MECHANICAL RESTRAINT IN THE CATALAN PRISON SYSTEM

ANALYSIS OF THE PRACTICE AND LEGAL FRAMEWORK

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EL DEFENSOR DE LES PERSONES

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1st edition: March 2022

Mechanical restraint in the Catalan prison system. Analysis of the practice and legal framework. March 2022

Layout: Síndic de Greuges

Cover picture: (c) Síndic de Greuges

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1. BACKGROUND

To regulate the use of coercive measures in prisons, the Secretariat of Penal Measures, Reinsertion and Victim Care (SMPRAV) has provided various internal regulations that, in the opinion of the Catalan Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the Catalan Ombudsman (MCPT), should be revised to improve the conditions and procedures in which the measures to contain the inmate population are carried out. In this sense, in recent times, various national and international bodies, including the Council of Europe's Committee for the Prevention of Torture (CPT) and the MCPT itself, have stressed the need to promote changes in the prevention of immobilisations and the de-escalation of situations of conflict, the position in which a mechanical restraint should be carried out, its duration and the staff who should be performing it, among other issues.

The MCPT was aware that the mechanical restraint Protocol was being reviewed by the Secretariat, in coordination with the Catalan Institute of Health, and that in 2017 the first pilot test of mechanical restraint in a semi-incorporated position took place. In view of the results and the final assessment, it appeared that a new Circular on mechanical restraint was being drawn up, designed to be adapted to the criteria and requirements which the national and international control bodies had conveyed. The date, however, was delayed, motivated in part by the revision of some aspects and the inclusion of new criteria to reach the goal of zero restraint and, finally, by the wait for the CPT to publish its latest report. To this effect, on 4 February 2020 the CPT published its report on its impromptu visit to Spain (which focused only on Catalonia) from 6 to 13 September 2018, and the corresponding response from the authorities.

Some of the conclusions and recommendations formulated by the Committee coincide with the work carried out by the Catalan Ombudsman in its role as Catalan Mechanism for the Prevention of Torture. In the penitentiary field, the conclusions of the 2018 visit indicate that in the prisons visited, the use of mechanical restraint still has clear punitive elements and that the measure does not yet comply with the legal provisions.

In this area, the MCPT has recommended that immobilisation and mechanical restraint be the last resort in resolving situations of conflict, and that all non-coercive means be exhausted before going through with them. It therefore stressed the need for de-escalation measures to be authorised and carried out by a properly trained multidisciplinary team capable in conflict resolution.

Regarding the duration of a mechanical restraint, the MCPT has indicated that it must only be for a time which is strictly necessary, as provided by the applicable prison regulations. In this regard, the MCPT has found that the duration of many of the restraints was excessive and there was no evidence to justify that the person remains immobilised, given that the circumstances that had led to its application were no longer present.

It was also made clear that resorting to mechanical restraint for regimental purposes should not include elements of punishment. In fact, in no case can the measures be punitive in nature.

Finally, the MCPT has recommended that mechanical restraint be an exclusively medical measure because of the risks it poses to people's health.

Within the Council of Europe, the CPT has had the opportunity to review the use of mechanical restraint for regimental purposes in different prisons in Spain. The results of previous visits show that the recommendations published in their reports on the visits carried out in 2007 and 2011 have not yet been fully implemented. In particular, the CPT notes that the restraints are applied for extended periods of time without exhausting other alternatives and without proper supervision and records. It also detected cases in which the use of this measure appeared to be punitive and the way in which it was applied could be considered as degrading treatment as inmates were not untied in order to attend to their physiological needs. That is why

the CPT calls on the Spanish authorities to put an end to the current practice of the regimental mechanical restraint of inmates in all prisons.

Regarding minors, the CPT went further. Following a visit to detention centres for minors in 2016 and 2018, it recommended that the Spanish authorities put an end to the use of immobilisation, both in relation to holding the child face down on the bed and the handcuffing of those who are violent and/or disruptive to fixed objects. The Committee recommended the introduction of alternative methods of managing violent incidents and alternative means to that of immobilisation.

Subsequently, on 25 June 2021, Organic Law 8/2021, of 4 June, on the comprehensive protection for children and adolescents against violence, came into force. This law amended Article 59 of the Organic Law 5/2000 by prohibiting mechanical restraint, which consists of holding a person down on an articulated bed or to a fixed object or anchored to installations or furniture.

This amended article also states that it will only be admissible in exceptional circumstances the subjection of the wrists of the minor or young person with approved equipment as long as it is done following a strict protocol and only when it is not possible to apply other less harmful measures. This article also removes passive resistance as a behaviour that permits the use of restraint.

The aforementioned legal amendment makes it necessary for the General Directorate of Community Criminal Enforcement and Juvenile Justice to publish Circular 2/2021, amending Circular 1/2008, adapted to the new wording of Article 59 of the Organic Law 5/2000.

2. CHANGES IN THE REGULATORY FRAMEWORK ON THE USE OF RESTRAINT MEASURES IN CATALAN PRISONS

In this context, and in view of the need identified by the Secretariat to revise and adapt the current internal regulations regarding this issue, in May 2021 it approved Circular 2/2021, on the Protocol for applying restraint measures in Catalan prisons. Among other matters, it introduces the use of verbal restraint techniques to minimise the use of coercive means in general, and mechanical restraint in particular, and also modifies the position of supine immobilisation because it causes the least possible injury.

The aim was to review and adapt the various current internal regulations in the field of coercive measures in accordance with the recommendations of the various national and international bodies mentioned. On one hand, to improve the conditions under which measures were taken to contain the inmate population and to put in place the necessary preventive measures to avoid having to immobilise and restrain persons deprived of their liberty by mechanical means. On the other hand, to adapt to the changes put forward from a medical and health perspective, related to the restraint positions on the bed, to improve the conditions in which they must be carried out.

The visits carried out by the MCPT after the approval of Circular 2/2021 show a significant decrease in the number and duration of bed restraints carried out. In fact, the Protocol states that the goal is to achieve zero mechanical restraints, in accordance with what has been determined by various bodies and institutions. It is for this reason that the MCPT values positively the paradigm shift in the area of restraint and, in particular, the aforementioned Circular, insofar as it adapts to the criteria and requirements that both national and international control bodies have communicated to the Secretariat of Criminal Measures on several occasions.

The Protocol also now states that if, despite verbal restraint being used, the inmate increases his or her disruptive behaviour in a manner that may jeopardise his or her physical integrity or that of others, the measure should be to temporarily isolate them in a padded cell. The Protocol also explains that the use of such cells will be introduced in prisons after being validated through a pilot project. Once the procedure for the use of padded cells has been validated, the Protocol is expected to be updated by incorporating the padded cell as a coercive means in place of the mechanical bed restraint.

Therefore, it is expected that, as soon as the prisons in Catalonia have this alternative available to them, the use of bed restraints in these centres will be prohibited. However, in the visits carried out by the MCPT Team, it was noted that after the approval of the Circular, the pilot programme is not being applied in the Brians 2 prison as stated, and the visits to the prisons have shown that no action has been taken in this regard either.

At the same time, in order to eliminate these weaknesses in the most critical areas of the prisons, it has been observed that a project is being initiated to install cameras and audio in the search rooms, detainment cells and isolation cells in all prisons.

On 4 November 2021, through Motion 35/XIV, the Parliament of Catalonia urged the Government to "revise, after consultation with the actors involved, Circular 2/2021, on the Protocol for the use of restraint in the prisons of Catalonia, to ensure that the prison staff who are in charge of maintaining order inside the prisons have the necessary regulatory cover to do so."

Subsequently, the Department of Justice announced its intention to amend Circular 2/2021 as, according to published information, "it was not operational".

In this regard, the MCPT suggests that this review be conducted in a transparent manner and with the participation of all relevant actors. It should include those who

are specialists in the respect for human rights in the penitentiary field, considering and adhering to all the recommendations made by the CPT and the Catalan Ombudsman in their capacity as the MCPT. The MCPT therefore emphasises that any rule relating to measures of restraint in the penitentiary field must aim for zero restraint. It must also be based on the guarantee of the rights of those deprived of their liberty and also the safety of those persons, and of the staff who may eventually have to apply the measures.

In this context, the MCPT urgently requests that the draft on which the Secretariat is working be sent to them. The proposed Circular and Protocol was made available to the Catalan Ombudsman by the Catalan Bar Council, human rights organisations (IRÍDIA and Observatory on the Penal System and Human Rights) and union representatives, among others, for an assessment to be made, and allegations presented.

The Catalan Ombudsman sent its contributions to the Secretariat before the final approval of the Circular and the Protocol. At the same time, the Catalan ombudsman and his deputy general held various meetings with the Minister of Justice and the Secretariat for Criminal Measures, Reintegration and Victim Care to discuss the new Circular 1/2022, which approves the Protocol to apply coercive measures of temporary isolation and mechanical restraint in prisons, before and after their final approval.

The text, which is expected to come into force on 1 April, has incorporated some of the Catalan Ombudsman's inputs, but not all that would be desirable. This report analyses the new Circular and the Protocol and assesses the changes that have been made and those that have not been introduced at the recommendation of this institution.

Alongside this, the report includes the conclusions reached by the MCPT after viewing 41 containments in prisons with mechanical bed restraint (9 medical and 32 regimental), on women (4) and men (37) in 2019 and early 2020, and the recommendations made.

3. A STUDY ON VIEWING MECHANICAL BED RESTRAINTS WITH FABRIC STRAPS

The MCPT 2018 report contains a specific chapter on the use and control of restraint measures on persons deprived of their liberty, coinciding with the reflections gathered during the International Day in Support for Victims of the Torture of that year.

The conclusions included in this chapter centre around the duty to take effective measures to prevent disruptive behaviour by inmates, to avoid the stage where mechanical restraint is required; the most appropriate procedures for detainment and the use of mechanical restraint; the proactive role that health services must play in monitoring restraint, and the effectiveness that legal safeguards must play in enforcing these measures.

Visits made by the MCPT over the past few years have uncovered numerous testimonies from inmates in detention centres, from both adults and young people, about mechanical restraints with standardised straps being performed during their internment. In the course of the MCPT's preventive work, it has been detected that in prisons there are excessive immobilisations followed by mechanical restraints with straps, lasting much longer than necessary and not always fully respectful of the highest standards of human rights.

With the desire to continue examining this issue, learning about the number and the manner in which mechanical restraints with psychiatric containment are carried out in prisons, the MCPT Team has decided to evaluate some of the mechanical restraints recorded and seen during 2019 and 2020.

The MCPT bases its views on the assumption that the use of mechanical restraints is common practice, that the figures and procedures for immobilising individuals differ depending on the centre, that most of those carried out are regimental and non-medical in nature, and that the measures taken by the management teams are not monitored. The MCPT is also interested in the role of health personnel in the practice of restraint, as they appear to have a more residual role.

The study is based on the documentary and visual analysis of immobilisations using mechanical bed restraint. In this sense, the MCPT understands that the best way to understand the reality of this widespread practice in prisons is from the viewing of mechanical restraints from start to finish.

In order to perform the study, in 2019 the MCPT requested the lists of containments with mechanical restraint conducted in prisons from the Secretariat. In response to this request, the Secretariat extracted the data directly from the Catalan Penitentiary Information System and sent to the Catalan Ombudsman the data from the Brians 1, Brians 2, Women, Youth, Lledoners, Mas d'Enric, Ponent, Puig de les Basses and Quatre Camins prisons.

Alongside this, during the prevention visits, the MCPT team requested, *in situ*, the lists of the restraints carried out over the same period. The first aspect to note is that while the lists provided by the Secretariat differ by type of containment, prisons do not make this distinction except for Brians 2, which has its own record of them being carried out.

The team viewed the restraints made during the month of the visit or, if the visit took place at the beginning of the month, those of the previous month. In some cases, the viewing dates have been modified and have been extended beyond one month. Specifically, this occurred in cases where in the data collected in the list it was seen that an inmate was subjected to more than one restraint, or a very lengthy restraint was detected during another period, or because the sample of the restraints of that month was very small.

The images of selected containments are displayed in the office of the director, who provided the Team with access to the information at all times and answered any questions that may have been presented.

When it was not possible to view the recording *in situ* due to time constraints, the centre's management sent it at a later date, together with a copy of the documentary file that led to the restraint being imposed, including the medical assistance file.

In order to analyse each of the viewed restraints, a form has been filled in with two sections, one with parameters that affect the scope of the internal regime, and another with respect to health.

The following are the main conclusions that emerge from viewing 41 restraints in prisons with mechanical bed restraint (9 medical and 32 regimental), on women (4) and men (37) in 2019 and early 2020, and the proposed legal duty recommendations or reminders, some of which, as will be seen in the next section, have already been referred to in the new Circular.

1. **It has been noted that mechanical bed restraint, which should be limited in time and last minutes rather than hours, in many cases is temporarily extended once the emergency situation that led to the use of the measure has passed. In most cases, it has been found that the inmate could have been untied from the bed shortly after the mechanical restraint was applied.**

R: Mechanical restraint should be limited in time and should last minutes rather than hours; as according to the CPT, prolonged restraint amounts to abuse. It would be advisable to implement a maximum period, which could not be extended unless approved by a medical practitioner.

2. **There are cases in which the same inmate is given regimental and health restraint indistinctly.**

R: In the case of inmates to whom mechanical restraint is repeatedly applied, a transfer to another centre and an assessment of the case should be foreseen, in the event of inmates with mental illness.

3. **In general, mechanical bed restraints are performed by internal staff, rather than solely medical staff.**

R: Mechanical bed restraints of a medical nature must be carried out by medical staff. Internal staff have a residual role and must only assist in restraint manoeuvres if required. Only in exceptional cases can the internal staff temporarily apply mechanical restraint while waiting for the medical service to take charge of the situation.

4. **Mechanical bed restraints of a medical nature, except in the case of restraints in the detainment cells located in the centre's infirmary, are carried out in the closed regime department or in the special departments.**

R: Mechanical bed restraints, regardless of whether the person is admitted to a psychiatric unit, should be performed in the detainment cells located in the infirmary or mental health centre.

5. **It has been noted that the existence of a medical report in an inmate's file on the autolytic attempts he or she has made, or the presence of mental illness or disability is not an impediment to applying mechanical bed restraint for regimental reasons.**

R: Mechanical restraint of mentally ill inmates should be prescribed in all cases by psychiatric staff and performed and supervised by medical staff. In all cases, the least restrictive means of restraint should be chosen, preferably oral restraint, then pharmacological restraint, and lastly mechanical restraint.

6. **The normal position, even in occasional medical restraints, except in specific cases, is the prone position. In no case has it been observed that the change of position from prone to supine has been ordered in cases where the restraint is prolonged.**

R: The inmate should be immobilised in the supine position, using the postural wedge or articulated bed.

7. **The maximum comfort of the person who is immobilised cannot be guaranteed, considering that he or she is restrained in the clothes they are wearing at the time and the current weather conditions are not taken into account.**

R: The restraint must be performed in the most careful way possible to minimise the risk of harm, and to avoid causing suffering to

the inmate. Appropriate measures must be taken so that the restraint is performed in cells with adequate lighting, ventilation, temperature and hygiene conditions.

8. **Some of the beds where the restraints are performed do not have built-in psychiatric straps, which causes the mechanical restraint to be prolonged. There is clearly no distinct procedure regarding the role of each of the internal professionals taking part.**

R: Approved psychiatric or medical-type straps must be present in the cell where the restraint is being performed.

9. **Regarding the staff who carry out the restraint, it has been found that there is an excessive number of internal staff present during the restraint, considering the small size of the cells where they are performed and when in many cases the inmate appears to be calm. In some cases, the restraint is carried out by special intervention staff.**

R: The number of staff who apply restraint, whether medical or internal, must be the appropriate amount to perform the restraint with the least possible risks and without causing suffering to the inmate, while preserving their dignity.

10. **It is clear from the duration of the mechanical restraints and the way in which they are carried out that the internal staff are not adequately trained.**

R: Staff performing restraints must be properly trained to reduce the risk of injury to the inmate and to the staff carrying it out. They must have the tools to apply mechanical restraint correctly. This training should not only cover restraint techniques but should also include training on the effect that resorting to restraint has on inmates.

11. **Excessive use of force in applying restraint has been reported in some cases, with the consequent risk of injury or pain.**

R: The use of force must be proportionate and with the understanding that sometimes there is a fine line between proportionate physical force used to control a patient and an act of violence. Staff must be properly equipped and trained to intervene in order to carry out an appropriate application of restraint.

12. **There are few cases in which those being restrained have had a limb temporarily freed in order to meet their basic physiological needs. In any case, it is considered that at the moment when the person's limb can be untied, there is no reason to justify continuing the procedure.**

R: In the exceptional case that the person cannot be wholly detained, their physiological and hygiene needs should be attended to. They should be provided with water or whatever they need at all times.

13. **Control by means of video surveillance or face-to-face control by the prison staff is carried out in a standardised way without a relevant incident or observation being recorded, beyond noting the date and time of the beginning and end of the procedure, the civil servants who participate, the medical staff that make an evaluation, etc. It is also seen that the controls and supervisions carried out by the internal staff are merely visual and the physical condition of the person nor the containments are checked.**

R: All incidents that occur during the mechanical restraint must be recorded and any new ones must be noted, regardless of whether the restraint is also documented in the inmate's clinical history.

14. **It is significant that mechanical restraints applied at night tend to mean the person is detained until the next day, even if it has been noted that the inmate is calm and sleeps practically all night.**

R: It is important to remember that mechanical restraint should last only as long as necessary and that the lack of a medical staff during the night shift cannot in any case lead to it being unjustifiably prolonged.

15. **The notification of the start and finish of the restraint to the penitentiary surveillance court is made jointly, once the measure has ended, and in most cases the next day or a few days later, but in no case is the court notified immediately.**

R: As provided in Article 72.3 of the Penitentiary Regulations, the penitentiary surveillance court must be notified immediately of the adoption of the measure and, subsequently, of the termination of the restraint to ensure that when it is applied and while it is carried out, it is being controlled. In this way, the court may rule on it once all the statements of fact have been sent, including the reasons and circumstances that have justified the use and maintenance of the measure.

4. CONSIDERATIONS ON CIRCULAR 1/2022 APPROVING THE PROTOCOL ON THE APPLICATION OF COERCIVE MEASURES AND MECHANICAL CONTAINMENT IN CATALAN PRISONS

First. In accordance with the provisions of Article 72.1 of the Penitentiary Regulations, authorised coercive means include: temporary isolation, personal physical strength, rubber batons, police sprays and handcuffs. The wording of the article makes no mention of the use of "mechanical restraint straps" as a way to detain a person for a period of time with a certain duration. The use of these approved straps however has been authorised as an additional coercive means, which can be used in these cases with the legal guarantees provided by current legislation.

Circular 1/2022 clearly highlights the use of two of these means; that of temporary isolation and mechanical restraint with handcuffs or psychiatric-type restraint straps. In this sense, the Catalan Ombudsman considers that if the aim of the Circular is to regulate the procedure for the deployment and use of the legally provided means of restraint, and bearing in mind mechanical restraint is that which carries the most ethical implications, it is not understood why the Circular only highlights the use of two of these means. It is not clear why it does not take advantage of the process of regulatory review initiated to regulate the others, such as verbal restraint or the process of de-escalation.

Also, although the law and the penitentiary regulations do not speak of verbal restraint as one of the legally provided coercive means, considering that one of the aims of the Circular should be to achieve zero restraint, that fact that it was approved should have been an opportunity to regulate this type of containment and the process of de-escalation in a broader sense. In fact, the Circular already points out in its argument that one of the objectives is to implement preventive and alternative measures to avoid detainment as much as possible.

Therefore, in order to adapt and standardise the various restraint procedures, the Catalan Ombudsman proposes the title "Circular 1/2022, approving the Protocol for applying means of restraint in Catalan prisons" and the regulation of all means of restraint. If not, this would imply that there is no importance given to other less harmful restraint measures and the restriction of rights, nor the clear move towards zero restraint.

In this sense, the Protocol only devotes a brief section (point 2) to what it calls "verbal or communicative interaction" which it defines as "the set of verbal communication techniques that aims to redirect an inmate's alternation in behaviour and avoid the application of coercive means". With regards to how these techniques should be carried out or applied, the Protocol issues two guidelines for penitentiary action, numbers 1 and 3, although it is not known what these indications are because they have not been published. Therefore, no assessment can be made.

It should be acknowledged that the goal of any public policy on the immobilisation of persons deprived of their liberty should be zero restraint. In other words, the Administration should take the necessary measures to avoid having to immobilise and restrain persons deprived of their liberty by mechanical means. Therefore, in an exercise of transparency and a correct assessment of compliance with the regulations, it would be necessary to transfer the content of the penitentiary action guidelines (GAP) to the approved Protocol for restraint.

Second. Regarding the regulatory justification, the Circular states that the recommendations of the different national and international bodies are incorporated into the current mechanical restraint procedures. This refers especially to those included in the Good Practice Guide for mechanical restraints of the Ombudsman in his capacity as National Mechanism for the Prevention of Torture (MNPT) and the recommendations of the Catalan Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or

Punishment of the Catalan Ombudsman (MCPT), with two main objectives: to improve the conditions under which restraint measures are carried out and to put in place preventive and alternative measures to avoid immobilisation as much as possible.

The incorporation of the recommendations of institutions with experts in the defence of human rights has been positively regarded. However, the implementation of the preventive measures advocated by the Administration must represent a prior step to mechanical restraint, which has a double dimension. On one hand, in each specific case, when an inmate is already disruptive or poses a threat to his or her own security, and that of others, the measures that can be taken to prevent his or her physical detainment. On the other hand, in general, the environmental or preventive measures that can be taken to avoid these situations, especially with regard to inmates who frequently show disruptive behaviour and are those who most often receive this measure.

From the first point of view, it should be emphasised that detainment and mechanical restraint should be the last resort in resolving situations of conflict and that all non-coercive avenues should be exhausted before resorting to them.

While the consensus among authorities and experts on this principle is absolute, the experience of the MCPT shows that it is not always respected. In the aforementioned study, the Team finds that just a few minutes are spent trying to convince a distressed inmate – who poses no threat to anyone – to calm their behaviour before restraining them.

For this reason, and with a desire to show consideration for the work done by civil servants when they have to deal with difficult and conflicting situations, the Catalan Ombudsman reiterates the need for de-escalation measures to be recorded and carried out by a properly trained multidisciplinary team who are capable in conflict resolution, which translates into increased staffing. In these cases, it is necessary to record the reason for the restraint and all the measures taken before applying the mechanical restraint (verbal restraint, environmental measures and whether pharmacological treatment has been offered voluntarily to reduce anxiety) and who is the member of staff who has applied the measures.

In this regard, it should be noted that the new Protocol (point 6) already includes a section on the assessment of incidents with bed restraint and an assessment of the incident by the multidisciplinary team. It states that the multidisciplinary team from the department of the inmate should interview him or her within a maximum of 72 hours from the end of the restraint and should send an assessment report to management within 7 days, as well as coordinating with the medical and health services.

Third. Regarding the need to amend Circular 2/2021, Circular 1/2022 states that the need to approve a new Circular and a new Protocol lies, among other things, in the fact that as a result of the implementation of Circular 2/2021, there has been a significant decrease in the number of restraints in all prisons. Nevertheless, there has been a relative increase in incidents in general, including assaults on staff, and a significant increase in incidents of self-harm.

According to data provided by the Secretariat at the request of the Catalan Ombudsman, between 1 May and 31 December 2021, there were 352 restraints carried out in Catalan prisons. In the previous seven months, there were 425. The difference between the number of restraints carried out after Circular 2/2021 shows that, although there has been a slight reduction, this is not sufficiently relevant from a quantitative point of view. Therefore, it cannot be concluded that the aim of avoiding these measures as much as possible has been achieved, as a generalised context of standardised application of coercive means is still maintained.

With regard to the growth of incidents in general, including assaults on staff, and a significant increase in incidents of self-harm, the data provided by the Secretariat show that during the period of validity of Circular 2/2021 there is a general increase in the incidences mentioned previously, including incidents of self-aggression and

autolytic behaviours. This is, however, in the absence of any conclusive study correlating the two variables.

With regard to behaviour involving self-harm, suicide attempts and arson, the comparative data for the two periods show an increasing trend in each of them:

By way of example, from the data provided on serious self-injuries, it is shown that the figure is the same, with a total of 26. On the other hand, with regard to minor self-injuries, from 860 in 2020 it rises to 1,185, so there is a considerable increase, a figure that doubles in some centres. This is the case of the Brians 1 prison, which went from registering 145 incidents to 324, or the Mas d'Enric prison, which went from 115 to 220.

With regards to arson, the data also show a considerable increase, from 62 cases registered in 2020 to 90 in 2021.

In terms of suicide attempts, there is also a very significant increase compared to the previous year. The number of attempts rose from 86 to 152 in 2021, almost 50% more. This increase is especially significant in the Brians 1 prison and the Brians 2 prison, where the numbers are doubled, and in the Quatre Camins prison, which has gone from 2 registered cases in 2020 to 17.

As for the female prisoners, the figures have remained constant at the Women's prison. The incidents that occurred in the other women's blocks of the Mas d'Enric and Puig de les Basses prisons are unknown, so it is not possible to corroborate if this trend has also been seen in these centres.

With regard to assaults on civil servants, the report states that those that have led to the staff member taking leave, and those which are psychiatric assaults, are considered serious. In other words, those which are committed by an inmate who at the time of the incident has a recognised psychiatric pathology which affects their cognitive/behavioural capacity.

The data show a trend towards an increase in assaults. In 2021 it can be seen that the number of serious assaults on civil servants is higher than in the previous year. This also highlights the increase in psychiatric assaults which have gone from a total of 6 to 21 in 2021.

Although the Secretariat records as psychiatric assaults those which involve people who at the time have a psychiatric condition that affects their cognitive/behavioural capacity, it may be the case that there are more people who have committed serious incidents and who are not diagnosed.

Fourth. It is well established that in prisons the prevalence of mental disorders is five times higher than in the general population, and in severe cases, such as psychosis or schizophrenia, the prevalence in inmates is ten times that of non-inmates. In the hostile environment of the prison, conditions of deprivation of liberty, isolation and control of all aspects of life exacerbate previous disorders that inmates may have and create new ones in those who do not have them, according to experts and civil organisations.

Therefore, prisons are spaces that are severely affected by mental disorders, either because the people who enter them already suffer from them or because they appear unexpectedly during the sentence because the imprisonment alone generates situations of stress and trauma.

According to the report on the prevalence of mental disorders in Spanish prisons (PRECA), eight out of ten people admitted to Spanish prisons have suffered a mental disorder in their lifetime. Of this inmate population, 76% have a history of substance use disorders, primarily alcohol and cocaine.

According to the study, 41% of Spanish prisoners suffer from some type of mental disorder and 84% have suffered from some form of mental illness during their lifetime. According to PRECA data, although substance abuse is the most common disorder, other disorders such as anxiety, affective disorder and psychotic disorder also occur in prison.

As a result of this situation and with the understanding that the prison environment is not the most suitable place to treat a mental illness, if the prisoners who suffer from it are not effectively detected or identified, the tension and discomfort can grow until it manifests itself in the form of conflicts between inmates and assaults on

officials, or in the form of self-harm, which can lead to coercive measures, disciplinary sanctions and even a regression of grade, but which in no way cases justify mechanical restraint. This is the case, for example, with passive resistance, which, according to the LOGP, can lead to coercive measures, but which would not justify detainment or further mechanical restraint.

On the other hand, it is well established that the prevalence of personality disorders in prisons is very high and that comorbidity between borderline and antisocial disorder is common. Studies show that inmates who have a personality disorder tend to have more problems adapting to the rules of the institution and, as a result, frequently incur violations of these rules. In addition, borderline personality disorders also frequently include non-suicidal self-harm, suicidal ideation, and other violent behaviour.

In this context, if a differential diagnosis is not made and the problem is not addressed with specific treatment programmes specialised in this area, it seems plausible to assume that the lack of control and the problems of adaptation of these inmates will increase and worsen. In addition, the problems of these inmates can be understood by the staff who interact with them as simple disruptive behaviour or mental health problems, and this can make them respond with coercive punitive actions that do not remedy the behaviour or improve the situation, but rather aggravate it.

Fifth. The guiding principles that should govern the use of coercive means have been eliminated from the new Circular 1/2022. It should be noted that the aim of listing them is to systematise the set of rules and recommendations contained in the international reference tools described above, so the Catalan Ombudsman has suggested that they be re-incorporated.

With regard to cases in which coercive measures cannot be applied in accordance with the provisions of Articles 72.2 and 254.3 of the Prison Regulations, the Secretariat has accepted the suggestion to acknowledge them. In this regard, it should be noted that they cannot be applied to patients recovering from a serious illness, pregnant women, women whose pregnancies have ended less than six months before, nursing mothers or those who have their children with them, except in cases where there may be an imminent threat to the integrity of the inmate or to others. However, the Catalan Ombudsman has suggested expanding the group of people to whom no means of restraint should be applied: people diagnosed with a mental disorder, who are or have been on suicide watch; people with disabilities and people who, without a diagnosis of mental illness or serious personality disorder, have a degree of impairment that prevents them from making free and conscious decisions, many of whom reside in the units of ordinary life.

Regarding training, Circular 1/2022 determines, within the resources necessary to ensure the correct application of the Protocol, an update and continuous evaluation of the regulations and protocols for action and specific training for staff in the Penitentiary Action Guides (GAP). In accordance with this aim, the first additional provision establishes that in 2022, the General Subdirectorate of Centres and Penitentiary Management will implement a strategic training programme for penitentiary action guides aimed at all civil servants from the internal regime.

Accordingly, the Catalan Ombudsman considers that the Protocol should not be applied until the established conditions have been met and the regulated training that is expected to be provided has been successfully completed. On the other hand, it considers that this training should not only consist of the correct application of containment techniques but should also include training on the effects that the use of restraint has on inmates and the risks of misuse, situations in which its use is not recommended, and de-escalation measures.

The Catalan Ombudsman also justifies the suspension of the Protocol until it is guaranteed that all prisons have isolation and/or detainment cells equipped with image and sound recording, including cells enabled for this purpose and located in the infirmaries or mental health centres. It is also necessary to ensure that all centres have the physical presence of medical staff during night shifts and at weekends.

Sixth. The second additional provision states that during the first half of this year a working group will be set up to continuously evaluate the correct application of the Protocol and to analyse possible alternatives to mechanical bed restraint, such as the possible introduction of padded cells. Any information about who will form part of this working group is omitted. With the previous wording of the draft of Circular 1/2022, the bodies that would form part of it, all within the scope of the Penitentiary Administration, were specified. The Catalan Ombudsman, at the time, made it clear that there was no participation expected from the Department of Health through the director of the Penitentiary Health Programme.

It would also have been appropriate to include provision for the participation of human rights organisations and to establish a space for work, debate and consensus in such a sensitive and complex area. In this sense, it is necessary to emphasise the importance of having the participation of these entities and institutions given their background and work, and to take into account the recommendations they issue after their visits to detention centres.

On the subject of padded cells, Circular 1/2022 only states that among the functions that the working group will have, is the possible introduction of padded cells. It should be noted that the previous circular provided for a three-month pilot test at the Brians 2 prison, consisting of the installation of a padded cell to assess its functionality as an alternative to mechanical bed restraint. In this sense, the Circular also stated that if the evaluation of the pilot test was positive, this measure would be extended to other prisons in Catalonia.

The MCPT has stated in its visits that the pilot test was not carried out and that no padded cells were incorporated, and the reasons were unknown. Therefore, the Catalan Ombudsman proposes that the possibility of carrying out the above-mentioned pilot test be re-evaluated, either in the Brians 2 prison or in another, and that a room be padded and used for the appropriate minimum period, to be used on inmates in a situation of temporary isolation who begin to inflict self-harm, commit acts of physical violence against others or cause serious damage to the installations. This is once it is understood that it is not possible to stop said behaviour through initiating the de-escalation process. The previous wording of Circular 1/2022 did provide for the installation of a padded cell in the Brians 2 prison and the assessment of its functionality as an alternative to the mechanical bed restraint.

5. CONSIDERATIONS ON THE PROTOCOL ON THE USE OF COERCIVE MEANS AND MECHANICAL RESTRAINT IN CATALAN PRISONS

First. At the point of introduction (point 1) the scope of application of the Protocol is not specified and it is in the section on mechanical restraint in psychiatric units (point 4.2.2) where it states that the Penitentiary Psychiatric Hospitalisation Unit (UHPP), the Psychiatric Unit of the Brians 2 prison, the Terrassa Penitentiary Hospital Pavilion (PHPT) and all units of these newly created characteristics must apply their own protocols of action. The Catalan Ombudsman is of the opinion that the Protocol should not be applied to infirmaries or mental health centres in prisons, in which the condition of a patient must prevail over that of an inmate and, therefore, the measure should be exclusively medical, a suggestion that has not been accepted.

On the other hand, it also necessary to state that the Protocol builds upon the previous measures that must be adopted to redirect behavioural disorders, through verbal or communicative interaction. However, it only dedicates point 2 to developing and regulating this measure under the pretext that it is regulated in two guidelines for penitentiary action. Conversely, the sections on temporary isolation and mechanical restraint are widely regulated, seemingly highlighting these two means, when it is necessary to stress that the application of any means of restraint is of an exceptional nature and as a last resort.

For all this, the introduction should have highlighted the exceptional nature of the measure, and stipulated that before the use of any means of restraint, all avenues of dialogue have been exhausted and that the inmate has been expressly told to halt any action that may lead to its use.

Second. Regarding the coercive means of temporary isolation, and, in particular, the body search that must be carried out before applying it (point 3.3), the Catalan Ombudsman has suggested, although not included, that in the event that the legal requirements are met to carry out a body search with full nudity, the person should never be left completely naked. The search should be performed in phases and the inmate should always be provided with a gown when requested. In this case, it is important to make sure that the person is aware that he or she has the option to request one. Also, in this section it is important to remember that the search should be based on correct, specific and motivated security reasons, and should not be done systematically in any case.

Third. Regarding mechanical restraint with handcuffs (point 4.1), given the new wording of the Circular which provides for this mechanism as an independent coercive method to control the conduct of the inmate, the Catalan Ombudsman has suggested that these measures should be applied in residual cases, such as the transfer of the inmate inside the prison, and for a very short duration. It has also been made clear that the use of handcuffs should be replaced whenever possible by fastening straps or fabric straps, and this should be prioritised. In this area, the MCPT has been able to ascertain the marks on the wrists left by the handcuffs in situations of conflict or during transfer to the isolation and/or detainment cells. However, the Circular does not mention it.

Fourth. On mechanical bed restraint with straps (point 4.2), contrary to the Protocol approved in 2021, which stated that restraints must have, as a desirable aim, a duration of minutes and not hours, the new regulation omits the establishment of a certain duration. Regarding this point, Circular 1/2022 provokes a clear regression of rights that should be corrected as soon as possible.

The MCPT has stated in its visits that the prolongation of mechanical restraint beyond a few minutes, and often for hours, does not seem duly justified. The MCPT has been able to verify on many occasions that those detained are temporarily freed from some elements of the restraint but then, despite behaving normally at the time, they are restrained again once the activity has

finished. In some cases, the inmate falls asleep, which clearly indicates that any of state of agitation he or she has been in has completely disappeared.

The Catalan Ombudsman has made it clear that, although the need and duration of each mechanical restraint must be assessed on an individual basis, there are still excessive immobilisations followed by mechanical restraints of a punitive nature which last much longer than necessary.

Fifth. Regarding the position of the immobilisation (point 4.2.1.1), the regulation of it has been positively assessed, that the mechanical restraint of the person on the bed must be in a supine position and not a prone position (face down), as practised in the medical field. Since the beds in the prisons make it impossible to put the inmate in this position, it has been observed by the MCPT, that the immobilisation is now done by tilting the head and trunk 30 or 45 degrees, with the use of a postural wedge.

However, it is necessary to clarify the reasons why the inmate who is placed face down and immobilised with Velcro fastening straps, and then, when he or she is contained, are then turned to be restrained on the bed. This is a manoeuvre that in some cases, according to observations made by the Team, can last a few minutes and carries a risk of injuring the person and prolonging the procedure unnecessarily. It is worth noting that this is not the case in the medical field, where the person is placed directly in the supine position.

Sixth. Regarding the initial medical examination made before the immobilisation (point 4.2.1.4), the Protocol specifies that the examination will take place "whenever possible". The Catalan Ombudsman has instead suggested that this should be modified, and the initial medical examination should be carried out "in all cases" and as soon as the detainment measures are applied.

Mechanical restraint can have consequences for physical and psychological health and therefore requires careful supervision from medical staff. On the other hand, the purpose of health intervention in mechanical restraint is twofold. Firstly, to determine whether the measure is indicated or contraindicated; that is, if it can be applied given the known medical conditions of the person detained. Therefore, from this perspective, medical staff may order a reversal of the newly imposed restraint in the event that it is contraindicated for medical reasons. This could be if, for example, the person has a heart condition, or because it is not indicated and is a punitive measure in relation to disruptive or transgressive behaviours in which there is no disruption or risk of self- and hetero-aggressiveness.

It is considered positive that the point regarding the medical evaluation of mechanical bed restraint has included what the MCPT has reiterated in each of its reports. The medical examination should be done without the presence of medical professionals to ensure the complete confidentiality of the examination, in accordance with the provisions of the Istanbul Protocol. However, it should be emphasised that this confidentiality should be present both in the first assessment of the patient and during subsequent medical assessments.

Seventh. The Protocol does not contain any provisions regarding the minimum and maximum number of internal staff that can apply the restraint. The MCPT has found that there is an excess of staff present during the restraint, which makes it difficult for the people in charge to carry it out given the small size of the cells. It can also compromise the dignity of the person who is the object of restraint. It also does not specify the role that special intervention groups should play in the centres, and the MCPT has also identified that they are involved in some of the disputes.

It also does not contain any provisions regarding the equipment used to restrain inmates – beyond the fastening straps with adhesive strips or the approved textile belts – such as rubber batons, plastic shields and protective helmets for the staff.

Finally, there is no reference to the place where this equipment should be kept or the person responsible for their safeguarding. For all these reasons, the Catalan Ombudsman suggests that these aspects be regulated in the Protocol.

Eighth. With regard to legal guarantees, each immobilisation and, where applicable, each subsequent restraint, has a series of channels of supervision clearly established in current regulations. In addition to the aforementioned medical supervision, the Protocol proposes that the centre's internal surveillance staff must monitor the restraints on a permanent basis. This supervision can be in person or through video surveillance systems. In addition, supervision *in situ* must be documented through image and sound recording which is made available to the judicial authorities or institutions such as the Catalan Ombudsman for a sufficient time so that the recordings can be reviewed in case there are doubts about the correct use of restraint methods.

MCPT visits have found that the management of the centre did not analyse each of the mechanical bed restraints. This appears to have now changed and their relevance and proportionality is now assessed.

However, it would be necessary to include a section on the viewing of images by the management and the procedures in the event that inappropriate action or malpractice is detected by the civil servants in question. It is also necessary to regulate the procedure to be followed regarding the extraction and preservation of images.

With regard to judicial control, the protocol states, as provided for in prison regulations, that all actions must be communicated to the prison surveillance court, indicating the start and end of the procedure, and the reasons and the circumstances that justified the use and/or duration of the measure.

However, the MCPT has been able to state that it is a widespread practice in Catalan prisons to pass this information on once the measure has been lifted; that is, to communicate simultaneously the adoption and termination of the measure, as well as the possible incidents that may have occurred during the imposition of the measure. Thus, the role of the penitentiary court is merely testimonial and is limited to validating the measure taken once it is completed. The current wording of the new Protocol does not put an end to this practice.

It is materially impossible to communicate the initiation of a restraint during the first few moments, while the person is being immobilised. Once the inmate is restrained, it must be reported to the judicial authority. It cannot be justified from any rights perspective that information regarding a mechanical restraint that lasts several hours is not passed on to the penitentiary surveillance court until after its cessation, a communication that in most cases has been found to be carried out after one or two days.

On the other hand, the MCPT's documentary analysis reveals succinct and standardised reports that make it difficult to assess whether the initial circumstances justify the detainment.

For all this, the Catalan Ombudsman has suggested deleting the reference made to the communication of all actions within the following 24 hours. It is understood that it must be done immediately, communicating the enforcement of the measure and, finally, the completion and the reasons that justify its duration.

6. CONCLUSIONS

3.1. Regarding the study carried out:

■ In prisons, there is an excess of immobilisations which are then followed by a mechanical bed restraint. They last much longer than necessary and are not always fully respectful of the highest human rights standards.

■ In some cases, the use of the measure seems to be punitive in nature and the way in which it is applied could be considered as degrading treatment.

■ Most of the containments carried out in prisons are regimental in nature and there is no regimental analysis of the incident or assessment of the incidents that occurred during the containment.

■ The procedure for immobilisation and mechanical bed restraint is different and varies depending on the prison.

■ There are cases in which the same inmate is subject to regimental and medical restraint, indiscriminately.

■ The existence of a medical report in the inmate's file informing about the autolytic attempts he or she has had or in relation to a mental illness or disability is not an impediment to applying mechanical bed restraint for regimental reasons.

■ Mechanical bed restraints are generally carried out by internal staff, even those done for medical reasons.

■ Mechanical restraints in a medical bed, except in the case of occasional restraints in the containment cells located in the centre's nursing department, are carried out in the closed regime department or special department.

■ The maximum comfort of the person who is restrained in terms of lighting, ventilation and temperature conditions is not guaranteed.

■ The number of professionals present during a mechanical bed restraint is excessive.

■ Due to the duration and the way in which mechanical bed restraints are carried out, it is suggested that some internal staff are not adequately trained to apply them.

■ In some cases, excessive use of force has been found in applying the restraint, with the consequent risk of injury or pain.

■ There are few cases in which people have been temporarily and partially untied to meet their basic physiological needs, and when they have been, the way in which the restraint is applied could be considered degrading treatment.

■ The registration of control by means of the video surveillance system or the face-to-face controls by the internal staff are standardised, without any incident or relevant observation being recorded.

■ Restraints applied at night tend to leave the inmate immobilised until the next day despite being calm and sleeping almost all night.

■ The notification of the application and the cessation of the restraint to the penitentiary surveillance court is made jointly once the measure has ended. In most cases, the next day or a few days later, but in no case is it done immediately.

■ Data is not segregated by sex. The lack of disaggregated data prevents us from knowing the specific needs and specific vulnerabilities of women. Consequently, it is also not possible to plan specific programmes and alternatives aimed at providing a real and tailored response to their needs.

■ In the case of the Women's prison, the containments could not be viewed because they had been deleted, although it was documented that very few were made. In contrast, the Brians 1 Women's Unit is the centre where they carry out far more than the rest of the prisons with women's units or modules.

3.2. Regarding Circular 1/2022 approving the Protocol for the application of coercive means of temporary isolation and mechanical restraint in Catalan prisons:

■ The review of the Circular was carried out in a participatory manner once the review process had begun and without sufficient time having elapsed for all actors to have been able to submit their comments and amendments to be considered before coming into force.

■ It incorporates some of the recommendations and standards on applying restraint to persons deprived of their liberty which have been collected by the bodies responsible for ensuring the prevention of torture and other cruel, inhuman or degrading treatment and punishment, and, in particular, the Catalan Ombudsman and the Spanish Ombudsman in their capacity as national mechanisms for the prevention of torture and the CPT, such as the position of restraint, but all that would be desirable.

■ The project to incorporate cameras and audio in all search rooms, holding cells and isolation cells of all prisons has been positively assessed.

■ It only regulates the criteria for applying two of the means of restraint provided for in the regulations: temporary isolation and mechanical restraint.

■ A very small chapter is devoted to conflict prevention and de-escalation techniques through verbal restraint. To apply them, the protocol refers to the so-called guidelines for penitentiary action, which have not been published.

■ No grading is envisaged in the application of the means of restraint, particularly when verbal restraint has not served to stop the behaviour of the inmate or to redirect the situation.

■ For the time being, the incorporation of a padded cell is not envisaged as a coercive means to serve as a substitute or alternative to mechanical bed restraint. When the working group is set up to evaluate the application of the Protocol, the possible application of this means will be assessed.

■ There are no conclusive studies correlating the implementation of the previous Circular with the relative increase in incidents in general in prisons, including staff assaults and self-harm.

■ The new Circular has eliminated the guiding principles that should govern the application of coercive means.

■ The cases in which coercive means cannot be applied in accordance with the provisions of the penitentiary regulations are foreseen, but it does not include the other groups proposed by the Catalan Ombudsman.

■ Continued action and evaluation of regulations and action protocols is foreseen, as well as specific training for staff in prison action guidelines.

■ The establishment of a working group to evaluate the correct application of the Protocol and to analyse possible alternatives to mechanical bed restraint is positively assessed, but it does not specify who will form part of this.

■ There is no section on what action should be taken in the event that inappropriate procedures or malpractice is detected by the acting officials. It also does not regulate the procedures regarding the extraction and preservation of images, nor the period of retention.

3.3. Regarding the protocol for the application of coercive means of temporary isolation and mechanical restraint in prisons in Catalonia:

■ The scope of application of the Protocol is not specified in the introduction. Nor does it highlight the exceptional nature of the coercive means that are regulated, nor a reminder that before using them, all avenues of dialogue must have been exhausted.

■ It is stated in the introduction that the Protocol develops the use of verbal or communicative interaction, but the chapter devoted to regulating it is very concise when compared with that developed on the penitentiary aspect or mechanical restraint.

■ The Catalan Ombudsman's suggestion that mechanical bed restraint in the form of medical or mental health nursing be carried out by medical staff and not by internal staff, as currently regulated, has not been accepted.

■ The UHPC, PHPT, and Brians 2 Psychiatric Unit are expected to implement their own protocols. These are not expected to apply to people living in infirmaries or mental health centres in the prisons, as suggested by the Catalan Ombudsman.

■ The Catalan Ombudsman's suggestion that the person should never be left completely naked during a full nudity body search has not been accepted.

■ Mechanical restraint with handcuffs is envisaged as a separate coercive means of controlling the behaviour of the inmate, although the Catalan Ombudsman has suggested that the use of handcuffs only be in residual cases, of very short duration, and always being replaced, where possible by fastening straps or fabric straps.

■ The protocol omits any reference to the maximum duration of coercive means, which means incurring a clear regression of rights that should be corrected as soon as possible.

■ The regulation of the use of mechanical bed restraint has been positively assessed, with the inmate being placed a supine position and not prone, as is practised in the medical field.

■ An initial medical examination being performed before applying the restraint has been positively assessed, although the Catalan Ombudsman has suggested that it be specified that this examination should take place in all cases, and not "whenever possible" as is currently stated.

■ The regulation of the medical examination being done without the presence of domestic officials has been positively assessed, in accordance with the provisions of the Istanbul Protocol.

■ The inclusion in the Protocol of a section on the evaluation of incidents with bed restraint and the evaluation of the incident by the multidisciplinary team has been positively assessed.

■ The restraint being documented, with image and sound recording, being made available to the competent judicial authorities and bodies for enough time so that the recording can be reviewed has been positively assessed.

■ Information regarding the application of any coercive means is expected to be passed on to the judicial authority within 24 hours of the end of the measure, although the penitentiary regulations state that this communication must be done "immediately". The Catalan Ombudsman has suggested that the information be passed to the penitentiary surveillance court as soon as the restraint occurs so as to prevent the court's role in controlling the measures of restraint, from being merely testimonial, validating the measure once it has been completed.

■ Practical training in the application of the Protocol is foreseen but it is not specified who will carry out this training, nor the content or the duration.

■ The protocol does not contain any provision regarding the minimum and maximum number of internal staff to be present during the bed restraint. It also does not contain any provision relating to the equipment used during restraint, nor does it make any reference to the place of the restraint nor to the person responsible for it.

■ The Protocol lacks any gender perspective on applying restraint to inmates, nor does it consider the individual characteristics of women. In particular, from the moment the containment is carried out, the morphology of the woman is clearly different from that of the man, and it is possible that the restraint with straps does not take this into account. If this is stated in the guidelines for penitentiary action, we are not aware of it.

7. RECOMMENDATIONS

■ The principal objective in terms of coercive means must be to achieve zero mechanical restraint and it must be based on the guarantee of the rights of persons deprived of their liberty, the security of these persons and that of the staff who may have to carry out the measures. Therefore, the Administration must put in place the necessary measures to avoid having to immobilise and restrain persons deprived of liberty by mechanical means.

■ 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. This measure should only be used when all suitable alternatives to contain the risk of harm to the inmate or to others have not worked.

■ Effective measures must be taken to prevent disruptive behaviour by inmates in order to avoid the stage of mechanical restraint and to adapt to changes promoted from a health and safety perspective. Therefore, de-escalation measures need to be authorised and implemented by a properly trained and trained multidisciplinary team capable in conflict resolution.

■ Mechanical restraint should be an exclusively medical measure because of the risks it poses to human health. While the initial physical immobilisation should remain regimental, the follow-up, monitoring, and completion of the restraint should correspond exclusively to medical criteria.

■ It must be remembered that mechanical restraint for regimental purposes must not include elements of punishment and in no case can it be punitive in nature.

■ Measures must be taken to recover the pilot project to install padded cells in prisons. Once the procedure has been validated, it must be provided for in the Protocol as a coercive means to be used place of mechanical bed restraint in those cases in which, in spite of a verbal restraint, the inmate increases his or her degree of disruption in a way that puts their integrity at risk, and that of others.

■ The Administration must ensure that all internal rules or procedures for coercive means are published in an exercise in transparency of prison services.

■ All prison staff must receive the necessary training in applying de-escalation techniques and the appropriate training to carry out mechanical restraint in a correct manner when necessary. Training on the effects that the use mechanical restraint has on inmates should also be done.

■ The application of the Protocol should be delayed until the conditions set out in the terms of this report are met and the training provided by the Department of Justice in collaboration with the Department of Health has been successfully completed.

■ In the process of reviewing Circular 1/2022, the participation and advice of the body decided on by the Department of Health must be included, as well as the different national and international bodies with expertise in the prevention of torture.

■ The adoption of gender perspective must be included in the Protocol, to give visibility to the differences between men, women and transgender people.

■ Infirmaries or mental health departments located in prisons, together with the Terrassa Penitentiary Hospital Pavilion and all units where there are people with disabilities, must have their own protocols on restraint.

■ The physical presence of medical staff in all prisons, both day and night, including weekends, must be guaranteed.

■ The gender variable should be included in the collection of data and statistical indicators on the use of coercive means, and also in the phase of analysis and assessment of the incident.

■ The gender perspective must always be present as a framework for action in the application of coercive means. Among other international regulations, the United Nations Rules for the Treatment of Prisoners, known as the Bangkok Rules, should be taken into account, highlighting the importance of the gender perspective in women deprived of their liberty in order to combat the current factors of discrimination in the prison system.

SÍNDIC

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