.

In any event, following the recent approval of Circular 2/2017 on closed systems in the penitentiary centers of Catalonia, and looking ahead to the new visits planned for 2018, each DERT must be assessed in terms of its level of compliance with the mandatory elements contained in the circular. This is especially true as regards the intervention and prison regime of women's DERT's, in light of the fact that this year's findings show that their special needs are not taken into consideration.

This is also true for the women's DERT in the Ponent penitentiary center, where they remain in closed regime all day, without doing anything except going to the exercise yard at mandatory times. Nothing is done to ensure the care and treatment to improve their condition and modify the factors that led to the application of this prison regime. Additionally, it has been found that the duration over which the prison regime is applied is totally unnecessary, and that it has severe effects on individuals' physical and mental well-being. Some of the women interviewed described self-harm attempts or thoughts of death.

4. Detention facilities for minors and adults in the City of Justice

In December, 2015, a visit was paid to the minor and adult detention facilities in the City of Justice of Barcelona and l'Hospitalet de Llobregat, as a follow-up to the visit made in April, 2011.

Following the observations and information gathered by the Task Force, the Catalan Ombudsman, in his role as the CMPT, made a number of recommendations to the local Justice Administration Division (Gerència de la Justícia), the Institute of Legal Medicine and Forensic Science of Catalonia (IMLCFC) and the Catalan Autonomous Ministry of Home Affairs, related with:

- Conditioning a space to hold minors under protection in the City of Justice.
- Security in examinations of detainees and creation of a mandatory protocol for forensic doctors compliant with international standards and in accordance with the directives of the Istanbul Protocol.
- The recording system of each of the adult custody cells and along the lateral corridors of the minor and adult custody area.

As for the first issue, the Catalan Autonomous Ministry of Justice informed that it had set aside a budgetary item sufficient to properly condition the area for minors under protection. The Ministry also stated that the DGAIA was advancing in the process of closing a lease agreement with Incasòl (Catalan Land Institute) to use one of the commercial premises and a flat in an institutional building located near the City of Justice as a shelter facility for minors under protection who have to complete formalities in the justice buildings.

In relation with the second issue, and after a meeting with the management of the IMLCFC and the PG-ME, it was concluded that there is a clear need to apply the Mossos d'Esquadra action protocol to respect the privacy of medically examined persons, and guarantee the safety of police and treatment personnel health and of detainees.

Last, as regards the third issue, the Ministry of Justice informed that it had already designed the installation of cameras and the closed circuit video system for the City of Justice custody area. They were awaiting the Catalan Autonomous Ministry of Home Affairs' planning and validation of the technological and installation solution that has been designed.

In light of the answer provided, and to thoroughly follow up on the actions that each of the affected administrations had agreed to implement, the Catalan Ombudsman, in its role as the CMPT, once again addressed them and the Catalan Autonomous Ministry of Justice provided the following response:

- With respect to a new lodging area for minors, they were waiting for the dean of Barcelona to make a proposal or suggest a solution.
- The IMLCFC had sent a final draft for the care protocol for care of a detainee who had suffered abuse or torture.
- The IMLCFC had made contact with the Mossos d'Esquadra to discuss the matter of safety in the context of detainee examinations.
- An agreement had been reached to design a work plan to install a recording system in each of the adult custody cells and along the lateral corridors of the minor and adult custody area.

4.1. Custody area for adults

Another visit was made to the adult custody area this year. As reflected in the information sheet for this visit, there were changes with respect to our previous visit. In response to the recommendation on installing a recording system in each of the adult custody cells and in the lateral corridors, representatives of the Mossos d'Esquadra informed the Ombudsman's office that they are now improving the existing cameras and there is a project to install new ones. For this reason, the Mechanism has recommended that the improvement plan and the advancements in video surveillance in this area be implemented as soon as possible.

As regards the medical examinations of detained persons, it was confirmed that the action protocol continues as before; the exam is carried out with the door open and in the presence of the police, contrary to what had been recommended to guarantee the privacy of the examined individuals.

4.2. Custody area for minors

Two visits were made to the minors' custody area. On the first visit, it was found that it is the same area as before, and therefore, minors facing criminal trials and minors under protection by the DGAIA, especially unaccompanied foreign migrants, are mixed in the same space.

It must not be overlooked, on one hand, that the chief judge of the single-judge courts of the judicial territory of Barcelona already handed down a governmental agreement dated May 6, 2016 deciding to evaluate the suitability of executing the remodeling works necessary to physically divide the custody area for minors under protection from that for minors facing criminal responsibilities in the manner proposed by the commissioner-in-chief of the Barcelona Metropolitan Police Region.

On the other hand, regarding the minors under protection, the aforementioned government agreement resolved to evaluate the appropriateness of carrying out the indispensable actions for minors under protection of the DGAIA to effectively remain under their custody as they are in the City of Justice facilities, without prejudice to cooperation with the Mossos d'Esquadra when it is essential.

This year, the team was able to observe the conditions faced by these young people. Some of them are in the waiting room of the ground floor of Building F (Prosecutor's Office), with mattresses on the floor, without any order or privacy, and coinciding with the waiting area for family members and other minors. Those who were in the custody area, were in cells with the lights kept on 24 hours day (to guarantee the video surveillance), without any planned activities, and no possibility to shower, change clothes or brush their teeth.

After the visit, the team found out about the latest governmental agreement, dated October 13 of 2017, ordering the immediate cessation of the occupancy in the City of Justice facility by minors under the protection of the DGAIA, mainly for two reasons:

- It has not been authorized to do so by the competent bodies.

- It has been done in hurried fashion without properly assessing the interests at stake.

In short, the chief judge concludes that judicial facilities cannot be used as a "shelter", as understandable as it is given the overcrowding of the public services devoted to social intervention.

Nonetheless, a new visit was paid to the City of Justice following news in the media according to which the DGAIA had decided to relocate the unaccompanied minors who had been sleeping on the premises of the Prosecutor's Office to those of the Institute of Legal Medicine and Forensic Sciences of Catalonia (IMLCFC) or the minors' custody area for the city of Barcelona, along with those facing criminal charges.

It was found, and this was confirmed by the IMLCFC, that the space prepared to spend the night was empty, although different materials were being kept there (mattresses, sheets, shampoo, etc.). A visit was paid to the ground floor of the Juvenile Affairs Prosecutor's Office (Building F). No minors were found there, or even in the Mossos d'Esquadra police custody area. The coordinating prosecutor informed us that a wall had been built to physically divide the custody area into two; one for the minors under protection and the other for minors facing criminal charges, but the new spaces were not being used as per agreement of the chief judge herself.

In light of this situation, the Catalan Ombudsman handed down a decision in which he recommended the following:

- Implement sufficient preliminary reception capacity to avoid having unaccompanied foreign minors staying for prolonged periods in the custody area and detention waiting room of the City of Justice of Barcelona and l'Hospitalet de Llobregat before being assigned to a protection resource.
- Permanently prepare the new, properly conditioned waiting space for the care of minors under protection, review some aspects of the care given to the minors under wardship, for example, such as the

quality of meals, or intensifying efforts to reduce the duration of these youths' stays in these facilities, among others.

5. Admissions into geriatric centers of elders who are not legally invalid but cannot freely express their will

In its 2015 Annual Report, the Mechanism stated that it was common practice of the geriatric centers of Catalonia to consider as voluntary the admissions of senior citizens who were not legally invalid, but who, de facto, do not have the capacity to accept or reject the admission, as this decision was made by a family member of the elderly person. This practice was justified by Article 7, sections 3 and 4, of Decree 176/2000, regulating the Catalan Social Services System.

In that year's report, the Mechanism called attention to the fact that this decree contradicted a rule of higher rank, the Civil Code of Catalonia, pursuant to which, "in the case of de facto wardship of an elderly person, in which there concurs a cause of invalidity, if said elder is admitted to a residential facility, the owner of said residential facility must notify the judicial authority or Prosecutor's Office within a period not to exceed 72 hours from the beginning of the wardship" (Art. 225.2.2). Further, the Ombudsman recommended to the Catalan Autonomous Ministry of Social Welfare and Family to give instructions along the lines set out in this provision.

In 2016 this recommendation was reiterated and incorporated into a report of the Official Doctors' Association of Barcelona, which also made some practical recommendations on how to proceed for admissions to geriatric centers of persons who are not legally invalid.

This year the Catalan Autonomous Ministry of Labor, Social Affairs and Families has handed down Instruction 1/2017, of March 31, on the freedom to be admitted to and remain in a residential establishment for individuals who cannot freely express their will, but whose capacity has not been judicially modified.

The Instruction establishes, among other provisions, that the owner of the residential center, or the technical director on their behalf, must notify the judicial authority or Prosecutor's Office regarding the admission of all individuals presenting a cause for modification of their capacity, but whose capacity has not been judicially modified, when they are unable to freely express their will to be admitted to or remain in the residential center, whether the admission is made by a family member or person appointed by the judicial authority, or if there is no record of anyone as a de facto guardian.

This notification must be made in the first 72 hours following admission into the center and must include a number of medical, social and property documents.

Therefore, Ministry's Instruction fulfills the recommendation made by the CMPT and has had immediate effects on the practice of geriatric centers, as has been confirmed on the visit to the Centre Sociosanitari i Asil Nicolau Font (Nicolau Font Social and Health Care Nursing Home) in Lloret de Mar. It has also been taken into consideration that UPIMIR, the union of small and medium-size nursing homes, has published Circular 13/2017, on de facto wardships, which echoes Instruction 1/2017 and recommends its members directly address the judicial authority.

The Ministry's Instruction and the UPIMIR's Circular have resulted in an exponential increase in the notifications of non-voluntary admissions received by the courts of first instance specialized in invalidity, which have suddenly found themselves receiving dozens of weekly notifications. This avalanche of notifications could lead to an overload of case files in these courts and significant delays in their processing, for which the Autonomous Ministry of Justice and the High Court of Justice of Catalonia must provide the necessary resources.

6. Application of the Istanbul Protocol in the police realm

For the first time, the 2015 CMPT Report featured a specific chapter on the steps to follow for application of the Istanbul

Protocol for health care providers, in which the CMPT made clear, among other items, that as a general rule, medical examinations must be carried out in private, following international directives in this subject matter, and as with any another patient; in other words, without custody personnel present in the medical area, or within sight or earshot.

This recommendation was addressed to the Autonomous Ministries of Health, Justice and Home Affairs, and the first two accepted it.

On the other hand, the first answer from the Directorate General of Police was that police presence does not make for an intervention or interference in the course of the medical care. The Mechanism wrote that this response was highly unsatisfactory in the 2016 Report. In response to the considerations of the last report, the Directorate General of Police added that in Catalonia, health care centers do not have specifically conditioned facilities to guarantee the safety of the detainee and the public employees taking part. In these circumstances, their opinion is that, if the police officers are not within sight or earshot, as the Istanbul Protocol stipulates, they cannot effectively guarantee the safety of the detainee, nor of the medical personnel, the rest of users of the facility or the acting agents.

Notwithstanding this, they state that they do not rule out an evaluation of the situation in the near future as long as the circumstances have changed, and the moment is suitable to implement regulatory changes along the lines proposed by the Istanbul Protocol.

In response to this position, the CMPT seeks to reiterate for yet another year that it is not acceptable to claim that the police presence does not make for any intervention or interference during the course of the medical care. In the same vein, the CMPT Team is aware that the manner in which some local police forces operate in the transfer of detainees to receive medical care is diametrically opposed to the position of the DGP. Specifically, the decision is made based

on the medical care criteria expressed by the doctor who sees the detained person.

In line with what the Autonomous Ministries of Justice and Health, and the Institute of Legal and Forensic Medicine have done to promote knowledge and use of the Istanbul Protocol through a number of training efforts and courses, the CMPT believes that this training and qualification must be extended to the Autonomous Ministry of Home Affairs.

That is why, aside from recommending that the Catalan Autonomous Ministry of Home Affairs revise its position on guaranteeing the right to privacy in medical exams during the detainee custody process, the CMPT has recommended that the Public Safety Institute of Catalonia be notified of this ministry's desire to cooperate in this personnel training effort for law enforcement agencies on the Istanbul Protocol.

Although it has not received a specific response on this point, through the Resolution 647/XI compliance monitoring activities, on the inclusion of the Istanbul Protocol in the training programs of the Public Safety Institute of Catalonia, the CMPT has been made aware that in the 2017-2018 police training course, knowledge of the Protocol will be included (training unit 1.2., Human Rights and Professional Ethics, as well as training unit 3.6., Police Procedures) and an annex with content of the Protocol will be added. As regards the more practical part (training unit 7.1, Interdisciplinary Practices) the necessary practice sessions will be conducted.

Furthermore, in the basic training for the Provisional Police Officer Training Course for 2017, a section on rights and liberties, and knowledge of the protocol was included in Block I. The same process will be followed in training for professional promotion.

Last, in 2017 this course was held at the Public Safety Institute of Catalonia, from May 2 to 24, 2017, and knowledge of the Protocol was introduced in "Module I. Subject 1. Rights and freedoms".

VIII. GENERAL CONCLUSIONS

VII. GENERAL CONCLUSIONS

Following the visits made throughout 2017, the CMPT presents the following conclusions and recommendations:

1. Regarding the PG-ME police stations, efforts must continue to ensure better application of European directives on detained persons' rights and the Istanbul Protocol.

- The Mechanism shares the viewpoint of the Constitutional Court, in that Directive 2012/13/EU grants the right to access by the detainee and their defender, to the materials of the police proceedings that are fundamental to effectively challenge the legality of the detention. Therefore, the measures adopted up to now by the police forces of all Spain, including the PG-ME in Catalonia, such as enlarging the space on the rights information sheet to describe the category of violation allegedly committed, remain insufficient. The defense of the detainee must have material access to the original documents, including the arrest report justifying the detention. This right can only be restricted for special, and duly justified, reasons, such as protection of the victim.

- The Mechanism applauds the inclusion of the Istanbul Protocol in the training plans of the Public Safety Institute of Catalonia, but there must be an additional effort to comply with it in the daily practices of the PG-ME law enforcement agency.

Police presence in the course of the medical care provided to a detainee has a clear impact on this individual's real possibilities to describe possible abuse suffered in the context of the detention. Although security considerations are very important, stating that the proper conditions to carry out a medical visit that is respectful with detained person's right to privacy never exist in any hospital, primary care center or emergency department of Catalonia, is not a valid response. The circumstances of every case must be analyzed. Further, the opinion of the medical personnel visiting the patient must be heard, starting from the tenet

that the right to a private medical visit can only be limited in exceptional cases of agitation or risk.

- The Mechanism applauds the Ministry's will to install video surveillance cameras in the booking and identification rooms of PG-ME police stations, and recommends that this budget item be approved, and that the installation begin as soon as possible.

2. Turning to local police forces, all of the custody areas that do not meet the material detention conditions that are respectful with detainees' rights, or in which the rights recognized by Article 520 LECrim cannot be upheld, must be immediately closed. As for the rest of them, municipal authorities must determine whether it is efficient to maintain such facilities, and to the extent in which there are PG-ME stations in the same or neighboring municipalities, abstain from opening new local police custody areas.

- All detainees are entitled to medical care. This notwithstanding, the Mechanism has observed that oftentimes the interaction between local police and the Police of the Autonomous Catalan Government (PG-ME) has the effect of turning this right into a duty; a duty of the local police prior to transferring the detainee to the PG-ME to certify the state in which this person is brought to the PG-ME, and regardless of whether the visit is objectively necessary or has been requested by the detainee. Therefore, the medical visit loses its meaning as a guarantee for the detainee to become a guarantee for law enforcement agencies.

Paradoxically, on some local police forces, this procedure is carried out immediately following the detention, so that the medical report does not reflect anything that could have happened in the detention facilities. Last, the CMPT has observed that this is not standard procedure throughout all Catalonia, and that, in some police regions, the Mossos d'Esquadra police stations are more flexible when it comes to receiving persons detained by the local police forces.

The Mechanism is therefore of the opinion that there should be a general agreement between the PG-ME and local police forces

for the medical visit to recover its meaning as a right of the detained person.

3. In relation with penitentiary centers, a complaint that has been received on each of the visits made this year must be reflected here: the high prices of the *economat*. Although the CIRE claims to have carried out a number of actions aimed at lowering prices, and it has made the commitment to study new reductions, it has been found that the prices are still high for inmates as a group. That is why the need to continue reviewing prices downward for them to match inmates' economic capacities is being reiterated once again. In the same line, another recurrent complaint has to do with the menus offered and the thermal conditions in which they are served. For this reason, when the food is put on the isothermal carts it must be distributed as soon as possible to keep it from getting cold.

With respect to the closed-system departments, the Team found a lack of intervention for closed-system prisoners, and that in some centers, such as the Ponent Women's Penitentiary Center, the structural conditions necessary for an inmate to spend so much time there are not being met. The negative effects derived from this prison regime were also made clear from the testimony of the interviewed inmates. That is why there must be a follow-up of the new regulations for application of the closed system promoted by the Directorate General of Penitentiary Services.

It should not be forgotten that the regulations prohibit levying solitary confinement punishments when the inmate has any physical or mental disability, as the CMPT has detected cases of mentally ill individuals placed in a first-degree regime. In this context, it has been made clear how important it is for there to be medical professionals who apply a monitoring process for this rule to be observed, and for the thorough enactment of suicide prevention protocols.

In general, it was found that the women who were interviewed have more complaints than men, because they have needs and specific considerations that

either are not addressed or adjusted to by the penitentiary system. This underscores the need for there to be penitentiary centers exclusively for female inmates, and not women's departments inside facilities conceived and built to house men.

Special mention must be made of the closure of Barcelona's "Model" prison, and efforts should not be spared to guarantee the rights acquired by the inmates that have been relocated to other centers, improve accessibility of families to these centers, and not ignore that the capital of Catalonia must assume its share of responsibility in the area of penitentiary facilities as soon as possible.

4. With regard to children's and adolescents' centers, the recommendations made in Chapter II of this report are worth reiterating. In short, the adolescents in protection or juvenile justice centers are a highly vulnerable group with special attention and intervention needs for their recovery. These adolescents often display behavior marked by a rejection of the intervention. They can also act inappropriately toward themselves and their surroundings, a result of having suffered shortcomings or abuse over the course of their lives. They require a coordinated multidisciplinary intervention, and the establishment of a bond of trust with individuals of reference.

The centers visited, two CRAE's (Educational Activity Residential Centers), one CREI (Intensive Educational Residential Centers), two juvenile justice centers and the facilities of the City of Justice attend to a diverse array of populations and problems. On occasion, in the case of one of the protection centers in Barcelona, its deplorable facilities and accumulation of profiles with mental disorders has led the Catalan Ombudsman to reiterate his recommendations regarding the need to immediately adopt measures to guarantee a protective, recovery-oriented environment.

In the case of one juvenile justice center, based on the statements made by interviewees, it can be concluded that there is excessive use of force by security personnel when applying restraints, as

well as ambiguity around the center's system for youths in the ZIP (temporary intervention area) where they go when under the punishment of separation from the group. Therefore, it is necessary to revise the intervention protocol observed by some security guards when applying restraint mechanisms, which should be the last resort applied as an action complementing the work of the educator staff.

In relation with the City of Justice, once again the Mechanism asks for immediate solutions to guarantee the separation of adolescents in a detention situation from those who must be under protection, and also asks that this facility not be used for stays longer than those indicated, by guaranteeing more capacity for preliminary reception facilities.

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