



ANNUAL REPORT
OF THE CATALAN
MECHANISM FOR
THE PREVENTION
OF TORTURE
JANUARY 2023

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

ANNUAL REPORT
OF THE CATALAN
MECHANISM FOR
THE PREVENTION
OF TORTURE

JANUARY 2023

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

Catalan Ombudsman (Síndic de Greuges de Catalunya)

1st edition: January 2023

Annual Report of the Catalan Mechanism for the Prevention of Torture. January 2023

Layout: Síndic de Greuges

Original design: America Sanchez

Cover picture:

GENERAL CONTENTS

I. INTRODUCTION	5
II. MECHANICAL RESTRAINTS IN THE CATALAN PRISON SYSTEM	7
III. INSTITUTIONAL SPHERE	15
IV. VISITS IN 2022	19
1. METHODOLOGY	19
V. CONCLUSIONS OF THE REPORT AND STATE OF COMPLIANCE OF THE RECOMMENDATIONS MADE IN PREVIOUS YEARS	25
1. The function of custody of people detained by local police in Catalonia	25
2. Rights of detainees (Article 520 of the Criminal Procedure Act)	26
3. Material conditions of the detention.	27
4. Gender perspective in the prison sector.	27
5. Rights of people deprived of their freedom in a closed system	28
6. Pandemic and the rights of people deprived of their freedom	29
7. Relationship of children with parents in prison	30
8. Adaptation of the profiles of adolescents resident in CREI	31
9. Reduction of the size of juvenile justice centres.	31
10. Prohibition of the restraint method comprising mechanical bed restraint and the practice of physical restraints on children and adolescents.	32
11. Protection against sexual exploitation of adolescents in residential centres of the child protection system	33

1. INTRODUCTION

This report covers the 2022 activity of the Catalan Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatments or Punishment (MCPT). It is the twelfth report presented to the Parliament of Catalonia, in accordance with the provisions of Article 74 of the Ombudsman Act 24/2009, of 23 December.

After on-site visits of the MCPT Task Force were halted between March 2020 and January 2021, and for many months in 2021 visits involved a much smaller team and were highly focussed on the management of the COVID-19 pandemic in all kinds of establishments housing people deprived of their freedom, this year has seen a return to some normality regarding the frequency of visits, composition of the Task Force, the diversity of the types of centres visited and analysis of the more structural aspects of the risks of harm to rights inherent in the deprivation of freedom.

Thirty-three centres have been visited this year, a higher number compared to 2021 and similar to those between 2016-2019. Most of the visits (16) correspond to police stations, of both the Mossos d'Esquadra and local police. Seven prisons have also been visited (one of them twice), seven male and female young offenders institutions and other public health and residential centres. In this sense, it is highlighted that two psychiatric centres have been visited again: the Prison Psychiatric Unit of the Brians 1 Prison and the Benito Menni hospital complex, in Sant Boi de Llobregat.

The protocol of the Mechanism maintains the characteristics stated in previous years and is based on the Task Force's prior preparation and no prior announcement of the visit. With regard to long-term detention centres (prisons, young offenders institutions, etc.), priority has been given once again to confidential interviews with inmates. Information and opinions provided by the management teams and personnel of the establishments visited are also always taken into account. The conclusions and recommendations arising from the visit are provided to the responsible administration and the centre itself.

As usual, the Catalan version of the annual report contains each of the files on the Task Force's visits, which include the main observations and conclusions it reaches and also the resulting recommendations for each centre or unit visited.

Aside from that, the Catalan report also presents a monographic study, which is the result of the Task Force's visits and the research and debate surrounding the workshop organised annually by the Catalan Ombudsman for World Day to Support Torture Victims. This year, as in 2018, the adaptation of the regulations adopted by the Justice Department to human rights standards regarding the coercive measure of mechanical restraint with straps has been examined. This matter has been the subject of a monographic report debated in a parliamentary committee in October 2022.

In the institutional section, it is necessary to highlight the appointment of Esther Giménez-Salinas i Colomer as the Ombudswoman from 14 July 2022, and the resulting need for the Parliament to elect a new advisory board for the Mechanism, in accordance with the provisions of Article 77 of the Ombudsman Act 24/2009. Another highlight of this section is the 9th year observing World

Day to Support Torture Victims, as mentioned above, and the participation of MCPT members in various national and international training activities.

Finally, the report includes a section covering the main recommendations set out in its pages, and also the follow-up to some of the recommendations made by the Mechanism in previous years and that are still pending partial or complete acceptance and application by the Administration.

II. MECHANICAL RESTRAINTS IN THE CATALAN PRISON SYSTEM

CONTEXT

The visits of the Catalan Mechanism for the Prevention of Torture (MCPT) over the last few years have enabled numerous testimonies of people held in detention centres to be heard, from adults as well as children and adolescents, who have suffered mechanical restraint during the detention. Likewise, officers, other professionals at the service of the centres, and the management teams have had the opportunity to exchange information with the MCPT Task Force on these restraint practices. On some occasions, the Task Force members themselves have been witness to a restraint situation occurring during the visit and have been able to verify *in situ* the circumstances in which it arose. In other cases they have had the opportunity to examine the relevant documentation and recordings from the video-surveillance system.

All this has allowed it to verify that the practice of regimental mechanical restraint in prisons as well as young offenders institutions, and in other residential resources for adolescents, does not always fully observe the highest human rights standards. This situation has also been echoed by the Ombudsman, in the role of the National Mechanism for the Prevention of Torture, which has drawn up best practice guidelines for the use of mechanical restraints, and the Council of Europe's Committee for the Prevention of Torture (CPT) during its last visits to Spain.

In 2018, the MCPT first tackled the question of the use of mechanical restraint practices on people deprived of their freedom within the framework of the 5th workshop held to commemorate World Day to Support Torture Victims. The event brought together various experts and professionals from the medical, prison and juvenile justice sectors, and during the workshop they presented some thoughts on this matter, which revolved around the four aspects of restraint: the duty to take effective measures to prevent inmates' disruptive behaviour, to avoid reaching the mechanical restraint stage when this behaviour occurs; the most suitable procedures to apply mechanical restraint and immobilisation; the proactive role the health services must have in supervising restraint; and the effectiveness of the legal guarantees when applying these measures.

These thoughts and other considerations were included in a study of this issue presented in a specific chapter of the 2018 annual report of the MCPT. The study emphasizes the importance of prevention. From this perspective, it highlights that the aim of any public policy on restraining people deprived of their freedom must be zero restraint. In other words, the Administration must put the necessary measures in place to avoid having to immobilise and mechanically restrain people deprived of their freedom. This is particularly important in Catalonia, where, according to a study published at the end of 2022 by *El Salto*, mechanical restraint is done in an excessively higher proportion to the rest of the Spanish prison system (up to thirteen times more), with a relatively higher prevalence among women than men. While restraint has been reduced by two thirds between 2016 and 2021 in the rest of Spain, in Catalonia the figures have not varied significantly during these last five years.

At the same time, different national and international bodies, among them the CPT and the MCPT, have emphasized the need to promote changes

relating to the prevention of immobilisations and de-escalation, the posture in which mechanical restraint should be done, duration of the restraint and the personnel who should do it, among other matters.

For its part, the Ombudsman has recommended that prisons aim to reduce the application of mechanical restraint using straps as a coercive measure as much as possible, with the aim of eliminating it totally in the future. It has also urged the Administration to increase training of healthcare and security staff on mechanical restraints.

To regulate the application of coercive measures, the Secretariat of Penal Measures, Reinsertion and Victim Care (SMPRAV) has several internal regulations that, in the opinion of the MCPT, must be reviewed to improve the conditions and procedures in which restraint measures are applied to inmates.

In this context, faced with the need verified by the Secretariat itself to review and adapt the current internal regulations on this matter, in May 2021 Circular 2/2021 was approved on the Protocol for applying restraint measures in Catalan prisons, which, among other things, establishes the use of verbal restraint techniques to minimise the application of coercive measures in general and mechanical restraint in particular. It also modifies the restraint position to a supine position as it is the least harmful possible.

MCPT visits after the approval of Circular 2/2021 have allowed it to verify that the number and duration of bed immobilisations have decreased. In fact, the Protocol envisages that the objective is to achieve zero mechanical restraints, in accordance with that determined by various bodies and institutions. Hence the MCPT considers the change of paradigm in the scope of restraints and, specifically, the aforementioned Circular, to be positive, to the extent that it adapts to the criteria and requirements that national and international inspection bodies have provided to the Secretariat on several occasions.

However, on 4 November 2021, through Motion 35/XIV, the Parliament of Catalonia urged the Government to “review Circular 2/2021, after prior consultation with involved parties, to ensure that officers commissioned with maintaining order inside prisons have adequate guarantees to do so”.

Subsequently, the Justice Department announced the intention to modify the Circular, because, according to the published information, “it was not operative”. The proposal for the new Circular and Protocol was made available to the Ombudsman Institution, among other bodies and authorities, to assess it and make observations. The text, which became effective on 1 April, incorporates some of the MCPT’s contributions, but not all it provided and which would have been desirable.

On 31 March 2022, the Ombudsman delivered to the Parliament of Catalonia the report *Mechanical restraints in the Catalan prison system. Analysis of the practice and the regulatory framework*, in which it analyses the new Circular and Protocol and assessed the changes made and those introduced at the suggestion of this institution. At the same time, the report incorporates the conclusions reached by the MCPT after viewing 41 mechanical bed restraints which took place during 2019 and 2020, a period in which Circular 2/2007 of the Secretariat of Prison Services, Rehabilitation and Juvenile Justice was in force, which regulated the mechanical restraint procedure. Therefore, the analysis of the practice included in the report leaves out the application of Circular 2/2021.

Later, on 28 April, the Secretariat issued a report containing a technical analysis of the observations and recommendations included in the report following the same structure.

On 15 June, for World Day to Support Torture Victims, a new workshop was organised on the respect for human rights in mechanical restraint and immobilisation of people deprived of their freedom. The report was presented within the framework of the 9th Workshop and these coercive mechanisms were debated once again. For this purpose, participants included representatives from the Prison Administration, who presented the new Circular 1/2022, and from the CPT.

Finally, the report was presented to the Ombudsman Committee on 10 October 2022.

THE PRACTICE OF MECHANICAL RESTRAINT ACCORDING TO THE EXPERIENCE OF THE MCPT

As mentioned above, to know the number of psychiatric mechanical restraint situations carried out in prisons and the way they are done, the MCPT Task Force assessed some of the mechanical restraints recorded and viewed during 2019 and 2020. The study can be found in the annex to this report and concludes that: mechanical restraints last too long once the emergency situation that obligated the use of this measure has passed; mainly bed restraints are used and, in general, by internal personnel, including healthcare staff; the normal position, even with healthcare restraints, is the prone position, not supine; the existence of a medical report of a mental health disorder or disability is not an obstacle to applying mechanical bed restraint for regimental reasons; in some cases there has been an excessive use of force with the resulting risk of causing an injury or pain; notification of the application and cessation of restraint to the Prison Supervision Court is done jointly, once the measure has ended, and, in most cases, the day after or a few days later, but never immediately.

For its part, the Secretariat reports that between 1 May and 31 December 2021, 352 restraint situations occurred in Catalan prisons. There were 425 in the previous seven months. The data show a decline in the use of this measure, which is positive. However, the reduction is very slight and so is not relevant enough from a quantitative point of view. It will be necessary to see at a later date whether this figure continues decreasing to conclude that the objective of avoiding the application of these measures as much as possible has been achieved.

THE NEW REGULATION OF MECHANICAL RESTRAINTS IN THE CATALAN PRISON SYSTEM

The prison system absolutely prohibits abuse, both physical and psychological. However, there are some situations in which the use of force is legally protected, with different grounds.

Article 45 of the Prison Regulation Act (LOGP) establishes the possibility of using coercive measures established by law in the following situations: (1) to prevent prisoners' acts of evasion or violence; (2) to avoid prisoners harming themselves or other people, and (3) to overcome prisoners' active

or passive resistance to orders given by prison personnel in the exercise of their duties.

Coercive measures can be defined as permitted measures of force in the prison environment in exceptional circumstances, for the purpose of re-establishing normality, and which are used to prevent behaviour that cannot be contained in any less harmful ways due to its severity.

Coercive measures defined in the Regulations (Article 72 Prison Regulations - RP) for the purposes of Article 45.1 LOGP are: temporary isolation, personal physical force, rubber batons, suitable action aerosols and handcuffs. Therefore, mechanical restraint with straps is not explicitly envisaged in neither the Act nor the Prison Regulations, which could imply a breach of the principle of legality in prison matters. However, it has been routinely interpreted that the use of this measure is in keeping with the spirit of the Prison Act and its Regulations, as a less harmful, traumatic and damaging form of restraint (Instruction 3/2018 of the General Secretariat of Penitentiary Institutions).

But this matter is in no way non-violent and a minimum requirement of legal certainty should demand that this kind of coercive measure, which is much more frequent than others cited in the Prison Regulations (such as aerosols), be protected -or explicitly rejected- in said Regulations.

In any case, some positive aspects can be highlighted from the Regulations that are in force at the time of presenting this report, which the Prison Administration should keep, with some clarification:

One. The desire to achieve zero mechanical restraints, in accordance with that determined by various human rights bodies and institutions, and also the MCPT.

Two. That it be maintained that mechanical bed restraint of an inmate should be in a supine not prone position, as is done in the healthcare sector, as the MCPT has requested since its 2018 report and as indicated in international requirements.

Three. Recovery of the pilot scheme of a padded room in a cell of the sanctioned inmates department of the Brians 2 Prison to verify the suitability of this measure to respond to different situations that result in the use of mechanical bed restraint. The MCPT has had the opportunity to visit this room during one of the visits to this centre and, in view of the technical characteristics of the material in the room and from the information sent by centre professionals on the uses it has had, and bearing in mind the scheme ended in September, information has been requested from the Secretariat on the assessment of the pilot scheme results and the adjustments it wishes to make, if any.

Four. The project of installing audio recording devices and cameras in all the search rooms, holding cells and isolation cells of all the prisons. Furthermore, that restraints be recorded in a document and via image and sound recording and be available to court authorities and the competent bodies for a sufficient length of time for them to be reviewed, despite the fact that the procedure for extracting and storing the images is not regulated, nor is the conservation period.

Five. The constitution of a task force to assess the correct application of the Protocol and to analyse possible alternatives to mechanical bed restraint, although it does not specify who should be part of it.

Six. Continuous assessment of the protocols is envisaged, and the Administration will be waiting for any improvement that occurs.

Seven. The specific training of personnel on the prison action guidelines (GAP), which should enable all internal personnel to know the complex, critical or high-impact procedures of the restraint practice to guarantee the correct application of the new Protocol. Among the different GAPs that are reported, that corresponding to communicative interaction in crisis situations is highlighted.

Eight. Prevention and technical intervention adapted to the needs of the prison population as essential elements to reduce and prevent the need to apply coercive measures. The recent Coordination agreement between the Justice Department and the Health Department for the development of a mental health and addictions care programme within the framework of the actions of the sentence enforcement services in Catalonia is emphasized and valued. This envisages offering special care to prisoners with mental health and addiction problems. Within the framework of this agreement, among others, it is agreed to define the concept of vulnerability and the care model for this collective, and to define and execute the necessary interventions to guarantee the mental health of inmates in a closed system or in special departments, or those who are highly complex.

Despite this, the MCPT is critical about the restraint practice it has verified through direct observation and analysis of cases as well as some aspects of the current regulation.

■ Regarding de-escalation

- A very brief chapter is dedicated to prevention and conflict de-escalation techniques via verbal restraint. To apply them, the Protocol refers to the aforementioned prison action guidelines (GAP), which have not been disseminated.
 - It is stated that some matters we raise are regulated in the GAP. This is the case with verbal de-escalation, which we understand is barely regulated in the Protocol and which is essential to achieve the principle of zero restraint. It is necessary for the GAP, as a lower regulatory stage than Circulars and Protocols, to be published on the website in accordance with the principle of transparency set out by law.
 - There is no provision for progression in the application of restraint measures, and in particular when verbal restraint has not worked to stop the prisoner's behaviour or to redirect the situation.
- There is no section relating to what action should be taken if an unsuitable action or bad practice is detected by the acting officers.
- It has not included the Ombudsman's suggestion according to which the medical-style mechanical bed restraints done in mental health or organic infirmaries should be done by healthcare professionals and not internal personnel, as is currently regulated.

- The Justice Department rejects that health restraints be done exclusively by healthcare personnel, because there is not enough provision of this kind of personnel. Therefore, it is necessary to ask the Health Department to provide more healthcare personnel within the framework of the coordination agreement between the two departments.
 - In this line, the Justice Department acknowledges that there are two centres that do not have medical staff twenty-four hours a day: the Young Offenders Institution and the Women's Prison. It states that this matter will be resolved soon regarding the Young Offenders Institution, while it is unnecessary for the Women's Prison as the number of restraints is extremely low (two a year). The presence of medical professionals is essential for the MCPT as without their presence a restraint cannot be ended, so this response will require a follow-up.
 - The Justice Department rejects that all restraints be of a medical nature because this is based on there being medical control from start to finish of any restraint.
 - It is established that the Prison Psychiatric Hospital Unit of Catalonia (UHPP), the Terrassa Prison Hospital Unit (PHPT) and the psychiatric unit of Brians 2 have to apply their own protocols, and it is not envisaged that these protocols also be applicable to people residing in organic or mental health infirmaries of the prisons, as the Ombudsman institution has suggested.
- The Protocol omits setting a maximum duration in the use of coercive measures, something that the Department justifies because it considers that violent disturbances do not respond to a priori time criteria, aside from guaranteeing continued supervision by the internal and medical personnel during the restraint with the objective of not prolonging it for more time than strictly necessary. Indeed, it may seem difficult a priori for a time to be set out in the Protocol, but the lack of rigour in the undetermined concept of *minimum time required* is not acceptable either. In this sense:
- It is necessary to cite Instruction 3/2018 of the General Secretariat of Prisons, which establishes that handcuffs cannot be used for more than 30 minutes and mechanical bed restraint lasting more than 8 hours must be justified with a report addressed to Inspection.
 - Therefore, it is necessary to invert the logic with which the concept of *minimum time required* is interpreted. Instead of maintaining the measure indefinitely until it is deemed no longer necessary, it should be obligatory to lift it in principle, unless there are clear elements that indicate it is still required.
- The Protocol establishes that communication to the court authority of the application of any coercive measure must be done “within 24 hours following the end of the measure”, although according to the Prison Regulations this communication must be done “immediately”. Indeed, the Prison Supervision Court should be informed as soon as the restraint occurs to avoid the court's role in controlling the restraint measures merely being testimonial and limited to validating the measure once it has ended. We consider that the interaction between the prison and the Prison Supervision Court should be in real time in these cases, particularly when the restraint occurs during the day.

- The Protocol does not have any provision regarding the minimum and maximum number of internal personnel required to apply bed restraint.
 - It acknowledges that the ideal number of professionals to enforce mechanical bed restraint is five officers plus the Head of Unit, Head of Service or Specialised Unit Coordinator. The MCPT has observed a higher number of officers present at restraints.
 - The minimum and maximum number of officers that have to carry out restraints should be established in the Protocol (or in the GAP). For example, the aforementioned Instruction 3/2018 establishes that there should be a minimum of four and ideally five, aside from the Head of Services who is responsible for directing and coordinating the process.
- To finish, the MCPT also reports that the Protocol does not bear in mind the gender perspective with regard to the application of restraining female inmates, since it does not consider the individual characteristics of women. In particular, from the moment the restraint is done face up, a woman's morphology is clearly different from that of a man and it is possible that restraining someone with straps needs to provide for that. If this is set out in the GAP, we are not aware of it.
 - According to the Department, the incorporation of the variable of sex in gathering statistical indicators and data has been carried out relatively recently (September 2021), which we deem positive.
 - It must be emphasized that a specific task force has been created that will provide the necessary improvements for restraining female inmates, in line with the MCPT's recommendations.

RECOMMENDATIONS

From the previous considerations, the MCPT makes and reiterates the following recommendations:

1. The objective regarding coercive measures must be to achieve zero mechanical restraints and must be based on the guarantee of the rights of people deprived of their freedom and on the safety of these people and of the personnel who may occasionally have to apply the measure. For this reason, the Administration must put the necessary measures in place to avoid having to immobilise and mechanically restrain people deprived of their freedom.
2. While mechanical restraints are a reality, it would be desirable for them to be included as a coercive measure with a minimum indication of guarantees in the Prison Regulations.
3. Mechanical restraint and immobilisation should be the last resort in the resolution of conflict situations, and all non-coercive channels should be exhausted before using it. It should only be used when all suitable alternatives for containing the risk of a prisoner harming themselves or someone else have not worked.

4. Effective measures must be taken to prevent prisoners' disruptive behaviour to avoid reaching the mechanical restraint stage when it occurs, and to adapt to changes driven from a medical perspective. For this reason, it is necessary to have a protocol for de-escalation measures that are carried out by a multidisciplinary team suitably trained and skilled in conflict resolution.
5. Mechanical restraint should be an exclusively medical measure due to the risks to people's health. Although the initial physical immobilisation must remain regimental, the monitoring, supervision and end of the restraint must respond exclusively to medical criteria.
6. It is worth remembering that mechanical restraint for regimental purposes should not have elements of punishment and under no circumstances can it be of a disciplinary nature.
7. The Administration must guarantee that all the internal action guidelines and protocols on coercive measures are published for transparency of the prison services.
8. All prison personnel must receive the necessary training on the application of de-escalation techniques and suitable training to apply mechanical restraints correctly, if appropriate. They must also receive training on the effects of mechanical restraint on inmates.
9. The physical presence of medical staff in all prisons, day and night including weekends, must be guaranteed.
10. The gender perspective must always be present as a framework for action in the application of coercive measures and the United Nations Rules for the Treatment of Women Prisoners, known as the Bangkok Rules, must be borne in mind, among other international regulations. These Rules state the importance of the gender perspective for women deprived of their freedom, to fight against the current discrimination factors of the prison system.
11. It is necessary for the Justice Department to study why some prisons (particularly, the Brians 1 and Brians 2 prisons) have a much higher restraint ratio than the rest.

III. INSTITUTIONAL SPHERE

ADVISORY BOARD AND TASK FORCE OF THE CATALAN MECHANISM FOR THE PREVENTION OF TORTURE

On 14 July 2022, Esther Giménez-Salinas i Colomer took possession of the office of Ombudswoman. In accordance with that established in Article 77 of the Ombudsman Act 24/2009, the term of the Advisory Board of the Catalan Mechanism for the Prevention of Torture (MCPT) coincides with that of the Ombudsman. Therefore, on that date the term of the previous Advisory Board ended and it needs to be completely renewed.

On 14 October, the Ombudswoman addressed the First Vice-President of the Spanish Parliament, acting as President, to request she begin the process to choose the people who would be part of the new Advisory Board. On 19 October, the Parliament Bureau opened the candidate submission period, which, as established in the aforementioned Article 77, must correspond to the following groups:

- a) Two members proposed by law societies.
- b) Two members proposed by healthcare associations.
- c) Four members proposed by non-governmental organisations for the defence of human rights, particularly those that work for the prevention of torture.
- d) Two members proposed by university research centres on human rights.
- e) Two professionals with experience in the prevention of torture and in work with people deprived of their freedom.

The candidate submission deadline was extended until 2 December 2022, although later it was extended until 28 December. Upon completing this report, we are waiting for the call for candidates to end and for the Parliament Plenary session to choose the people who will comprise the next MCPT Advisory Board.

Over the year, and particularly since September this year, the Task Force has continued conducting the visits listed in section 4 of this report with the same composition as last year: the Ombudswoman or one of her deputies; Mar Torrecillas and Jaume Bosch, appointed by the Institution, and Dr Olga Casado and Joan Merelo-Barberà proposed by the outgoing Advisory Board.

WORKSHOPS FOR DEBATE AND STUDY

This year the Ombudsman institution, as the Mechanism for the Prevention of Torture, has taken part in different training activities.

29 April. The Deputy General, Jaume Saura, participated in the “Democracy versus Security” forum, organised by the local Democracy Forum in Sabadell.

7 October. The Deputy General, Jaume Saura, participated in the “Transparency and Accountability of Police Forces in Spain” workshop, organised by the entities Irídia, Novact and Rights International Spain, at the Barcelona Law Society.

COMMEMORATION OF WORLD DAY TO SUPPORT TORTURE VICTIMS

The Mechanism organised the 9th workshop to commemorate World Day to Support Torture Victims. This year it was held on 15 June 2022 and focussed on the regulation of mechanical restraints in the Catalan prison system.

The workshop was held on-site and, after the introduction by the Ombudsman Rafael Ribó, had the following presentations:

“The reports and recommendations of the Council of Europe Anti-Torture Committee on mechanical restraint”. By Mark Kelly, member of the Council of Europe Anti-Torture Committee (conference in English, with simultaneous interpretation).

“The practice of restraint in the 2019-2020 period from the point of view of the MCPT”. Delivered by Dr Olga Casado, member of the MCPT Task Force.

“Presentation of the new Circular 1/2022”. Delivered by Brigit Blàzquez, Deputy Director General of Health and Rehabilitation Programmes, and Pedro Domínguez, Deputy Director General of Prison Centres and Management, Justice Department.

“The Ombudsman’s report on mechanical restraint in the prison sector”. Delivered by Jaume Saura, Deputy General of the Ombudsman.

The workshop closed with a debate among the attendees.

INSTITUTIONAL RELATIONS

Throughout the year, there have been various institutional meetings in which relevant matters regarding the Mechanism have been addressed:

18 January. Meeting of the Ombudsman, Rafael Ribó, with the Minister for Justice, Lourdes Ciuró, regarding the project to draft a circular and protocol on mechanical restraints in the Catalan prison system.

10 March. Meeting of the Ombudsman, Rafael Ribó, with the Minister for Justice, Lourdes Ciuró, regarding the project to draft a circular and protocol on mechanical restraints in the Catalan prison system.

8 June. Meeting of the Deputy General, Jaume Saura, and member of the Ombudsman and MCPT Task Force with the Inspector of the Barcelona Urban Guard police force, Jordi Oliveras.

16 June. Meeting of the Deputy General, Jaume Saura, with representatives of the Irídia and Novact entities regarding the Parliamentary Committee on the Police Model in Catalonia.

20 June. Meeting of the Deputy General, Jaume Saura, with Àngel Salvador Ferrer, expert on the prevention of torture.

27 July. Meeting of the Ombudswoman, Esther Giménez-Salinas, with prison officer representatives.

17 October. Meeting of the Ombudswoman, Esther Giménez-Salinas, with Albert Batlle, 5th Deputy Mayor for Prevention and Safety in Barcelona, with Intendant Major Pedro Velázquez, Chief of the Urban Guard, and with Maite Casado, Safety and Prevention Manager.

26 October. Meeting of the Ombudswoman, Esther Giménez-Salinas, with the Minister for Justice, Gemma Ubasart.

15 November. Meeting of the Deputy General, Jaume Saura, with representatives of the SIRECOVI Team of the Observatory of the Penal System and Human Rights.

IV. VISITS IN 2022

1. METHODOLOGY

During 2022, a total of 34 visits have been carried out to 33 centres, as follows:

- Catalan Police - Mossos d'Esquadra police stations: 7
- Local Police stations: 8
- Mixed Mossos d'Esquadra - Local Police stations: 1
- Prisons: 7 (8 visits)
- Prison hospital units: 1
- Prison psychiatric hospital units: 1
- Mental health centres: 1
- Residential centres for the elderly: 1
- Young offenders institutions:
 - Reception centres: 2
 - Intensive education residential centres: 4
 - Juvenile justice education centres: 1

The visits to the different centres have occurred normally and, as with previous years, they have been done without prior notice and preferably in the morning or afternoon.

Bearing in mind the change in leadership of the Institution, the visits have been led by Ombudsman Rafael Ribó before 14 July and by Ombudswoman Esther Giménez-Salinas afterwards, and also by the Deputy General or the Deputy for Children's Rights when so delegated. Sometimes, visits have included advisers to the Citizens Safety and/or Children's Area of the Ombudsman and the Director of the Restorative Justice Area. On two occasions, an external expert, psychiatrist and forensic doctor have collaborated in visits to the Prison Psychiatric Hospital Unit of Catalonia and to the Benito Menni residential complex, all of whom have accompanied the Task Force on previous occasions.

In many cases the visit has taken place upon the opening of complaints and/or ex-officio actions by the Ombudsman

Regarding the **Catalan Police - Mossos d'Esquadra (PG-ME) police stations** with custody suites, all visits have been for follow-up purposes.

In chronological order, the following PG-ME stations have been visited: Cornellà, Les Corts, Mollet, Granollers, Tortosa, Manresa and Vic. The custody suites have not changed since previous visits. In general, it is noted that maintenance of the spaces is adequate, bearing in mind the number of

detainees that pass through them, as is the case of the Cornellà station. A new feature that stands out in the Mollet station is that the search room has a chair attached to the ground that was installed as a result of the detention of a person with reduced mobility. Despite this, there are still no video-surveillance cameras in the rooms where detainees are booked and motorcycle helmets are used as a restraint measure.

With regard to detainees' rights, the unique considerations made extend to the whole PG-ME force. On one hand, it has been indicated that detainees' medical visits should be done in private as the norm, as recommended in the Istanbul Protocol. And on the other, it has been recalled that the medical visit is the detainee's right, it is not an obligation the local police must comply with before handing over the detainee to the custody of the Mossos d'Esquadra police force.

As a general rule, detainees are also transferred to court proceedings in the morning. Sometimes, with search warrants, the police station calls the court and it usually receives the detainee regardless of the time.

Unlike the rest, the visit to the Les Corts station focussed on the interview with detainees. In general, from the content of the interviews it is seen that detainees' treatment received during their stay in the custody suite (ACD) has been correct. Only a couple complained about the treatment received from Barcelona Urban Guard officers when they were forcibly restrained in the street, a matter that has been investigated by the Ombudsman. The most relevant complaint during the time in the custody suite is that in none of the cases, except one, did legal assistance occur within the first three hours as established by the Criminal Procedure Act. The considerations with regard to guaranteeing this assistance be provided within the three-hour period from reporting the detention have been passed on to the Barcelona Law Society.

This year, the visit to the PG-ME police station in Moianès (ABP Bages) must be highlighted. The police station is on the ground floor of the Town Council and, therefore, is shared with the Local Police. During the visit it was verified that the station does not have a custody suite and functions like any other citizens' service department of the Mossos d'Esquadra police stations visited.

Regarding the **Local Police or Urban Guard police stations**, the custody suites of the following stations have been visited: the Road Traffic Accident Unit of the Barcelona Urban Guard and of the local police of Mollet, Granollers, Manresa, Sant Fruitós de Bages, Manlleu and Vic. All were follow-up visits, except for the visits to Sant Fruitós de Bages and Manlleu.

In the case of the Mollet Local Police, the installations are new compared to the last MCPT visit in 2013, and there is also a custody suite on Floor -1. In the case of the Granollers Local Police, it is noted that it has carried out modifications in accordance with the MCPT's recommendations, in the sense of installing video-surveillance cameras and the information posters that were missing. In both cases, in line with the MCPT's recommendations, it has once again been recommended that the coordination protocols in place with the Department of the Interior of the Catalan Government be renewed so that people detained by the Local Police are directly transferred to the town's PG-ME police station.

In the case of the Barcelona Urban Guard Traffic Unit, it is noted that the Unit's custody suite has been closed and only the one in the Accidents Unit is operational. It is also noted that the installations remain the same.

In the case of the Manlleu and Vic Local Police, the fact that people detained by both forces go straight to the PG-ME holding cells without passing through their own is highlighted, as the end destination of all detainees is the Mossos d'Esquadra police stations. This change has occurred following the signing of new agreements between the respective Town Councils and the Department of the Interior. In the case of the Sant Fruitós de Bages Local Police, the station has never had a custody suite.

Detainees may exercise their right to a phone call from the telephone in one of the offices or spaces in the area. In the case of the Granollers and Mollet Local Police, the respective Law Society is called, but legal assistance takes place in the Mossos d'Esquadra police station.

With regard to the medical examination, the detainee is only transferred if they request it. Although the Local Police are flexible, in general the visit is done with officers present, so they have been reminded that the visit should be done in private, in accordance with the Istanbul Protocol.

Regarding **prisons**, the following have been visited: Brians 1 (men) and Brians 2, the Women's prison, Lledoners, Quatre Camins, Mas d'Enric and Puig de les Basses.

Visits begin with a brief exchange with the centre management teams to get to know the situation after the pandemic, the safeguarding of the preventive and organisational measures that were applied, the state of some works that have begun and any new aspects they want to explain. Within the framework of all the visits, the spaces are monitored and prisoners and/or staff are interviewed. In the case of the Women's Prison, which was visited on two occasions, the first visit focussed on the centre installations and the second on interviewing inmates.

With regard to the COVID protocol, it is noted that throughout the year the prisons have undergone a gradual de-escalation process resulting in the recovery of spaces allocated for this purpose and group "bubbles" have ended.

It is also noted that there has been an increase in the number of prisoners compared with previous visits, as has occurred in the Quatre Camins and Lledoners Prisons. In the latter's case, the population increase has meant that the modules are almost at full capacity.

The visit to the Brians 1 Prison was focussed on the visit to the induction area and the closed area and on interviewing inmates in each of these two areas. The age of the centre was noted and structural renovations are required in some of the spaces, such as the Induction Area.

During the visit to the Brians 2 Prison it was noted that the centre is undergoing a transition regarding the implementation and enforcement of new treatment programmes, and the distribution of the prison population. A proposal was made to schedule a new visit to the centre in the future to get to know the state of these changes and to hold more interviews. During the visit, the opportunity was taken to see the new padded cell.

The Women's Prison was visited twice. During the first visit, the installations were visited and the improvement works carried out were observed. On one hand, the visiting room for children up to 11 years old has been expanded, and on the other, a recording camera has been installed in the restraints room and the relevant information poster has been hung up. The second visit focussed on interviews with inmates, several individual ones and a group one. The Task Force was divided into three groups for this purpose.

Regarding the Lledoners Prison, Module 1 was visited where some cabins will be built where inmates can make free telephone or video calls through a biometrics system to control which inmates are speaking and to which relatives they are speaking. The Task Force also interviewed inmates by splitting into two groups, and it was noted that the DERT [Special Closed Section] is very full compared to the last time it was visited, although many of the inmates come from other prisons.

Works have still not been completed at the Quatre Camins Prison. In terms of telephone service, the Task Force was told it still has the same problems. The Task Force also split into two groups and, after a long time, visited the safety measures section housing inmates that, due to their characteristics, may be at risk if they mix with the general population (police officers, military, public figures, etc.). Some of these inmates were also interviewed.

No report or complaint of alleged abuse or cruel, inhuman or degrading treatment was received on this occasion. In all cases, complaints related to the living conditions in the centre, the organisation, treatment or food, which are all aspects that the MCPT has been working on for a while.

Regarding the Mas d'Enric Prison, a new aspect is the increase in inmates in the closed area, to the extent that it has reached full capacity. Inmates in this area and the women's area were interviewed, most of whom were in workshops. In fact, many of the recommendations resulting from the visit are to do with improving the living and working conditions of the workshop area, such as the installation of more fans.

Finally, the visit to the Puig de les Basses Prison focussed on visiting and interviewing inmates in the DERT and the women's module, who at the time of the visit were in the module. In the case of the women, a group interview was held and afterwards some individual complaints were collected.

Regarding the **young offenders institutions**, the Mas Ritort, Els Castanyers and El Pedrenyal intensive education residential centres (CREI) were visited once again. The first CREI in the Lleida region, the La Roureda residential centre, has been visited for the first time. In all three cases, the visit began with an exchange of information with the centre management team. Then the centre was visited and interviews were held with some of the minors, who were chosen randomly, and some of the treatment professionals. The restraints log was also reviewed.

In the case of Mas Ritort, a female-only centre, it was noted that the installations had not changed, although it is recommended that the spaces be adapted to be compatible with the supervision and control duties of the centre with some conditions of warmth and comfort that enable the centre to be more like a family home to the extent possible. Els Castanyers is a male-only centre, which has not changed either when compared to the previous visit. Aside from interviewing some of the young men, the Task

Force also interviewed the centre psychologists. La Roureda, however, houses young men and women, and the visit was also focussed on interviewing some of the young people and an educator. At El Pedrenyal, a male-only centre, the visit was focussed on interviewing some of the young men. In all cases, the young people's accounts are quite consistent and allow us to state that, in general, despite the strict disciplinary system, there is no sign of abuse or degrading treatment in the centres visited.

Regarding **reception centres**, the Oikia Reception Centre in Girona has been visited for the first time. This is one of the centres that offers emergency and reception places for the Girona region, managed by the Resilis Foundation, and that receives minors with a very varied profile. Some of the youngsters and the centre management team were interviewed. The installations were also visited. The visit took place after the opening of various ex-officio actions by the Children's Area of the Ombudsman, as a result of some problems that were observed or that were passed on by the centre itself.

The Almacelles Reception Centre of Sant Joan de Déu has been visited for the first time. This deals with local and foreign adolescents over twelve years old who do not have any family, while a study is being done and a resource proposal is made. On this occasion, a group interview was held with adolescents from Llar 1. In general, they seemed satisfied with the centre, although they also stated their wish to be able to use mobile phones. The main shortcomings are related to the centre installations, which have some structural defects and are missing warmth.

Regarding the **juvenile justice education centres**, this year only L'Alzina has been visited, which has still not reached full capacity. It is also noted that they have stopped applying psychiatric mechanical restraints. Some of the young people were interviewed, who, in general, give the centre a positive assessment but continue to complain about the food and the fact that they consider the restraints to be disproportionate. However, they give the video calls a very positive assessment.

Regarding the **hospital units** and within the framework of the follow-up visits, the Prison Hospital Unit of Terrassa has been visited again, and emphasis has been put on the centre installations, the interview with the Pavilion Coordinator and the Care Director, and the interview with patients. It is worth noting that the interviewed patients state they are doing well. To the contrary, a patient admitted to room number 23, under observation and continuous surveillance as it was suspected he was carrying a substance in his body, showed his disagreement with the number of days he had been hospitalised. As a result of this complaint, the Ombudsman opened an ex-officio action.

The other custody hospital unit that has been visited is the Prison Psychiatric Hospital Unit of Catalonia (UHPP). The purpose of the visit was to follow-up on the last one, done in 2014, and to know how physical restraints are applied in the health sector, an issue for which different proposals for improvement have been made.

Continuing in the **mental health sector**, the Benito Menni Mental Health Complex has been visited again. It is a multidisciplinary follow-up visit, within which more units have been analysed than on the previous visit. Specifically, the acute care, long stay, functional diversity and adolescent

crisis (UCA) units. Particular attention has been paid to the compliance of alternative penal measures to admissions and restraints.

Finally, a **geriatric centre** that is partly funded by the Catalan Government has been visited. Aside from the material conditions, attention has been paid to the functional conditions of the centre, such as the ratios, activities, menus, restraints and admissions, among other aspects. As with other residential centres visited by the MCPT Task Force, it has been noted that the main profile of the residents has radically changed in the last few decades, in the sense that the residence is less and less a home and more a healthcare centre, with a large number of residents having very significant cognitive deterioration.

V. CONCLUSIONS OF THE REPORT AND STATE OF COMPLIANCE OF THE RECOMMENDATIONS MADE IN PREVIOUS YEARS

1. THE FUNCTION OF CUSTODY OF PEOPLE DETAINED BY LOCAL POLICE IN CATALONIA

Since 2014, the Catalan Mechanism for the Prevention of Torture (MCPT) has recommended that the Local Police who detain someone should transfer the detainee directly to the Mossos d'Esquadra basic police area (ABP) and that a protocol should be established for this purpose between the corresponding Town Council and the Department of the Interior, enabling Local Police to close their custody suites. As set out in the 2021 report, the obligation established in the Law regulating the basis of local government, in the sense that municipalities that are the head of a judicial district must have a holding cell for detainees, is not an obstacle for this recommendation; the custody suites of the PG-ME stations located in these municipalities can comply with this function, as they already do in some places.

In this area, it continues to be noted that the criteria change from one municipality to another, even when there is a Mossos d'Esquadra station in the municipality in question. This is the case of the Mollet and Granollers Local Police, which consider that it is more practical for them to carry out preliminary police proceedings in their own stations. They consider that the custody of detainees is part of their duties, and that is why they have adopted or incorporated the improvements previously recommended by the MCPT after the visit to their installations. In the case of the Granollers Local Police, it so happens that Granollers is also the head of the judicial district and the Mechanism has suggested that the Department of the Interior updates the agreement with the municipality so the ABP assumes the function of the municipal holding cell. In the case of the Mollet Local Police, it has responded that the request will be sent to the Mossos d'Esquadra via the Head of the Mollet ABP to try to adapt this recommendation.

At the same time, bearing in mind the direct effects this recommendation has for the PG-ME, which has also received this recommendation, it has responded that it plans to study the protocols established between the Local Police and the PG-ME to determine the viability of transferring detainees and to set up office spaces so the Local Police can draft the arrest record and process their assigned tasks.

The MCPT continues to recommend that the respective Town Councils assess, together with the Department of the Interior, the convenience of renewing the current security protocols so that people detained by the Local Police are directly transferred to the Mossos d'Esquadra. In this line, in compliance with the MCPT's recommendation, the collaboration agreement signed between Vic City Council and the Ministry of the Interior, which results in a change to the internal functioning of the police must be highlighted. Hence for the last three years approximately, people detained by the Vic Urban Guard have gone straight to the PG-ME holding cells without passing through their own, as the end destination of all detainees was the Mossos d'Esquadra police stations.

2. RIGHTS OF DETAINEES (ARTICLE 520 OF THE CRIMINAL PROCEDURE ACT)

In the case of detentions made by the Mossos d'Esquadra, the MCPT continues to note that the medical visits to which detainees are entitled are not private. In the case of Local Police, they are generally not done in private either, although they are more flexible if the medical staff so request. For this reason, each of the police forces visited has been reminded of the terms of the Istanbul Protocol, according to which medical visits should be conducted without a police officer in attendance, unless the medical staff request it for safety reasons. For this purpose, they have been reminded again that the right to a private medical visit can only be limited in exceptional cases of agitation or risk; and that, bearing in mind that medical care is a right and not an obligation, if someone refuses it, they cannot be forced to undergo an examination.

With regard to these recommendations, the Mollet Local Police has responded that its officers always ask if medical personnel want to conduct visits in private when the detainee is not aggressive or disturbed. Having said this, it states it will issue a reminder.

However, the Directorate General of Police (DGP), maintaining the criteria of the last few years, once again highlights that the police officers are responsible for the custody of the detainee, and for that reason it is necessary to take suitable measures to guarantee their safety, as well as that of the medical personnel and the officers themselves.

Otherwise, in its opinion, compliance of this requirement established in the Istanbul Protocol would compromise the safety of the visit in terms of attendance, as the consultation rooms of hospitals, emergency centres and primary care centres do not meet the security conditions to conduct medical visits without the physical presence of police officers. Having said this, police practice is that medical care is a right of the detainee, so this formality is systematically avoided and is only conducted when the detainee requests it or when there is an objective situation that justifies it.

Regarding the detainee's right to a phone call, this is done in specifically prepared offices on the premises of each of the police forces.

With regard to legal assistance, in the case of the Local Police, such as Mollet or Granollers, it takes place in the Mossos d'Esquadra police stations, although it is the Local Police that calls the Law Society. For this reason, the MCPT issues a reminder that if the Local Police have a custody suite they must guarantee the exercise of all the detainee's rights set out in Article 520 of the Criminal Procedure Act (LECrím) at the time of the detention and without waiting for the transfer to a PG-ME police station, including the right to communicate with consulate authorities.

On the three-hour deadline for conducting the first legal assistance from the moment of detention, a group of detainees was interviewed during the visit to the Les Corts police station and the Task Force noted that this first assistance had occurred much later than established in the LECrím. None of them had taken place within the first three hours, in fact in some cases more than 10 or 12 hours had passed without assistance being provided. As a

result, the MCPT has reminded the Barcelona Law Society (ICAB) that it must guarantee assistance within the deadline established in the LECrim. At the same time, it has requested information on the agreements that have been adopted regarding this issue within the framework of the PG-ME - ICAB Joint Committee, which meets regularly.

3. MATERIAL CONDITIONS OF THE DETENTION

Regarding one of the recommendations that the MCPT reiterates every year, on the renovation of the helmets currently used in custody suites (ACD), the Directorate General of Police (DGP) has reported that a pilot scheme is currently underway in the Les Corts ACD to assess a new model of helmet that improves the detainee's protection and avoids the risk of self-harm and harm to officers acting in the event of a violent or aggressive episode by the detainee during their stay in the ACD.

It is a full face helmet used as protection for fighting or contact sports; it is much lighter and has great capacity to absorb impacts.

The DGP reports that so far tests have been satisfactory. When they end, consideration will be given to the gradual implementation of this model in all the ACD of the PG-ME.

With regard to the installation of video surveillance systems in all the custody areas where detainees pass through or are held, the DGP also reports that this action is planned and pending execution. The Technical Committee for Safety and Self-Protection has approved the installation of cameras in the visiting rooms and the search and identification rooms. This installation is being processed through the respective tenders.

It must be noted as a good practice that progress is being made in the installation of cameras in the Mossos d'Esquadra police vehicles and that the officers of some local police forces, such as Manlleu, wear individual body cameras whilst on patrol, which comprises a guarantee for detainees and the officers themselves.

4. GENDER PERSPECTIVE IN THE PRISON SECTOR

It continues to be noted that there are differences in the treatment of men and women in prison, so it is necessary to emphasize the need to incorporate the intersectional and gender perspective to attend to the different needs of women. This year, these differences have been noted in the packs provided to people when they enter prison. As an example, in the case of the Brians 1 Prison, they are given a pack with a tracksuit, T-shirt, towel, sheets, some sandals, a plastic cup and toilet roll, properly stored and sealed in a plastic bag. However, in the case of women entering the Women's Prison (Wad-Ras), the pack they are given includes, on one hand, sheets and a couple of towels, and on the other, a hygiene pack with hair and body gel (indistinctly), deodorant and a toothbrush and toothpaste (generic brands). If requested, they are given a hairbrush and sanitary towels. Likewise, the underwear provided to female prisoners, although new, is stored any old how in a box and is not bagged or sealed to guarantee hygiene. This is not deemed suitable nor acceptable.

As for the singularities of female criminal sentence enforcement, aside from continuing to recognise the invisibility of female inmates due to the negligible number they represent compared to men deprived of their freedom, this year it is noted that there is a new profile of women entering prison, who serve very short sentences, are in a very bad way and have problems with drug use. In the opinion of the management team of the Women's Prison in Barcelona, one significant factor for the presence of this new profile of female inmates could be related to the feminization of poverty which is also observed and verified externally. With all this, according to the prison, one of the inconveniences arising from this kind of profile is that there is no specialised or specific treatment programme for them, apart from the harmful effects of short-term prison sentences without understanding the reason why these women enter prison for such a short period of time from the point of view of the reinsertion process.

On the MCPT's recommendation to reinforce programmes for empowerment and the fight against sexist violence, since many of the female inmates interviewed stated they had been victims of it, one way or another, the Justice Department is aware that it needs to consider rehabilitation with a comprehensive approach to the situation of female victims of gender violence in prison with the understanding that the treatment of victimisation is not easy.

At this time, current treatment programmes carried out in the prison have a space to analyse the phenomenon of gender violence, and professionals are available to the women who wish to deal with the matter more privately, although they are reluctant to treat it. In any case, and without belittling the specific actions carried out within the framework of the activities funded by the State Pact against Gender Violence that approach this issue from various aspects, which has collaborators that offer care and a more specialised intervention, it is deemed insufficient and work must continue in this regard.

Likewise, as a result of the visit to the women's module of the Puig de les Basses Prison, it has been verified from female inmates' statements, and confirmed by the centre management team, that they do not do any kind of socio-occupational insertion training programme, except for a course on operating platform lifts. The female inmates also refer to feeling discriminated against by the destinations they may choose in the centre, some of which are only occupied by men, such as the kitchen, and which are normally better paid.

5. RIGHTS OF PEOPLE DEPRIVED OF THEIR FREEDOM IN A CLOSED SYSTEM

This year the closed area (DERT) of the Brians 1 Prison has been visited. It is clear from the interviews held that they do not do many activities. It is also clear that courtyard times are in the morning, from 7 to 9 a.m., and that the prisoners do not use them as it is very cold (the visit took place in winter). For this reason, the Administration has been reminded that the area must have an activity plan, in both individual and group format, and according to the person's needs and the objectives of each activity. It has also been reminded that the programme of activities must be in a visible place and reviewed to comply with Circular 2/2017 for the closed system in Catalan prisons. Regarding the timetable, it is reminded that prisoners are entitled to time outside cells, and specifically to daily

courtyard time, which must be guaranteed. It is necessary to be flexible with their assigned times given the benefit it has for their mental well-being.

Regarding the DERT of the Women's Prison, it is positive that the restraints room has a camera that records sound and image, and the relevant information poster has been hung up.

Regarding the DERT at Lledoners, it is observed that it is at full capacity and, therefore, although there are no signs of conflict in the centre, it should be emptied for optimum management and to concentrate all the Category A and sanctioned prisoners in the same area. This situation also occurs in the Mas d'Enric Prison, which has also reached full capacity. As described in the file, this fact has resulted in the transfer of inmates who have been sanctioned and categorised under Article 75 of the Prison Regulations to the young offender module, which has also resulted in young people living with adults. This is why the MCPT has also recommended it be emptied so it can be well-managed, with the understanding that it is necessary to address the causes of this increase and to take measures to prevent it from collapsing and to be able to work transversely from the different areas of intervention.

6. PANDEMIC AND THE RIGHTS OF PEOPLE DEPRIVED OF THEIR FREEDOM

The start of visits to the juvenile justice centres and prisons this year coincided with a de-escalation stage of the lockdown, a gradual process. Firstly, it began by ending the "bubble" groups and recovering spaces in the centres. On 28 March 2022, the protocol was modified for the containment of COVID within prisons, which envisaged the need to give a PCR test to everyone entering a prison and who was not correctly vaccinated, and also the need to be in isolation for 48 hours before doing the test to avoid a false negative if someone was in the incubation period.

Since then, the fight against coronavirus has become clinical and follows vulnerability and severity criteria instead of infection detection ones. Since 28 March, therefore, neither screening tests upon entry nor preventive isolations are carried out. This change in the protocol has enabled the prisons to return to normality and recover the spaces that were allocated to the prison population who were in isolation or quarantine and go back to using them for their original purposes. For example, the Women's Prison in Barcelona has recovered the multi-purpose unit to house female inmates with special needs, which had been adapted for isolation purposes.

However, if it can be said that the pandemic has brought about anything positive it is the generalisation of communications via video calls. At first, video calls were used as a universal alternative to personal communications, and later on, as an instrument for inmates' communication with relatives who have difficulties visiting the centres, often because they live abroad.

The Mechanism recommended maintaining and improving these telematic communications and guaranteeing the suitable spaces and sufficient coverage to continue the video call communication experience. In this sense, the management teams of all the prisons have reported substantial improvement resulting from the video calls and that these have expanded as a means of family communication, in particular for the prison population coming from other countries that do not have relatives in Catalonia.

Regarding the recommendation relating to reviewing the spaces dedicated to communications to adapt them to the new ICT uses, taking measures to guarantee the confidentiality and privacy of video call communications, we highlight the project to construct cabins so the Women's Prison and Lledoners Prison inmates can make these calls confidentially. In particular, Lledoners is the pilot centre for the implementation of a digital literacy project funded by the European Union to facilitate inmates' communication with their families and with the centre professionals. It comprises the construction of some booths where cabins will be installed from which inmates can make free telephone or video calls through a biometrics system to control which inmates are speaking and to which relatives they are speaking.

Regarding telephone coverage, there are prisons, such as Quatre Camins, that continue with the same problem of a lack of coverage in most of the centre, so a suggestion has been passed on to the Justice Department relating to the need to improve coverage to guarantee the inmates' telematic communications.

On the other hand, quarantine and isolation measures that the centres have had to take have had an impact of the mental well-being of the people deprived of their freedom. It is in this sense that the MCPT recommended that treatment and monitoring of the psychological effects caused by the pandemic be a priority for the prison services of the Catalan Health Institute (ICS). Above all, it is worth highlighting the new collaboration agreement signed between the Justice Department and the Health Department to promote mental health and addictions care in the field of criminal sentence enforcement, which includes the objectives of the suicide prevention plan of Catalonia. The agreement has three main areas of cooperation: treatment of addictions, the approach to mental health in the juvenile justice sector and, in particular, suicide prevention

7. RELATIONSHIP OF CHILDREN WITH PARENTS IN PRISON

The visits made this year have once again shown the need to improve the family communication spaces to guarantee suitable and pleasant environments for children. In this sense, although some centres have made significant progress, there is still a lot to do so this adaptation is a reality in Catalan prisons as a whole.

In the case of the Brians 2 Prison, the significant improvement of the family visits space has been possible thanks to the work of the Parental Responsibility and Education Management group of Brians 2, comprising professionals from all the prison sectors, collaborating entities and inmates who are parents, with the objective of reducing the effect of a relative's imprisonment on children. Coinciding with the International Day of Families on 17 May, the inauguration ceremony was held for the adaptation of the family spaces in the communications area of the centre. It is a model that can be transferred, with the necessary adaptations, to the rest of the Catalan prisons.

Regarding the recommendation on which the MCPT insists on rethinking the current spaces allocated to family relationships, a highlight is the new room in the Women's Prison for interaction between inmates and their children aged between 3 and 11 years old. It is noted that it is bigger, more

spacious and welcoming. Aside from having chairs and armchairs for adults, it is equipped with two tables and chairs for children, toys and books, and is decorated with children's drawings. It also has a screen to be able to connect with family that cannot physically visit the centre.

However, the communication spaces in other centres, such as the Puig de les Basses Prison, despite having an acceptable appearance and state of maintenance, do not take children into account in any part of the circuit nor in the rooms where the face-to-face family meetings are held.

Altogether, although progress has been made with the objective of creating a more welcoming ambience for children, in accordance with the Ombudsman Institution recommendations made in AO 220/2019 and with Recommendation CM/Rec (2018) 5 of the Council of Europe, more work still has to be done on this matter in some of the prisons.

8. ADAPTATION OF THE PROFILES OF ADOLESCENTS RESIDENT IN CREI

In the intensive education residential centres (CREI) visited throughout the year by the MCPT, the presence of adolescents with mental disorders and/or disability is a constant. This situation comprises a contravention of current legislation that provides for this kind of resource for behavioural disorders and the rights of the adolescents to a suitable resource for their needs. This situation mainly occurs due to the lack of places in therapeutic centres where these disorders can be worked on, or the lack of places for children or adolescents with disability under the Administration's care. At the same time, this situation entails difficulties for the CREI teams to deal with behavioural disorders.

Therefore, admission into a therapeutic centre should be guaranteed for young people that have a Children and Adolescent Care Team (EAIA) proposal.

Shortcomings are also detected in the centres to suitably deal with the problem of drug use, and the Directorate General for Child and Adolescent Care (DGAIA) and the Health Department should work together to improve this therapeutic intervention (increasing the frequency of visits to the Drug Treatment Centres (CAS) or creating mobile teams between the Health Department and the DGAIA to advise the centre, carry out training and treat young people who have this problem).

9. REDUCTION OF THE SIZE OF JUVENILE JUSTICE CENTRES

In the field of justice for minors, this year a juvenile justice education centre has only been visited once to see the compliance of semi-open and closed system measures. This is the case of the L'Alzina centre, with capacity for up to 90 places, in which occupancy in September 2022 was 60 places. Although occupancy was even lower (53 places) in the previous visit (April 2021), the current increase is slight and continues to be lower than the maximum capacity established by the map of centres published in May 2022, which is 76 places for the L'Alzina centre.

Therefore, it is noted that the reduction in the number of adolescents and children admitted to the centres initiated with the pandemic remains, after

a great increase from 2017. During the visit, the centre team reported that the low number of admissions is related to a reduction in the arrival of migrant adolescents without families, a trend in the last few years. In relation to these migrant young men and women, it is necessary to state the additional discriminations and obstacles they suffer and that aggravate their situation, which is already complicated (bureaucracy, processing caps at the Prosecutor's Office, obstacles to opening bank accounts, restrictions to the use of mobiles and lack of prospects upon reaching the age of majority).

Finally, it is worth remembering that the Ombudsman Institution and the MCPT request the creation of smaller centres to more effectively guarantee the personalised care of the adolescents and young people, beyond maintenance of the ratios of professionals, essential elements in an education reinsertion process and particularly in the case of adolescents and young people whose personalities are developing.

10. PROHIBITION OF THE RESTRAINT METHOD COMPRISING MECHANICAL BED RESTRAINT AND THE PRACTICE OF PHYSICAL RESTRAINTS ON CHILDREN AND ADOLESCENTS

Organic Law 8/2021, of 4 June, on the comprehensive protection of children and adolescents against violence, modified Organic Law 5/2000, of 12 January, that regulated the criminal responsibility of minors (LORPM), and introduced new wording to Article 59 of this law regarding safety and surveillance measures. Specifically, mechanical restraint comprising securing a person to an articulated bed or to an object that is fixed or anchored to the installations or furniture is prohibited. Exceptionally, only the restraining of the wrists of a person serving time in a detention centre with approved equipment is admissible, as long as it is done following a strict protocol and no less harmful measures could be applied.

As a result of the publication of this law, the Directorate General for Penal Enforcement in the Community and Juvenile Justice (DGEPCJJ) issued Circular 2/2021, of 11 June 2021, to modify certain articles of Circular 1/2008 on common provisions for the functioning of the juvenile justice centres. Specifically, the modified articles referred to Chapter 5 of Circular 1/2008, dedicated to the application of restraints, to adapt them to the organic law reform of the aforementioned Article 59.

The modification of the Circular also included that the procedure for applying restraint measures had to be updated with a new Instruction. In compliance with this provision, the DGEPCJJ issued Instruction 2/2021, of 11 June, which approved the new Protocol for the application of restraint measures in Catalan juvenile justice centres.

Both Circular 2/2021 and Instruction 2/2021 became effective in all centres on 25 June 2021, coinciding with the effective date of Organic Law 8/2021. Since this date all centres must apply the Circular and the Instruction.

In this sense, the Ombudsman Institution and the MCPT monitor the application of the new legal framework and, in the case of L'Alzina, during the visit it was reported that mechanical restraints had stopped being applied some months before the effective date of the Law, specifically since September or October 2020.

The legislation has meant centre professionals have had to make an effort to adapt, but in the case of L'Alzina they explain it has not been difficult as the centre no longer uses what was, until the legal reform, the last resort as a restraint measure, i.e., mechanical bed restraint. Nor has it been difficult for the educator of the Timely Intervention Area (ZIP). In this sense, the management mentions the risk that application of mechanical restraints entailed due to the difficulty of determining if a person had taken any drugs or had some kind of illness that could put their health at risk during the restraint.

The fact that this measure is no longer applied is viewed positively by the MCPT, as is the reception and application of the regulatory change to the centres. In any case, it shall be necessary to do a follow-up visit to determine whether the legal elimination of the mechanical bed restraint measure increases the percentage of young people subjected to other restraint measures (temporary isolation, personal physical restraint, mechanical wrist restraint).

Regarding the practice of physical restraints, in some interviews the inmates have mentioned disproportionate interventions, so the MCPT has had to recommend the review of the restraints practice in the centre in question, with regard to both the indication and proportionality as well as the way it is carried out. It has also recommended that the Justice Department provide training to the security and surveillance personnel on the practice of restraint measures.

11. PROTECTION AGAINST SEXUAL EXPLOITATION OF ADOLESCENTS IN RESIDENTIAL CENTRES OF THE CHILD PROTECTION SYSTEM

As a result of the CREI visits, it has been detected that a programme of group and individual therapeutic activities is required to work on emotional education, the prevention of sexist violence, gender equality and non-discrimination. This recommendation has been passed on to the Els Castanyers CREI, visited in 2022.

In this sense, the adolescents in centres are particularly susceptible to being involved in sexual exploitation situations, and this collective has a higher rate of this kind of sexual violence, much greater than the rest of the population. For this reason, to protect the girls in care from this kind of victimisation it should be part of the objectives of the residential services that deal with adolescents. The Administration should also offer the necessary support and resources in the form of directives, guidance and training to the centres so this protection is effective. In this sense, the DGAIA also agrees with the recommendation on the need to contact specialised professionals to programme joint actions with the centre teams, and the need to programme annual training on the prevention of gender violence aimed at the management teams.

In the case of the La Roureda CREI, it is reported that the emotional and sexual education is led by the psychologist and psychiatrist, whether individually or in a workshop format, as a group activity. Problems relating to sexual abuse are also worked on.

Furthermore, the MCPT has observed that some centres housing young women who have suffered sexual abuse do not have the necessary resources

to deal with the new risks of sexual abuse and exploitation when these young women escape. Likewise, the lack of specialisation of the resources means that these young women do not receive suitable treatment to recover from the abuse suffered. In the case of the Mas Ritort CREI, which has a high escape rate and a profile of young women with behavioural disorders and a high prevalence of drug use, in 45% of the cases there is an ongoing criminal complaint of sexual abuse.

To carry out a suitable intervention and specific treatment for the adolescent female victims focussed on their recovery, the MCPT has recommended:

1. Adopting measures to reduce the number of adolescents escaping from the centre with criteria aimed at prevention, study of the causes and individualised work with the young women, aside from the sanction.
2. Guaranteeing specific therapeutic treatment for the adolescents who have suffered sexual abuse.
3. Working on the prevention of sexual exploitation of the adolescent women, identification of possible cases and specific intervention with the young women who show signs of risk of suffering or having suffered this kind of victimisation.

For its part, the Ombudsman Institution has also recommended that the protecting Administration offers a framework for action that can guide the intervention of the residential resources and their professionals, and that provides the necessary training to the professionals. However, the information provided by the Administration shows that at present there are no action guidelines nor common framework for intervention with this objective.

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

Síndic de Greuges de Catalunya
Passeig Lluís Companys, 7
08003 Barcelona
Tel 933 018 075 Fax 933 013 187
sindic@sindic.cat
www.sindic.cat

