



REPORT OF THE
CATALAN
MECHANISM FOR
THE PREVENTION
OF TORTURE
DECEMBER 2020

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

ANNUAL REPORT
OF THE CATALAN
MECHANISM FOR
THE PREVENTION
OF TORTURE
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I. INTRODUCTION

1. INTRODUCTION

The year 2020 has been exceptional due to the serious health, economic and social crisis caused by the COVID-19 pandemic; a crisis that has affected and continues to affect the ordinary functioning of the public administration and the private sector and that has had repercussions at all levels.

In this context, taking into account the consideration and the functions for which it was created, the operations of the Catalan Mechanism for the Prevention of Torture (MCPT) have also been affected by the pandemic.

It should be recalled that, in accordance with Article 17 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Law 24/2009, of 23 December, of the Catalan Ombudsman, Article 1 attributes to this institution the status of the Catalan Authority for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ACPT). In doing so, the law considers the competences of Catalonia in the areas in which the prevention function is relevant, such as law enforcement, the police, juvenile justice, the protection of children and adolescents, health and others. It also takes into account the powers and functions that the Statute of Autonomy entrusts to the Catalan Ombudsman in exercising the function of protection and defence of the rights of individuals.

The same law provides in Article 69.1 that the Catalan Ombudsman acts as the ACPT in all spaces where people are deprived of their liberty, whether they are centres or facilities located in Catalonia or are means of transport that pass through its territory, if these spaces depend on the administrations, bodies, companies and persons referred to in Article 78.1 of the Statute.

In order for the Catalan Ombudsman to comply with the legal and conventional order to establish a system of regular visits to places where people are deprived of their liberty to prevent torture and other

cruel, inhuman or degrading treatment or punishment, **an interdisciplinary working team of professionals was created who during these 10 years** have been dedicated to carrying out these visits without prior notice, as well as an **advisory board**, serving as a body of assistance and advice. Both have changed in their composition, as indicated in the institutional section.

The visits to establishments of incarceration usually enjoyed the participation of advisory staff of the Catalan Ombudsman's Departments of Public Safety, Children and Health, so the visits also addressed aspects that are of special interest and follow-up for the work carried out by the institution. Likewise, during these years there has also been collaboration and participation by external technicians, basically from the field of health, who have assisted the team in practicing technical evaluation.

The aim of the visits was to analyse the dysfunctions and shortcomings of the centres and the whole incarceration system from a preventive perspective, to interview the people deprived of their liberty and the professionals working in the respective centres, and issue appropriate recommendations to the administrations responsible for amending or improving them in order to contribute to the prevention of torture and ill-treatment and to the culture of human rights.

To report on its activity, and in compliance with Article 74 of Law 24/2009, since 2011 the Catalan Ombudsman has presented a monographic report to the Parliament of Catalonia on the actions carried out as the ACPT, and currently the Catalan Mechanism for the Prevention of Torture (MCPT). All the reports presented on the institution's website are available to the public.

Therefore, this is the 10th monographic report presented to Parliament by the MCPT. As such, it aims to provide an analysis of the activity carried out, the results, the objectives achieved and those pending compliance by the competent administrations, as well as the situation of torture in Catalonia during this time, ascertained by the monitoring and preventive activity of the MCPT in places of incarceration.

The report is structured in two major parts. The first, corresponding to the activities of the year 2020, contains two sections. As is customary in recent years, a monographic issue is addressed. This year it monitors the measures adopted by the Penitentiary and Juvenile Justice Administration in the face of the COVID-19 pandemic, as it could not be otherwise.

The second section is related to the visits made in the current year and the corresponding files, as is also common. This year, however, this section is quite small, given that since the declaration of the first state of emergency (14 March) and given the COVID-19 health crisis, the MCPT Working Group decided to suspend periodic visits to detention centres, with the last visit held on 11 March. Although the group met again after the summer and visits were scheduled for the last quarter of the year, the uncontrolled increase in COVID-19 cases starting in October and the new

confinement and social distancing measures advised suspending visits again.

The second part of the report takes stock of the first 10 years of the Catalan Mechanism for the Prevention of Torture. To this end, it contains a section to monitor the 10 years of operation of the MCPT, which includes the activity carried out during these years by the MCPT based on the number of visits made, the composition and changes in the Working Group and the Advisory Board, an institutional section and, finally, a report on the state of compliance with some of the main recommendations that have been derived and transferred to the competent administrations during this period.

Finally, the report ends with a section on the conclusions drawn from it and a series of reflections on the tasks and challenges pending for the MCPT.

PART ONE: YEAR 2020

I. MONOGRAPHIC REPORT

MONITORING OF THE MEASURES ADOPTED IN PRISONS AND JUVENILE DETENTION CENTRES IN THE FACE OF THE COVID-19 CRISIS

The MCPT Working Group had to abruptly interrupt visits following the declaration of the state of emergency on 14 March 2020. This has not prevented the Catalan Ombudsman, in collaboration with members of the group, to continue its work to prevent torture and ill-treatment in the prison and juvenile justice system through other forms of control and supervision.

Activities, management and procedures in prisons and juvenile detention centres have been affected by the pandemic caused by the spread of the SARS-CoV-2 virus. The easy and rapid spread of the virus that has taken place in the community as a whole has conditioned the system of life and ordinary work in prisons and juvenile detention centres in a very particular way, both for people incarcerated there and professionals who provide their services within the system of penal enforcement and juvenile justice system.

Both during the first wave (March-June) and second wave of COVID-19 (starting in October), investigations were begun and developed through *ex officio* actions, relating to the effects of the pandemic and of the two states of emergency on persons incarcerated in prisons and juvenile detention centres.

HEALTH MEASURES

At first, the health teams of the prisons developed a contingency plan that included dividing the medical team in two and going to work on alternate days, so that if a team were affected by COVID-19, there would be enough staff in each health category available to meet the needs of the centre in question.

For inmates, scheduled visits to outpatient centres and health programmes were reduced to the bare minimum because

outpatient medical centres were one of the major foci of infection. Thus, outings were reduced to a minimum, as the authorities were well aware that an infection inside the prisons would come from outside.

Thus, it was determined that people re-entering or returning from hospital would spend 14 days confined in a special module with the aim of actively monitoring them and ensuring non-infection. This confinement was also done to ensure that the person did not become any danger of infection for the rest of the inmate population when moved to the prison's general population.

Despite the general difficulties, protective equipment could be provided to the prison's medical teams. When the Catalan Ministry of Justice's individual protection teams (hereinafter, IPTs) did not arrive, instructions were issued to provide the IPT to the prison staff who had to perform the intervention with the inmate.

It was agreed with the Terrassa Penitentiary Hospital Pavilion that inmates diagnosed with COVID-19 would be sent there while beds were available, even if they did not meet hospitalisation criteria. This was intended to provide general protection and allay prison professionals' concerns at the same time. The agreement provided that if the Pavilion were saturated, people admitted with mild symptoms would be discharged to make room for people who really needed hospital care.

The ICS Prison Health Programme compiled a list of the most vulnerable inmates in terms of health in order to transfer them to the Catalan Ministry of Justice and evaluate possible alternatives to staying in the prison. The intention was for the most vulnerable inmates who could not be released (so they could serve their sentences) would be admitted to a unit free of COVID-19 in separate residential modules.

Despite these measures proposed by the Catalan Ministry of Health, the Pavilion collapsed in the days leading up to Easter. That is why a low-complexity COVID-19 patient care unit was put into operation.

In early April 2020, an infection outbreak was detected in residential module 4 (MR-4) in the Quatre Camins Penitentiary. Tests were performed on all inmates in module (145), 33 of whom tested positive for COVID-19 asymptotically. The infected inmates were separated and the uninfected inmates were transferred to an empty, disinfected and clean residential module (MR-1). Infected inmates were admitted to MR-4, which was disinfected and cleaned.

As of 22 April, 289 PCR tests had been administered to inmates in prisons in Catalonia, which accounts for 4% of the prison population. Fifty-eight inmates tested positive. Upon learning of the infection, they were isolated for health reasons and a contact study was carried out according to the authorised procedures at all times.

TREATMENT AND ACTIVITIES

Treatment activities such as specific treatment programmes (gender-based violence, general violence, sexual violence, intervention in traffic safety offences and addictive behaviours) and general programmes (competition, preparation of first permits, etc.), have been suspended and only activities related to education and health care, COVID-19 prevention and activities of energisation and positive emotional management are allowed. The group activities that are allowed are limited to a maximum of 10 inmates of the same unit.

Individual interventions aimed at rehabilitation conducted by different professionals have also been affected. Thus, treatment professionals make efforts to report on the pandemic, take preventive action and support emotional management, given the situation of confinement within the centres and the possible uncertainties and tensions that may occur in the community.

Adult training and occupational training centres and sports centres have been closed in accordance with the instructions of the health authorities. However, inmates may go out into extramodular spaces following the order not to mix inmates from different residential modules or different units.

Inmates may engage in physical activity in open spaces, but activities involving contact or proximity are not permitted.

On an individual basis, art monitors provide the material and guidance for the person to do the activity on their own, limited by the tools and materials set by regulation within the centres.

The regimental schedule has been adapted to the new situation, so inmates who request voluntary admission to the cell and have no activities are allowed inside. Periodic head counts and mandatory mealtimes take place in the unit's dining room. Meals have been arranged in shifts to avoid congestion.

Production workshops maintain their activity as long as material is available. Separation measures have also been taken to ensure that there is no contagion between inmates of different units.

Auxiliary services keep their planned organisation system in place, except for bakery, laundry and kitchen workers, who have been spread across one or two modules depending on shifts and schedules. The people who work in the office have become better informed and emphasis has been placed on proper food handling practices and the need to wash their hands frequently, in addition to complying with the plan for cleaning utensils and facilities.

The same prevention rules are maintained for the staff of outsourced companies (suppliers, transporters, etc.) and the rest of the centre's staff (hygienic measures, minimum distance between people and use of a surgical mask).

In relation to cleaning, prevention and safety equipment, the authorities have increased the frequency of hygienic kits and liquid soap dispensers have been placed in common areas where there is water. Inmates' towels are also washed at least once every two days.

Outsourced companies have increased cleaning and disinfection in each centre and use disinfectants such as bleach or a solution of sodium hypochlorite.

CLASSIFICATION AND LIFESTYLE

Inmates who were classified in the third degree of penitentiary treatment when the health crisis broke out have been subject to the lifestyle provided for in Article 86.4 of the Penitentiary Regulation (RP). The public administration has assessed the development of inmate treatment and ensured that they have a suitable home to comply with the general home confinement order.

The rest of the people classified in the third degree have been confined in open prisons.

People admitted to attached units have been sent to halfway houses, except for those without a halfway house or those for whom the measure was inappropriate in terms of treatment.

People on parole are monitored by telephone or online in order to follow the general condition of these people and their families and they are reminded of the obligation to remain confined to their homes for the duration of the state of emergency.

People on parole who were out of the region when the state of emergency was declared have had their authorisation extended and the decision has been reported to the respective penitentiary surveillance courts.

Ordinary permits, administrative permits and scheduled departures have been suspended.

COMMUNICATION

Communication was reported to have been suspended. Thus, in order to strengthen the contact of inmates with their families and friends, the number of weekly phone calls has been increased to 20, lasting eight minutes.

Two new modes have also been introduced: (1) video calls with a smartphone via WhatsApp (at least one per week) and (2) video conferencing via computers in computer rooms and Punt ÒMNIA.

Communication with families has been an important focus for the public administration.

Indeed, at first the centres proactively contacted the families and contact persons to inform them of the situation that the confinement entailed. An information area for families has also been created on the Catalan Ministry of Justice's website, and a telephone hotline has been set up to answer any questions and requests for information regarding the inmates concerned.

The Catalan Ombudsman recommended that the Penitentiary Administration move up to the third degree of penitentiary treatment all persons classified in the ordinary regime who enjoyed the lifestyle provided for in Article 100.2 of the Penitentiary Regulation (RP), provided that they are able to lead their lives in conditions of semi-liberty. The recommended measure was to generally benefit and not discriminate against any of the inmates who met the requirements, so it would also have benefited the nine people convicted by Supreme Court Ruling 459/2019.

The Catalan Ombudsman's recommendations were based on the recommendations of the rapporteur of the Parliamentary Assembly of the Council of Europe, the United Nations' Secretary-General and the UN High Commissioner for Human Rights, as well as the recommendations of the UN Subcommittee on the Prevention of Torture and the Council of Europe's Committee for the Prevention of Torture, aiming to lower the prison population during emergencies, prevent the risk of infection and reduce concentrations of people inside the centres.

Faced with this recommendation, the Penitentiary Administration has announced that it has applied the mode provided for in RP Article 86.4 to 1,139 inmates, of whom 245 were moved up from the second degree of penitentiary treatment.

The Secretariat of Penal Measures gave instructions for the treatment boards of the different penitentiary establishments to individually review the situation of the inmates to which RP Article 100.2 applied and who presented a low or medium risk of recidivism and breach of sentence. The boards agreed to move up 15 inmates through agreements that must be authorised by the prison surveillance court. Also, the health and age of some inmates were reviewed

and 15 more inmates were moved up to the third degree in application of RP Article 86.4.

RECOMMENDATIONS

The Catalan Ombudsman recommended that the Penitentiary Administration maintain the new measures adopted, as they were beneficial for inmates, and also to resume treatment and rehabilitation activities with the appropriate hygiene and health guarantees. More specifically:

- To get the multidisciplinary teams of the centres to make proposals to move up to the third degree of treatment with non-telematic application of RP Article 86.4 to inmates who, by their characteristics, are in conditions to fulfil a regime of semi-liberty and to follow the confinement order from their homes.
- Initiate treatment activities as soon as possible and with appropriate precautions and guarantees, especially with regard to specific treatment programmes (SAC, VIDO, DEVI, VIGE and drug addiction).
- Initiate the practice of individual sports in common areas, especially in centres where there are no inmates infected with COVID-19, provided that the safety and hygiene of the space is guaranteed. Bodybuilding and gym machines should be disinfected after each use.
- With the initial phase of the “new normal”, start the enjoyment of suspended ordinary permits and scheduled departures, especially those granted for therapeutic and treatment purposes.
- Maintain the new Internet-based communication measures in the centres, in the sense that inmates can continue to enjoy video calls and video conferences with family and friends.
- Initiate spoken communication through the window (glass partition) with the maximum guarantees of health and hygiene and begin and bring back suspended special private communications and forms of coexistence as soon as the state of “new normality” is reached.
- Maintain a flexible information service implemented for the health crisis, with referral of the queries raised by families to the respective referents of inmates in prisons (social workers and educators).
- Minimise stays in the first-degree system, making sure that the inmates can complete the determined programme intensively in order to return quickly to the second-degree system.
- Provide hygiene equipment (bleach and disinfectant) when inmates justifiably require it and have hydroalcoholic gels and soap in common areas. It is important that inmates continue to remember the need to wash their hands frequently.
- Attend with the utmost urgency to the symptoms of COVID-19 infection, with preventive isolation, follow-up of possible contacts and location in departments to avoid contagion. Perform screening tests on inmates with symptoms.
- Provide surveillance and treatment staff and other administrative staff with hygiene, protection and safety equipment and remind them of the need to wash their hands frequently.
- Proceed to disinfect the system and treatment office areas with the maximum guarantees, especially in centres where some of the staff have been infected with COVID-19.
- Facilitate the practice of PCR diagnostic tests for professionals who have symptoms of COVID-19 infection and for those who have been in direct contact (albeit at low risk) with people already diagnosed.
- Increase the number of treatment professionals dedicated to giving the administering programmes as much as possible and according to budgetary availability in order to reduce the groups’ capacity and be able to conduct more individual and more intensive monitoring.

These recommendations were accepted by the Catalan Ministry of Justice on 29 May 2020.

SECOND WAVE

The appearance of new outbreaks of COVID-19 in the community, together with the possibility of infection of people admitted to prisons and juvenile detention centres, led to another case of ex officio action to analyse the work of the Penitentiary Administration to ensure the minimum risk of infection in prisons while continuing with its essential daily work.

During this period, the measures adopted by the Penitentiary Administration focused on the establishment of COVID-19 prevention protocols in accordance with the situation of resumption and the “new normality” conditioned by health and protection measures adopted by the competent authorities.

Also, in July, the Catalan Ombudsman became aware of two incidents related to the management of the pandemic in prisons, which were investigated through the corresponding official actions:

a) A group of young inmates from the Mas d’Enric Penitentiary Centre burned bedsheets and threw them out the windows to show their dissatisfaction with the replacement of special private, family and coexistence communication by spoken or video calls. As a result of these incidents, some inmates were isolated and placed in the Special Department.

Following the institution’s request for information, the Catalan Ministry of Justice reports that normalcy return to the penitentiary once the inmates were

informed of the reason for the decision taken and how communication would operate from that time onwards.

b) Incidents at the Brians Penitentiary Centre as a result of the new orders restricting special communication and replacing it with spoken or video calls. Faced with the demands of the inmates and their families, officials had to allow communication as scheduled and were unable to enforce the orders, which led to an increase in risk for both the Communications Department staff and the inmate population.

Subsequently, the Catalan Ministry of Justice has reported that communication was maintained over the weekend in which the incidents took place and that it was restricted as of Monday, in accordance with the orders issued by the Crisis Committee.

More recently, there have been investigations into the effects on inmates of the new mobility restriction measures adopted by the Government of Catalonia in October and November, especially during the weekends. Specifically, the impact on spoken and special communication that usually takes place on weekends has been evaluated.

Although no official response had been received from the Administration when this report was being written, the MCPT has learned that the Catalan Ministry of the Interior has agreed with the Catalan Ministry of Justice to establish exceptions during the restriction of municipal mobility during the weekends allowing the movement of friends and relatives to maintain spoken and private communication with inmates incarcerated in the penitentiaries.

II. VISITS MADE IN 2020

1. VISITS MADE IN 2020

Nine visits were made in 2020, according to the following breakdown:

- Generalitat and Mossos d'Esquadra police stations: 4
- Penitentiaries: 3
- Juvenile detention education centres: 1
- Centres for adults with intellectual disabilities: 1

The four visits to the **Generalitat and Mossos d'Esquadra police stations (PG-ME)** were follow-up visits. The police stations of Terrassa, Sabadell, Badalona and Sant Adrià de Besòs were visited. This year, in addition to monitoring compliance with the recommendations made in previous years, emphasis was placed on the protocol for the transfer of detainees between police forces and the judicial system and on the effectiveness of the rights of arrested individuals as a result of the amendment to Criminal Procedure Act (LECrím) Article 520 introduced by Organic Law 13/2015.

Regarding the rights of detainees recognised by LECrím Article 520, it is stated that in all the police stations visited there is a telephone number placed in one of the telephone booths in the custody area from which the detainee has the right to communicate by telephone with a third party of their choice in the presence of a police officer. There are differences in the internal police operations, depending on whether the police call the designated person first to ask for permission or not. Thus, in Terrassa and Sant Adrià de Besòs, it is the police officer who makes the call, tells the respondent where the call is coming from, verifies the identity of the person who wants to communicate and asks if they want to answer. In Sabadell and Badalona, however, the detainee makes the call directly.

According to the Directorate General of Police (DGP), following the recommendations transferred by the MCPT, an internal statement was issued affecting the entire PG-ME, which recalls the detainee's right to communicate by telephone, without justified delay and

with a third party of their choice. The call must be made by the police officer, who must ask the respondent if they authorise it. The call can last no longer than five minutes and is made in the officer's presence.

Regarding legal assistance within the first three hours of detention, it is clear that he or she does not appear in person within the first three hours of the notification of the arrest, but usually arrives when the detained person's statement is taken. At the Terrassa Police Station, this could be verified by examining the police proceedings of the two people who were detained at the time of the visit. Only in Sant Adrià was it reported that the lawyers are usually quite compliant, meaning that they come within the first three hours set by law to provide assistance to the detainee.

Therefore, this year the MCPT has addressed the respective bar associations to highlight this practice and call for the necessary measures to be taken to ensure that the members of the association know and provide attention to detainees within the first three hours of the police station's announcement of their arrest.

Regarding the transfer of detainees to court, it is noted that the dual driving system has not been established, so detainees are transferred in the early hours of the morning. There are some cases, such as the Sabadell Police Station, where this is the general practice, yet if a person is transferred in the afternoon, they call the judicial authority, which usually accepts. This also occurs at the PG-ME police station in Sant Adrià, where there have been some cases in which they called the judicial authority directly if the statement was taken during the morning. However, the usual practice is that they are only performed in the morning, despite the volume of arrests in some locations, such as in Badalona, with an average of 2,000 arrests per year.

Regarding the follow-up to the recommendations made as a result of previous visits, particularly those relating to the conditioning of custody areas (ACDs), it can be seen that the review rooms do not yet have video surveillance. The DGP reports that the PG-ME considers it necessary to provide video surveillance cameras inside the review rooms. This and other improvements are

currently subject to budget availability. As soon as the circumstances allow and as long as the Catalan Ministry of the Interior agency in charge of implementing and supervising the Quality System in the Detention Process approves it, this will be installed in all ACDs.

Regarding containment systems, it is found that full-face helmets such as those used by motorcyclists are still used as a standard logistics material for ACDs, instead of protective helmets for detainees. The DGP's view is that they are currently unaware of anything that better ensures the safety of the detainees' skulls and faces than the helmets with visors they use.

However, the DGP reports that the recommendation regarding the use of anti-trauma helmets on detainees is planned as part of improvements to the detention process. In this sense, the PG-ME and actors in the healthcare sector participate in the interdepartmental work committee that develops a procedure of actions for agitated people in outpatient settings. This procedure is currently being reviewed and the committee's conclusions are being adapted to the internal procedures of the bodies involved.

Action has been taken to improve the situation of bad odours, such as in Terrassa.

Regarding the blankets given to detainees, in one new development the Terrassa Police Station has implemented the single use of blankets in compliance with the recommendation of the MCPT. In Sabadell and Sant Adrià, the criterion of changing them after every four uses is applied. While in Sabadell control is computerised, in Sant Adrià it is still performed manually.

Regarding the protocol of medical assistance for detainees, in order to comply with the Istanbul Protocol, it was reported during the visits that police officers continue to be present and have access to the detainee's medical records, alleging that it is necessary to know the pharmacological guidelines they may need to follow.

In view of this, the DGP reasserts remarks made on previous occasions that it is the police officers who are responsible for the custody of the detainee. It is clear that this is

a medical examination in the context of this condition, so the appropriate measures must be taken to ensure the safety of detainees, medical staff and the agents themselves.

Regarding the **penitentiary centres**, visits were made, in this order, to the Lledoners Penitentiary Centre, the Quatre Camins Penitentiary Centre and the Barcelona Women's Penitentiary Centre.

Something new this year was the accompaniment of an advisor from the Children's Department on the visits in order to evaluate and study the spaces and practices in the penitentiary centres to promote and strengthen the bonds between imprisoned parents and their children. Therefore, this year special attention was also paid to the spaces, conditions and operations of ordinary and special communication between the two and the centre's social workers were interviewed and given a questionnaire on aspects of interest related to the subject.

Following the working meeting held by the Catalan Ombudsman's Children's Department with the Brians 2 Penitentiary Centre's Education and Parental Responsibility Management Group, the project was revealed within the centre's participation plan, aimed at carrying out comprehensive action generating a social dynamic and climate of co-existence in terms of norms, values, habits and forms of interaction as similar as possible to that of any normalised social group within the legal and security framework.

The project was created to implement participatory practical experiences that help people serving a prison sentence to continue performing their role as an active and responsible parent through the collaboration and linking of education services and leisure, health, family, social and child and adolescent rights organisations and to build a participatory network that shares the common goal of preserving and ensuring the well-being and future of families and especially of children of imprisoned parents.

From here, the Children's Department has taken ex officio action to study the measures currently in place to guarantee the right of children and adolescents to have a relationship with their imprisoned parents. In addition, the files of the visits include the main

observations and recommendations made to the Secretariat of Penal Measures, Reintegration and Victim Care.

Moreover, the visits have again generally focused on interviewing people deprived of their liberty, some professionals from multidisciplinary teams, civil servants and doctors, as well as the management of the centre.

In the Lledoners Police Station, the inmates interviewed generally said that they had not been abused, though some reported arrogant attitudes and verbal abuse, which is why it has been stated that the management of the centre must restore discipline if aware of such conduct.

The prices of products in the CIRE shop were a recurring complaint expressed by inmates, as they remained high.

Regarding the registration of inmates' petitions and requests, the system implemented by the Secretariat continues to prompt inmates' complaints and suspicions, which is why the Catalan Ombudsman has taken new ex officio action on this matter to understand the state of the arrangements made.

Although in general there are no complaints about the quality of meals (with some exceptions), the inmates agreed that the helpings are too small and that it is difficult to have seconds if they are hungry, so the centre's food committee has been asked to study this complaint in relation to the number of meals prepared and take it into account and inmates, who also sit on this committee, have been asked to make suggestions.

Like on previous occasions, the closeness of the professionals to the inmates and the low levels of conflict in the Women's Penitentiary Centre are valued positively. Particularly, excellent care is provided to children between 0 and 3 years old who live with their mothers.

It continues to be seen that health kits are distributed by cell and not by person. The prisoners can order any additional product they need, but the authorities do not always give it to them. In these cases, they must buy them either at the shop or at the pharmacy when they place their monthly order. Some

inmates again point out that the kit does not contain pads. The Secretariat confirmed that they were not included because not all women need them, so they are provided at the women's request.

Finally, it should be noted that the Quatre Camins Penitentiary Centre is in the process of architectural reform and therefore there are some spaces such as the organic infirmary or the MR-1, which are closed. They will take advantage of the works to change the distribution of the centre, with finalist units in which all the inmates can get access to the benefits depending on the programmes in which they participate, regardless of the unit in which they live.

Although the centre has a disinfection and an insect and rat extermination service, recurring complaints about rats and mice were expressed by the inmates interviewed and the centre's own management.

Another recurring complaint from the inmates was the lack of psychiatric care and the prices at the shop.

Inmates admitted to the DAE-DID continue to show that they are better off than in ordinary-life modules.

In addition to interviews with inmates, the group met with DERT officials, who complained about the lack of staff. It was also noted during the visit that there were inmates with psychiatric and behavioural disorders that did not adapt to the module and end up being referred to a module with more restraint.

As for **juvenile detention centres**, this year a visit was paid to the Montilivi centre in Girona. The visit is scheduled due to a complaint received from the magistrate of the Juvenile Court of Girona regarding the situation of the school. The magistrate asked the Catalan Ombudsman to conduct an inspection because she detected a possible violation of the rights of minors due to the shortcomings observed there during a visit that she and the coordinating prosecutor for minors paid in September 2019.

The visit focused on the facilities, the interviews with the young people and the management of the centre, and on viewing of

the recordings of the latest immobilisations. One of the improvements over the previous visit is that the centre now has spaces with video surveillance cameras, although more still need to be installed, and the containment rooms also have cameras that record image and sound. The group also viewed two restraints, one of which was very disproportionate.

However, there is a need to create internal separation groups that allow for a differentiated response to the needs of adolescents and young people depending on the measure imposed, their age and other needs. There is also a need to provide the Montilivi centre with educational and training resources that cover the educational and training needs of all boys kept in closed internment.

Apart from the opinion of the MCPT, which would generally tend to abolish containment measures, this centre does not have a specific protocol, the spaces or the conditions to apply them with all guarantees and in accordance with international standards for protecting and safeguarding human rights.

Since the visit was the subject of an action by the Catalan Ombudsman's Children's Department, the file includes the recommendations included in resolution AO 1343/2020.

Finally, the MCPT visited a **centre for people with disabilities**. This is the El Lluç residence for people with intellectual disabilities, which welcomes people with intellectual disabilities and conduct disorders who need extensive support. The visit was carried out following a complaint received from two former employees of the centre (two educational technical assistants who worked there during the summer of 2019) in which they referred to what they considered verbal and physical abuse. They stated that the aim of the centre is to contain people and not promote their development.

According to the file, it was not possible to verify the alleged irregularities reported by the former workers, but considerations were included in relation to mechanical restraints, as stated in the visit reports written by the Social Services Inspectorate, which also visited the centre to verify the reported facts.

PART TWO
TEN-YEAR REVIEW OF THE CATALAN
MECHANISM FOR THE PREVENTION OF
TORTURE (2011-2020)

I. INSTITUTIONAL SPHERE

A. COMPOSITION OF WORKING TEAM AND THE MECHANISM ADVISORY BOARD

Working Group

Article 76 of the Catalan Ombudsman Act provides for the creation of a working team dedicated to carrying out regular visits to places where prisoners are in compliance with the order contained in the Optional Protocol. This team is led by the ombudsman, or the person he or she delegates; two members proposed by the head of the institution from among their staff and two members nominated by the Mechanism Advisory Board.

On 30 September 2010, the Advisory Board elected Eva Labarta and José María Mena to serve on the Mechanism Working Group. The Catalan Ombudsman, in turn, appointed Ignasi Garcia and Mar Torrecillas to be members of the Group. In accordance with the procedure laid down, Parliament ratified the nominations.

In 2011, the Group began to visit the spaces where prisoners live. Since then, there have been changes in the people that have participated of it.

Thus, in late 2011, Ignasi Garcia Clavel ended his duties in the Catalan Ombudsman and as a member of the Working Team. His vacancy was filled by Jaume Saura, who was a member of the Advisory Board.

In May 2015, Jordi Sànchez i Picanyol was elected president of the Catalan National Assembly and resigned as Deputy General of the Catalan Ombudsman. At the request of the Catalan Ombudsman, the Parliament of Catalonia appointed Jaume Saura Estapà as Deputy General in June 2015. Since Jaume Saura was a member of the Advisory Board and the Working Group, he had to be replaced in these positions. In this regard, the Catalan Ombudsman considered it appropriate that the vacancy in the Working

Team should continue to be filled by a member of the Advisory Board and proposed that it be Olga Casado, who had been appointed at the request of human rights non-governmental organisations. Thus, the practice was maintained, beyond the Catalan Ombudsman Act, the MCPT Working Group would be composed of two people from the Catalan Ombudsman (the Catalan Ombudsman or deputy in whom he delegates and an advisor from the Catalan Ministry of Security and Justice) and three people from the Advisory Board.

In December 2016, Eva Labarta submitted her resignation as a member of the Working Group. On 13 February 2017, the Catalan Ombudsman's Committee of the Parliament of Catalonia ratified the appointment of David Bondia as a member of the Mechanism Working Group, replacing Eva Labarta. David Bondia had been appointed by the Catalan Ombudsman at the unanimous request of the Mechanism Advisory Council. Thus, from February 2017, the Working Group became composed of the Catalan Ombudsman and the deputies by delegation, José María Mena, David Bondia, Olga Casado and Mar Torrecillas.

Finally, this year one of the members appointed at the request of the Advisory Board, José María Mena, has voluntarily ceased to hold the position for which he was appointed. After having been appointed by Parliament as one of the members of the Advisory Board in 2010, he became part of the Working Group in 2011.

Moreover, until Olga Casado joined the MCPT in 2017, the Working Group's visits were strengthened by the occasional addition of expert technicians, such as a doctor specialised in psychiatry and legal and forensic medicine and an internist specialised in health management. Their participation made it possible to improve the analysis of the medical aspects and the use of physical and pharmacological restraints, which must often be assessed during visits.

Advisory Board

Article 77 of the Catalan Ombudsman Law creates the Catalan Ombudsman's Advisory Council for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in order to assist and advise the Catalan Ombudsman in exercising the functions corresponding to the Catalan Authority for the Prevention of Torture (currently, the MCPT).

The third section of the same article provides that the members of the Advisory Council "are elected by Parliament and appointed by the Speaker of Parliament for a term coinciding with that of the Catalan Ombudsman. The election is made in accordance with the procedure established by the Parliament's Rules of Procedure from among the candidacies that are presented once the call has been published in the *Official Gazette of the Parliament of Catalonia*".

Since then, members appointed by Parliament have changed over the years, either because they have ceased to hold office for which they were appointed or because they have left voluntarily. There have also been changes to the substitutes of the people representing the professional associations when they could not attend the sessions of the Advisory Board. In this sense, the members of the Advisory Board and the Working Group adopted the criterion of being able to delegate their replacement to a single person. This criterion was submitted to the Catalan Ombudsman's Committee in Parliament, which agreed. Likewise, and in accordance with the planned procedure, when this occurred, the name of the substitutes who would attend the meetings of the Advisory Board were given to Parliament when any of the representatives of the respective professional associations were unable to attend.

In short, Antoni Molas, Jordi de la Tienda, Ignasi Puig Ventalló, Ester Palmés and Olga Arderiu have participated as members of professional bar associations. Current participants are Ignasi Puig Ventalló, representing the Catalan Bar Council, and Frederic Munné, representing the Barcelona Bar Association.

Participating members of health associations have included Montserrat Teixedor, Màrius Morlans, Carme Puig i Vilalta, Rosa M. Servent and Núria Cuxart. Rosa M. Servent is currently representing the Barcelona Medical Association and M. Lluïsa Brull Gispert is representing the Barcelona Official Nurses Association.

Sabina Puig, Olga Casado, Eva Labarta and Joan Merelo have participated as members of human rights NGOs, of which Sabina Puig, Joan Merelo and Olga Casado will remain. Olga Casado is also a member of the Working Group.

Noemí Pereda, Santiago Redondo and Victòria Camps have participated as members of university research centres on human rights. Noemí Pereda is currently involved.

José María Mena, Jaume Saura and David Bondia have participated as professionals with experience in the prevention of torture and in working with incarcerated persons. Jaume Saura is currently the Deputy Ombudsman and David Bondia is a member of the Working Group.

When this report was being written, there were still three vacancies on the Advisory Board corresponding to a professional from a university research centre (1), an independent expert (1) and a human rights NGO representative (1).

B. PARTNERSHIPS

The Authority's 2011 report stated that the Parliament of Catalonia had urged the Generalitat to deploy Law 24/2009, of 23 December, of the Catalan Ombudsman, and to agree with the Spanish Government to officially notify the Subcommittee on the Prevention of Torture (SPT) that the institution was acting as the Catalan Authority for the Prevention of Torture (ACPT). In 2012, this request was repeated and the President of the Generalitat at the time informed the Catalan Ombudsman about the letter that had been sent to the Spanish Government to officially inform the SPT that the Catalan Ombudsman was acting as the ACPT in application of the

Optional Protocol. This request was repeated for several years but has never been met.

The formalisation of a collaboration agreement with the Spanish Ombudsman has also been pending during these years, so the Catalan Ombudsman held various meetings with successive heads of that institution to raise this issue with a view to establish future channels of collaboration, although the Spanish Ombudsman brought to the Constitutional Court the Law of the Catalan Ombudsman regarding the existence of a Catalan mechanism for the prevention of torture.

On 5 March 2015, the Constitutional Court issued a ruling (STC 46/2015, BOE of 9 April 2015) declaring certain provisions of the Law of the Catalan Ombudsman unconstitutional, in the title establishing the status of the Catalan Ombudsman as the Catalan Authority for the Prevention of Torture. Specifically, the Court's approach was that only the state has the power to designate a national mechanism for the prevention of torture at the international level and to decide whether there should be one or more, because this is an integral and essential part of the exclusive competence in matters of international relations referred to in Article 149.1.3 EC.

Furthermore, the Constitutional Court recognises the Catalan Ombudsman in its powers to prevent torture and encourages it to exercise them, in addition to indicating that it may establish a collaboration agreement with the Spanish Ombudsman to perform functions as part of the Optional Protocol and ask the Spanish Government to designate it a national mechanism under the terms of Article 17 of the Protocol. Therefore, the ruling does not call into question the Catalan Ombudsman's role in preventing torture, nor does it call into question its competence for self-organisation, which may include the creation of bodies such as the Advisory Council and the Working Group.

For this reason, the Catalan Ombudsman made use of its institutional autonomy to change the name of *Authority* and, by means of the Resolution of 9 April 2015 (DOGC of

15 April 2015), established that its role in prevention correspond to the Catalan Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in the same terms expressed in Law 24/2009, of 23 December, of the Catalan Ombudsman.

Since then, the Mechanism has continued its work to prevent torture and visits places where prisoners are detained, as notified by international human rights bodies and institutions. Thus, it has received support and collaboration from the Parliament of Catalonia, from the Geneva-based Association for the Prevention of Torture (APT), from the Council of Europe's Committee for the Prevention of Torture and from the Catalan Coordinator for the Prevention and Reporting of Torture.

Also, since the role played by the Catalan Ombudsman for prisoners as the MCPT are the same as that played by the Spanish Ombudsman as the MNPT, apart from the relationship with the Subcommittee on the Prevention of Torture (SPT), it is once again clear that the Catalan Ombudsman and the Spanish Ombudsman must sign cooperation agreements on performing these activities. Thus, after the ruling of the Constitutional Court, the Catalan Ombudsman sent the Spanish Ombudsman a new proposal for a collaboration agreement between both institutions based on their full mutual recognition of the current legal framework of their powers. However, the Spanish Ombudsman replied that it did not intend to sign any collaboration agreement because it considered the existing delimitation of powers to be correct. As of now, the agreement has still not been made.

However, there was collaboration during several visits made by a delegation of the National Mechanism for the Prevention of Torture to different prison areas in Catalonia, in which several members of the Catalan Mechanism Working Group participated. This fruitful partnership strengthened the need to normalise cooperative relations between both institutions.

Therefore, following the example of many democracies with territorial distribution of

power, where there are several decentralised mechanisms, the Spanish Government should recognise the Catalan Ombudsman as a Mechanism before the United Nations to act in Catalonia and the Catalan Ombudsman and the Spanish Ombudsman should define their areas of action and coordination in this matter.

Foreigner Internment Centres

Meanwhile, the lack of collaboration with state institutions has made it impossible for the MCPT to visit the Foreigner Internment Centre (CIE) in the Zona Franca in Barcelona.

In April 2012, the delegate of the Spanish Government and the Commissioner General of Immigration rejected the Catalan Ombudsman's request to visit that he wanted to do with the Catalan Mechanism for the Prevention of Torture Working Group. Access to the CIE in the Zona Franca was denied again in 2015, when it was closed for renovation. Given the many complaints received at the institution for the treatment received and the lack of full application of the Regulation, the Catalan Ombudsman issued a resolution recommending the definitive closure of this centre and gradually of all Foreigner Internment Centres in the country.

Also, in 2015, the Parliament of Catalonia urged the Spanish Government to start "a process that would lead to the gradual closure of detention centres for foreigners as soon as possible".

More recently, taking advantage of the fact that the CIE closed on 19 March, coinciding with the pandemic, and given the possibility of reopening the centre, the Speaker of Parliament asked the Catalan Ombudsman for institutional support after receiving a letter addressed to the Minister of the Interior rejecting the request for a delegation of Parliament to visit the facilities of the CIE in the Zona Franca.

The visit was in response to a mandate from Parliament following the approval of Motion 158/XII of the Parliament of Catalonia on the situation of detention centres for foreigners. Among other issues, the Motion

agrees on the commitment to create a commission to study institutional and structural racism in security management in Catalonia and asks the competent authorities to allow the visit of a delegation of MPs to the CIE in the Zona Franca in Barcelona.

Faced with this situation, the Speaker of the Parliament of Catalonia and the Catalan Ombudsman issued the following observations:

1. Since the foreigner internment centres were created in the mid-1980s, they have been controversial establishments. Their effectiveness is also questionable, because not all interned people end up being expelled and internment is often not necessary for expulsion.
2. Significant information opacity and inadequate material and care conditions have been detected in these centres. There have also been frequent complaints of abuse and minors have recently been found there.
3. Although the Regulation introduces some positive developments, it can be criticised for maintaining the police character of the centres, with officials carrying firearms; for not including any guarantee on the use of force, containment measures or isolation cells; and for failing to define issues such as the organisation of visits, telephone calls and the minimum warning time before expulsion.

However, on 5 October, the CIE in the Zona Franca, which had been emptied following the outbreak of COVID-19, reopened with 80 inmates, according to the media, who had passed before a preventive quarantine and had tested negative on the PCR test.

C. INSTITUTIONAL RELATIONS

Over the years, there have been various institutional meetings with administrations, professional associations and human rights organisations to address relevant issues related to the work and operation of the MCPT, including the following:

With the Administration:

- With the Secretariat of Penal Measures, Reintegration and Victim Care, to deal with:

1. The closure of the Model Prison in Barcelona and the plan to relocate inmates to the rest of the Catalan prison system.
2. The Catalan Ombudsman's direct access to the Catalan penitentiary computer system (SIPC).
3. The main recommendations of the MCPT transferred to the Catalan Ministry of Justice.
4. The impact of COVID-19 on prisons.

- With the Catalan Ministry of Health and the Catalan Institute of Health's Penitentiary Health Programme Team, to prepare training of the healthcare staff of the Public Health System of Catalonia and the penitentiary centres on the Istanbul Protocol.

- With the General Directorate of Police of the Catalan Ministry of the Interior:

1. The main conclusions of the recommendations of the MCPT reports.
2. The amendments introduced in LECrim Article 520 and the criteria that have been adopted by all security forces and bodies to ensure uniform application of police operations regarding the rights of detainees.
3. To participate in a demonstration of the operation of energy conductors (CEDs, tasers) and understand the technical features of these devices and procedure for use.

- With the General Directorate of Security Administration, to deal with the recommendations regarding the areas of custody of the local police stations in Catalonia.

- With the General Directorate of Child Care of the Catalan Ministry of Labour, Social and Family Affairs, to deal with the answers received to the recommendations made as

a result of the visits paid to establishments and offices within its jurisdiction.

- With the Institute of Forensic Medicine, to deal with various aspects of the Mechanism's visits to the City of Justice and particularly the procedure for medical recognition of detainees.

- With the Anti-Fraud Office of Catalonia, to deal with the operation of the public procurement of CIRE.

With professional associations:

- With the Board of the Illustrious Bar Associations of Catalonia, to deal with issues related to the assistance and transfer of detainees and particularly the dual driving system.

- With the Immigration Commission of the Barcelona Bar Association, to deal with the issue of the rights of imprisoned foreigners.

- With the Ethics Commission of the Official College of Physicians of Barcelona, to discuss health care for detainees and the recommendations of the MCPT on the application of the Istanbul Protocol.

With human rights organisations and other groups:

- With the Catalan Coordinator for the Prevention of Torture, to deal with various issues related to performing their work inside penitentiary centres.

- With the Casandra group, to address the situation of women in Catalan prisons, following the 2016 MCPT Report.

- With representatives of Iridia and Amnesty International, to address the issue of tasers and the format of the identifications of BRIMO members.

- With representatives of Iridia and SIRECOVI, to deal with the problem of deaths in custody in prison, in particular with regard to the information given to relatives and the rigour required for investigations into these types of processes.

- With members of the SIRECOVI Team, to analyse working methodologies on visits to prisons and the processing of any complaints that may arise, if necessary.
- With the group “Afectats 1 d’octubre” [People affected by 1 October], to address various issues affecting people who suffered institutional violence on 1 October 2017.

With other parliamentary institutions:

- With a delegation from the Sortu parliamentary group of the Parliament of the Basque Country, to share the experience of the operations of the Mechanism in Catalonia as a possible model for the Basque Country.

D. INTERNATIONAL RELATIONS

Internationally, the Catalan Ombudsman and the MCPT Working Group have participated in several meetings with the delegation of the Council of Europe’s Committee for the Prevention of Torture at the request of this body, taking advantage of the visits it has made to different establishments in Catalonia.

The Catalan Ombudsman also met with various ombudsmen, such as those of Portugal, the United Kingdom, Croatia and Slovenia, and exchanged experiences and good practices of their respective mechanisms.

The Catalan Ombudsman, the deputy and several members of the Catalan Ombudsman and the MCPT also met with the UN Working Group on the Rights of People of African Descent to discuss identifications based on ethnic profile by security forces. The former also met with the United Nations Special Rapporteur on Minorities, to discuss the rights of imprisoned foreigners and particularly the problem of obtaining permits when they are in the country illegally and have trouble authenticating documentation due to lack of support from the Administration.

The MCPT has received notifications from both the Association for the Prevention of Torture (APT) and the Committee for the Prevention of Torture (CPT) of the Council of

Europe, which thanked it for submitting the reports and highlighted some of the observations and conclusions contained therein.

Finally, it should be noted that all MCPT reports have been submitted to the Subcommittee on the Prevention of Torture under the terms set out in Article 11.b of the Optional Protocol.

E. EVENTS COMMEMORATING THE INTERNATIONAL DAY IN SUPPORT OF VICTIMS OF TORTURE

On 12 December 1997, the General Assembly issued in Resolution 52/149, proclaiming 26 June as the United Nations International Day in Support of Victims of Torture, with a view to eradicate and effectively implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force on 26 June 1987.

The use of torture is strictly prohibited by international law at all times and under any circumstances. Article 14 of the Convention, ratified by 171 participating states, stipulates that they must ensure that victims obtain reparation, whether they are adults or minors. In this sense, Article 39 of the Convention on the Rights of the Child stipulates that states must take all necessary measures to promote the physical and psychological recovery and social reintegration of children who have been victims of torture.

The date 26 June is for remembering and giving visibility to these victims and their families, who need psychological, humanitarian, social and legal help.

Taking this date as a reference, and in compliance with the mandate of the MCPT to prevent torture, since 2014 this date has been commemorated with the organisation of a training activity on a topic of interest related to the subject that has been the subject of study and a monographic report.

The first day focused on implementation of the Istanbul Protocol on the prevention of torture and ill-treatment, and on the work

and functions of national prevention mechanisms. It was attended by Djordje Alempijevic, a member of the Council of Europe's Committee for the Prevention of Torture, among others.

The second day (2015) dealt with the same issue from the perspective of health, which is why it took place at the headquarters of the Official Association of Physicians of Barcelona. It focused on the role of health professionals in detecting and preventing the ill-treatment of detainees and particularly on the Istanbul Protocol and ignorance of it by Spanish health professionals, especially those who they serve centres where people are imprisoned, a shortcoming that negatively affects the ability to investigate and rigorously document allegations of torture and ill-treatment in our country.

The third day (2016) addressed the rights of females incarcerated in prisons in Catalonia and adaptation to the best international normative standards. The main conclusion drawn is that although the situation in Catalonia is above international standards in many respects, a gender perspective must be provided in the country's prison policy and concrete improvements must be implemented in different areas.

The fourth day (2017) was dedicated to adolescents in protection or detention centres, one of the most vulnerable groups of which the MCPT was aware in its work to visit and supervise the centres. The need to intervene in an interdisciplinary and

coordinated way and to establish a bond of trust was stressed. The need for adequate material and personal resources was also highlighted.

The fifth day (2018) was organised around respect for human rights in the immobilisation and mechanical restraint of incarcerated persons. Reflection revolved around the duty to take effective measures to prevent disruptive inmate behaviour in order to avoid resorting to mechanical restraint when such behaviour occurs; the most appropriate procedures for applying immobilisation and mechanical restraint; the proactive role that health services must play in supervising containment; and the effectiveness of legal guarantees in applying these measures.

The sixth and most recent day, in 2019, examined the response of public administrations to the comprehensive care of the elderly or those with serious or incurable illness in prison with the aim of restoring visibility to these two groups, whose social situation and specific needs are sometimes not met by the current prison system beyond the adequate social and health care they receive when they so require.

It has not been possible to organise the day this year (2020), which was supposed to take stock of the first 10 years of operation of the Mechanism, although we hope that it can take place next year, when the epidemiological situation makes it possible.

III. GENERAL RECOMMENDATIONS MADE IN THE PERIOD 2011-2019 AND THE ADMINISTRATION'S RESPONSE

This section provides an up-to-date summary of the main and most repeated recommendations that have been made in the first 10 years of operation of the Catalan Mechanism for the Prevention of Torture, together with the response obtained from the Administration. With some exceptions, the recommendations relating to specific or very short-term centres or units have been omitted. The table includes general recommendations addressed during this time to the administrations responsible for the establishments where prisoners reside; mainly police stations (Generalitat Police and local police), prisons and juvenile detention centres, as well as other establishments where underage boys and girls are admitted. The MCPT has also made systemic recommendations relating to geriatric and social health centres, psychiatric hospitals and other places where persons may be incarcerated under the terms of the Optional Protocol to the United Nations Convention against Torture.

This provides an x-ray of the evolution and current *state* (situation) of the situations that generate a greater risk of ill-treatment in the different areas where prisoners live in Catalonia. We would like to highlight some of the recommendations made in this period.

- Regarding the local police, we highlight the recommendation made repeatedly to close the detainee custody areas so that this custody is carried out at the Mossos d'Esquadra police stations with the necessary protocols with the PG-ME body. Given that this recommendation has been unevenly received, the MCPT believes that wherever it continues to exist, local police facilities and custody protocols must meet all standards of respect for the dignity and rights of prisoners, which has not always been noted in MCPT visits.

- All detainees must enjoy the right to obtain all information and documentation relating to the reasons for the detention. For many years, the Catalan Ministry of the Interior was reluctant to give the relevant instructions to the PG-ME body to make this obligation effective, which it only offered too restrictively.

However, the Ministry's action in the sense advocated by the Mechanism has changed since 2018.

- The Mechanism has repeatedly called for an increase in the number of video surveillance cameras in prisons, with priority given to the most opaque places or where more allegations of ill-treatment occur. The process is far from complete and is particularly difficult in older prisons, but steps have recently been taken in the right direction. The recommendation to install as many cameras as possible, particularly in the most sensitive places, extends to juvenile detention centres and other establishments where minors are admitted.

- Even in the penitentiary field, it is necessary to remember the duty to investigate the inmates' complaints with more rigour, speed and impartiality and to do so taking into account both the reports of the officials and the allegations of the inmates, with objective elements such as image recordings and medical reports prepared in accordance with the Istanbul Protocol. Internal investigations cannot be superficial or bureaucratic, but must have the will and means to get to the bottom of things.

- Some of the considerations above also apply to juvenile detention centres. It must be remembered, however, that these centres must be educational in nature and that they serve a minor population in a situation of great vulnerability. Many of the recommendations made during this period have been aimed at ensuring adequate psychological care with sufficient professionals and educational and emotional support. Outside the scope of juvenile detention centres, in relation to centres that involve restrictions on freedom in the protective system, it is necessary to improve the guarantee of rights in application of the sanctioning regime, which can never affect the right of young people to food, education or the maintenance of family ties.

- First-degree classification must be very rigorous and individualised, without resorting solely to generic references to the danger or maladaptation of the inmate. Once this classification has been made, the Mechanism recommends that as many hours as possible be used for social and therapeutic treatment

so as to minimise the risks of personal and psychological disintegration that it produces. It is also necessary to flexibly and dynamically assess the application of this system that takes the evolution of the inmate into account and that reduces its duration to a minimum. It should be remembered that when adopted as a sanctioning or coercive measure, isolation must be reported immediately to the judge for review.

■ For a year, the Mechanism has examined images of immobilisations and mechanical restraints in most prisons and juvenile detention centres and has informed the Administration that the physical immobilisation of adults and young people in a detention situation must be the last resort in resolving conflict situations. Mechanical restraint should exclusively be a sanitary measure. Although the Secretariat of Penal Measures reports that these

measures are in no way punitive and only last for the time required until the circumstances that led to their application disappear, the observation of real cases by the Group denies it. Fortunately, the Secretariat and the ICS are preparing a new circular on this issue. However, it is worrying that measures of immobilisation and containment are carried out by private security staff in juvenile detention centres and that young people are therefore given less guaranteed treatment than adults.

■ Finally, it is unfortunate that, as an MCPT, it has not been possible to obtain real consent from people admitted to geriatric centres (often admitted by relatives or caregivers); and that, in the absence thereof, there is the necessary judicial supervision. The current COVID-19 crisis and its impact on nursing homes make the need for such supervision more evident than ever.

Local police and Guàrdia Urbana police stations

Number	Recommendation	Response
1	CUSTODY FUNCTIONS OF PERSONS DETAINED BY THE LOCAL POLICE OF CATALONIA	
	<p>The judicial police functions to be performed by local police need to be clarified. The opinion of the Mechanism is that the Generalitat-Mossos d'Esquadra police forces must be the integral police of Catalonia, while the local police must have an auxiliary role.</p> <p>Basically, the local police perform investigative functions regarding traffic offences, assault or resistance against law enforcement officers and cases of gender violence of little complexity.</p>	<p>The reality of local police stations in Catalonia is very heterogeneous, as is the state of compliance with this recommendation.</p> <p>Therefore, while the closure of some areas of custody during these years is welcomed, work must continue to ensure that the rights of detainees are guaranteed at all times and in all places.</p>

Number	Recommendation	Response
1	<p>CUSTODY FUNCTIONS OF PERSONS DETAINED BY THE LOCAL POLICE OF CATALONIA</p> <p>While their work on traffic offences could be understood as an aid to desaturating the bodies of PG-ME, the Mechanism considers their intervention in the field of gender-based violence and crimes against authority to be totally inadvisable. In the latter case, moreover, the assumption of competence could lead to confusion in the participation of agents (who are both victims and/or witnesses to crimes and instructors) jeopardise the objectivity and impartiality that must necessarily accompany the instruction.</p> <p>It would be necessary to harmonise coordination protocols between local police and PG-ME and also to approve a law of the Parliament of Catalonia that establishes the distribution of competences throughout the territory. The current situation of double stay is detrimental to detainees, who see their detention period unnecessarily extended. Only the PG-ME should carry out custody of detainees and local police stations that still exercise these powers are encouraged to assess the efficiency of continuing this system.</p>	<p>Therefore, it is recommended once again that the possibility of closing the custody areas of the local police be assessed in cases where closure has been suggested and they are still open, and that the coordination agreements be reviewed with the corresponding PG-ME.</p> <p>Some local police have reported that new operational guidelines have been approved so that the people who are arrested are transferred to the corresponding Mossos d'Esquadra police station, which takes charge of custody.</p>
2	<p>MATERIAL CONDITIONS OF THE AREAS OF CUSTODY AND RIGHTS OF DETAINEES</p> <p>The Mechanism recommends correcting the shortcomings of police stations that have custody areas that do not guarantee the minimum rights of detainees (absence of video surveillance, dangerous access, etc.), and closing those where no amendments can be made. In addition, places of custody for detainees must be identified with the corresponding information signs and police stations that do not yet have them must install video surveillance cameras in all sensitive areas of the detention circuit, including parking lots, cells, lobbies, hallways, etc.</p> <p>Local police should also be provided with a tool to record people who are detained and remain in custody.</p>	<p>In this case, adoption of the recommendation also varies depending on each police station. However, the Mechanism observes progress in correcting custody-related shortcomings in some police stations.</p>

3 RIGHTS OF DETAINEES

Local police stations that have a detention area for detainees must guarantee the exercise of all the detainees' rights listed in LECrim Article 520 at the time of detention and without waiting for transfer to a PG-ME police station to exercise them, including the right to legal counsel within the first three hours of detention, the right to make a personal telephone call and the right to communicate with the consulate (when people with foreign citizenship are arrested).

Reminder

It is also important that police practice does not make the detainee's right to medical care a duty, so this procedure is systematically avoided prior to the detainee's surrender to the PG-ME.

Generalitat-Mossos D'esquadra police stations

Number	Recommendation	Response
1	<p>DETAINEE RIGHTS RECOGNISED AS PART OF THE EU: LECrim ARTICLE 520 AND FORM N01</p> <p>Since 2014, the Mechanism has warned of police forces' inadequate application of European directives on the right to translation and interpretation in criminal proceedings (2010/64/EU) and the right to information (2012/13/EU) and legal aid (2013/49/EU). Following the reform of the Criminal Procedure Act (LECrIm) in 2015, these shortcomings of transposition were partially alleviated. However, despite the more appropriate new wording of Article 520, the police forces continued to interpret it inadequately and in opposition to the guarantee of European norms.</p> <p>In particular, there were many complaints from detainees and their lawyers about the restrictions that the interpretation of LECrim Article 520 entailed regarding access to "essential" information about detention. This access was initially operated by handing a form to the lawyers ("N01. Act of detainee rights") that only contained generic information on the detainee's alleged participation in the events and evidence.</p>	<p>This situation has recently been reversed thanks to Ruling 21/2018, of 5 March, of the Constitutional Court, which has prompted the General Directorate of Police to modify its interpretation of the directives.</p> <p>Form N01 currently informs of the right to access the elements of the actions that are essential to challenge the lawfulness of detention.</p> <p>However, the Mechanism recalls that to keep from distorting the right, we must continue interpreting the requirements of "concretion" and "justification" in the request for the information contained in the new form as a mere formality.</p> <p>Thus, the police must refrain from demanding from the detainee or their lawyer a precise request for the documents or elements they want to access (because they may not know what evidence the police have) or specific justification of the request.</p>

Number	Recommendation	Response
1	<p>DETAINEE RIGHTS RECOGNISED AS PART OF THE EU: LECrim ARTICLE 520 AND FORM N01</p> <p>Thus, the right to access provided for in the Directive was de facto denied, which referred to the materials in the file that were essential to be able to effectively challenge the lawfulness of the detention.</p>	<p>The MCPT also recalls that it is not enough to consider access to the delivery of a brief report on the arrest prepared by the police forces access guaranteed, but it is necessary to facilitate the display or delivery of the copy of the original documents.</p>
2	<p>MATERIAL CONDITIONS OF DETENTION IN THE AREAS OF CUSTODY OF THE PG-ME</p> <p>A) It is necessary to have decent facilities for detainees that offer adequate conditions of hygiene and cleanliness, that are safe (comprehensive video surveillance circuit) and that comply with all guarantees. In this sense, it is necessary to carry out the commitment made by the Catalan Ministry of the Interior to install cameras or video surveillance systems in the review and identification rooms of the police stations, and in the offices authorised to conduct the interviews with legal assistance. It is also important to consider replacing full-face motorcycle helmets that are still used as restraints with less harmful elements.</p> <p>B) Cameras or video surveillance systems must be installed in all police vans.</p> <p>C) A more hygienic method of cleaning and replacing blankets needs to be adopted. The Mechanism is of the opinion that it would be best to replace the current ones with disposable ones and isolate them in plastic bags.</p>	<p>A) The Catalan Ministry of the Interior is working on it. Pending budget item.</p> <p>The Catalan Ministry of the Interior has stated that it is studying the proposal as part of a broader protocol that is being negotiated with the Guàrdia Urbana and the SEM to determine the guidelines for action in cases where it is necessary to contain agitated people.</p> <p>B) The Mechanism has noted that the new police vans purchased by the Catalan Ministry of the Interior already have cameras or video surveillance systems and welcomes the acceptance of their recommendation. It encourages the replacement process to continue until all the vans available in the PG-ME are properly equipped.</p> <p>C) With regard to the blanket replacement system, the increase observed in renewal and cleaning is welcomed. Four uses have generally been registered, though single-use blankets would be better.</p>

Number	Recommendation	Response
2	<p>MATERIAL CONDITIONS OF DETENTION IN THE AREAS OF CUSTODY OF THE PG-ME</p> <p>D) Some system should be established to reduce the problem of odours in underground custody areas.</p>	<p>D) Bad odours in underground floors is a recurring theme. Since 2015, many police stations have seen an improvement in this regard. They have reported that there is a project to carry out renovation and functional improvements of facilities in different police stations, pending budget allocation to start tender procedures.</p>
3	<p>DETAINEE RIGHTS</p> <p>A) In arrests by both the local police and the PG-ME, the rights to immediate communication with the bar association and to legal assistance from the outset must be respected.</p> <p>Furthermore, no hindrance may be placed on the detainee's designation of the lawyer of their choice and all fields in the detainee register and custody book must be diligently completed, particularly with regard to the time of entry and exit, the type of search, whether it is comprehensive and the reasons given.</p> <p>B) Moreover, when detainees are foreigners, they must also be informed of the right to communicate with the consular authorities that protect them. This communication must be made ex officio if the detainee is a minor or incapacitated.</p> <p>C) It must be ensured that the period of detention is always the minimum necessary and that, once the investigation has been completed, the person is brought to justice immediately. Thus, it is recommended that the courts enable a daily two-shift transfer system that also allows people detained during mid-day or the afternoon to be brought before the judicial authority, so that their detention does not have to be unnecessarily extended until the next day.</p>	<p>A) In general, there is proper compliance by the PG-ME with both the rights to legal assistance and communication to the bar association (which is conducted within the legal period of three hours), and the obligation to complete the register and custody books. However, regarding arrests made at night, difficulties are detected for lawyers to appear at the police stations within the mentioned period.</p> <p>B) Regarding the right of consular communication, it is understood that it is also duly informed.</p> <p>C) A total willingness of the PG-ME to carry out the daily two-shift transfer tasks of the detainees has been observed, if the courts eventually decide to modify the current system.</p>

Number	Recommendation	Response
3	DETAINEE RIGHTS	
	<p>D) The Mechanism continues to insist that medical visits should be performed in private as a general rule, unless the physician requests otherwise for safety reasons. To this end, it should be remembered that the right to a private medical examination can only be limited in exceptional cases of agitation or risk, and that if the person renounces it, they cannot be forced to undergo an examination.</p>	<p>D) The Catalan Ministry of the Interior reports that police officers are responsible for the custody of the detainee. As such, it is not advisable to lose eye contact with the detainee to ensure their physical integrity, as well as that of health staff and third parties, and also that of police officers.</p> <p>The experience of the PG-ME makes it known that the alert must be maintained in the transfers and custody of people detained and taken to health centres to avoid possible situations of escape or physical assault. For this reason, they think that any private medical examination should be an exceptional practice, which should only be assessed when the following circumstances concur:</p> <ul style="list-style-type: none"> ■ That the detainee's background or personal circumstances do not advise against it. ■ That the health staff show their consent, both to the private visit and to taking off the handcuffs. ■ That the space where the medical examination is to be carried out meets certain safety requirements.

Penitentiary centres

Number	Recommendation	Response
1	<p>INSTALLATION OF CAMERAS OR VIDEO SURVEILLANCE SYSTEMS</p>	
	<p>A) More cameras need to be installed in all penitentiary hospital centres and pavilions and particularly in the temporary isolation and containment cells, in the rooms and offices where searches are currently carried out with full nudity, in all spaces for inmate/worker interaction, and in the stairwells that provide access to different floors.</p> <p>It is also necessary to put up information signs about the existence of video surveillance in all the spaces of the centre where they exist, without considering as sufficient the generic information (on the existence of video surveillance areas) provided to the entrance and exit to the penitentiaries.</p>	<p>A) The Catalan Ministry of Justice argues that it is considered economically and efficiently unfeasible for fully monitoring life inside prisons. However, given the Mechanism's insistence on pointing out the need to monitor the most sensitive areas, action has begun.</p> <p>The Secretariat has reported that in order to remove blind areas from the most critical areas of the centre, a project has been launched to install cameras and audio in the search rooms, in the containment cells and in the isolation cells in all penitentiary centres.</p> <p>The acquisition of subjective cameras, which record actions more dynamically, installed in the civil servants' equipment, is also being studied.</p>
	<p>B) Regarding storage of the recordings, it is necessary to extend the retention time of the images to a minimum of 30 days, to incorporate the audio and to ensure that any image that can be used as evidence in a punishment procedure is deposited until the first viewing in the court of custody.</p>	<p>B) Starting in 2019, all the recordings of the mechanical restraints carried out would be saved, with built-in audio in the case of the Mas d'Enric i Ponent Police Station, which are the centres that had them when this report was being written.</p>
	<p>C) The Mechanism recommends that a rule of law regulate both the installation of cameras and video surveillance systems and storage procedures in all centres and spaces where prisoners are located.</p>	<p>C) On the recommendation to legislate, Circular 2/2010, of 1 June, which establishes that the images must be kept for a minimum period of 15 days and a maximum of one month, except for those that have captured behaviours and/or scenes that may constitute crimes or administrative infractions, in which case they are expected to be kept for up to six months.</p>

Number	Recommendation	Response
2	<p>STAFF</p> <p>A) The Mechanism continues to emphasise the importance of correctly identifying prison staff at all times and recommends changing the current system to one in which they wear the identity number on all parts of the uniform or wear a card hung around the neck that is visible.</p> <p>B) It is also necessary to review staff training with regard to new alternatives for peaceful conflict resolution (and also to encourage their practice) and to establish a plan for continuous training on containment measures.</p>	<p>A) The Secretariat of Penal Measures, Reintegration and Victim Care considers that the current identification system is already professional enough and reports that when dysfunctions have been detected, action has been taken accordingly.</p> <p>B) Moreover, it states that civil servant training already contains notions of peaceful conflict resolution and sufficient containment measures.</p>
3	<p>GENDER PERSPECTIVE IN PENITENTIARY CENTRES</p> <p>A) The penitentiary continues to be a very masculinised sphere. Centres where women are incarcerated are facilities made by men and for men, which continue without the necessary architectural and material adaptations to provide adequate service from the point of view of effective equality in serving the sentence. Penitentiary legislation also remains discriminatory, such as with regard to limited access to paid work or recreational activities. The Mechanism considers it urgent that measures be taken to comply with the mandate of Law 17/2015, on the effective equality of women and men. Female inmates must be given a voice and their situation must be made visible.</p> <p>B) Among other things, the law calls for the incorporation of a gender perspective in inmate treatment, rehabilitation and socio-labour integration programmes. In 2019 it was recommended that, in addition to the individual intervention, a group intervention be carried out for the specific treatment of women who have suffered gender-based violence.</p>	<p>A) Efforts are being made to incorporate a gender perspective into penitentiary centres. Proof of this is the approval of the Gender Perspective and Equity Programme in prison contexts in 2018 and the improvements in terms of activities available to inmates.</p> <p>B) Recently, the Psychoeducational Intervention Programme with Female Prisoners has been approved, in which the EVA programme has been incorporated, as a specific programme called "Survivors of Mistreatment, Abuse and Trauma". This programme aims to help women cope with and overcome possible experiences of victimisation that they may have suffered, in the form of sexual abuse or mistreatment, gender-based violence, or adult sexual assault (as a couple or not).</p>

Number	Recommendation	Response
3	<p>GENDER PERSPECTIVE IN PENITENTIARY CENTRES</p> <p>C) One of the most recurring complaints from female inmates has been that the type of jobs they perform are usually less skilled and worse paid. They thus denounce that their right to effective equality is being violated, as they have a lesser and lower quality job offer than men.</p> <p>D) The Mechanism has recommended the abolition of DERTs in the Ponent Penitentiary due to the inadequate environmental situation (as it is a centre with very few female inmates and those who were in the first degree were often left alone) and adaptation to the Brians 1 Penitentiary.</p>	<p>C) Regarding complaints in relation to the labour, it has been reported that salaries are no longer differentiated due to gender and mixed workshops have been set up where men and women work, in addition to the consolidation introduced in 2018 that the inmates participate in mixed activities with men.</p> <p>D) Regarding the DERTs, the necessary adjustments have been made to the Brians 1 Penitentiary and the recommendation to eliminate the space at the Ponent Penitentiary has been complied with. Although the Secretariat views the total elimination of the DERTs as inappropriate, it has agreed to use it only for punishment and to relocate inmates in the first degree.</p>
4	<p>SHOP MANAGEMENT IN PENITENTIARY CENTRES</p> <p>Although following the recommendations made systematically by the MCPT, the prices of CIRE products have been reduced over the years, we must insist on lowering them further, especially in the case of products considered essential (such as those of intimate feminine hygiene).</p>	<p>Work is being done in this direction and price reductions have been progressively achieved. On 1 June 2020, the new service management model came into operation. The final prices of the products have been reduced overall by almost 22%.</p>
5	<p>PRISONER RIGHTS</p> <p>A) The inmates' complaints must be investigated more rigorously, quickly and impartially, and this must be done taking into account both the officials' reports and the inmates' allegations. Officials should also be warned regularly that no aggression will be tolerated and that all allegations will be investigated.</p> <p>B) The Prison Administration must establish a system of exhaustive control of the time spent by inmates working in auxiliary services of prisons in their workplaces, so that they can reliably accredit the time they work there, which must coincide with the hours contributed to the general Social Security system.</p>	<p>A) The Secretariat reports that the inmates' complaints are already being properly investigated and officials are aware of this.</p> <p>B) Pending response</p>

Number	Recommendation	Response
5	<p data-bbox="300 277 520 304">PRISONER RIGHTS</p> <p data-bbox="300 331 807 645">C) Prison officials and institutions should be reminded that inmates should be informed of their right to request to communicate with or visit a consular authority. While prisoners are informed of this right when they first enter prison, it should also be recalled throughout the sentence and it should be ensured that foreign inmates will not have difficulty exercising it.</p> <p data-bbox="300 660 807 750">D) A minimum of hygiene items should be provided when isolation action is taken.</p>	<p data-bbox="879 331 1310 387">C) They report that this is already done.</p> <p data-bbox="879 660 1366 786">D) Every effort is made to provide the inmate with the hygiene items he or she needs, and if not, the inmate may request them.</p>
6	<p data-bbox="300 815 794 842">PRISONER RIGHTS IN A CLOSED SYSTEM</p> <p data-bbox="300 875 831 1384">A) Once first-degree classification has been approved, the Mechanism recommends that as many hours as possible be used for social and therapeutic treatment, so as to minimise the risks of personal and psychological breakdown that it causes. It is also necessary to provide a flexible and dynamic assessment of the application of this system that takes the inmate's development into account and reduces its duration to a minimum. It should be remembered that when used as a punitive or coercive measure, isolation must be reported immediately to the judge for review.</p> <p data-bbox="300 1417 839 1702">In any case, a medical examination at the request of the inmates who are punished in a closed system cannot be reduced to asking them if they are all right from outside the cell. It is necessary to provide a protocol for this care and guarantee that it tells the authorities if the people are in conditions to withstand the punishment.</p>	<p data-bbox="879 875 1374 1093">A) The Secretariat reports that the judge is already notified immediately, or as soon as possible, of the adoption of an isolation measure. It argues that sometimes this takes longer because of issues beyond the centre's control (such as the time it is adopted).</p> <p data-bbox="879 1126 1342 1384">It also takes note of the recommendations made by the Mechanism on medical visits and the application of the closed system. An audit of the closed system was carried out in 2016, which led to the creation of a working group in Parliament in 2017.</p> <p data-bbox="879 1417 1366 1635">As a result of the action of this working group, also in 2017, the General Directorate of Penitentiary Services approved Circular 2/2017, on the closed system, and developed a shock plan that has been gradually rolled out in Catalan prisons.</p> <p data-bbox="879 1668 1374 1986">The Catalan Ombudsman approves of this shock plan, particularly with regard to the limitation of 18 hours in the cell and the increase in intervention in this environment. However, the Mechanism notes that situations must still be addressed in which, de facto, inmates add consecutive regressions to the first degree and end up accumulating years in this situation.</p>

Number	Recommendation	Response
6	PRISONER RIGHTS IN A CLOSED SYSTEM	
	B) It is also worth remembering the ban on the imposition of solitary confinement on inmates with mental illness and the need to comply with suicide prevention protocols.	B) Regarding suicide prevention protocols, a new protocol has been approved that addresses both prevention and support for inmates when a death occurs in prison.
7	MECHANICAL CONTAINMENT PROCEDURE	
	A) Immobilisation and mechanical restraint should be the last resort in resolving conflict situations and all non-coercive avenues should be exhausted before resorting to them. Therefore, de-escalation measures must be provided with a protocol and carried out by a properly trained multidisciplinary team with conflict resolution capacity.	A) From a more general point of view, there are some prevention measures that are already being implemented in the Catalan penitentiary system, but they need to be strengthened.
	B) A mechanical restraint must last for the time strictly necessary, as provided by the applicable penitentiary regulations.	B) The Secretariat reports that it lasts the minimum time necessary until the circumstances that caused their application disappear.
	C) The use of mechanical restraints for regimental purposes should serve no purpose of punishment.	C) The Secretariat reports that in no case is the measure adopted punitive.
	D) Mechanical restraints should be an exclusively sanitary measure because of the risks they pose to people's health. Although the initial physical immobilisation must continue to be regimental, the monitoring, supervision and completion of the containment must respond exclusively to medical criteria indicated by medical staff and not subject to regimental measures. There is also a need for a periodic assessment by the health services of mechanical restraints with indicators on the practice, registration, quality and safety of their use.	D) The mechanical restraint procedure has been reviewed by the Secretariat, in coordination with the ICS. A new circular is being prepared.
	E) From an institutional point of view, both the management of the centre and possibly the Inspection Service of the Secretariat should analyse each containment to assess its relevance and proportionality.	E) In the case of health restraints, they are expected to be communicated to the centre management. The management will have to communicate regimental restraints to the Centres and System Service to include the incident in the corresponding statistical registry. The management or incident command is also expected to notify the Inspection Service by telephone of the start and end of the measure as a custody incident.

Number	Recommendation	Response
7	MECHANICAL CONTAINMENT PROCEDURE	
	<p>F) It should be recalled that the management of the penitentiary must immediately notify the penitentiary surveillance court of the adoption and cessation of coercive measures, with detailed expression of the facts that have led to the use of the circumstances that may advise keeping them.</p>	<p>F) They indicate that the management of the penitentiary notifies the penitentiary surveillance court as soon as possible of the adoption and cessation of coercive means, with detailed expression of the facts that have led to the use of the circumstances that may advise keeping them.</p>
8	ELDERLY OR SERIOUSLY ILL PRISONERS	
	<p>There is a need for all legal and penitentiary employees to develop greater awareness towards people in their 70s or with serious illnesses and incurable suffering. In the first case, the lack of access to specific therapeutic options, which does not exist inside, has a negative impact on inmate health.</p> <p>Prisons should not become social and health centres, but greater interaction is needed between the Catalan prison system and the social and health systems, so that this group is cared for due to their age or health outside the penitentiary as soon as possible. In the second case, treatment boards and supervisory courts need to show more sensitivity so that third degrees or flexible compliance systems are granted to people who have a serious or incurable disease, without expecting the imminent loss of life following the legal mandate and jurisprudence of the Constitutional Court.</p>	<p>Note has been taken.</p>
9	ISTANBUL PROTOCOL	
	<p>In recent years, the Mechanism has seen an improvement in the promotion of training and dissemination of the Istanbul Protocol among professionals and institutions involved in detention circuits. Following the recommendations made in this regard, training sessions have been held for both medical and prison staff and the forensic medical protocol has also been adapted to this international standard.</p>	<p>The Catalan Ministries of Justice and Health continue to work to disseminate the recommendations of the Istanbul Protocol among professionals and to ensure proper implementation of the new forensic medical action protocol.</p>

Number	Recommendation	Response
9	<p data-bbox="300 277 587 304">PROTOCOL D'ISTANBUL</p> <p data-bbox="300 331 831 741">However, emphasis must be placed on improving the quality of medical reports, which must include a description of the facts and injuries appropriate to the standards set by the Istanbul Protocol. The Institute of Legal and Forensic Medicine is urged to monitor the use and application of the new forensic medical action protocol in case of allegations of mistreatment and it is recommended that the results of the medical report be delivered in a sealed envelope so that the right to privacy is guaranteed.</p> <p data-bbox="300 779 791 929">Finally, it is also recommended to continue the training and information sessions of the Protocol for all professionals involved, prison officials and health staff.</p>	
10	<p data-bbox="300 965 647 992">CLOSURE OF MODEL PRISON</p> <p data-bbox="300 1019 815 1355">The Mechanism's recommendation that the process of relocating inmates and civil servants guarantee the acquired rights of inmates was followed during the gradual closure of the prison. Thus, family bonding criteria were used, the opinion of the inmates was taken into account and their individualised treatment programmes and continuity with the productive workshops were respected.</p>	<p data-bbox="874 1019 1353 1137">The DGSP followed the Mechanism's recommendations regarding the closure and relocation process of Modelo Prison inmates.</p>

Juvenile detention centres

Number	Recommendation	Response
1	<p>JUVENILE DETENTION CENTRES</p>	
	<p>A) The Mechanism recalls that the punishment system must be known to children and young people and that punishments that affect the right to food, education or the maintenance of family ties cannot be applied. Likewise, when isolation is imposed as punishment, it must only be for the necessary time and for restricted reasons, and it must be recorded in the register of restraints and/or isolation. In any case, it is recommended not to impose isolation as punishment, but only in cases where there is a medical need.</p>	<p>A) It is reported that action is already being taken in accordance with these recommendations.</p>
	<p>B) It should also be remembered that all containment spaces must have cameras or video surveillance systems that allow them to be monitored. Specific training on containment should be given to staff working in these centres and staff from private security companies should not be allowed to take on this task.</p> <p>The Mechanism finds it worrying that minors are given less guaranteed treatment than adults in a comparable situation. It therefore does not advise using private security and recommends leaving restraints and security in the hands of specialised officials such as prison employees.</p>	<p>B) The Catalan Ministry of Justice responds that cameras are being installed in the containment areas.</p> <p>- They agree that the restraints should be applied by security staff, although they acknowledge that the training they receive “is not specific training on restraints and mechanical immobilisations in bed”.</p> <p>Can Llupià agreed in November 2017 that whenever security professionals intervene in the restraints, the recorded images will be subject to a joint view of the guards who intervened, their coordinator and a member of the centre’s management, to detect aspects that need to be improved or corrected and, where appropriate, determine the training, improvement and retraining needs of their activity.</p> <p>Can Llupià is carrying out a study to detect all dark areas for image recording and to make improvements. Nevertheless, the centre has given directions to employees to prevent conflict-generated actions from being resolved near these dark areas.</p>

Number	Recommendation	Response
1	<p>JUVENILE DETENTION CENTRES</p>	
	<p>C) It is also necessary to investigate children's allegations of torture and ill-treatment with more rigour, speed and impartiality, and by taking their voice into account. Officials should be warned regularly that no aggression will be tolerated and that all allegations will be investigated. In addition, we must also stress the need to make information and resources available to minors in order so they can communicate with other institutions and file complaints. Finally, it is also recommended to create a corps of specialised officials to carry out their work in these specific centres.</p>	<p>C) Complaints from children and young people are being investigated, and officials are aware of this reality.</p>
	<p>D) The issue of overcrowding in juvenile detention centres is also one of the current problems of the system, with respect to which the Mechanism recommends:</p> <ul style="list-style-type: none"> ■ Maintaining the momentum of open environment and mediation programmes to prevent recidivism. ■ The individualised educational nature of action with minors in centres is guaranteed, by adopting the requirements facilitating it: ■ The size of the centres: the identification of care in a centre is directly related to the number of residents. Although the Administration guarantees the growth of the educational team in proportion to the increase of boys in the centres where they will be transferred, this in itself does not prevent overcrowding or the limitations that it imposes. Thus, it should be noted that the high concentration of minors is an obstacle to individualised care. ■ Organisational model: closely related to the previous one, the organisation of the smaller centre allows for caring and personalised inmate treatment, which is indispensable in an educational reintegration process, especially in the case of adolescents and young people, whose personalities are still developing, given that they often require treatment that reconciles the firmness of the rules with the flexibility of personalisation. 	<p>D) The Catalan Ministry of Justice is aware of the problem of overcrowding.</p> <p>The Til·lers (girls) and Montilivi units have been reopened.</p>

Number	Recommendation	Response
1	<p>JUVENILE DETENTION CENTRES</p> <p>E) The effective separation of juveniles and adolescents from young adults in Catalan Ministry of Justice schools must be ensured through their assignment in differentiated units, unless there are reasons of interest that must be justified on a case-by-case basis.</p> <p>In closed centres, the units and activities must be organised according to the age of the inmates, depending on whether they are minors or adults. This separation must affect their entire daily life.</p> <p>In closed centres, the educational team for minors must be specifically trained to work with boys and girls under the age of 18. This would not be required for educators working in units for youths who complete their prison sentence.</p> <p>Open centres need to study how to organise life based on age as far as possible, and especially in relation to training and activities, as well as specialised educational treatment.</p>	<p>E) In the three juvenile detention centres with more than one cohabitation unit (L'Alzina, Can Llupià and El Segre), organisational changes have been made to prioritise the criterion of age when distributing inmates and to separate adults and minors in different units, except for individualised cases anticipated in the law that justify that they can be together.</p>
2	<p>CHILD AND ADOLESCENT PROTECTION CENTRES (GENERAL RECOMMENDATIONS)</p> <p>It is necessary to guarantee the sufficiency of the staff and that the ratios are not exceeded, especially in the night shifts. In addition, due to the wear and tear generated by this work, staff turnover must be increased. These centres must also be provided with the cultural mediators necessary to guarantee coexistence.</p> <p>There is a lack of specific work on the situations of abuse suffered by some children and young people before admission, especially regarding gender-based violence and addressing drug use dependence. The right to physical and emotional recovery of children who have gone through these situations must be guaranteed, so it is recommended that the Master Plan for General Action be reviewed immediately.</p>	<p>The Ministry is aware of the ratio problem and is working to find solutions.</p> <p>Regarding the lack of specific work of previous situations of ill-treatment, insufficient follow-up of referents and shortcomings in the punitive system, in 2018 the Secretariat of Children ordered an information file to be opened for the affected centres and demanded that they immediately cease practices incompatible with the rights of the child. It also asked the Catalan Ministry of Education for information on the operation of the school unit.</p>

Number	Recommendation	Response
2	<p>CHILD AND ADOLESCENT PROTECTION CENTRES (GENERAL RECOMMENDATIONS)</p> <p>Insufficient follow-up with the referents is also detected for children under guardianship and it is recommended to strengthen this bond, which is so necessary for their development.</p> <p>The Mechanism recalls that children and young people must be aware of the punitive system and that punishment cannot affect the right to food, education or the maintenance of family ties. Furthermore, when isolation is imposed as punishment, it must be only for the necessary time and for restricted reasons, and it must be recorded in the register of restraints and/or isolation. In any case, it is not recommended to impose isolation as punishment, but only in cases where there is a medical need.</p> <p>It should also be remembered that all containment spaces must have cameras or video surveillance systems that allow them to be monitored. Specific training should be given to staff working in these containment centres and staff from private security companies should not be allowed to take on this task.</p> <p>The Mechanism finds it worrying that minors are given less guaranteed treatment than adults in a comparable situation. It is therefore inadvisable to resort to private security and it recommends leaving restraints and security to specialised officials and penitentiary centres.</p> <p>Children's complaints about torture and mistreatment must also be investigated with more rigour, speed and impartiality while taking their voice into account. Officials should be warned regularly that no aggression will be tolerated and that all allegations will be investigated. It is also necessary to ensure that information and resources available to minors so they may communicate with other institutions and file complaints.</p>	<p>They report that the installation of cameras in containment spaces is in progress and that officials are aware of the ban on mistreatment and that all cases are being properly investigated.</p> <p>The Ministry's Childhood Inspection Protocol provides for assessment of the service by children and adolescents, the prescription and administration of medication, physical and pharmacological restraint, and other educational measures. However, the psychosocial risks of professionals are not assessed.</p> <p>Inspection visits also take into account the control and registration of containment and educational action taken by the centre.</p> <p>The DGAIA reports on the supervision and monitoring of compliance with obligations of occupational safety and health by the entities that manage the centres. Therefore, regular monitoring is already carried out, as part of the Ministry's inspection and verification activity.</p>

Number	Recommendation	Response
3	<p data-bbox="300 320 815 376">IMMEDIATE CARE CENTERS FOR MIGRANT CHILDREN WITHOUT FAMILY TIES</p> <p data-bbox="300 398 815 685">The problem generated by the lack of adequate spaces to accommodate children and young people who arrive without family members to contact has persisted for years. Before being transferred to the corresponding reception centre, while the Public Prosecutor's Office determines their age, they have nowhere to go.</p> <p data-bbox="300 719 842 969">Overcrowding in the centres and the increase in arrivals in recent years often make this wait longer and the temporary solutions that have been provided (from staying in the City of Justice, in the offices of the DGAIA or in the Mossos police stations) have not definitively resolved the issue.</p> <p data-bbox="300 1003 831 1227">This first emergency reception currently takes place in hostels and camp houses scattered throughout the territory, where these young people stay for extensive periods waiting for a spot in child protection centres appropriate to their individual situation.</p> <p data-bbox="300 1261 842 1709">In view of this situation, the Mechanism reiterates the need to draw up a comprehensive plan to improve how these children are received. Their stay in an emergency centre, while the Public Prosecutor's Office determines their age, should be as brief as possible. Migrant adolescents without contact family members with mental health problems or disruptive behaviours should be guaranteed access to CREI, therapeutic centres or other alternative resources that more suitably protect their educational needs.</p> <p data-bbox="300 1742 823 2000">The DGAIA must also take over guardianship as soon as possible and process the documentation to regularise the situation. In particular, adolescents must be prevented from leaving the protection circuit as illegal immigrants due to delays in processing the corresponding documentation.</p>	<ul style="list-style-type: none"> <li data-bbox="874 398 1374 719">■ The entry into operation, in August 2019, of the Immediate Attention Device (DAI), a resource that assists minors once they have been identified upon arrival. They are given an initial medical and social assessment by the DAI and receive humanitarian care while they wait to be transferred to the protection resource assigned to them. <li data-bbox="874 752 1366 943">■ A specialised team has been created in the DGAIA to assist young migrants themselves, permanently connected with the emergency services in the DGAIA and with the Mossos d'Esquadra. <li data-bbox="874 976 1358 1200">■ New emergency protection services have been enabled in areas where they did not yet exist, such as Tarragona and Terres de l'Ebre, and those that already existed in other areas have been consolidated and expanded.

Number	Recommendation	Response
3	<p>IMMEDIATE CARE CENTERS FOR MIGRANT CHILDREN WITHOUT FAMILY TIES</p> <p>Accompanying the transition to adult life and linking the centre to the territory, as well as acceptance of the neighbourhood, will also need to be improved, and the material shortcomings of some of the centres will also have to be addressed.</p> <p>Finally, it should be remembered that the application of disciplinary rules in these centres must also conform to international standards and that the Administration must constantly monitor the centres and listen to the children.</p>	
4	<p>THERAPEUTIC CENTRES</p> <p>Shortcomings in the work of affective-sexual relationships and the approach to the prevention of unwanted pregnancies are detected. That is why the Mechanism recommends strengthening the affective-sexual formation with a feminist perspective and the information on contraceptive methods provided, as well as the accessibility of useful materials for this purpose.</p> <p>It also stresses that disciplinary rules must be applied in line with international standards and that the material shortcomings of some centres must be addressed.</p>	<p>The DGAIA reports that affective-sexual education workshops are already held at the centres, and the psychologist visits adolescents once a month, as a general rule. A lot of group therapy is also done.</p>
	<p>These centres include Font Fregona and Maspons, which were the subject of a complaint filed by the Catalan Ombudsman (AO 188/2018) due to the seriousness of the shortcomings regarding children's rights. These shortcomings were detected in relation to the models and the use of containment and the punitive system, as well as violations of various fundamental rights (such as the right to identity, privacy and dignity, the right to food, the right to education, the right to legal certainty, the right to complain, the right to physical and emotional recovery and the right to the maintenance of family ties).</p>	<p>The DGAIA does not admit children under guardianship to the Font Fregona and Maspons centres.</p> <p>The Catalan Ministry of Health is working on the issue of suitable child treatments and profiles and is currently developing a model programme for a comprehensive approach to high-complexity cases of mental health and addiction, with all professionals and experts of the sector.</p>

Geriatric and social health centres

Number	Recommendation	Response
1	<p>A) The MCPT recommends that Regulation 1/2017 re-enter into force and provide the courts with more staff to guarantee the rights of elderly people admitted to retirement homes who are unable to express their will.</p> <p>This regulation, which complies with the mandate of the Civil Code of Catalonia, establishes that the income of non-legally incapacitated elderly people made with the consent of a relative who acts as a de facto guardian cannot be considered “voluntary”. It forces the owners of retirement homes to report these cases to the legal authorities within 72 hours and wait for them to issue a ruling before admission.</p>	<p>A) In 2017, in compliance with the recommendations made in previous years by the MCPT, Regulation 1/2017 was approved, which regulated situations of de facto custody.</p> <p>The application and immediate repeal (due to the saturation caused in the courts) of this new rule in 2017 is the cause that today still continues to apply Decree 176/2000, a rule that runs contrary to the Civil Code of Catalonia, as reiterated by the MCPT.</p>
	B) Need to improve and maintain the infrastructure of the centres visited.	B) Improvements have been made and the main shortcomings found have been rectified.
	C) The kinds of people who occupy retirement homes has changed over time, so they now act more like social and health centres. The Catalan Ministry of Labour, Welfare and Families should be sensitive to this change and adapt the types and ratios of staff in the centres to this situation.	C) The Ministry reports that the ratios are adequate.

Foreigner internment centre (CIE)

Number	Recommendation	Response
1	<p>During the 10 years that the Mechanism has been operational, access to the CIE has been systematically denied. Once again, the MCPT asks to be able to visit the space to verify the level of compliance with detainee rights and reiterates that it should be closed.</p>	<p>It has not yet been visited and has been reopened.</p>

CONCLUSIONS AND FUTURE CHALLENGES

CONCLUSIONS AND FUTURE CHALLENGES

To mark the 75th anniversary of the United Nations and of the International Day in Support of Victims of Torture in 2020, the United Nations' anti-torture mechanisms unanimously warned that the COVID-19 pandemic had resulted in an increase in cases of torture and mistreatment around the world, and that people who survived torture were especially exposed to the risk of contracting the disease because of their vulnerable situation.

Amidst this deprivation of liberty, it was found that people who could not leave freely faced a new threat that has affected everyone. The MCPT has followed first-hand the impact that the pandemic has had mainly on detention centres, in which inmates were denied prison benefits from day to day due to restrictions agreed during the state of emergency and then following the second wave of the pandemic.

Nevertheless, the MCPT has been able to ascertain that the Penitentiary Administration has in a short time taken action to facilitate inmates' contact with the outside world and to promote, as far as possible, their progression to the third degree of treatment, efforts that must be appreciated and that show us that a paradigm shift is possible. Therefore, we must continue in this line, seeking alternatives that avoid remaining in or prolonging imposed prison sentences.

Although the COVID-19 pandemic has prevented the MCPT from carrying out unannounced visits to prison areas, it has not stopped working on preventing mistreatment, as can be seen in the report presented here. Also, coinciding with the 10th anniversary of the MCPT, it can be concluded that the activity included herein highlights the importance of a body that has become a benchmark in Catalonia for supervising prison spaces and of the action of the public administrations with authority in this sphere.

The Catalan Mechanism for the Prevention of Torture was set up in 2010 and began by

making regular visits to establishments where people were incarcerated in 2011. In these 10 years, over 400 visits have been made to a total of 265 different centres: more than 80 Generalitat police stations, over 100 local police stations and all kinds of prisons and juvenile detention centres were visited on several occasions, with hundreds of interviews conducted with these incarcerated people. Other types of centres (psychiatric hospitals, residential centres for people with disabilities or the elderly, social and health centres, etc.) have also been the focus of the Mechanism.

In some respects, the methodology of the visits has been the same over the years: there is a previous programme that tries to combine the maximum diversity of spaces and territory with the necessary intensification of centres may pose more risks in terms of mistreatment. The visits are made without prior notice to the Administration, as established by the Catalan Ombudsman Act, and are carried out by a mixed team of staff from the institution and experts from the Advisory Board.

However, there have also been significant methodological changes: visits have gone from once every two weeks in the early years to virtually weekly in recent times. They are often longer and have shifted focusing from inspection and how the centres operate to being based primarily on interviews with incarcerated people (particularly in prisons and juvenile detention centres). The results of each visit, which were reported at the end of the year at first, are currently being transferred to the authorities concerned as the Working Group concludes the related report, etc.

As a result of these visits, dozens of recommendations and suggestions have been made to the administrations concerned regarding these centres, many of which are a reality today, as can be seen in this report. Others, however, have not yet been accepted or implemented by the authorities. Hence, the first challenge for the Mechanism: to continue the dialogue with the competent Catalan administrations so that the legislative, regulatory and procedural reforms

necessary to implement the pending recommendations of the MCPT can be carried out.

The experience of these first 10 years allows us to conclude that there are areas of incarceration such as some local police stations or older prisons that continue to have significant structural shortcomings that make them conducive to treatment that could at least be described as degrading for inmates. There are also operating protocols, such as in the field of mechanical restraints, that need urgent updating.

It is in this context that the MCPT pursues its mission, with the understanding that the prevention of torture does not only refer to physical or mental violence, but can also involve certain non-normative practices or procedures, or the internal operation of closed spaces, which, due to their persistence, intensity or characteristics, can seriously violate prisoners' dignity.

In this sense, the MCPT has shown during these 10 years that the interpretation of the concepts of mistreatment and unnecessary rigour falls within the jurisdiction of the European Court of Human Rights, according to which the conditions of concentration, the seclusion of inmates in confined spaces, without light, with insufficient ventilation and in poor hygienic conditions entails inhuman and degrading treatment.

It is true that while not common or widespread, credible allegations of verbal abuse, or even physical abuse have not diminished during this period. However, the Mechanism's assessment of the work done is positive overall. There are obvious improvements, as seen in the previous pages, which are largely the result of the MCPT's recommendations and insistence.

In the area of torture prevention, the MCPT has recommended that allegations of torture and mistreatment be investigated promptly and effectively, and that appropriate legal action be taken against public officials. It has been made clear that the complaints collected by the MCPT in situ have been referred to the competent

departments of the Catalan Ombudsman for study and analysis.

In some cases, as has been shown, the visit has led to parallel actions by the Catalan Ombudsman, which have resulted in the formulation of the recommendations transferred to the competent administrations. For its part, it has been established that the Administration has also initiated its internal investigations when required, without prejudice to the actions of the courts and tribunals of the criminal field in the investigation and resolution of complaints filed by inmates.

The European Court of Human Rights has condemned Spain for violating Article 3 of the European Convention on Human Rights on several occasions. The complaints are mainly due to the lack of a proper investigation of possible cases of torture, inhuman or degrading treatment.

People deprived of their liberty must be treated with respect for their physical and moral integrity. Moreover, prison staff are entitled to the presumption of innocence when they are accused of wrongdoing. Therefore, these respective rights must be respected and protected by a system of guarantees adjusted to the law.

However, our analysis of the interviews conducted with hundreds of incarcerated people stressed the difficulties that inmates have in taking legal action, determined by the difficulty of proving and contradicting the version of the facts already consummated and established in the written reports issued by the prison staff, and also by the lack of identification of some of them or by the lack of an urgent and rapid investigation with all guarantees.

Thus, the gradual installation of devices for recording and storing images in detention facilities has made it possible to provide legal security for both inmates and the prison staff as they do their jobs, always within the respect of the right to privacy and the protection of their personal data.

Important in this context are the recommendations made by the MCPT on the application of the Istanbul Protocol

regarding the investigation of allegations of alleged mistreatment, an indispensable tool in torture prevention and in ensuring the right of detainees to be cared for by a doctor in accordance with the standards of the Protocol.

The MCPT has incorporated the gender perspective in its analysis of the different aspects of detention.

Finally, it should be noted that during this time it has also been essential to have the advice of all the professionals who are now or have at one time been part of the Advisory Board, as well as staff who have participated in the Working Group's visits.

We also appreciate the indispensable relations of collaboration and mutual knowledge with other mechanisms and international bodies for the defence of human rights and civil society.

In the immediate future, the Mechanism assumes a threefold challenge: firstly, to expand the presence of the MCPT throughout the region with respect to all areas of incarceration under its jurisdiction; secondly, to continue to enjoy the participation of experts in carrying out the visits; and thirdly, to gain in intensity and depth both during the visits and in the reports and recommendations related to them.

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