

MNPP 2016

ANNUAL REPORT 2016
Spain's National Preventive
Mechanism against Torture





Spain's National Preventive Mechanism against Torture

Annual Report 2016

Madrid, 2017

This Report is complemented with the following annexes which, together with the Report, may be consulted at:

www.defensordelpueblo.es

Annex I. List of external experts who participated in the visits made by the NPM

Annex II. Conclusions of the visits made

- II.1 Short-term deprivation of liberty
- II.2 Medium-term deprivation of liberty
- II.3 Long-term deprivation of liberty
- II.4 Special purpose deprivation of liberty facilities

Annex III. Follow-up to the conclusions of visits made in previous years

- III.1 Short-term deprivation of liberty
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Annex IV. Broadening the statistical data on deprivation of liberty

- IV.1 Statistical data on short-term deprivation of liberty
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- IV.3 Statistical data on long-term deprivation of liberty
- IV.4 Statistical data on foreign national deportation operations

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Edition of the Spanish Ombudsman

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PRESENTATION

One of the functions entrusted to the Defensor del Pueblo (Spanish Ombudsman) by the Cortes Generales [Spanish Parliament], through Organic Act 1/2009, of 3 November, is the National Preventive Mechanism against Torture and other cruel, inhuman or degrading treatment or punishment (NPM), as a result of Spain's ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which by 2016 had been in force for ten years.

In order to fulfil its duties, the NPM visits all types of deprivation of liberty facilities and examines the aspects and circumstances affecting inmates. The idea is to detect any possible shortcomings, to suggest improvements or corrective actions and provide the competent administrations with the results, as well as to make the necessary recommendations if room for improvement has been observed, eliminate unacceptable practices or, instead, to evaluate any corrections and changes made as a result of previous recommendations.

Each year, both the Spanish Parliament and the Subcommittee for the Prevention of Torture of the United Nations (SPT), in charge of supervising the adequate application of the OPCAT by all member states, are informed of all activities carried out.

Throughout 2016, the MNOP has made 101 visits to deprivation of liberty facilities. This number of visits represents a considerable increase over the ones completed in 2015. Essentially, there have been more follow-up visits to check how prior recommendations have been implemented and to identify any future new defects.

Multidisciplinary visits mean that Ombudsman technicians are accompanied by specialist experts in forensic medicine, psychiatry or psychology; in addition to evaluating the infrastructure, legal counsel, visiting arrangements, communications and surveillance methods, other issues are appraised, such as healthcare, therapeutic and psychological assistance and, ultimately, the utmost respect for human rights. These visits may last several days, in order to examine all facilities, interview the inmates and prison staff.

National Police Force stations have been visited, as well as Guardia Civil (Civil Guard) barracks, local police stations, autonomous government police stations, courthouse jail cells, detention centres and centres for asylum seekers at border controls, foreign national detainment

centres, prison facilities, young offender institutions, social-health centres, foreign national transfer operations and hospital custody units.

It is standard practice for these visits to be unannounced, except for FRONTEX repatriation flights and visits made with foreign delegations, which need to be scheduled for matters related to organisation and safety.

It is worth noting that all the facilities visited have collaborated with us, through their staff.

The NPM has an Advisory Council, whose members are proposed by professional associations and people with a renowned track-record in human rights or matters related to the treatment of people deprived of liberty for any reason, who hold office following an official state exam; Council members also participate in the visits and make observations to be taken into account.

The Ombudsman's webpage, under the heading *Prevención de la Tortura* (Prevention of Torture), provides information on all the visits made this year and in previous years, as well as the resolutions issued to the Administration and replies received. We have also uploaded videos recorded during some of these visits.

In short-term deprivation of liberty facilities, we have essentially focused on how new regulations are being applied, affecting the inmates (reformed Criminal Procedure Act (LECRIM), which came into force in late 2015, and instructions issued by the Secretary of State for Security on the conditions of these arrests).

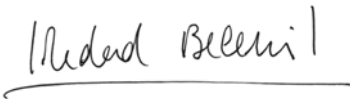
At foreign national detention centres (CIEs) we have inspected how Operating Regulations and Internal Rules are followed.

Both the Ombudsman and autonomous commissioners also participate in these visits, and relations have intensified with social groups providing assistance at these facilities.

The main objective of these visits is to ascertain that human rights are upheld in all deprivation of liberty centres and, if any shortcoming or misapplication is observed in the rules guaranteeing these rights, to request an immediate amendment or remedy.

The assignment to the Ombudsman of NPM competences is a responsibility that the institution tries to fulfil as strictly as possible, reporting on all its activities in order to ensure total compliance with the Universal Declaration of Human Rights.

Madrid, March 2017

A handwritten signature in black ink, reading "Soledad Becerril", is positioned above a horizontal line.

Soledad Becerril

DEFENSORA DEL PUEBLO

[SPANISH OMBUDSMAN]

https://www.defensordelpueblo.es/NPM/defensor_NPM/

ACRONYMS AND ABBREVIATIONS USED

AENA	Aeropuertos Españoles y Navegación Aérea [Spanish Airports and Air Navigation]
APDH	Asociación Pro Derechos Humanos de España [Pro-Human Rights Association of Spain]
AUGC	Asociación Unificada de Guardias Civiles [Unified Association of the Civil Guard]
CA/CCAA	Comunidad Autónoma/Comunidades autónomas [Autonomous Community(ies)]
CAT	Committee Against Torture
CE	Constitución española [Spanish Constitution]
CEAR	Comisión Española de Ayuda al Refugiado [Spanish Committee for Refugee Aid]
CEOMA	Confederación Española de Organizaciones de Mayores [Spanish Confederation of Organisations for the Elderly]
CGEF	Comisaría General de Extranjería y Fronteras [General Headquarters for Immigration and Border Control]
CIE	Centro de internamiento de extranjeros [Foreign National Detention Centre]
CMI	Centros para menores infractores [Young Offender Institutions]
CNP	Cuerpo Nacional de Policía [National Police Force]
CP	Centro Penitenciario/Centros Penitenciarios [Prison Facility(ies)]
CPT	European Committee for the Prevention of Torture (Council of Europe)
DGGC	Dirección General de la Guardia Civil [Directorate-General of the Civil Guard]
DGP	Dirección General de la Policía [Directorate-General of the Police]
DUE	Diplomado Universitario en Enfermería [Holder of a University Diploma in Nursing]
EDM	Establecimiento Disciplinario Militar [Military Disciplinary Establishment]
FIES	Fichero de Internos de Especial Seguimiento [File of Inmates subject to Special Monitoring]
FJ	Fundamento jurídico [Legal Grounds]
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

GC	Guardia Civil [Civil Guard]
GRUME	Grupo de Menores de la Policía Nacional [Group of Minors of the National Police]
H	Hombres [Men]
HPP	Hospital Psiquiátrico Penitenciario [Prison Psychiatric Hospital]
INE	Instituto Nacional de Estadística [National Statistics Institute]
LECRIM	Ley de Enjuiciamiento Criminal [Spanish Criminal Procedure Act]
LOPD	Ley Orgánica de Protección de Datos [Spanish Organic Act on Data Protection]
M	Mujeres [Women]
NPM	Mecanismo Nacional de Prevención de la Tortura y otros tratos o penas crueles, inhumanos o degradantes [National Preventive Mechanism against Torture and other cruel, inhuman or degrading treatment or punishment (NPM)]
UN	United Nations
OM	Orden Ministerial [Ministerial Order]
NGO	Non-Governmental Organisation
UNO	United Nations Organisation
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
PAIEM	Programa marco para la atención integral a los enfermos mentales [Framework plan for the integrated care of the mentally ill]
PIEM	Programa Individualizado de Ejecución de Medida de Internamiento [Personal Programme for the Implementation of a Detention Measure]
PIRC	Programa Específico de Intervención en Régimen Cerrado [Specific Intervention Programme in a Closed Regime]
PIT	Programa Individualizado de Tratamiento [Individual Treatment Programme]
PPS	Programa Prevención de Suicidios [Suicide Prevention Programme]
RP	Reglamento Penitenciario [Prison Regulations]
SES	Secretaría de Estado de Seguridad (Ministerio del Interior) [Secretary of State for Security (Ministry of the Interior)]
SGIP	Secretaría General de Instituciones Penitenciarias [Secretary-General of Prison Institutions]
SPT	Subcommittee for the Prevention of Torture and other Cruel, Inhuman and Degrading Treatment
STC	Sentencia Tribunal Constitucional [Constitutional Court Judgment]

T1	Terminal 1, Adolfo Suárez Madrid-Barajas Airport
T4	Terminal 4, Adolfo Suárez Madrid-Barajas Airport
UCER	Unidad Central de Expulsiones y Repatriaciones (CNP) [Central Unit for Deportation and Repatriation (CNP)]
EU	European Union
UHPP-C	Unidad de Hospitalización Psiquiátrica Penitenciaria de Cataluña [Prison Psychiatric Hospitalisation Unit of Catalonia]
URPP	Unidad de Rehabilitación Psiquiátrica Penitenciaria [Prison Psychiatric Rehabilitation Unit]

Introduction

This Report sets out the activities of the National Preventive Mechanism against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (NPM) during 2016.

Since the Ombudsman was designated as the NPM, on 5 November 2009, this is the **seventh Annual Report** published.

On 20 July 2016, the Ombudsman filed the 2015 NPM Report at the General Register of the Congress of Deputies and the Senate, and appeared before the Joint Committee on Ombudsman Relations of Parliament to submit the report on 21 February 2017. On 13 September 2016, this Annual Report was referred to the United Nations Subcommittee for the Prevention of Torture (SPT), in accordance with OPCAT obligations. Without prejudice to the foregoing, in February 2016 the Ombudsman appeared before the Subcommittee at its Geneva head office and reported on its 2015 activities and the targets set for 2016.

All annual reports are published on the **Ombudsman's website, whose home page includes a specific "Prevention of Torture" heading**. In addition to NPM activities carried out each month, access is also provided on the resolutions issued to the authorities following each visit and a geolocation map of all the visits made. By selecting a specific facility on this map, access is provided to the Recommendations and Suggestions forwarded to the competent administrations, as well as whether or not they were accepted. Of interest, as a novelty, in 2016 videos recorded during some of these visits have been uploaded on the website.

Over 2016, following the recommendations made by the members of the Joint Committee on Ombudsman Relations (Spanish Parliament), more visits have been completed over the last few years, totalling **101 visits**, all of which are duly reported herein. To do this, the number of multidisciplinary visits has continued, as well as those facilities not previously visited, and the number of follow-up visits has increased.

The **criteria to select the visited facilities** are provided below:

- a) time elapsed since the last visit;
- b) recent regulatory amendments;
- c) follow-up on results;
- d) news;
- e) information on civil society organisations;
- f) supervision of the entire national territory;
- g) facilities not visited before.

In order to prepare each visit, a dossier is drawn up on the type of centre, activity, and its organisational and regulatory structure.

Chart 1

VISIT SCHEDULING CRITERIA



As in previous years, the aim of these visits is to detect any possible defects that could entail torture or ill treatment, or hinder the investigation and sanctioning of this type of act, examining the treatment given to persons deprived of liberty and checking whether their fundamental rights are upheld, and the conditions of such deprivation of liberty. During the visits, interviews are held with the civil servants in charge of custody and the facilities, and inmates are individually interviewed, on a confidential and voluntary basis. The facilities are also visited to examine records and documentation, to appraise the video surveillance system, etc.

Following the visits, the NPM forwards its conclusions, Recommendations, Suggestions or Reminders of Legal Duties to the competent administrations, in relation to the facilities visited, in order to take them into account and to remedy any shortcomings detected.

During 2016 the NPM issued 352 Resolutions, itemised as follows: 12 Recommendations, 336 Suggestions and 4 Reminders of Legal Duties, as reflected in the charts below:

Chart 2

Scope of Prevention of Torture

2016 data



If, in the course of the visits, any **specific case of torture or ill treatment** is disclosed, the NPM transfers the case to the corresponding department of the Ombudsman in order take

appropriate action, invoking the powers conferred on the Ombudsman by legislation. Section V provides a summary of the complaints of ill treatment processed by the different departments of the Ombudsman in 2016.

In addition, the **annexes to this report** include the conclusions reached on all visits made during 2016, as well as follow-up on visits made in previous years and other relevant information.

Last year's report already announced a renewal on the **Advisory Council**, as the NPM's technical and legal cooperative body, in compliance with the provisions of Organic Act 1/2009, of four of its Spokespeople.

The current composition of the Advisory Council, presided by the Ombudsman, Soledad Becerril Bustamante, is as follows:

- Francisco M. Fernández Marugán, first deputy to the Ombudsman (ex officio member of the Council);
- Concepció Ferrer i Casals, second deputy to the Ombudsman (ex officio member of the Council);
- Milagros Fuentes González, practising lawyer and patron of the Foundation of the Spanish Bar Association (end of tenure: 2017);
- Berta M.^a Uriel Latorre, Doctor in Medicine and Health of the Preventive Medicine Service of the University Hospital Complex of Ourense, appointed by proposal of the General Council of Official Colleges of Physicians in Spain (end of tenure: 2017);
- Vicenta Esteve Biot, clinical psychologist and secretary of the Official College of Psychologists of Valencia, appointed by proposal of the General Council of Official Colleges of Psychologists in Spain (end of tenure: 2019);
- M^a José García-Galán San Miguel, magistrate and member of the Committee for the Prevention of Torture (CPT) of the European Council (end of tenure: 2019);
- Emilio Ginés Santidrián, practising lawyer and member of the UN Subcommittee for the Prevention of Torture (end of tenure: 2017);
- Jesús López Medel Báscones, State Attorney and Professor of Administrative Law at the University of Cantabria (end of tenure: 2019);
- Lorenzo Martín-Retortillo Baquer, Emeritus Professor of Administrative Law at Complutense University of Madrid, specialising in European Court of Human Rights case-law (end of tenure: 2019);
- Julián Carlos Ríos Martín, Ordinary Professor of Criminal Law at Comillas Pontifical University, a lawyer specialising in Prison Law (end of tenure: 2017).

In 2016, **two meetings of the Advisory Council** were held. The first took place on June 16 and the second on November 16. These meetings reported on the NPM's activity and the spokespeople brought forward proposals on facilities to be visited and matters to explore during the visits, as well as proposals on specific studies considered of interest to the NPM. They also showed their wish to continue belonging to the visiting teams, as has been the case from the start.

The NPM Unit is made up of one head technician, two technicians and two administrative assistants. Another two coordinators take part in this work as experts responsible for Security,

Justice, Migrations and Equality of Treatment. Furthermore, support is provided by the institution's experts (members of other fields related to this matter) in order to complete the visits.

As in previous years, some of these visits have involved the collaboration of external technicians, belonging to fields such as legal and forensic medicine, psychiatry or psychology, who have provided added value to these visits with their contributions, ensuring their multidisciplinary approach and completeness.

In annex I to this Report, a list of external technicians who have collaborated with the NPM over 2016 is provided.

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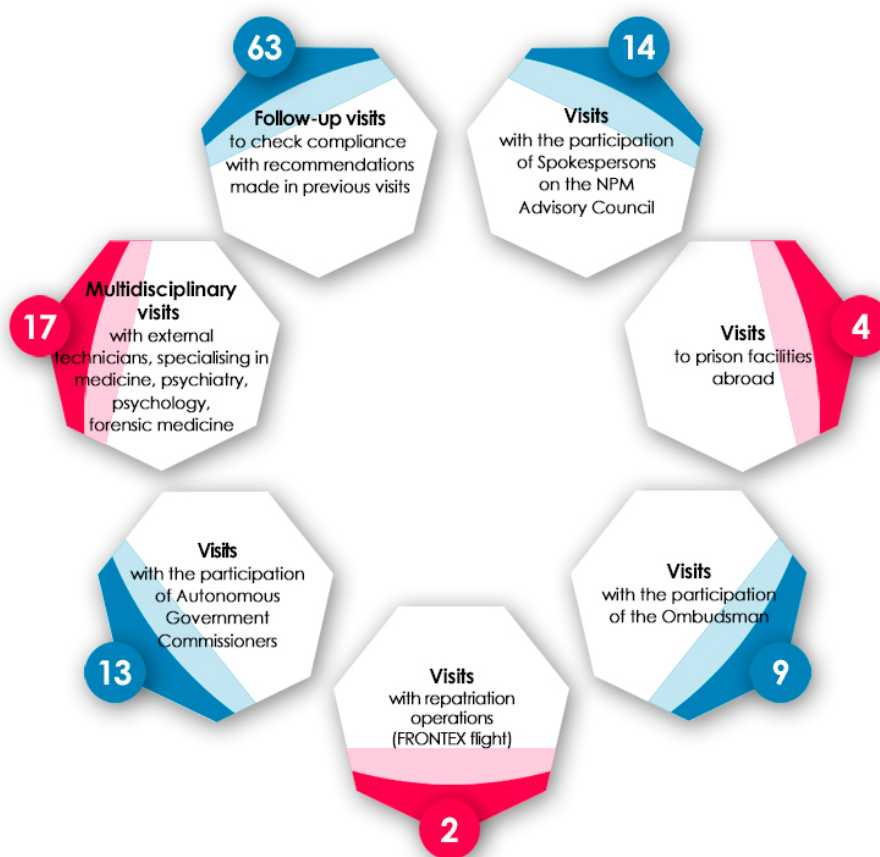
Visits made
§1 - §4

1. During 2016, **101 visits** were made to deprivation of liberty facilities. Of said visits, **17 consisted of multidisciplinary visits involving the participation of external experts** in medicine, forensic medicine, psychiatry and psychology, and **63** were **follow-up visits** completed to check compliance with recommendations made in previous visits, and to detect any new shortcomings.

The **Ombudsman herself** took part in 9 visits. The **spokespeople of the NPM Advisory Council** took part in 14 visits and 8 visits involved the participation of members of the **Regional Ombudsman Offices** (Defensor del Pueblo Andaluz [Andalusia], Síndic de Greuges de Catalunya [Catalonia], Justicia de Aragón, Síndic de Greuges de la Comunitat Valenciana [Valencia], Procurador del Común de Castilla y León, Ararteko del País Vasco [Basque Country], Diputado del Común de Canarias [Canary Islands] and Valedor do Pobo de Galicia). One of the visits took place in the company of the Korean National Committee for Human Rights and another involved the Committee for the Prevention of Torture (CPT).

Chart 3

VISITS MADE BY THE NPM TO DEPRIVATION OF LIBERTY FACILITIES IN 2016



As is standard practice, all visits were **unannounced**, with the exception of foreign delegation visits and foreign national deportation operations, which included the flight, as a matter of security imposed by airport authorities.

2. All the resolutions issued and conclusions reached following each visit may be consulted in Annex II to this Report.

Likewise, Annex III compiles the follow-up made on conclusions reached in visits of previous year, in matters on which the competent administration failed to provide an answer.

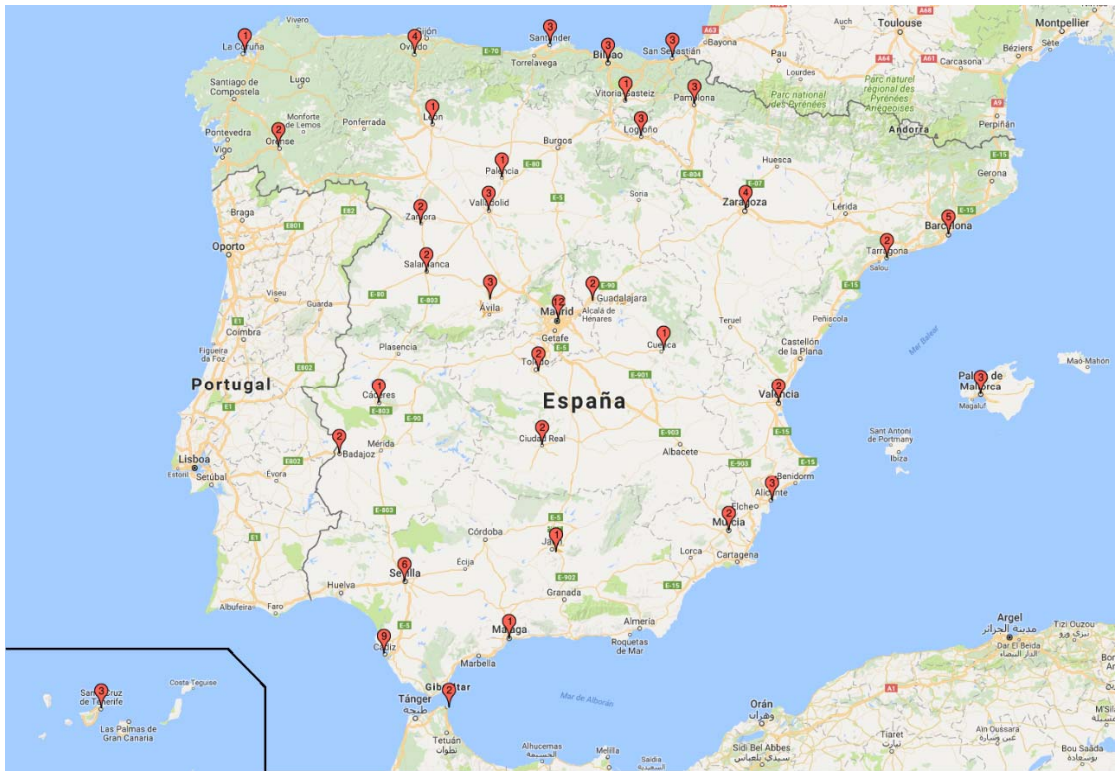
This Annual Report will refer to the most important matters observed in the visits made in 2016, referring to the paragraphs of “Minimum criteria in deprivation of liberty” in the 2014 Annual Report and in other Annual Reports of the NPM. The paragraphs referring to said minimum criteria are highlighted in the margins, according to the 2014 Annual Report, as well as paragraphs of earlier reports referring to these same matters.

3. The distribution of visits is itemised in the table and map shown on the two following pages:

Table 1. Types of deprivation of liberty facilities visited

PLACES	NUMBER OF VISITS
Police stations and other short-term custody facilities of the National Police Force	23
Barracks and other short-term custody facilities of the Civil Guard	21
Local police stations	9
Stations of the Autonomous Police	2
Centres for the Detention of Foreign Nationals (CIE)	6
Prison facilities	18
Young offender institutions	10
Socio-health facilities	4
Hospital Custody Units	1
Courthouse jail cells	2
Detention centres and centres for asylum seekers at border controls	2
Foreign national transfer operations (FRONTEX)	2
Foreign national deportations from Algeciras to Ceuta	1
TOTAL	101

Chart 4
Visits made by the NPM



4. The list of visits by place, as well as whether they were multidisciplinary or follow-up visits, and whether they took place accompanied by spokespeople of the Advisory Council, by members of the Regional Ombudsman Offices or by foreign delegations, are outlined below:

Table 2. Visits to headquarters and stations of the National Police Force

NATIONAL POLICE FORCE			
Numerical Order	Visits	Police Headquarters	Province
1	2	Police Headquarters	Asturias
2	2	Police Headquarters	Cantabria
3	2, 4	Police Headquarters	Balearic Islands
4	2	Police Headquarters	La Rioja
5	2	Police Headquarters	Seville
Numerical Order	Visits	Police Stations	Province
6	2	Provincial Police Station	Guadalajara
7	1	Local Police Station in San Fernando	Cádiz
8	2	Local Police Station in Jerez de la Frontera	Cádiz
9	2	Local Police Station in Gijón	Asturias
10	2	District Police Station in Madrid-Puente de Vallecas	Madrid
11	4, 5	Local Police Station in La Laguna	Santa Cruz de Tenerife
12	2	Provincial Police Station in Ávila	Ávila
13	2	Provincial Police Station in Salamanca	Salamanca
14	2	Provincial Police Station in Zamora	Zamora

NATIONAL POLICE FORCE			
15	2, 3	District Police Station in Madrid Arganzuela	Madrid
16	4	District Police Station in Madrid Retiro	Madrid
17	1	Local Police Station in Alcalá de Guadaira	Seville
18	1	Local Police Station in Benidorm	Alicante
19	1	Local Police Station in Medina del Campo	Valladolid
20	2	Local Police Station in Puertollano	Ciudad Real
21	2, 5	Police Station in Zaragoza Actur-Rey Fernando	Zaragoza
22	1	Dependencias del Grupo de Menores (GRUME) [Young Offender Facilities]	Madrid
23	1	El Tarajal Border Station	Ceuta

1 First visit 2 Follow-up visit 3 Ombudsman 4 Spokesperson on the Advisory Council 5
Autonomous Commissioner

Table 3. Civil Guard command headquarters and barracks

CIVIL GUARD			
Numerical Order	Visits	Command Headquarters	Province
24	2	Gijón	Asturias
25	2	Oviedo	Asturias
26	2	Bizkaia	Bizkaia
27	2	Cádiz	Cádiz
28	2	Cantabria	Cantabria
29	2	Gipuzkoa	Gipuzkoa
30	2	Guadalajara	Guadalajara
31	2, 4	Balearic Islands	Balearic Islands
32	2, 4, 5	Santa Cruz de Tenerife	Santa Cruz de Tenerife
33	2	Ávila	Ávila
34	2	Salamanca	Salamanca
35	2, 3	Zamora	Zamora
Numerical Order	Visits	Barracks	Province
36	1	Chiclana	Cádiz
37	2	Jerez de la Frontera	Cádiz
38	1	Calahorra	La Rioja
39	3	Valdemoro	Madrid
40	1	Puente La Reina	Navarra

CIVIL GUARD			
41	1	Alagón	Zaragoza
42	1	Casetas	Zaragoza
43	1	Local Unit in Catalonia	Barcelona
44	2	Compañía Fiscal [Local Barracks]	Ceuta

1 First visit 2 Follow-up visit 3 Ombudsman 4 Spokesperson on the Advisory Council
5 Autonomous Commissioner

Table 4. Visits to Local Police stations

LOCAL POLICE			
Numerical Order	Visits	Place	Province
45	2	Bilbao	Bizkaia
46	2	San Sebastián	Gipuzkoa
47	2	Calahorra	La Rioja
48	2, 3	Pamplona	Pamplona
49	1	Alcalá de Guadaira	Seville
50	1	Benidorm	Alicante
51	1	Medina del Campo	Valladolid
52	2	Puertollano	Ciudad Real
53	1	Villajoyosa	Alicante

1 First visit 2 Follow-up visit 3 Ombudsman

Table 5. Visits to stations of the autonomous police

REGIONAL POLICE			
Numerical Order	Visits	Place	Province
54	2	Pamplona	Navarre
MOSSOS D'ESQUADRA [CATALAN POLICE]			
Numerical Order	Visits	Place	Province
55	1	Tarragona	Tarragona

1 First visit 2 Follow-up visit

Table 6. Visits to courthouse jail cells

COURTHOUSE JAIL CELLS			
Numerical Order	Visits	Place	Province
56	1	Madrid	Madrid
57	1	Madrid	Madrid

1 First visit

Table 7. Visits to detention centres and centres for asylum seekers at border controls

DETENTION CENTRES AND CENTRES FOR ASYLUM SEEKERS AT BORDER CONTROLS			
Numerical Order	Visits	Place	Province
58	2, 3	Barcelona	Barcelona
59	1	Madrid	Madrid

1 First visit 2 Follow-up visit 3 Ombudsman

Table 8. Visits to Centres for the Detention of Foreign Nationals (CIE)

CIE			
Numerical Order	Visits	Place	Province
60	2	Barcelona	Barcelona
61	2	Madrid	Madrid
62	2	Barcelona	Barcelona
63	2	Murcia	Murcia
64	2	Murcia	Murcia
65	2, 3	Valencia	Valencia

2 Follow-up visit 3 Ombudsman

Table 9. Visits to prison facilities

PRISON FACILITIES				
Numerical Order	Visits	Name	Place	Province
66	2, 3	Alcalá de Guadaira (Mujeres)	Alcalá de Guadaira	Seville
67	2, 3, 5, 6	Araba	Nanclares de Oca	Araba
68	2	Badajoz	Badajoz	Badajoz
69	2	Bilbao	Bilbao	Bizkaia
70	6	Jaén	Jaén	Jaén
71	5, 6	León	Mansilla de las Mulas	León
72	2, 7	Madrid II	Alcalá Meco	Madrid
73	2	San Sebastian	San Sebastian	Gipuzkoa
74	2, 4, 5	Santa Cruz de Tenerife II	El Rosario	Santa Cruz de Tenerife
75	4, 5, 6	Teixeiro	Teixeiro	A Coruña
76	2	Ávila	Brieva	Ávila
77	2	Barcelona	Barcelona	Barcelona
78	4, 6	Cuenca	Cuenca	Cuenca
79	2, 3, 6	Dueñas	Dueñas	Palencia
80	5, 6	Mas d'Enric	El Catllar	Tarragona
81	1	Ocaña I	Ocaña	Toledo
82	2	Ocaña II	Ocaña	Toledo
83	1	Zaragoza	Zuera	Zaragoza

1 First visit 2 Follow-up visit 3 Ombudsman 4 Spokesperson of the Advisory Council

5 Autonomous Commissioner 6 Multidisciplinary visit 7 Foreign Delegation

Table 10. Visits to Young Offender Institutions

YOUNG OFFENDER INSTITUTIONS				
Numerical Order	Visits	Name	Place	Province
84	2	El Limonar	Alcalá de Guadaira	Seville
85	1	La Jara	Alcalá de Guadaira	Seville
86	1	Madroño	Madrid	Madrid
87	2, 6	Maliaño	Maliaño	Cantabria
88	2	Marcelo Nessi	Badajoz	Badajoz
89	2, 6	Montefiz	Ourense	Ourense
90	2, 6	Monteledo	Ourense	Ourense
91	2, 4	Es Pinaret	Palma de Mallorca	Balearic Islands
92	5, 6	San Francisco de Asís-La Biznaga	Torremolinos	Málaga
93	2, 4, 6	Zambrana	Valladolid	Valladolid

1 First visit 2 Follow-up visit 4 Spokesperson of the Advisory Council
 5 Autonomous Commissioner 6 Multidisciplinary visit

Table 11. Visits to residential facilities with provide health, social or rehabilitation services

SOCIO-HEALTH FACILITIES				
Numerical Order	Visits	Name	Place	Province
94	6	Unidad de Agudos Hospital Universitario Virgen de la Montaña [Unit for Acute Illnesses, Virgen de la Montaña University Hospital]	Cáceres	Cáceres
95	5, 6	Unidad de Agudos Hospital Universitario Puerto Real [Unit for Acute Illnesses University Hospital of Puerto Real]	Puerto Real	Cádiz
96	5, 6	Comunidad Terapéutica Hospital Universitario Puerto Real [Therapeutic Association, University Hospital of Puerto Real]	Puerto Real	Cádiz
97	5, 6	Centros de atención residencial para personas con discapacidad El Balcó de la Safor [Residential facilities to assist the disabled, El Balcó de la Safor]	Ador	Valencia

5 Autonomous Commissioner 6 Multidisciplinary visit

Table 12. Visits to special purpose deprivation of liberty facilities

HOSPITAL CUSTODY UNITS			
Numerical Order	Name	Place	Province
98	Hospital Universitario Puerto Real	Puerto Real	Cádiz
FOREIGN NATIONAL DEPORTATION OPERATIONS			
Numerical Order	Name	Place	Province
99	Repatriation operations (FRONTEX flight), from Adolfo Suárez de Madrid-Barajas Airport to Bogotá (Colombia) and Santo Domingo (Dominican Republic)	Madrid	Madrid
100	Repatriation operations (FRONTEX flight), from Adolfo Suárez de Madrid-Barajas Airport to Bogotá (Colombia) and Santo Domingo (Dominican Republic)	Madrid	Madrid
FOREIGN NATIONAL DEPORTATION OPERATIONS			
Numerical Order	Name	Place	Province
101	Deportations of foreign nationals from Algeciras to Ceuta	Algeciras	Cádiz

I. 1

Short-term deprivation of liberty

§5 - §26

Visits made

5. During 2016, 59 short-term deprivation of liberty facilities were visited: 23 of the National Police Force, 21 of the Civil Guard, 9 local police stations, 2 autonomous police stations (*Mossos de Esquadra* in Tarragona and Regional Police of Pamplona), 2 visits to courthouse jail facilities (Madrid) and 2 visits to detention centres and centres for asylum seekers at border controls (Barcelona and Madrid). Four of these visits involved the participation of members of the Advisory Council and 3 involved the participation of autonomous commissioners.

6. The average length of these deprivations of liberty is approximately 24 hours, except for those cases where a person has sought asylum or has been exceptionally refused entrance into Spain. During these visits, particular care is taken to ensure that the detainees at these facilities are adequately treated in appropriate conditions.

Regulatory changes

7. The 2015 Annual Report (§7) referred to the passing of various rules affecting the procedural guarantees of detainees, as well as the conditions of their arrest (Organic Act 13/2015, of 5 October, amending the Criminal Procedure Act, to strengthen procedural guarantees and to regulate technological research measures; Ministry of the Interior Order INT/2573/2015 and Instructions 11/2015 y 12/2015 issued by the State Secretary for Security, referring to the conditions in which these arrests are completed).

These **regulatory amendments**, which gather a relevant number of Recommendations and Suggestions made by the NPM, came into force during the fourth quarter of last year, which is why their effective application will be included in this Report.

Right to access the necessary channels of action in order to refute the legality of the detention

Said Organic Act 13/2015, of 5 October, reformed Articles 118.1 and 520.2 of the Criminal Procedure Act, amongst others, in compliance with Directive 2012/13/EU, of the European Parliament, on the **right of the detainee and his lawyer to access the necessary channels of action in order to refute the legality of the detention** or deprivation of liberty, and to examine the proceedings sufficiently in advance before making a statement. Said right has been acknowledged in different ways in both articles; police detentions are governed by the principle of Article 520.2, consequently only granting access to basic components of the police report, without being entitled to examine the proceedings, which would cover the entire police report and even a right to obtain a copy of the necessary documentation.

The Safety & Justice Department of the Ombudsman is taking steps with the Directorate-General of the Police and State Prosecution Service on these

aspects of the current Criminal Procedure Act, checking whether it adequately implements the provisions of European Union law.

*Interviews with
detainees*

8. Those **persons** who were voluntarily **interviewed by the NPM during the visits made over 2016** generally stated to have received proper treatment from the custody officers, both when being driven to the facilities, following their arrest, and during the time of their arrest. They were informed and able to uphold their rights; they had received medical assistance when necessary; had received adequate food and water and had received a response to their bathroom requests.

*Complaints
made by
detainees*

Nevertheless, some of the persons interviewed **complained** about various issues:

Thus, a person detained by the Municipal Police in Bilbao (Vizcaya), claimed to have been insulted by agents and that bathroom requests were delayed. A Brazilian national who was detained in a T1 room at Madrid-Barajas Airport claimed that she was not treated with respect by the police officers on the grounds of being foreign. At the Gender Violence Courts in Madrid, several detainees complained that the facilities were cold, and it was confirmed that the heating was not working. The only person detained at the Guadalajara CNP claimed to be given a dirty blanket. Another detainee at the district police station in Puente de Vallecas (Madrid) reported that the cell light was not working and, once it was checked that this was so, the agents were requested to transfer the detainee to another cell.

*Committals for
trial
§76 AR 2014*

9. It is still often the case, in many of the visited facilities, that the detainee is **committed for trial** in the mornings, and not always on the weekend, which is why his/her arrest may be prolonged more than necessary in order to clarify the allegedly criminal facts leading to his detention.

*Medical reports
§77 AR 2014*

10. It is still very common for police files to include **medical reports or statements of assistance provided to detainees**, keeping a copy at the custody facilities. In this regard, the Technical Committee of Judicial Police Units, at its meeting of 27 October 2015, dismissed the Ombudsman's opinion on the grounds that these reports needed to be safeguarded, as regards the CNP, to ensure the legal defence of public officials against potential complaints from the detainee, as well as for healthcare security reasons. In turn, the Civil Guard claimed that medical reports were not computerised and, finally, the State Prosecutor indicated that the intervening police corps was responsible for safeguarding the document and related data.

*Information on
rights and*

11. All the facilities visited in 2016 had standardised **forms providing**

habeas corpus
 §476 AR 2010
 §78 AR 2014

information on rights, fully adapted to reformed Article 520 LECrim, implemented by Organic Act 13/2015, of 5 October, **as well as information on the *habeas corpus* procedure**. These forms are available in various languages.

The *habeas corpus* section on the rights information form provided by the Guadalajara Civil Guard provides as follows:

k) The right to be expressly informed about the legal maximum duration of a detention until committal for trial; this will consist of the minimum time that is essential to complete the necessary legal steps, lasting a maximum of 72 hours, as well as the right to apply for a *habeas corpus* procedure in order to refute the legality of each detention.

Information on
SES Instruction
12/2015

12. In addition to forms providing information on the detainee's rights, nearly all the facilities visited in 2016, belonging to the CNP or Civil Guard, already have a form in place with information on various aspects of **SES Instruction 12/2015** (video surveillance, communications with custody officers, belongings, declaration of illness and meal times).

This form is not the same at all facilities, and the SES should remedy this. It would be recommendable for the form to be stapled to each detainee's custody sheet, as was noted in the barracks of Gijón (Asturias) and Valdemoro (Madrid) or the police stations of Gijón (Asturias) and Logroño (La Rioja). Completion of this form should be mandatory, as the Chief Headquarters of the Asturias CNP were unaware of this.

**FORMULARIO DE INFORMACIÓN AL DETENIDO RELATIVA A LA INSSTRUCCIÓN
12/2015 DE LA SECRETARÍA DE ESTADO DE SEGURIDAD**

Datos de los actuales: TIP/Carnet profesional: <u>T462736</u>	
Referencia:	Fecha: <u>06/06/2016</u>
Unidad:	<u>BUQUE DE SERVICIOS</u>
Datos del detenido	
Nombre:	Apellidos: <u> </u>
Nº DNI/NIE/Passaporte/Similar:	<u> </u>

Con arreglo a lo establecido en el "Protocolo de actuación en las áreas de custodia de detenidos de las Fuerzas y Cuerpos de Seguridad del Estado", aprobado mediante Instrucción SES 12/2015, de 1 de octubre, se le informa de los siguientes extremos:

- ☐ ☒ **SÍ/NO** existen cámaras de video-vigilancia, con grabación, mediante las que estará vigilado permanentemente.
- Durante su estancia en el calabozo podrá comunicarse con el personal de custodia a través de (especificar el medio en cada caso): INTERCOMUNICADOR
- Las pertenencias personales que le han sido intervedidas, y que figuraran relacionadas en la ficha-custodia de detenidos, permanecen guardadas en custodia y, en su caso, le serán entregadas a la salida de las dependencias policiales o le la acompañarán en los correspondientes traslados.
- Por razones de seguridad, con el fin de salvaguardar su salud y la de las personas que se encuentran en la zona de custodia, podrá efectuar una declaración acerca de si padece alguna dolencia o sufre alguna otra enfermedad infecto-contagiosa y/o si está bajo tratamiento médico, con objeto de que, en su caso, poder activar la facilitación previa prescripción facultativa. Los medicamentos únicamente se le facilitarán durante su estancia en la zona de custodia.
- Con carácter general, se le facilitarán tres comidas durante su estancia en la zona de custodia (si por razones médicas o religiosas no puede ingerir **alimento**, lo podrá comunicar a los efectos y con el objeto oportunos) en el siguiente horario:

Desayuno: De 7 a 9. Comida: De 13 a 15. Cena: De 21 a 23.

Nota: Estos horarios son orientativos y susceptibles de cambio atendiendo a la hora de ingreso en calabozos o a cualquier incidencia derivada del traslado a otras dependencias.
- Información que el Jefe de Custodia estime relevante:

Informado de lo anterior, queda enterado de los extremos expuestos, firmando si lo desea,

Lugar y fecha: Guadalupe 06 Junio 2016

EL AGENTE ACTUANTE, EL DETENIDO,

TIP/Carnet profesional: T462736

Núm. Libro Registro

La presente información se archivará junto con la correspondiente hoja de la persona privada de libertad del Libro de detenidos. Una copia de la misma, quedará a su disposición durante el periodo de la detención. Adjuntándose en cada supuesto, a la entrega o acompañamiento de los efectos personales del detenido.

Standard form providing information on SES Instruction 12/2015

Video
surveillance
§477 AR 2010
§79 AR 2014

13. A comprehensive **video surveillance** coverage in areas with prisoner traffic should be insisted upon. Most of the facilities visited this year still have shortcomings in this regard, although some facilities have in fact improved their systems and coverage, such as the CNP police stations in Gijón (Asturias) or Guadalajara, the Civil Guard Command Headquarters of San Sebastián (Guipuzcoa) or the Urban Guard in San Sebastián (Guipuzcoa).

Not all facilities have image viewing screens in the custody area, and at many Civil Guard facilities no images are recorded. At others, access to recorded images does not follow a specific protocol and custody officers are granted access, such as at the police station of Gijón (Asturias) or at the Civil Guard facilities in Calahorra (La Rioja) or Guadalajara.



Monitor (Civil Guard, Barcelona)

Entry to facilities
§80 AR 2014

14. At some facilities, such as the Civil Guard in Bilbao (Vizcaya), Guadalajara or Puente La Reina (Navarre) or the police stations of Guadalajara or Retiro district police station in Madrid, **detainees still enter** through the main door, which is contrary to the Ombudsman's opinion.

Separation of detainees
§81 AR 2014

15. At the facilities of the Local Police in Pamplona (Navarre), the Ombudsman became aware that **persons who were transferred for identification purposes**, pursuant to Article 16 of Organic Act 4/2015, of 30 March, on citizen safety, were held in a jail cell (either communal cells or one of minimum size) until identification measures were completed. This has triggered a Recommendation to the City Council of Pamplona, to the effect that detainees be led to separate facilities from the jail cells, particularly as this permanence on police facilities does not constitute an interim detention measure, foreseen in Articles 489 ff. of the Criminal Procedure Act.

Self-inflicted injury
§82 and 83 AR 2014

16. The Ombudsman insisted on removing all items which detainees existing **which detainees may use to inflict injury upon themselves or to commit suicide, or to attack custody officers** in cells or jail facilities, such as horizontal bars and locks on the cell doors, ceramic bathroom fixtures, wall or ledge tiling, etc., which have been noticed in various visited facilities.

Furthermore, the Directorate-General of the Civil Guard has been asked to forbid detainees entering their cells with water bottles- as was noticed in the Command Headquarters of Gijón (Asturias) and Guadalajara-, in order to

avoid the detainees using them to injure themselves.



Cell door, Local Police in Benidorm (Alicante)

*Presence of
agents in the
custody area
§84 AR 2014*

17. We should insist on the need for **custody officers to be present in the inmate jail area**, in order to avoid the risk of emergency situations, even if detainees have alarm systems; this is particularly important in cases where there is no video surveillance in the jail area or inside the cells. A shortage of officers was observed on facilities of the Local Police in Benidorm (Alicante) and Alcalá de Guadaira (Seville); CNP police stations in Alcalá de Guadaira (Seville), the Balearic Islands and Zamora; and Civil Guard facilities in Casetas (Zaragoza) and Zamora.

*Incomplete
Record Book
§85 and 86 AR
2014*

18. In most of the facilities visited (except for Civil Guard facilities in Salamanca, Santander, Zamora and CNP facilities in Gijón, Logroño and Zaragoza), we have noticed that detainee custody pages held in the **Record and Custody Book** are still incomplete and fail to enter all events related to detainees (e.g. frisks, taking of statements, food offered, etc.), or have not been completed because the detainee was not jailed.

Custody page (incomplete on the back)

*Detainee
belongings
§87 AR 2014*

19. Some facilities still lack **zip-up bags to hold detainee belongings**, which only the detainee may open, as was ascertained during our visits made to Civil Guard facilities in Alagón (Zaragoza), Casetas (Zaragoza), Chiclana de la Frontera (Cádiz) and Guadalajara, or the local police in Benidorm (Alicante) and Villajoyosa (Alicante).

*Intercoms and
mechanically
opened cells
§88 AR 2014*

20. Communication between detainees and public officers has improved in some facilities with the installation of **intercoms inside the cells**, as was noted at the Civil Guard facilities of Salamanca and San Sebastián (Guipuzcoa) and the CNP police stations in Gijón (Asturias), Guadalajara, Logroño (La Rioja) and Zaragoza.

Furthermore, **devices for the mechanical opening of cells**, noted in Civil Guard facilities in Barcelona or on the premises of the Audiencia Nacional [Spanish National Court] in Madrid, allow cells to be rapidly opened in emergency situations.

*Identification
§90 AR 2014*

21. The need for CNP and Civil Guard **public officers to be duly identified**, foreseen in SES Instruction 13/2007, is not being fulfilled at the Head Police Station in Asturias and police stations of Alcalá de Guadaira (Seville), district police station in Puente de Vallecas (Madrid), Balearic Islands, La Laguna (Tenerife), Logroño (La Rioja) and San Fernando (Cádiz) and the Civil Guard Command Headquarters in Cádiz and barracks in Valdemoro (Madrid).

Likewise, Local Police agents in Bilbao (Vizcaya) totally lacked an identity badge; although this identification is not required by regulation, it is certainly recommendable.

*Gun racks
§92 AR 2014*

22. The Ombudsman's recommendation that all facilities have **gun racks** in place, thereby avoiding armed agents entering the jail area, has been put into place in nearly all the local police facilities visited: CNP police stations in Benidorm (Alicante), Gijón (Asturias), Logroño (La Rioja), the JSP of Asturias and Command Headquarters in Oviedo (Asturias) and Santander, and barracks in Calahorra (La Rioja).



Gun rack (Local Police in Benidorm (Alicante))

Nevertheless, we have still observed that on some facilities there are armed public officers entering the jail area (whether or not with loaded guns), as is the case of the Local Police in Calahorra (La Rioja), Civil Guard of Chiclana de la Frontera (Cádiz) and Alagón (Zaragoza) or the CNP Headquarters in Santander (Cantabria).

*Toilet inside the
cells and
squatting pans
§95 AR 2014*

23. Toilets inside communal cells is not acceptable, not only due to the lack of privacy involved but also out of respect for other detainees (smells), as was the case in Regional Police facilities in Pamplona (Navarre).



Communal cell with an indoor toilet, Regional Police of Pamplona (Navarre)

Likewise, **squatting pans** observed in some of the facilities visited should be replaced with toilets, as they are inadequate for elderly or impaired inmates.

*Cell size and
ledges
§96 AR 2014*

24. Further to the visits made, we ascertained that, in general terms, **cells are adequately sized**, except for the Command Headquarters of the Civil Guard in Zamora and stations in Casetas (Zaragoza) and Puente La Reina (Navarre).



Cell at the Civil Guard station in Puente La Reina (Navarre)

On the other hand, single cells at the Civil Guard station in Calahorra (La Rioja), are spacious and bright (they are fitted with a ceiling skylight).



Cell at Calahorra station (La Rioja)

It was also noted that cells for young offenders at CNP stations in Ávila, Guadalajara and Zamora lacked a ledge; this is necessary to guarantee a minimum period of rest, even if the inmate stays for a short period of time.

25. We have noticed some shortcomings in **ventilation, cleanliness, lighting or temperature** on some facilities, such as the jails of CNP Retiro district police station in Madrid or the Head Police Station in the Balearic Islands. Here, based on the irregularities noted during our visit, the DGP has informed us that it intends to totally remodel the facilities.

*Cleanliness,
ventilation,
lighting and
temperature
§97 AR 2014*



Cell, Retiro district police station (Madrid)

*Renovation of
installations*

26. At the Civil Guard Command Headquarters in San Sebastián (Guipuzcoa) and the Civil Guard Headquarters in Ceuta, we ascertained that **renovations** had been completed since the Ombudsman's last visit. Works are underway at the Ávila Command Headquarters and at the Local Police Station of Medina del Campo (Valladolid) works have stopped due to insufficient funds since March 2015 (explaining why detention facilities were closed down).

I. 2

Medium-term deprivation of liberty
§27 - §53

I.2.1 Foreign National Detention Centres

6 CIE visits

27. Over 2016, **6 visits** were made to Foreign National Detention Centres (CIE) in Barcelona (2), Madrid, Murcia (2) and Valencia. To note is that the first visit made to the Barcelona CIE, which was closed, was to check progress in the works that are currently underway and the scheduled improvements.

Our visit to the Madrid CIE, along with technicians belonging to the Migrations and Equal Treatment department, was more reactive. The outcome of this visit is reflected in pages 264-265 of the 2016 Ombudsman Annual Report.

Psychological and psychiatric assistance §99 AR 2014

28. Just like we reported last year, the visits made over 2016 have ascertained that **psychological and psychiatric assistance** is not provided at CIEs; any inmates requiring this assistance are forwarded to hospitals of reference.

Healthcare §100 and 107 AR 2014

29. We have ascertained that, at all the centres visited, **inmates are informed of any healthcare services** available at each centre.

In turn, there are **records of healthcare and scheduled appointments** at the four centres visited.

Presence of a doctor §101 AR 2014

30. Despite the Ombudsman's repeated recommendations that CIEs provide **24-hour doctor and DUE assistance**, we have ascertained during our visits that, although DUEs are in fact present on the weekend, they are not available at night; if necessary, inmates are forwarded to hospitals or emergency services called to the centre.

Tests §103 AR 2014

31. The medical services of the visited CIEs do not complete **tests** on their inmates, upon arrival, to detect any infectious/catching illnesses or to adopt measures in order to guarantee the health of centre residents. As a result, we have continued to insist on our recommendation made on the matter and forwarded to the DGP.

Interpreters §105 AR 2014

32. It has still been observed in our visits that not all medical services use the interpreters made available by the Ministry of the Interior, for doctor's visits, in order to ensure the absence of language barriers. Nevertheless, during our second visit to the Murcia CIE, it was verified that the medical services request **interpreters** from SEPROTEC in doctor's visits, if the inmate is unable to communicate with the doctor.

33. The lack of awareness, detected in earlier visits to the Murcia and

Suicide prevention
§106 AR 2014

Valencia CEIs, of Instruction 2/2014, issued by the Comisaría General de Extranjería y Fronteras [General Headquarters for Immigration and Border Control] on **suicide prevention**, has been remedied (we ascertained this during our visits this year), consequently fulfilling the provisions of said Instruction.

Injury reports
§108 AR 2014

34. All **injury reports** issued by CEI medical services follow the form provided in the study of *Injury reports on people deprived of their liberty*, drawn up by the Ombudsman, except for the Murcia CIE, where the doctor stated that she was unaware of this form and consequently requested a copy.

Restraint measures
§109 AR 2014

35. The Madrid and Valencia CEIs have a specific ledger to enter any inmates provisionally subject to solitary confinement. Nevertheless, no record is made of the medical check-ups completed during the confinement, nor is there any record of other **restraint measures** being applied.

The Barcelona CIE keeps a computerised record of provisional solitary confinements, but not of the application of other measures.

Inmate identification
§110 AR 2014

36. During the visits completed over 2016, we have ascertained that **inmates all called by name** at all CIEs; if a name is shared by more than one inmate, they are first called by name followed by a reference to their file number.

Body search
§111 AR 2014

37. We have continued to note differences with respect to whether or not **full body searches** are carried out. At some CIEs, according to the manager or public officers, these are not carried out or only as an exception, whereas the interviewed inmates have stated that body searches are in fact conducted.

Information on rights and duties, international protection and habeas corpus
§112 and 114 AR 2014

38. Information provided to inmates, on their **rights and duties**, in a language that they understand, varies depending on each CIE. This is why the CGEF should translate the form into the most common languages spoken by inmates.

Other forms providing information on the **international protection** available at all centres should also be translated into more languages.

No information was found on the possibility of filing a **habeas corpus**, at any of the centres visited.

Legal counsel
§113 AR 2014

39. Of the CIEs visited during 2016, only the Murcia CIE lacks an agreement with the local Bar Association to provide **legal advisory services**, which exist at other CIEs. During our visit to the Barcelona CIE, complaints were

<p>Information on extraditions §115 AR 2014</p>	<p>brought against the work performed by some lawyers when justifying asylum applications, claiming that legal advisory services had not been reinstated since the centre opened again after completion of the works.</p>
<p>Fit to travel §116 AR 2014</p>	<p>40. We have ascertained that information to inmates on their extradition date, sufficiently in advance in order to make arrangements with their families or next-of-kin, to gather their belongings or complete other steps, is provided at Madrid, Murcia and Valencia CIEs, where notice is provided 24 hours in advance and, at least, to inmates in Valencia, the scheduled journey is also provided. We were unable to check this point at the Barcelona CIE as our visit was made a few days after it had reopened following completion of the works.</p> <p>41. The issue of fit-to-travel certificates for inmates about to be extradited, certifying that the inmate is fit to travel, are provided at the Madrid and Murcia CIEs, indicating any medication that needs to be administered. The Valencia CIE only issues this document if the inmate is unfit to travel.</p>
<p>Video surveillance §117 AR 2014</p>	<p>42. We have confirmed, to our satisfaction, that there are more video surveillance systems at the CIEs visited. At the Ombudsman's request, video surveillance cameras are being installed in confinement rooms and in one of the corridors of the Barcelona CIE ward, with a total of 53 cameras, and at the Murcia CIE, where a camera has been installed in the leisure room of the women's ward. As regards the Madrid CIE, we have requested that the video surveillance system be extended to those areas where there is unsupervised inmate traffic, and in solitary confinement rooms.</p>
<p>Identification §118 AR 2014</p>	<p>43. During the visits made over 2016, as a general rule and subject to specific exceptions, all police officers are duly identified.</p>
<p>Social and cultural services §120 AR 2014</p>	<p>44. The Red Cross provides its services at all the CIEs visited, as it has been doing for years in Madrid. It began working in the Murcia and Valencia CIEs in April, after signing an agreement with the Ministry of the Interior. The Red Cross has continued to work for the Barcelona ICE after it was provisionally closed to complete refurbishment works.</p>
<p>Separation of inmates §122 AR 2014</p>	<p>45. There is still no effective separation between convicted inmates (or with a criminal record) and inmates under arrest due to their lack of legal status in Spain. In the last visit made to the Murcia CIE, the manager told us that this separation was not possible in the centre's facilities.</p>
<p>Mechanically opened doors §123 AR 2014</p>	<p>46. During our visit to the Valencia CIE, we ascertained that a system was in place for the mechanical opening of inmate room doors, allowing a rapid opening in the event of an emergency. This system is installed at the</p>

Barcelona CEI in two of its three existing wards. Installation work was ongoing at the Madrid CIE at the time of our visit and is expected to end in early 2017. At the Murcia CIE, and at the remaining ward in Barcelona, installation of the system is pending a budgetary assignment.



Mechanical opening of Valencia CIE rooms

*Washer and dryer
§124 AR 2014*

47. Of the four CIEs visited, only Murcia still lacks a **washer and dryer machine**, so inmates do not have to wash their clothes in the courtyard sinks and hang them out to dry in their rooms or on the fences. The manager of the centre has told us that they were examining the possibility of outsourcing the service, as it was not feasible on site (due to a lack of space and staff).

During our last visit made to the Valencia CIE, we were able to verify the installation of a washer and dryer.

*Inmate clothes
and shoes §125
AR 2014*

48. There is still no budgetary assignment enabling the authorities to **provide adequate inmate clothing and shoes as necessary**. We were able to ascertain at the Madrid CIE that basic kits were handed over, as well as other clothing that the Red Cross could occasionally provide.

At the other CIEs visited, available clothes or shoes are provided through the Red Cross or an NGO.



Women's basic kit at the Madrid CIE

Mobile
telephones §127
AR 2014

49. Inmate **use of mobile phones** is allowed at all the CIEs visited this year, following the decision adopted on the matter by various examining judges. The type of telephone and rules of use vary at each CIE, depending on what is indicated by the examining judge.

In Madrid, Murcia and Valencia mobile telephones may be used within set hours, and are withdrawn during rest periods.

At the Barcelona CIE, only devices without Internet access are allowed, at any time.



Space assigned for charging mobile phones at the Madrid CIE

*Leisure and
sports material
§128 AR 2014*

50. According to our visits **leisure and sports material** still seem to be very scarce at the Madrid and Murcia CIEs, and the authorities have been consequently reminded. At the Valencia CIE, we noticed that there was more leisure and sports material provided by the Red Cross.

The Barcelona CIE has adequate facilities and sports material, as well as leisure and reading material, all provided by the Red Cross.



Sports material at the Barcelona CIE

*Partly roofed
courtyards
§129 AR 2014*

51. Finally, at the Murcia CIE, we checked that both existing **courtyards** have been **partly roofed**. The Barcelona and Madrid CIEs have partly roofed courtyards, although they both still have an open courtyard (for women at the Madrid centre, and ward F in Barcelona). The only courtyard at the Valencia CIE still lacks a roofed part.

The Ministry of Interior has informed that it intends to carry out the necessary works as soon as the budget so allows.



Partial roofing of the Murcia CIE

*Privacy in
showers
§131 AR 2014*

52. On the one hand, **lack of privacy in showers**, observed observed in previous visits CIEs, has not been remedied in the Valencia CIE, where no partitions have been installed.

On the other hand, these partitions have been installed at the Murcia CIE, which already exist at the Madrid and Barcelona CIEs.



Undivided showers in the Valencia CIE

*Nigh-time toilet
access
§132 AR 2014*

53. The installation of **toilets inside the rooms**, which began at the Madrid CIE, has continued at the Barcelona CIE; following the renovation works completed mid-year, toilets have been installed in all the rooms.

This renovation has not been completed at the Murcia and Valencia CIEs, leading to inmate complaints; as they informed us during their interviews, sometimes the public officers did not respond to their night-time requests to use the toilet.

I. 3

Long-term deprivation of liberty

§54 - §172

I.3.1 Prison facilities

*18 visits to CPs
in 2016*

54. In 2016, **18 visits were made to prison facilities (CP)**, of which 8 were **multidisciplinary** visits, involving external technicians with expertise in the fields of medicine, forensic medicine and psychiatry (for CPs in Araba/Álava, Cuenca, Dueñas (Palencia), Jaén, Mas Enric (Tarragona), León, Teixeiro (A Coruña) and Zuera (Zaragoza).

Seven of these facilities were visited **for the first time**: CPs in Cuenca, Jaén, León, Mas Enric (Tarragona), Ocaña I (Toledo), Teixeiro (A Coruña) and Zuera (Zaragoza); at 11 of these **follow-up visits were completed to check the level of compliance with conclusions reached in previous inspections**: CPs in Alcalá de Guadaira (Seville), Araba-Álava, Ávila, Badajoz, Hombres Barcelona, Bilbao, Dueñas (Palencia), Madrid II, Ocaña II (Toledo), San Sebastián and Tenerife II. The visit made to CP Madrid II was an institutional visit involving a delegation of the Korean Committee for Human Rights.

Spokespersons of the NPM Advisory Council participated in 4 visits, and technicians for **autonomous commissioners** were involved in 6 (Ararteko, Diputado del Común, Procurador del Común, Síndic de Greuges de Catalunya and Valedor de Pobo).

Contact has still been made with provincial coordinators of Prison Legal Advisory Services, in order to gather relevant information on the prisons visited.



The Ombudsman visiting an employment workshop at CP Araba/Álava

*Legal advisory
services
§152 AR 2014*

55. Further to the foregoing, of interest is the reinstatement in Andalusia of the service offered by lawyers ascribed to the **Prison Legal Advisory Service**. This was ascertained during our visits to Andalusia, constituting a valuable guarantee of inmate rights.

*Ill treatment
§150 and 151
AR 2014*

56. During our visits we have insisted on the priority that needs to be given to the start-up and improvement of all devices allowing the **prevention, detection and adequate investigation of situations** that may potentially constitute **ill treatment or torture**.

*Extraction of
incident images
§63 AR 2014*

57. On the matter, a **Recommendation was made to the SGIP** in order to regulate the collection, recording, extraction, storage, custody and access to images captures with prison video surveillance systems, a fundamental device to prevent torture and ill treatment, in the terms of NPM annual reports. This Recommendation has been dismissed by the SGIP, although we will continue to insist. We have ascertained that incident images are in fact extracted at some CPs, if decided by the Management staff.

*Registry of ill
treatment §153
AR 2014*

58. During the last visits made to CPs belonging to the SGIP, we have noticed that some prisons have a **register book** gathering all complaints, reports or judicial proceedings related to misconduct or ill treatment received from public officers, to ensure their follow-up and supervision, pursuant to the Recommendation made in 2015.

*Staff training
§154 AR 2014*

59. We have not noted any improvements as to the lack of **staff training** in the resolution of conflicts and intervention in crisis situations, mental health and other issues directly affecting inmate rights, which would improve the relations with public officers.



Lightwell in the closed regime ward, CP León

Injury reports
§155-157 AR
2014

60. The SGIP and Catalanian Health Institute have still not adapted the **injury report form** proposed by the NPM in its 2014 study entitled *Injury reports on people deprived of their liberty*.

The content and information that an injury reform may provide is essential for any investigation of ill treatment. Consequently, **all injury reports should be accurately and entirely completed**, to particularly include a thorough description of the means of restraint and trigger indicated by the inmate, as well as delivery of a **copy of the report to the inmate** affected, e.g. at CPs in Cuenca, Dueñas (Palencia), Jaén, León, Mas Enric (Tarragona) and CP Teixeiro (A Coruña).

Issue of injury reports

61. Likewise, we have informed the SGIP of the adequacy of **issuing injury reports, if inmates declare to have suffered an injury**, even if not ascertained by a doctor, as a guarantee that the inmate has been heard.

Record of injury reports

62. During our follow-up visit to CP Bilbao, we checked that a **Register Book was in place for injury reports, which are forwarded to the Duty Court**; this example of good practice should be adopted by all prison facilities. This would avoid situations such as the one arising in CP Araba/Álava where, although various inmates reported injuries, which were very often included in their medical records, there were no matching injury reports.

Identification
§158 A 2014

63. We have insisted on the obligation of all public officers to bear their **identification badge** at CPs in Araba/Álava, Cuenca, Dueñas (Palencia), León, Mas Enric (Tarragona), CP Ocaña I (Toledo), Teixeiro (A Coruña) and

Tenerife II.



Closed regime gallery in CP Teixeira (A Coruña)

Closed regime

64. According to NPM's opinion, gathered in its 2014 Annual Report, a "closed regime" involves the application of maximum security criteria, representing the most restrictive lifestyle foreseen in prison regulations, which is why it should only be applied exceptionally and for the minimum time necessary. During 2016, the NPM has paid **special attention to living conditions in closed regime wards** in 4 of the CPs visited: CP Dueñas (Palencia), CP León, CP Zuera (Zaragoza) and CP Teixeiro (A Coruña). At these CPs, our visit particularly focused on inspecting these wards, interviewing most of the resident inmates as well as the public officers providing service there. During 2017 we expect to continue gathering data on the matter. The following conclusions may be advanced, based on our results:

65. Generally speaking, the visited prisons indicated a **low rate of application of the Specific Programme for Intervention in a Closed Regime (PIRC)**, with limited or even nil activities, the absence of updated data in the Individualised Treatment Programme (PIT) or initial valuation files or progress evaluation. A vast majority of the inmates interviewed did not know what the Programme was or had been informed about the possibility of participating in it.

66. In these departments, in addition to a limited range of activities, it was also common to find **scarce therapeutic or rehabilitation assistance** and little schooling.

67. The **public officers** working in this type of ward **do not receive specific continuous training** on the special characteristics of this closed regime.

68. Doctor's visits in these departments are occasionally held outside the cell, through the barred door, preventing direct contact with the inmate, in breach of the right to privacy and doctor-patient confidentiality. The Administration should guarantee that all doctors are able to provide healthcare in adequate security conditions, upholding inmate rights.

69. The **facilities** accommodating these inmates are usually more **restrictive**. Thus, cells are only fitted with minimum components and windows often look onto the lightwell. Walking courtyards are usually made of cement, with no plants or facilities to play sports and without roofed areas to take shelter in bad weather. We should remember that **courtyard outings** are limited to a **few hours each day**.

70. Department inmates often **lack sufficient income to buy a television or radio**, which is why they have nothing to occupy their time whilst in the cell; this is particularly serious given the special characteristics of this type of deprivation of liberty, and the fact that generally very few activities are arranged in these wards.

71. In short, the closed regime indicates **conditions of great hardship**, which are aggravated when applying the provisions contained in SGIP Service Order 6/2016, described below.

72. Service Order 6/2016, of 10 August 2016, issued by the General Deputy Manager for Treatment and Prison Management (SGIP), on “**Specific security measures to control inmates covered by FIES 1 CD, assigned to departments under a special regime**”, aims to “intensify the security measures foreseen in prison regulations” for “inmates playing a leading role in very serious incidents, by directly and seriously harming the physical integrity” of other inmates or prison officers or workers.

73. These **special security measures** include the following: alone time in the courtyard, assignment to a confinement ward gallery where there are no other inmates, minimum contact with public officers and other staff, periodic change of cell, etc. There is no possible appeal or maximum time limit for the application of these measures, consequently resulting in the inmate's **total isolation**.

74. During our visit to the CP in Zuera (Zaragoza), we ascertained that, through said Service Order, **an even more restrictive regime is applied than the one foreseen in special closed regime departments**, in General Organic Act on Prisons and Prison Regulations (RP) (Articles 91.3 RP and 93.1 RP). Proceedings are underway and will be announced in the next annual report.



Courtyard in a gallery of the closed regime ward, CP Zuera (Zaragoza)



Closed regime cell in CP Zuera (Zaragoza)

Mediation

75. The **mediation service for the resolution of incidents**, in place at CP Mas Enric (Tarragona), which reduces the processing of disciplinary proceedings to the minimum necessary, constitutes an example of good practice that should be extended to other CPs.

*Disciplinary
regime §161
AR 2014*

76. The SGIP has accepted the Recommendation made in order to take the inmate's mental health and/or vulnerability into account, whilst **disciplinary proceedings are being processed** and before taking any decision on a possible sanction. Furthermore, it would be appropriate to instrument some way in which psychologists may participate in disciplinary commissions, as their point of view may be useful when modulating the sanctions imposed or the number of **disciplinary proceedings filed**.

*Mechanical
restraints §165-
178 AR 2014*

77. Mechanical restraints are still being used without following the NPM's criteria; they are still inadequately registered at most CPs visited, detecting failures and inconsistencies between manual and computerised records, and incomplete documents derived from these actions. At CP Tenerife II, for instance, it was noticed that **mechanical restraint control sheets** did not include entries on the state of the inmate, or whether he/she was being visited by a doctor.

In some cases we detected **the use of handcuffs to immobilise** an inmate on the mechanical restraint bed for several hours (CP Araba/Álava). On the other hand, at CP Bilbao, where this practice had been previously followed, instructions had been given to abolish it.

*Mechanical
restraint
training §177
AR 2014*

78. At the SGIP CPs visited, **no formative action was arranged on how to apply mechanical restraints**, with validated straps, except for CP Dueñas (Palencia). The SGIP has told us that it is working to unify an adequate methodology to apply regimental mechanical immobilisation, in order to include it as a teaching unit in courses on self-defence and the adequate use of coercive means. In Catalonia, as we verified during our visit to CP Mas Enric (Tarragona), mock mechanical restraints are arranged, in order to ensure that they are carried out effectively and professionally.

*Mechanical
restraint cells
§179 AR 2014*

79. As a general rule, **mechanical restraint cells** have still not adapted to NPM criteria. Subject to a few exceptions, SGIP CPs lack cell video surveillance. One of these exceptions is CP Bilbao where, following our visit in 2014 and although hardly any coercive means of this nature have been applied, a new cell has been prepared, with a bed and validated restraining straps, as well as video surveillance recording.



Viewing with a video surveillance system, in the new mechanical restraint cell, CP Bilbao

*Article 75 RP
§180-185 AR
2014*

80. One of the issues examined during our visits is **application of Article 75 RP**, both as regards the frequency and causes of application, and compliance terms and length. The application of regimental limitations further to this article should be exclusively limited to facts which, due to their seriousness, endanger prison safety and order, and cases where other less grievous measures cannot be adopted, or summary disciplinary proceedings conducted, in order to achieve the objectives sought, in a pro-inmate manner.

On the matter, we have reported excessive use of this measure at CPs in CP Araba/Álava, Tenerife II and Zuera (Zaragoza). Instead, during our visit to CP Ocaña II (Toledo), where during our first visit in 2012 we observed an inadequate application of Article 75 RP, we ascertained that it had significantly improved, reducing both the frequency and length of the measure.

*Medical check-up in
regimental
measures
§187, 188 and
190 AR 2014*

81. There is still no protocol gathering the guidelines to be followed in **medical check-ups in confinement situations** and supervision of confinement cell conditions.

At present, medical check-ups in these cases are carried out according to each doctor's professional opinion, based on the inmate's characteristics and background. In fact, at CP Araba/Álava we noticed that very brief entries were made in the clinical records of medical check-ups completed in these cases. However, in our follow-up visit to CP Ávila it seems that doctors were more involved, with respect to mechanical restraints, than in our earlier visit of 2015.

*Radiological
examinations
§195 AR 2014*

82. During our visit to CP Ocaña II (Toledo), we ascertained that **an informed consent form, for radiological examinations for non-medical reasons**, was being used (if the inmate is suspicious of concealing forbidden substances in

- §49 AR 2015 his/her body), which differs from the one drawn up by the General Deputy Directorate of Prison Health, approved as an adequate document to guarantee inmate rights. This is why a Recommendation has been forwarded to the SGIP in order to instruct all CPs to use said form.
- Body search
§191 AR 2014 **83.** As informed by the inmates, it may be inferred that a robe or towel is not always provided when conducting a **full body search** at CPs in Araba/Álava, Dueñas (Palencia), León and Tenerife II.
- Digital medical records
§198 AR 2014 **84.** We have ascertained that **digital medical records** are being progressively implemented in SGIP CPs, although our Recommendation has not been accepted, in the sense that this be compatible with existing medical records health at public health services, insofar as competences in prison healthcare services are not transferred to autonomous communities. In the absence of collaboration agreements between the SGIP and autonomous communities, CP doctors themselves need to contact public healthcare professionals to ensure adequate coordination and therefore guarantee prisoner health.
- At CPs in Catalonia and the Basque Country, given that CP healthcare services are dependent on the autonomous healthcare administration, access is in fact available to medical records held outside the prison, which clearly constitutes an example of good practice.
- Permanent healthcare
§201 AR 2015 **85.** CPs in Alcalá de Guadaira (Seville), Ávila, Cuenca, Jaén and Ocaña II (Toledo) do not have **24-hour on-site medical assistance**, contrary to the Ombudsman's opinion.
- Emergency healthcare **86.** The SGIP has still not accepted out 2015 Recommendation that **an emergency healthcare protocol** be drawn up, guaranteeing a written record of all healthcare requests and the procedure to follow. Nevertheless, this has been insisted upon during our visits.
- On-demand healthcare **87.** Some prisons are considered to have **insufficient on-demand healthcare**. As a result, either a request for assistance is inadequately made through emergency channels or medical assistance is provided late in matters which, albeit not serious, may affect inmate health and wellbeing. This is why, during our visits to CPs in Araba/Álava, Dueñas (Palencia), Teixeiro (A Coruña), Tenerife II and Zuera (Zaragoza) we reached the conclusion that more frequency is necessary. On the other hand, the Men's CP in Barcelona provides healthcare on a daily basis in all wards, and CP Cuenca provides it three times a week, despite the shortage of human resources in the healthcare sector and thanks to

effort from the staff.

*Psychiatric
assistance
§207 AR 2014
§52 AR 2015*

88. Psychiatric assistance at CPs depends on the agreement signed between the prison and healthcare administrations. Usually, psychiatrists visiting CPs handle a small and brief number of appointments, generally focusing on updating prescription drugs and, exclusively, for those patients forwarded by the prison doctor. On occasion, as in CP Ocaña I (Toledo), Ocaña II (Toledo) and Teixeiro (A Coruña), no psychiatrist visits the CP which is why, if psychiatric assistance is required, inmates need to leave the prison. Furthermore, during our visit to CP León, a Suggestion was made to the SGIP in order for a psychiatrist to follow up on inmates and evaluate them, if subject to security measures.

Appointments should be held as often as necessary to **adequately cover psychiatric needs** amongst the prison population, not only as regards psychotropic medication but also with respect to professional therapy. Of interest, as an example of good practice, is that the CP Barcelona has two psychiatrists on-site at the prison, Monday to Friday.

*Psychological
assistance
§207 AR 2014
§52 AR 2015*

89. CPs still lack **clinical psychological assistance**; although psychologists belong to the treatment teams, assistance as such cannot be provided given that they are few in number and are over-worked.

*Treatment
under direct
observation
§205 AR 2014*

90. The **administration of psychotropic medication** may encourage an accumulation and exchange of drugs by the inmates. Consequently, all psychotropic drugs should be dispensed as treatment under direct observation. This was suggested to the CPs in Araba/Álava, Dueñas (Palencia), Jaén and Teixeiro (A Coruña).

*Suspended
medication*

91. During the visit to CP Dueñas (Palencia), whilst going over medical records and following our interviews with the inmates, we noticed that on occasion **medication is suspended or withdrawn** from inmates as a sanction, if it is “misused”, constituting inadequate practice.

*Comprehensive
Assistance
Programme for
the Mentally Ill
§207 AR 2014
§52 AR 2015*

92. We have noticed that **the Comprehensive Assistance Programme for the Mentally Ill (PAIEM) is unequally applied** at the various CPs, both with respect to development of the Programme and the staff involved (in some, neither the medical services nor the psychiatrists visiting the CP are part of the programme). In some cases, we have considered that PAIEM application needs to be improved in the CPs of Araba/Álava, Cuenca, Dueñas (Palencia), Jaén and Tenerife II. On the other hand, at CP Teixeiro (A Coruña), the PAIEM was put into place in an exemplary manner.

*Suicide
Prevention
§208 AR 2014*

93. It is necessary to strengthen the **specific training received by inmates, under the Suicide Prevention Programme**, as manifested during our visit to CP Jaén.

*Interpretation
by phone
§203 AR 2014*

94. The CP Araba/Álava has a **system for simultaneous interpretation by phone** to avoid communication problems during medical appointments with inmates who do not speak Spanish. It would be appropriate for this system to be installed at all CPs.

*Lack of staff
§154 AR 2014*

95. During all our visits we noticed that there were **vacancies as a result of budgetary restrictions**. In addition, workers take leave in general and there are other positions not covered, e.g. services staff. As a result, there is insufficient staff at some CPs in certain fields.

*Treatment
§209 AR 2014*

96. In particular, **insufficient staff for the treatment** of inmates (psychologists, educators, recreational supervisors, sports coaches, etc.) makes it difficult in practice to achieve actual reintegration. CP treatment managers often claim that it is only thanks to the voluntary collaboration of many NGOs, cooperating with prison institutions, that they are able to carry out many fundamental activities for inmate rehabilitation and psycho-social intervention, including the PAIEM itself at many prisons.

On the other hand, CP Mas Enric (Tarragona), offers a wide range of treatment programmes, involving the management team and assigning the necessary staff.



Library at CP Mas Enric (Tarragona)

Conduct Normalisation Programme

97. During our visit to CP Jaén we were told that the programme gathered in SGIP Instruction 15/2011 was being carried out in ward 10, **aimed** at intervening with **“inmates evidencing an antisocial attitude and conduct, in order to achieve their positive adaptation**, by normalising their behaviour and encouraging pro-social values”.

With this in mind, inmates are assigned to a level 1 or basic rehabilitation ward [*“modulo de respeto”*]. Using an **educational-therapeutic approach**, the aim is to reassign the inmate to another stricter rehabilitation ward and, if this is not possible, to transfer him/her to another CP.

Rehabilitation wards are internal separation units inside the CP, aimed at “achieving harmonious co-existence and utmost respect amongst residents”. The level applied is the lowest of the three rehabilitation wards foreseen in SGIP Instruction 18/2011.

98. Nevertheless, in order for the Programme to be carried out as foreseen in the Instruction, there is **insufficient staff** assigned to this department.

99. Nor are there sufficient **activities** arranged in the ward, contradicting the basic objective of the Instruction, which is none other than to “eradicate inmate inactivity in order to gradually cover their important needs”.

100. Although these ward residents are classified as second degree, they may in no case coincide with other inmates from other departments; this reinforces the **feeling that they are in a closed regime ward**.

101. The **installations** accommodating these department inmates were originally intended for FIES inmates, and their architectural design evidences this (such as a dividing wall between the cell windows and the ward courtyard); this is incompatible with the alleged “stimulating conditions” and “positive reinforcement” gathered in the Instruction.

102. Basically, it looks more like a residential department to **avoid conflicts, rather than a specific treatment programme**; security or the inmate’s inability to fit into another department seem to prevail, as this type of ward is used to relocate inmates who have little time left on their sentence and whose conduct could be detrimental to regimental development in other wards. In fact, only on

specific occasions are inmates committed to these wards reassigned to other rehabilitation departments, evidencing that **the programme is hardly effective in practice.**



View from a cell window in ward 10, CP Jaén



Dividing wall in the conduct normalisation ward, CP Jaén

*Payroll and
employment
contract*

103. Inmates providing their services at productive workshops, known as “remunerated assignments”, are paid their salary into their account, without any payroll or employment contract. The SGIP has told us that they are working on drafting a **document to be provided to working inmates**,

formalising the special labour relationship held by the inmate and the State Entity for Prison Work and Employment Training, which will cover various issues of the relationship: professional category, work day, remuneration model, type of remuneration, etc.

Poor inmates

104. Another issue we detected in our visits was the lack of economic resources foreseen by prison facilities to assist **impoverished** inmates who, as a result, cannot access items that would improve their quality of life, albeit slightly (phone cards, eye glasses, dental work, etc.). In some CPs, attempts have been made to help through the Prison Church Service or an NGO, or assistance is provided with the prison's own funds. Nevertheless, in some cases, inmates resort to selling their own medication (other than under "directly observed treatment") or scheme in order to make money. This is why the prison administration should consider endowing a specific budgetary item to cover these poverty situations.

*Video
surveillance
§477 AR 2010
§216 AR 2014*

105. CP **video surveillance systems** still do not conform to NPM criteria, both as regards coverage of the system and the recording or saving of images. For instance, at CP Ávila no recordings are made and at CP León, of the 298 video surveillance cameras, only 30 allowed a recording. Nevertheless, certain improvements were in fact observed during our follow-up visit to CP Gipuzkoa.

*Food §215 AR
2014*

106. The inmates complained about the **food**, either because it was considered poor, badly cooked or served cold, at CPs in Araba/Álava and Zuera (Zaragoza).

*Fire-fighting
measures
§218 AR 2014*

107. During our visits, we insisted on the need to improve **fire-fighting measures**. This was the case, for instance, in CPs in Jaén, Ocaña I (Toledo) and Tenerife II.

*Children's
facilities §57
AR 2015*

108. Given that the **Tenerife Mother's Unit** has not yet opened, CP Tenerife II continues to accommodate children under three (we identified a girl during our visit), although no adequate children's facilities are available; as a result, mothers and their children share the same space with other female inmates, which is inadequate.



Play area in CP Tenerife II

*Transfer of
first-degree
inmates*

109. We were informed that CP Tenerife II does not meet the necessary conditions to achieve a first-degree, which is why any such inmates are usually transferred. Nevertheless, transfers to mainland Spain only take place every 6 months, resulting in inmates possibly remaining in this situation for several months, with alone time in the courtyard if there are no other first-degree inmates. There was one inmate in this situation that we found in our visit (first-degree inmate—91.2 RP— awaiting a transfer to Puerto I, Cádiz, scheduled for three months later). Consequently, we made a Suggestion, which was accepted by the SGIP, in order to adopt the necessary measures to ensure that when an inmate is classified as first-degree, his/her **transfer to an adequate prison** be processed as soon as possible for completion of the sentence.

*CP pending to
be opened*

110. A fall in the prison population over the last few years, along with the construction of new prisons, could facilitate compliance with the so-called “single-cell principle” foreseen by law (one prisoner per cell). However, in practice, the lack of public announcements to cover civil servant positions has resulted in some **CPs not yet opening or some CP wards remaining closed** (CP Araba/Álava).

*One prisoner
per cell*

111. Although, during our visits, we ascertained that there are less cells occupied by more than two inmates and that often the prisoners themselves are the ones requesting a cellmate, the prison administrations **should adopt the necessary measures in order to achieve said “single-cell principle”,**

unless the inmates themselves wish to share a cell, in which case there should be a maximum of two inmates per cells. There are still cells with more than two inmates in CP Alcalá de Guadaira (Seville).

Installations
§223 AR 2014

112. We have made some observations as regards **installations**, such as courtyard roofs to shelter from the rain or sun in CP Bilbao and Dueñas (Palencia), improved air conditioning/heating systems and renovation of visiting rooms for lawyers, judges and authorities in CP Jaén, a withdrawal of barbed wire in the courtyards and windows of the closed regime ward in CP Mas Enric (Tarragona), installation of a heating system and cleaning of confinement cells in CP Tenerife II, improved maintenance in CP León and CP Teixeiro (A Coruña) and the installation of television antennae in the receiving ward [*módulo de ingresos*] in CP Zuera (Zaragoza).

During our follow-up visits, we ascertained that **some installations have been improved**. Such is the case, for example, of CP Alcalá de Guadaira (Seville) (installation of cell intercoms and renovation of visiting rooms), Bilbao (renovation of toilets and showers, improved CP maintenance), Gipuzkoa (installation of smoke detectors and cells intercoms), Madrid II (cell intercoms) and Ocaña II (Toledo) (renovation of ward 7, installation of intercoms, smoke detectors and extractors). Installations at the Men's CP in Barcelona were still inadequate, although the Department of Justice of the Regional Government of Catalonia has announced that the CP will be finally shut down in 2017.

Public transport
§222 AR 2014

113. Some CPs cannot be accessed by **public transport**, or this is insufficient, as is the case in CP Alcalá de Guadaira (Seville), Araba/Álava, León and Teixeiro (A Coruña).

I.3.2 Young Offender Institutions

Visits to 10 CMIs in 2016

114. During 2016, the NPM visited 10 young offender institutions (CMIs), 3 more than last year. Specifically, these institutions are located in the regions of Andalusia (San Francisco-La Biznaga, El Limonar and La Jara), Castilla y León (Zambrana), Cantabria (Maliaño), Madrid (El Madroño), the Balearic Islands (Es Pinaret), Extremadura (Vicente Marcelo Nessi) and Galicia (Montefiz and Monteledo).

The NPM had already visited these institutions before, which is why only follow-up visits were made, involving external technicians in the visits made to San Francisco de Asís-La Biznaga, Zambrana, Maliaño, Montefiz and Monteledo. An advisor to the Andalusian Ombudsman was present in the visit made to San Francisco de Asís-La Biznaga and, furthermore, in our visits to La Jara, El Limonar, Zambrana and Es Pinaret Spokespersons of the Advisory Council also took part.

Different ownership and management of the CMIs

115. Management of the visited institutions depends on the ownership option applied by each Autonomous Government. As a result, the ownership and management of the visited institutions was as follows:

Table 13. Management of visited CMIs

CMI	Ownership	Management
San Francisco de Asís-La Biznaga in Torremolinos (Málaga)	Public (Regional Government of Andalusia)	Public (Department of Justice and the Interior)
Zambrana in Valladolid	Public (Regional Government of Castilla y León)	Public (Department of Family Matters and Equal Opportunities)
Maliaño in Maliaño de Camargo (Cantabria)	Public (Department of Research, Environment and Social Policy in Cantabria)	Diagrama Foundation / Psychosocial Intervention
El Madroño in Madrid	Public	Public

	(Ministry of the Presidency, Justice and Government Spokesperson of the Regional Government of Madrid)	(Madrid Region Agency for the Reeducation and Reintegration of Young Offenders)
Es Pinaret in Palma	Public (Family and Social Services Department of the Government of the Balearic Islands)	S'Estel Social and Educational Institute
Vicente Marcelo Nessi in Badajoz	Public (Regional Government of Extremadura)	Public (Health and Social Policy Department)
El Limonar in Alcalá De Guadaíra (Seville)	Public (Department of Justice and the Interior of the Regional Government of Andalusia)	Diagrama Foundation / Psychosocial Intervention
La Jara in Alcalá de Guadaíra (Seville)	Public (Department of Justice and the Interior of the Regional Government of Andalusia)	Diagrama Foundation / Psychosocial Intervention
Montefiz in Ourense	Public (Department of Public Policy of the Regional Government of Galicia)	Diagrama Foundation / Psychosocial Intervention
Monteledo in Ourense	Public (Department of Public Policy of the Regional Government of Galicia)	Diagrama Foundation / Psychosocial Intervention

*Insufficient capacity
§243 AR 2014*

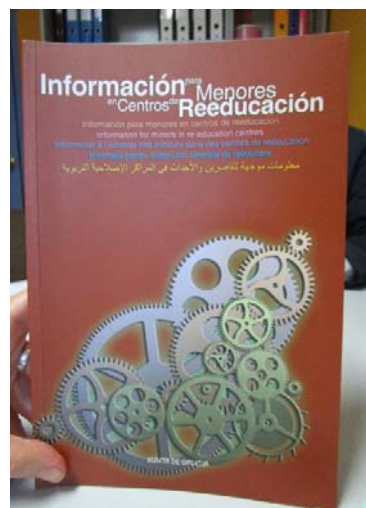
116. Overcrowding was detected in Es Pinaret (Palma). San Francisco de Asís-La Biznaga (Málaga) has **insufficient capacity**, unlike what is required for the province. On the other hand, since our last visit to Zambrana (Valladolid), there was an increase in capacity for therapeutic commitment (from four to fourteen).

Complaints and requests
§244 AR 2014

117. The absence of computerised and detailed records of **complaints and requests**, including healthcare, allowing a fast audit and appraisal, for example, of response times, types of complaint, repetition, solutions granted, etc., is generalised amongst the visited institutions, as well as the habit of not providing the young offenders with a dated and stamped copy of each request or complaint submitted, except for El Madroño (Madrid), where a filing receipt is provided, and in Monteleido (Ourense), where there is a Register Book to follow up on any complaints filed; furthermore, the complaint or request form has a section to describe how the matter was resolved.

Information provided on entry and habeas corpus
§245 and 246 AR 2014

118. It is essential that all minors, upon commitment to the facilities, be adequately informed and aware of a series of matters, such as rights and duties, internal regulations, ways in which to submit requests and complaints, disciplinary regime. To do this, a **newcomers pack** needs to be provided, with this information in clear and comprehensible wording for underage offenders, as well as information on the **habeas corpus** procedure. All minors should have a copy of this newcomers pack throughout their stay at the institution. We ascertained at 10 visited institutions that these NPM criteria had only been accepted and entirely applied in El Madroño (Madrid) and in Zambrana (Valladolid). All suggestions made on the matter have been accepted and measures adopted to execute the same.



Newcomers pack in Montefiz (Ourense)

Legal counsel
§247 AR 2014

119. Legal counsel provided to minors whilst completing their sentence, by lawyers visiting the institution, depends on the type of lawyer-client relationship; practically no visits were made by court-appointed lawyers.

Processing of disciplinary proceedings §249 AR 2014

120. During all our visits we appraised application of the **disciplinary regime**, checking that all proceedings are diligently processed since their filing date and until a resolution is delivered, and are adequately documented. Nevertheless, in San Francisco-La Biznaga (Málaga) and in Zambrana (Valladolid) it was noted that, in some cases, the necessary expediency does not exist between commission of an offence and the filing of disciplinary proceedings, or between a sanction and its enforcement, which is why young offenders tend to dissociate one from the other, given the delay in giving a sanctioning response to a reproachable act. In both cases the autonomous administrations have reported that measures have been adopted to enable a speedier processing.

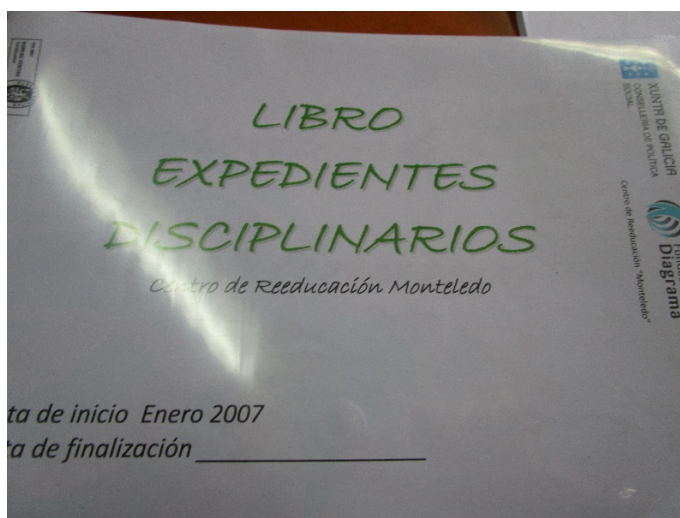
In Monteleido (Ourense) some shortcomings were discovered, such as submitting an interim measure in a file instead of a sanction; on another occasion, the list of charges did not designate an examining judge or did not state the beginning and end of the sanction imposed, or a decrease in the sanction or its possible payment.

Sanctions communicated to lawyers §249 AR 2014

121. Only at the Monteleido and Montefiz (Ourense) facilities did we check that when a **disciplinary sanction** is applied it is **notified**, in addition to the relevant institutions, to the **lawyer** assigned to the sanctioned minor. Pursuant to the provisions established in Article 76.2 of the Regulations on Organic Act 5/2000, of 12 January, on the criminal liability of minors, it is not mandatory to inform the young offender's lawyer. This is why, in order to change this, a Recommendation was made to the Ministry of Justice, which has been accepted and is pending execution.

Records of disciplinary proceedings and of restraining measures §250 and 254 AR 2014

122. All the facilities visited have **Register Books**, which are kept manually, **recording all disciplinary proceedings and the application of restraining measures**, in 6 of these there were also computerised programmes to obtain statistics on the type of sanction imposed, the type of offence committed, the number of offences committed by a specific minor, the number of proceedings filed, etc., as well as any restraining measures used, the minors subject to the same, the length of these measures and the reasons why they were used, whether involving mechanical restraint, personal/physical restraint, rubber batons or provisional isolation. The San Francisco-La Biznaga (Málaga), El Madroño (Madrid), Maliaño (Cantabria) and El Limonar (Seville) facilities lacked this instrument, which is why a Suggestion has been made to provide these computer programmes.



Register Book of disciplinary proceedings, Monteledo (Ourense)

*Medical
assistance
protocol in
restraints*

123. The doctor on the Montefiz (Ourense) facility had been working there for 6 months and, as regards the **medical assistance protocol in restraints**, he stated unawareness of “how often I have to go” and that the young offenders themselves “usually request medical assistance following a restraint”, as well as professional assistance. He was informed that a medical check-up is mandatory following a mechanical restraint and that the Court should be informed; he was also unaware of this, given that he merely entered this intervention into the medical records.

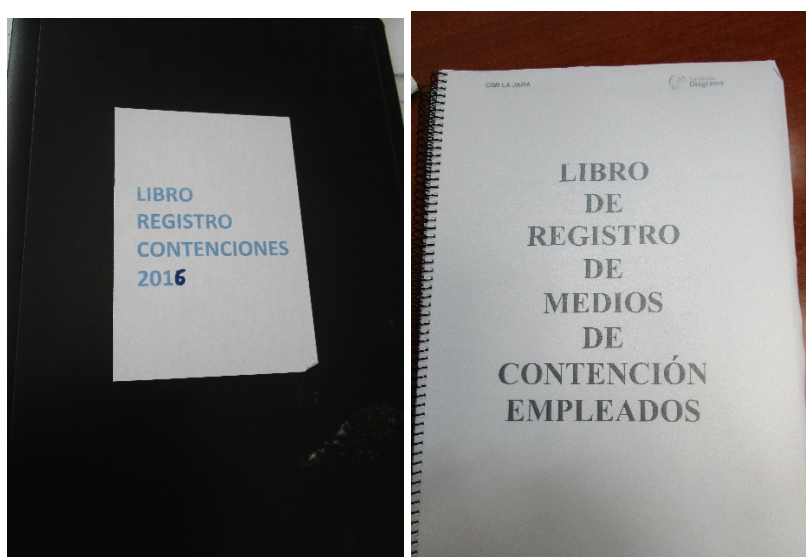
*Shortcomings in
the application of
restraining
measures
§75 AR 2015*

124. When examining disciplinary proceedings and other documentation, in relation to **temporary isolation**, we detected that on occasion it had been **applied as a restraining measure**, although the disciplinary records indicated that this situation had been defined and documented as an interim measure to separate a minor from the group, without taking into account that interim measures are agreed and applied further to and during the processing of disciplinary proceedings, but never to justify an earlier action. This shortcoming was discovered in El Madroño (Madrid), Maliaño (Cantabria), El Limonar (Seville), Monteledo and Montefiz (Ourense), which have accepted our Suggestions to change this pattern of conduct.

*Follow-up on
confinement and
separation
§254 AR 2014*

125. One of the NPM’s specific objectives when visiting young offender institutions is to **supervise how retraining measures are applied and documented**, to particularly include **temporary isolation, as well as group separations**. In San Francisco-La Biznaga (Málaga) the doctor stated that she does not visit the rooms of young offenders separated from the group, affirming that most of the times she is unaware of the situation, “if nothing is

said I don't know who's there", and that legal counsel is the one requesting that she visit the minor at the end of the sanctioning measure, sending an e-mail after a medical check-up is conducted in her office. Nor did the facility have a document reporting on the follow-up of minors, or a protocol of daily visits to the doctor or psychologist in these situations, which is why a Recommendation was made to the Regional Government of Andalusia in order to remedy this shortcoming, which has been accepted and executed.



Register-Book of Restraints at CMI Es Pinaret (Palma) and La Jara (Seville)

*Follow-up on
isolations
§254 AR 2014*

126. The beginning and end of a **temporary isolation** need to be documented, and this was suggested to the facilities in Vicente Marcelo Nessi (Badajoz), Zambrana (Valladolid) and Maliaño (Cantabria).

Since 15 June 2016, El Limonar and La Jara (Seville) facilities manually keep "Register-Books of Restraining Measures Used", which for each restraint consist of a page on both sides; the back is saved for any follow-up report on the isolation. These facilities have been suggested that all daily medical/psychological reports on temporary isolation or group separation state the time of the visit and check-up on the minor.

*Isolation and
separation rooms
§252 AR 2014*

127. Specific rooms for temporary isolation or interim separation in Zambrana (Valladolid), Maliaño (Cantabria), El Madroño (Madrid), Es Pinaret (Palma) and San Francisco-La Biznaga (Málaga) lack video surveillance cameras, which would allow supervision of these situations and their duration in time.

We have ascertained that, following the NPM's opinion, both security rooms at the Monteleido Observation Home (Ourense) have been closed down and assigned to other purposes.

None of the isolation or group separation rooms in Maliaño (Cantabria) had a light/audio call system or intercom to reach educators or security guards in the event of an emergency.

*Outdoor time
assigned to
sanctioned
minors
§252 AR 2014*

128. Whilst a **sanction** is being fulfilled, involving a group separation or temporary isolation, **lasting longer than 24 hours, a guarantee is necessary that the minor has at least one hour outdoors each day in the morning, and another hour in the afternoon;** this outdoor time should be confirmed or waived and signed by the minor, a document that was lacking at the El Limonar and La Jara (Seville) facilities.

Educational Setback

129. During our visit to the facility in La Jara (Seville), we were able to check when, where and how an “**educational setback**” [«**retroceso educativo**»] takes place. This situation is not foreseen or regulated in Organic Act 5/2000, of 12 January, on the criminal liability of minors, or its Regulations, approved by Royal Decree 1774/2004, of 30 July. Nevertheless, it is being used at all young offender institutions and is derived from Article 6 d) of said Regulations. The principles underlying the execution of these measures includes “The application of fundamentally educational programmes to encourage a sense of responsibility and respect for other people’s rights and freedoms”.

The Regional Government has addressed this “educational setback” in Resolution 1-2007-SMI, of 4 December 2007, issued by the Directorate-General of Juvenile Reform, and in Recommendations dated 5 February 2016, issued by the Directorate-General of Juvenile Justice and Cooperation.

According to the first, a setback to the observation phase will apply to very troublesome minors who repeatedly breach institution regulations; once the Socio-Educational Committee has appraised the situation, a decision to go back to this phase will be aimed at totally or partly reviewing each individual enforcement of the measure.

The Recommendations indicate that a setback in intervention to educational phases does not constitute a sanction, but an educational measure for minors that need greater control; nor does it entail any isolation or group separation, but a reassignment within internally separated groups.

These documents are silent on the maximum stay that a minor may spend in an observation home as a result of a setback; however, it is provided that new inmates will remain in the home for a maximum of twenty days.

Under disciplinary regulations, a group separation sanction has a maximum length of seven days, with two guaranteed hours outdoors, both if fulfilled in the room itself or in another similar room (with a desk and chair); this measure is decided following an adversarial procedure with the possibility of making allegations, submitting evidence and challenging the decision in a judicial appeal, all of which is not applicable to a “setback” decision.

The absence of a provision on the maximum length of a setback measure means that, according to the minors interviewed and as corroborated by the management team, an educational setback may last for a month and a half, two months or more in an observation

home without being accompanied by any other minor, as the offender is isolated from the other inmates, unless he/she coincides with another one who is completing an “educational setback”. An offender in this situation is unable to participate in the group's dynamics with the other inmates and all activities are adapted to be always carried out at the observation home.

Furthermore, the minor is not guaranteed two hours outdoors each day, given that sanctions lasting several days deprive him/her of recreational activities and free time in the courtyard, as this is when the sanction is fulfilled in the bedroom at the observation home which, moreover, does not have minimum furniture (a desk and chair) or any reading or writing material.

Between 1 January and 3 November 2016, we ascertained that no group separation had been ordered in any disciplinary proceedings; however, an educational setback had arisen in 19 disciplinary proceedings, ordered against 10 minors for very serious and serious offences, which were sanctioned with a total of 189 days during which they were deprived of recreational activities (time outdoors), fulfilled at the observation home.

When asked why there were so many educational setbacks, excluding participation in recreational activities, and no group separation sanction, the management team replied that the former was more effective and achieved a higher degree of rectification amongst young offenders than group separations.

Consequently, although in theory an “educational setback”, from the point of view of preventing aggressiveness and disarray, entails positive intervention, the truth is that it entails a pseudo-disciplinary regime, not officially referred to as such, resulting in more hardship than the sanctions foreseen in the law and regulations, where the young offender has less guarantees and feels unprotected and alone.

*Searches and frisks
§256 and 257 AR
2014*

130. No shortcomings have been detected in the execution, documentation and notification of **searches and frisks** at the facilities visited, except for the Suggestion made to Es Pinaret (Palma) which consisted in providing a robe or towels to minors when conducting a body search, something that was being carried out in all other facilities visited.

*Video surveillance and recording systems
§258 AR 2014*

131. There are many different **video surveillance systems**; these range from total non-existence, such as the facilities of Monteleido and Montefiz (Ourense), which only have cameras in outer access points to the facility, to the system in place at Maliaño (Cantabria), which covers all communal areas and includes not only image but also audio recording. Video surveillance in Zambrana (Valladolid) is viewing-only, and in El Madroño (Madrid), Es

Pinaret (Palma) and San Francisco-La Biznaga (Málaga) not all communal areas are covered.

At facilities with special rooms for temporary isolation or interim separations, **image recording** cameras are only in place in Vicente Marcelo Nessi (Badajoz); these are non-existent, as indicated, in Zambrana (Valladolid), Maliaño (Cantabria), El Madroño (Madrid), Es Pinaret (Palma) and San Francisco-La Biznaga (Málaga).

Of interest is that video surveillance systems have been installed in La Jara and El Limonar (Seville), recording images in communal and transit areas; a camera has also been installed in the room assigned to minors under a suicide prevention programme.

*Access to video
surveillance
recordings
§259 AR 2014*

132. In La Jara and El Limonar (Seville), the protocol or procedure for the processing of personal data gathered through the video surveillance system does not allow the facility manager to have **direct and immediate access to viewing recorded incidents** (ill treatment, injury to a minor, attempted escape, fights, etc.), without taking into account that the manager is the senior person in charge who, in such incidents, should and has to adopt the necessary measures as quickly as possible.

According to the report issued by the Spanish Data Protection Agency, a Recommendation has been made for the data processing manager to draft a security document for the processing of personal data gathered by video surveillance systems in young offender detention institutions, in line with data protection regulations, allowing the processing manager to make the necessary corrections and adjustments to the protocol, thereby providing direct and immediate access to personal data (images captured by cameras or video cameras).

*Video conference
§260 AR 2014*

133. Es Pinaret (Palma) was the only facility without a **video conference system** to conduct procedural measures with judicial offices and the State Prosecutor's Office for Minors, whereas this system was being used and regularly operating in the facilities of Zambrana (Valladolid), Vicente Marcelo Nessi (Badajoz), El Limonar and La Jara (Seville). In Monteleido and Montefiz (Ourense), the device had been installed but did not record visiting days, under the relevant operating protocols. A video conference system was also in place in San Francisco-La Biznaga (Málaga), El Madroño (Madrid) and Maliaño (Cantabria), but had not been used.



Video conference system in El Limonar (Seville)

*Medical check-up
during the first 24
hours §263 AR
2014*

134. In San Francisco-La Biznaga (Málaga) it was necessary to make a suggestion so that a **medical check-up** is always completed each time a minor is detained, during the first 24 hours, irrespective of whether the detention takes place on the weekend or a holiday.

*Confidentiality
and privacy
§264 AR 2014*

135. The doctor at Montefiz (Ourense) stated that **medical assistance was provided to minors always in the presence of an educator**, without asking the inmate whether or not this was voluntary. The manager acknowledged that this was standard practice, affirming that a doctor's appointment was carried out with an educator or coordinator present (of the same sex as the minor), with a security guard outside. This practice was also standard at the nurse's station. The suggestion made to correct this shortcoming is awaiting a response, at the date of this Report.

*Informed consent
to medical
treatment
§264 AR 2014
§78 AR 2015*

136. We ascertained at three facilities what action was taken **when treatment was waived**. In San Francisco-La Biznaga (Málaga) the minor himself/herself is able to reject any intervention or medical treatment, and his/her family is not informed or a copy provided to the family or inmate; the 16-year limit is not applied here as the legal age for healthcare, contrary to the provisions of Basic Regulatory Act 41/2002, of 14 November, on patient autonomy and rights and obligations in information and clinical documentation matters.

In Montefiz (Ourense), whenever a minor refused to take his/her medication,

a “waiver of doctor’s recommendations” was signed and saved in each individual medical records. The DUE duly informed the psychiatrist and doctor, and did not know whether the family was also informed. At this facility, the healthcare age limit of 16 years did not apply to psychiatric treatment; a waiver of treatment was “signed by everybody, irrespective of age”. We were told that waivers were commonplace and that action was taken depending on the illness and type of medication: “if the inmate does not want to take a tranquiliser, that’s fine; but if he/she refuses to take something that is important, like an antipsychotic, the Judge and family are informed”.

In Monteleido (Ourense), if the minor refused to take the medication prescribed, he/she had to sign a “waiver of medical recommendations”, irrespective of age, and, otherwise two educators had to sign as witnesses.

*Clinical records of
minors
§266 AR 2014*

137. All facilities hold **clinical records** for each minor; of interest is Montefiz (Ourense), where each minor is subject to a “clinical evolution sheet”, gathering healthcare details, and is filled in by three professionals: a DUE, doctor and psychiatrist, dated and signed by each one for identification purposes. Each morning, the DUE goes over any entries made by his/her peers and notes down his/her own records.

*Medical,
psychological and
psychiatric
assistance
§268
AR 2014*

138. Medical and psychological assistance is guaranteed at all facilities. In order to request medical assistance, all minors fill in a specific form, which is kept in the file or on the medical facilities; no copy of this medical assistance application is provided, except for El Madroño (Madrid), where all minors keep a receipt of their request. It is standard practice, when requesting healthcare, for minors to ask their educators for the application form to be completed. Consequently, suggestions have been made to endow these facilities with a computerised and detailed record of any requests, including applications for medical assistance, that all minors be provided with a copy of the application form without depending on an educator, and that they keep a copy of the dated and sealed request.

Psychiatric assistance is provided at all facilities, with the difference that at institutions with therapeutic commitment facilities there are doctors specialising in psychiatry amongst the staff; other institutions offer psychiatric assistance by using the resources of the public mental health network.

*Injury reports
§271 AR 2014*

139. Facilities in Montefiz (Ourense), San Francisco-La Biznaga (Málaga), Vicente Marcelo Nessi (Badajoz), Maliaño (Cantabria) and El Limonar (Seville) lacked **injury reports** with the minimum information required to be

able to investigate the cause of the injury, which is why Suggestions were made to endow these facilities with a standardised injury report form, in accordance with the recommendations made in our monographic study entitled *Injury reports on people deprived of their liberty*, drawn up by the Ombudsman.

Staff
§272 AR 2014

140. In San Francisco-La Biznaga (Málaga), the 45 educators and 19 supervisors foreseen in the facility RPT have been reduced to 19 educators and 7 supervisors, who also work at another three facilities, in addition to the prison, to conduct judicial measures, in two shared living flats, at a day centre and semi-open system (supervised probation, community services, living with families and socio-educational tasks).

Mentors
§273 AR 2014

141. At the visited facilities, all minors are assigned a **mentor**; of interest however is the so-called “educator/tutor” in place in Maliaño (Cantabria) who, once the inmate is detained, will be the educator explaining to the minor everything related to internal regulations, rights, duties, disciplinary regime, etc.; he/she will also act as the minor’s mentor and person of reference throughout his/her stay at the facility.

Minimum furniture

142. At young offender institutions, access to **minimum furniture** should not be treated as a privilege. Consequently, all rooms, in addition to a bed and wardrobe or shelves, as part of this minimum furniture, should have a desk and chair; this is lacking in observation homes or shelters located in Monteledo and Montefiz (Ourense), San Francisco-La Biznaga (Málaga), and La Jara and El Limonar (Seville).



Room at the Observation Home, San Francisco-La Biznaga (Málaga)



Room in another Home in San Francisco-La Biznaga (Málaga)

*Educational
assistance
§275 AR 2014*

143. The right to receive **education** is guaranteed at all the facilities visited, not only as part of compulsory education but also for further learning, and Secondary Education for Adults (ESPA).

Likewise, all facilities have occupational and pre-employment workshops, as well as workshops for specific job training, taught by specialised workshop teachers. However, teaching in this field is very limited, as regards externally

validated qualifications or a validated professional training diploma, when the sentence is completed and minors are released.

Food §280 AR
2014

144. The **food** provided to minors is sufficient and adequate; at the facilities visited, we checked that there are 5 meals a day (breakfast, mid-morning snack, lunch, afternoon snack and dinner), based on 4 weekly menus in the winter and 4 in the summer, drawn up by nutritionist doctors, to include special diets for medical or religious reasons.

Installation
conservation and
maintenance
§282 AR 2014

145. Suggestions have been made to improve the **conservation and maintenance of installations** at various facilities. Thus, during a visit to Es Pinaret (Palma), we noted that the wall was peeling, damp in the ceilings and broken doors; further to a suggestion made in an earlier visit, renovation works are underway to refurbish the Gregar Home.



CMI Es Pinaret (Palma)

The installations at Vicente Marcelo Nessi (Badajoz) needed a refurbishment. The largest courtyard, located in the southeast wing of the facility and the swimming pool were neglected and closed off to the inmates.

The facility at San Francisco-La Biznaga (Málaga) required a renovation and update in its installations, to remedy imperfections related to building maintenance, and to update computer equipment and repair and/or renew furnishings.

The courtyard in the observation home of Jara (Seville) has a cement floor and walls, making it look like a prison, unlike the courtyards in the other

homes, which are totally landscaped.



Courtyard in the Observation Home, CMI La Jara (Seville)



Courtyard in another Home, CMI La Jara (Seville)

Toilets

146. All the minors surveyed at Montefiz (Ourense) almost unanimously reported on the malfunctioning of the showers, and this was acknowledged by the management team.

During our visit to Monteledo (Ourense), we noticed that various fittings were

broken down in the bathrooms (shower, toilet, urinal), and a suggestion was made to repair them.



Toilets in CMI de Monteledo (Ourense)

*Installation safety
§283 and 284 AR
2014*

147. Although all the centres have adequate fire-fighting systems, it would be recommendable to have a **centralised system to open room doors mechanically, as well as intercoms or light/audio call systems inside**, as we were able to ascertain at the facilities of La Jara and El Limonar (Seville) or San Francisco-La Biznaga (Málaga).

I.3.3 Residential facilities which provide health, social or rehabilitation services

148. As in previous years, the NPM has visited residential facilities which provide health, social or rehabilitation services, given that they accommodate social groups that may include persons committed to the facility against their will.

149. Current legislation on the matter has not changed with respect to 2015; although this year the First Additional Provision of the Civil Procedure Act was amended, through organic act channels, in order to upgrade Article 763 to “organic” status, regulating involuntary commitment due to mental disorders, we still lack exhaustive national regulations that adequately guarantee the fundamental rights of persons detained in mental health or healthcare/social facilities.

150. Over the last few years, the **Executive has been requested to carry out this legislative implementation.** At the time, the Administration accepted our Recommendation and announced its plan to examine possible channels in order to carry this out. Over 2016, however, as the Government was not officially in place until November, we have been unable to check how this process has evolved.

Facilities visited **151.** Over the year, we visited the Puerto Real University Hospital in Cádiz, to specifically include the Mental Health Hospitalisation Unit and the Therapeutic Mental Health Association, the Balcó de la Safor Therapeutic Centre in Valencia and the Mental Health Hospitalisation Unit of Virgen de la Montaña Hospital in Cáceres.

Visit to the Balcó de la Safor Therapeutic Centre (Valencia) The **Balcó de la Safor Therapeutic Centre** is under private management, although it has semi-public capacity (95 of the 99 beds available), belonging to the company «Red Valenciana de Salud Mental»; it provides comprehensive assistance to the mentally ill. The visiting team was accompanied by two technicians belonging to the Síndic de Greuges [Ombudsman] of the Regional Government of Valencia.

Puerto Real University Hospital (Cádiz) During our visit to the **Puerto Real University Hospital** (both to the Therapeutic Association and to the Mental Health Hospitalisation Unit), the inspection team was also accompanied by technicians belonging to the Autonomous Commissioner (Andalusian Ombudsman). The Therapeutic Association [Comunidad Terapéutica] is a residential facility providing specialised assistance for serious mental disorders, ascribed to the Puerto Real University Hospital and part of the Mental Health network, covering the hospital areas of Puerto Real, Puerta del Mar and Punta Europa (Algeciras). The Hospital's Mental Health Hospitalisation Unit, as part of the Andalusian Healthcare Service, provides short-term treatment to patients with acute mental health illnesses.



Corridor in the unit for acute illnesses, Puerto Real Hospital (Cádiz)

*Nuestra Señora
de la Montaña
Hospital
(Cáceres)*

Like in the previous case, the **Hospitalisation Unit for the Mentally III, Nuestra Señora de la Montaña Hospital** (Cáceres) provides short-term treatment to patients with acute mental health disorders. They both have basically on therapeutic mission, evaluating and intervening in acute episodes of mental disorders unable to be resolved in a walk-in clinic.

In general, the facilities visited fulfilled the regulations applicable to this type of establishment, as well as most of the criteria gathered in the NPM annual reports, although there is room for improvement in certain matters. Below we describe examples of good practice and points to be addressed at the inspected facilities.

*Patients
committed
further to a court
order
§314 and 315
AR 2014*

152. As regards the **documentation included in each inmate's individual file**, held by the facility, it was ascertained that sometimes certain relevant documents were missing. Thus, at the Balcó de la Safor facility (Valencia), although all the files included the court order authorising a continuation of commitment, there were many files that lacked the necessary medical reports that should be attached to the six-monthly reports to the court, or the judicial resolution ordering the committal itself; some even lacked the relevant

disablement judgment. Notifications of involuntary commitment to the Duty Court, examined at the Unit for Acute Illness, Virgen de la Montaña (Cáceres), did not state the exact time and date of each committal. This was also lacking at Balcó de la Safor (Valencia).

*Authorised
committals on
insufficient
grounds*

153. Both at this facility and at the unit for acute illnesses, Puerto Real Hospital (Cádiz), we found **judicial committal orders with insufficient grounds** to justify the committal, either because it was merely indicated that the medical examiner had “decided in favour of the committal” or a probable diagnosis only was provided (bipolar disorder, psychotic disorder with dissociation episodes, delirious disorders).

In the Ombudsman’s opinion, to ensure that patient rights are guaranteed, in addition to a doctor’s opinion, it would be appropriate to have confirmation that the patient is unable to provide valid consent, justifying the specific reasons requiring each committal to psychiatric hospitalisation (as an example, without limitation, danger for the patient or for third parties, therapeutic reasons preventing a follow-up on treatment if the patient is released, discontinuation of earlier treatment when free, lack of suitable alternatives, etc.).

*Voluntary
committal
document*

154. At the Units for Acute Illnesses of the Puerto Real (Cádiz) and Virgen de la Montaña (Cáceres) Hospitals, patients who are voluntarily committed do not sign any document. Although this is standard practice in mental health hospitals in Spain, the patient’s signature would constitute an example of good practice, insofar as doubts would be cleared on the legality of the commitment. Consequently, a protocol should be put in place requiring that all patients sign **a voluntary committal document**.

*Court-appointed
lawyer*

155. Just one of the facilities offered a report visited (unit for acute illnesses, Puerto Real Hospital, Cádiz) to each patient, stating in the court applications for involuntary committals or changes from voluntary to involuntary committals, the possibility of being assisted by a **court-appointed lawyer**.

*Guardianship
§324 AR 2014*

156. Many of the inmates interviewed at the Balcó de la Safor Therapeutic Centre (Valencia) claimed to not personally know their **guardian** or, even, did not know who their guardian was. They also claimed unawareness of how their guardian was managing their money. The effective guardianship of incapacitated persons has a direct impact on how their rights are upheld and guaranteed, which is why all public or private guardian entities should be

endowed with sufficient staff and resources to be able to individually follow up on the warded inmates and to ensure that facilities are visited at minimum intervals.



Common room at Balcó de la Safor Therapeutic Centre (Valencia)

Register books
§326 AR 2014

157. All patients and their relatives may submit **complaints, claims and suggestions**, but not all the facilities hold a record reflecting all the claims filed. We have also noticed that some facilities lack other types of records, such as register books of institutional visits, sanctions, body or room searches (Balcó de la Safor), or the application of mechanical restraints (all). This does not mean that the information is not available, but that various sheets, certificates or medical records need to be consulted in order to obtain it.

Action protocols

158. All the facilities visited had **action protocols** in various matters (suicide prevention, escapes, releases, application of mechanical restraints), of which the staff was aware. At the Balcó de la Safor facility, when leave was granted for several days, both the resident and the host relative were provided with certain guidelines (such as on the money given, permitted substance use, collaboration in household chores, etc.), as well as suggestions to ensure that the visit went smoothly and the inmate's stay outside the facility was incident-free.

159. Generally speaking, the facility staff **treated all residents respectfully**,

*Treatment with
dignity*

§328 AR 2014

warmly and kindly, and this was corroborated by the interviewed residents.

*Sufficient and
adequately
trained staff*

§331 and 344
AR 2014

160. It is necessary to have sufficient **staff** and, particularly, that it be **adequately trained**. At the Unit for Acute Illnesses of Virgen de la Montaña Hospital we noticed that it was understaffed- particularly in the afternoons- and that the hospital attendants were not specifically informed about psychiatric patients. However, the nursing staff was in fact specialised in psychiatry.

At Balcó de la Safor, the hospital psychologists arrange a quarterly **workshop for the staff, entitled “user safety”**; this constitutes an example of good practice to fight the “burnout” syndrome, by providing information on adequate tools to handle difficult situations with the residents, applying confrontation strategies to reduce stress and improve relations. We ascertained that there is a good working climate at this hospital, and that its professionals form a solid team that declared to feel at ease and well-treated.

*Range of
activities*

§333 AR 2014

161. The **range of activities** available at the visited facilities should be updated and extended, in order to conform to the expectations and interests of the greatest number of residents possible. In fact, several residents we interviewed mentioned that the workshops were boring and monotonous. There are no programmed activities at the unit for acute illnesses of Virgen de la Montaña Hospital.

*Rehabilitation
and reintegration*

§332 and 336
AR 2014

162. Rehabilitation and community reintegration is essential for the type of patient committed to these facilities. The therapeutic association of Puerto Real Hospital (Cádiz) constitutes an example of good practice that should be copied by the health services of other regions, given that its comprehensiveness allows an adequate rehabilitation and reintegration of patients with serious mental disorders. Contact with relatives and the outside world should also be encouraged, by granting leave and regular releases, and reasonable flexibility in visiting hours, as we noticed at all facilities, except for the unit for acute illnesses of Virgen de la Montaña Hospital, where visiting hours (two hours in the afternoon) are strictly applied and patients cannot have a mobile telephone or make calls, but may only receive calls within a limited period of time. All of this hinders contact with persons on the outside.

Internet access

Furthermore, at Virgen de la Montaña Hospital (Cáceres) and Balcó de la Safor (Valencia) patients do not have **Internet access**. This should be remedied, as the use of digital supports and new technologies- under

supervised navigation- may be useful in therapeutic intervention and familiarity with these tools is essential for adequate community reintegration.

*Absence of
halfway-house
resources*

163. The **absence of sufficient halfway-house resources**, such as supervised living facilities, in the Region of Valencia, means that the Balcó de la Safor hospital discharges very few patients under supervision and that users who are stable in pathological terms and have reached a sufficient degree of independence are forced to remain in the hospital and are unable to apply for other facilities that are more suited to their level of progress.

*Adequate use of
drugs §337 AR
204*

164. At all the facilities visited, we noticed that **psychotropic drugs are adequately used**, according to the evaluation of specialists in psychiatric medicine who joined the visiting teams.

*Mechanical
restraints
§340- 343 AR
2014*

165. Nor did we notice an excessive use of **mechanical restraints**, which are used as last resort. The unit for acute illnesses in Virgen de la Montaña Hospital (Cáceres) is the only one with a video surveillance system in use in restraining rooms, constituting a guarantee for the patient and the staff involved.

However, as the unit is understaffed, procedures are hindered to mechanically restrain a patient, amongst other tasks.

*Record of
mechanical
restraints*

166. At Balcó de la Safor (Valencia) and the unit for acute illnesses of Puerto Real Hospital, **all mechanical restraint registration sheets** record the beginning and reason for the restraint, name and signature of the restraining officer and supervisor, as well as the patient's state and other relevant circumstances. However, at Virgen de la Montaña Hospital (Cáceres), registration sheets lacked essential information to ensure an adequate supervision of the measures applied.

[illegible]

167. Although these registration sheets existed at the facilities, none had a **unified register book of mechanical restraints**, with which to quantify all the mechanical restraints completed, indicating the beginning and end of the measure and the persons in charge. This measure should be validated by the Spanish Data Protection Agency.

168. Full body searches (on part of the body) conducted on residents at Balcó de la Safor are not carried out at any specific place or by a particular person; nor are users provided with a robe or towel. Furthermore, there is no register book in which to enter body searches, which would be advisable given the high number of searches of this type carried out at the facility (one

after each medium or long-term release, as stated by the staff).

Injury reports
§346 AR 2014

169. As regards the existence at these facilities of standard **injury reports**, Virgen de la Montaña Hospital (Cáceres) has several injury report forms but only one meets the requirements imposed by the Ombudsman in the study entitled *Injury reports on people deprived of their liberty* (2014). Puerto Real Hospital (Cádiz) did not provide us with a copy of its injury report form, and the Balcó de la Safor facility (Valencia) had no form at all.

Installations
§348 AR 2014

170. Installations at the unit for acute illnesses, Virgen de la Montaña Hospital (Cáceres), were antiquated and had little space for the number of patients under care, with some rooms holding up to three or four rooms. It would be appropriate to speed up the transfer foreseen from the unit to the San Pedro de Alcántara Hospital or to another newly constructed facility with better infrastructures.



Four-bed room at the unit for acute illnesses, Virgen de la Montaña Hospital (Cáceres)

All other facility installations were in a good state of cleanliness and preservation, although the unit for acute illnesses of Puerto Real (Cádiz) looks like a prison due to the barred windows. Furthermore, Balcó de la Safor does not have its own sports facilities or material, which is why residents need to relocate in order to play sports. However, of interest is the fact that facility residents use all the installations to relax, which helps classify the facility as a home; it is also located in a pleasant setting, with natural surroundings and pleasant views.



Surroundings of the Balcó de la Safor therapeutic centre (Valencia)

*Underage
patients*

171. If an **underage patient** visits the Emergency Room of Nuestra Señora de la Montaña (Cáceres) and is awaiting psychiatric commitment, or this is not indicated but the minor needs to remain under observation, the patient is left in the general emergency room with other adult patients, without having a specific place assigned. The hospital does not have a paediatrics unit, which is located in San Pedro Alcántara Hospital. Despite the measures adopted by Nuestra Señora de la Montaña Hospital (single room with video surveillance in the unit and permanent presence of a relative), these areas are not suitable for the accommodation of children/young people. This is why we consider that a protocol should be drawn up to cover these situations, avoiding the committal of paediatric patients to mental health units, or their extended stay in emergency rooms.

*Good
coordination and
computerised
health records*

172. Finally, the examples of good practice observed include **good coordination** amongst the professionals who work at the visited facilities, as well as between the facilities and other hospitals or units, where appropriate, and **digital health records** at all facilities.

I. 4

**Special purpose methods of deprivation of
liberty
§173 - §189**

I.4.1 Foreign national deportation operations

*3 deportation
operations*

173. Over 2016, **3 deportation operations were supervised**. One of these operations was carried out by the CNP station in San Fernando (Cádiz) and a ferry journey was supervised, transferring boat-people, from the police stations of San Fernando and El Puerto de Santa María (Cádiz), and their disembarkation in Ceuta in police vans, for deportation to Morocco.

The other two operations, to Bogotá (Colombia) and Santo Domingo (Dominican Republic), were financed by FRONTEX and organised by Spain through the Central Unit for Expulsions and Deportations [Unidad Central de Expulsiones y Repatriaciones (UCER)], General Headquarters for Immigration and Border Control [Comisaría General de Extranjería y Fronteras (CGEF)].

*Fit to travel
§351 AR 2014*

174. The Ombudsman made a Recommendation to the DGP to always complete a medical check-up, in deportation flights, expressly and previously for all foreign citizens expelled, in order to confirm the absence of any medical inconvenience in carrying out the expulsion (**fit to travel**), either at the centres of source (foreign national detention facilities or prisons) or by the doctor assigned to the flight operation (in the case of police stations), pursuant to Article 7 of the FRONTEX Code of Conduct.

This management centre has told us that the General Headquarters for Immigration and Border Control is examining the possibility of putting this measure into practice, in order to fulfil our Recommendation.

Nevertheless, during the deportation operations we inspected, we ascertained that said doctor's report was not available for all the foreigners expelled. We did in fact confirm that this documentation is provided when the foreigner needs to take some kind of medication.

*Restraining
measures
§358 AR 2014*

175. Furthermore, a Recommendation was made to the DGP to have a register book in place at the UCER, in order to enter any **restraining measures** used in deportation flights. At the date of this Report, we had still not received a response as to whether or not our Recommendation had been accepted.

*Claim procedure
§361 AR 2014*

176. A Recommendation was made to the DGP to provide a **claim procedure** as part of the operation, should the deportees consider that their fundamental rights had been infringed, providing them with a filing receipt

and informing them, furthermore, of existing channels in which to file a claim upon arrival through the Spanish Embassies. This Recommendation was dismissed, and the DGP told us that sufficient channels already existed for foreigners to bring a claim.

Given the novelties introduced by Regulation (EU) 2016/1624, of the European Parliament and of the Council, of 14 September 2016, on the European Border and Coast Guard, where Article 72 foresees a claim procedure to guarantee that human rights are upheld in FRONTEX activities, with a standardised complaint form, we reiterated the Recommendation made at the time and which, at the date of this Report, is still awaiting a reply.

I.4.2 Asylum and return facilities

Visits made

177. Over the period covered by this Report, **2 follow-up visits** have been made to asylum and return facilities at Barcelona-El Prat Airport (Barcelona) and Terminals 1 and 4S at Adolfo Suárez-Barajas Airport (Madrid), to check whether the shortcomings detected in previous years have been remedied.

Sunlight §378 AR 2014 and voiced call systems §88 AR 2014

178. We noted that refurbishment works have still not been completed in Room 3 of Adolfo Suárez-Barajas Airport in Madrid, which Aeropuertos Españoles y Navegación Aérea (AENA) had committed to, in order to provide a **sunlit outdoor** space where detainees are relocated, expected to remain for longer than 72 hours, as well as asylum seekers. The DGP replied that, insofar as possible and if there are sufficient resources, these persons are transferred to a sunlit area that is available.

The Barcelona-El Prat Airport does not consider it necessary to have sunlit facilities. The DGP has told us that providing natural light to the rooms, and adjusting them to allow time outdoors, would require works of such a scope as to exceed AENA's airport management, which has a limited budget.

Nevertheless, we have been informed that the installation of voiced call systems inside the rooms is under study.

Video surveillance §380 AR 2014

179. A Suggestion was made to the DGP in order to install a video surveillance camera in the provisional separation room of Terminal T1, Adolfo Suárez-Barajas Airport in Madrid. The management centre has told us that AENA was going to be asked to install the system, as the body in charge of managing all airport installations.

Isolation §381 AR 2014

180. The airport's asylum and return facilities have a **register book** to enter all cases involving **separation or isolation**.

Extended detentions §381 AR 2014

181. We have ascertained that all **extended detentions** are entered into this register, adopted by the court, for persons remaining on the facilities for longer than 72 hours, awaiting a return.

Leisure material and outside children's area

182. There are plans to provide leisure material in the rooms where persons are detained at Adolfo Suárez-Barajas Airport in Madrid, but the **outside children's play area** still needs to be refurbished, in the T1 detainee room.



Outdoor play area in the T1 detainee room

Social workers

183. AENA is considering the suitability of reviewing the service provided by **social workers** at T1 and T4, in order for this service to be extended and available morning and afternoon.

*Change and
vending machines
§132 AR 2015*

184. As regards the installation of **change machines** in order to use **vending machines for food and drink**, if social workers are unavailable, AENA has told us that it is jointly working with the CNP so that these vending machines allow payment with notes and credit cards.

*Access to
luggage*

185. There are plans to allow all detainees, intending to remain longer than 48 hours in asylum and return facilities, to **access their luggage** in order to have access to anything they may need.

I.4.3 Hospital Custody Units

Unit visited

186. In 2016, we visited the Hospital Custody Unit [Unidad de Custodia Hospitalaria (UCH)] at Puerto Real (Cádiz), under the authority of the Secretary-General of Prison Institutions [Secretaría General de Instituciones Penitenciarias (SGIP)]. This unit is used whenever a prisoner in any of the prison establishments in the province (Puerto I, Puerto II or Puerto III) requires hospital assistance, in which case the CNP acts as the custodian of all hospitalised inmates.

The length of each person's stay on these facilities depends on the type of assistance they need.

Patient intimacy and privacy

187. Each doctor's visit or healthcare is provided in the presence of a custody agent, thereby compromising **the patient's intimacy**. Following the conclusion reached by the Ombudsman on the matter, the DGP replied that most of the inmates belong to a group under special supervision, with a significant criminal or prison record, which is why security measures should be weighted without them interfering in doctor-patient relations.

Nevertheless, the SGIP is examining the possibility of installing some type of permanent partitioning in the two common rooms, without affecting the safety of healthcare and custody staff.

Video surveillance

188. These facilities have a **video surveillance** and recording system, covering the access hallway and entrance to these facilities.

Conservation and maintenance

189. The SGIP has replied, in relation to **conservation and maintenance** required by the control room used by custody agents, that it has been entirely renovated and painted, with new toilets; renovation of its furnishings is pending a budgetary assignment.



UCH room at Puerto Real University Hospital (Cádiz)

II

**Recommendations made by the NPM in
2016 and follow-up on Recommendations
made in 2015 and 2014**

II.1 Civil Guard and CNP facilities

Table 14

Recommendation made to the Secretary of State for Security	Status
Recommendation of 1 July 2016. To issue instructions so that, when rounds are completed in the jail areas of the facilities of the National Police Force and Civil Guard, a register book be available in which to enter how many rounds have been made, how often, the agents involved and the state of the detainees.	REJECTED

II.2 Local Police stations

Table 15

Recommendation made to the Department of Universal Healthcare and Public Health of the Regional Government of Valencia	Status
Recommendation of 1 July 2016. To issue instructions so that, when medical assistance is provided to a detainee, the healthcare professionals are able to provide the detainee with his/her medical records in a closed envelope. This enveloped, like the rest of his/her belongings, will be under custody by the police, which will be provided with a receipt of medical assistance and, where appropriate, of written therapeutic indications for patient follow-up, according to the principle established in paragraph 77 of the 2014 NPM Annual Report.	ACCEPTED

Table 16

Recommendation made to the City Council of Pamplona	Status
<p>Recommendation of 10 October 2016.</p> <p>To instruct the Municipal Police in Pamplona so that, when a person is transferred to Municipal Police facilities for identification purposes only, further to Article 16 of Organic act 4/2015, of 30 March, on the protection of citizen safety, the detainee be led to a different room than the jail cells, given that this stay in police facilities does not constitute an interim detention measure foreseen in Articles 489 ff. of the Criminal Procedure Act.</p>	UNDER STUDY

II.3 Foreign national detention centres

Table 17

Recommendations made to the Directorate-General of the Police	Status
<p>Recommendation of 14 December 2016.</p> <p>To guarantee in any case that detained foreigners are able to contact their relatives, civil servants at their consulate and other persons.</p>	ACCEPTED
<p>Recommendation of 14 December 2016.</p> <p>To ensure that all detainees are able to make telephone calls under current rates, without them having to pay for over-priced phone cards.</p>	ACCEPTED

II.4 Prison facilities

Table 18

Recommendations made to the Secretary-General of Prison Institutions	Status
<p>Recommendation of 15 October 2015.</p> <p>To issue instructions so that, at all prison facilities, recordings obtained from the video surveillance system be contributed <i>ex officio</i> when processing disciplinary proceedings; these recordings constitute valuable evidence when clarifying the actual facts, following the Ombudsman's opinion manifested in paragraph 162 of the 2014 NPM Annual Report.</p>	UNDER STUDY
<p>Recommendation of 29 October 2015.</p> <p>To adopt the necessary measures so that, in incidents and disciplinary measures, the inmate's current mental health and/or vulnerability be taken into account during the processing of the file, and always before a decision is taken on a possible sanction.</p>	ACCEPTED
<p>Recommendation of 22 June 2016.</p> <p>To adopt measures to ensure that implementation of new digital medical records be compatible with the records held at public health services, both for primary and specialised care.</p>	REJECTED
<p>Recommendation of 31 October 2016.</p> <p>To regulate the capturing, recording, extraction, storage, custody and access to images captured under the video surveillance system of prison facilities, as indicated in the annual reports issued by the National Preventive Mechanism against Torture and other cruel, inhuman or degrading treatment or punishment (NPM), to particularly include paragraph 63 of the 2014 NPM Annual Report.</p>	UNDER STUDY
<p>Recommendation of 24 November 2016.</p> <p>To arrange specific training on the special features of the closed regime, for public officers actually or potentially providing this service on facilities of this kind.</p>	UNDER STUDY

II.5 Young offender institutions

Table 19

Recommendations made to the Department of Justice and the Interior of the Regional Government of Andalusia	Status
<p>Recommendation of 6 July 2016.</p> <p>To adopt measures in order to increase the number of available spaces in the province of Málaga, guaranteeing that young offenders are able to complete detention measures in their province of residence, including therapeutic commitment, ordered by the juvenile courts, according to the opinion established in paragraph 243 of the 2014 NPM Annual Report.</p>	<p>ACCEPTED</p> <p>(PENDING A BUDGETARY ASSIGNMENT)</p>

II.6 Foreign national deportation operations

Table 20

Recommendations made to the Directorate-General of the Police	Status
<p>Recommendation of 1 December 2016.</p> <p>To have a register book in place on UCER facilities, in order to enter all restraining measures used on persons under custody and ready for deportation, pursuant to paragraph 44 of the XIII General Report of the European Committee for the Prevention of Torture [CPT/inf (2003) 35] and paragraph 358 of the 2014 NPM Annual Report.</p>	UNDER STUDY
<p>Recommendation of 19 December 2016.</p> <p>To inform foreign nationals and their lawyers, sufficiency in advance, of when they will be expelled from Spain, in order to be able to notify third parties and complete any step that may be necessary, in line with our comments made in paragraph 115 of the 2014 NPM Annual Report.</p>	UNDER STUDY
<p>Recommendation of 19 December 2016.</p> <p>To provide all foreign nationals ready for deportation with a fit-to-travel document, as requested by the Committee for the Prevention of Torture of the European Council in paragraphs 14 to 19 and 23 of its report of 15 December 2016.</p>	UNDER STUDY

II.7 Study of *Injury reports on people deprived of their liberty*

Table 21

Recommendation made to the Secretary of State for Security	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data gathered in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. To deliver the necessary instructions to all public health services so that:</p> <ul style="list-style-type: none"> - All civil servants ascribed thereto complete said form, which must be available at all healthcare facilities (including those located in prisons, foreign national detention centres and young offender institutions). - A copy of the injury report is directly provided to the person concerned, without intermediaries, to the duty court and, where appropriate, to the court supervising deprivation of liberty; the form should be promptly handed over, in order for the medical examiner, in charge of preparing a report to help the judge determine the origin and consequences of the injury, to do so quickly, as soon as the injury has disappeared or has substantially changed. - The injury report should not be provided to the persons safeguarding the detainee and, otherwise, should always be handed over in a closed and sealed envelope, properly addressed to the judicial authority, except for the cases foreseen in paragraph 22 of the <i>2012 Annual Report of the National Mechanism for the Prevention of Torture</i> (with due confirmation that procurement of the data was necessary to prevent real and serious danger to public safety or for the prosecution of criminal offence; as the data are entitled to special protection, this should be absolutely necessary for the purposes of a specific investigation; data should be requested definitely and specifically, since the foregoing exception is incompatible with mass data applications; the request should be duly reasoned, proving that it is connected to the events explained); and, pursuant to Article 22.4 of Organic Act 15/1999, of 13 December, on Personal Data Protection [Ley Orgánica 15/1999, de 13 de diciembre, de protección de datos de carácter personal (LOPD)], all data should be deleted if “they are no longer necessary for the enquiries for which they were stored”. - Medical appointments with persons deprived of their liberty should always be held in private, without custodial staff being present in the medical area or where interaction between doctor and detainee may be hard or seen; the 	UNDER STUDY

patient must be free of all physical constraints (shackles or other restraints), unless their are justified grounds to suspect a risk, in which case the doctor may agree to conduct an examination with the detainee, leaving a written record of the circumstances (presence of the police or other persons, physical constraints, etc.).	
Recommendation made to the National Institute for Healthcare Management	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	ACCEPTED
Recommendation made to the Department of Health, Joint Regional Governments of Castilla-La Mancha	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	UNDER STUDY
Recommendation made to the Ministry of the Presidency of the Government of Castilla-León	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	REJECTED
Recommendation made to the Department of Justice of the Regional Government of Catalonia	Status

<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	UNDER STUDY
Recommendation made to the Presidency and Justice Ministries and the Office of the Spokesperson of the Region of Madrid	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	ACCEPTED
Recommendation made to the Department of Health of the Basque Government	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	ACCEPTED
Recommendation made to the Department of Universal Healthcare and Public Health of the Regional Government of Valencia	Status
<p>Recommendation of 4 June 2014.</p> <p>1. To establish, with the scope of its competences, an injury report form containing the minimum data referred to in section 5.4 of the study entitled <i>Injury reports on people deprived of their liberty</i>.</p> <p>2. Ditto</p>	ACCEPTED



**Institutional training and dissemination
activities
§190 - §199**

190. On 15 February 2016, the Ombudsman appeared **before the United Nations Subcommittee for the Prevention of Torture (SPT) in Geneva**, to report on the NPM's activities.



Appearance of the Ombudsman before the Subcommittee for the Prevention of Torture

191. As foreseen in Article 23 OPCAT, **the 2015 annual report was registered at the Congress of Deputies (20 July 2016) and forwarded to the SPT (13 September 2016).**

192. **The Ombudsman appeared before the Joint Committee on Relations with the Ombudsman of the Spanish Parliament on 21 February 2017, to present the 2015 NPM Annual Report. Furthermore, on 20 December 2016, this Joint Committee was informed of the NPM's visit to the Aluche CIE on 26 and 27 October.**



Appearance of the Ombudsman before the Joint Committee on Relations with the Ombudsman

193. In order to disseminate the 2015 Report, various **social groups and professional associations** were summoned and meetings held on 24 October and 7 November 2016, with members of the Spanish Bar Association, the Spanish Committee for Refugee Aid (CEAR), the Unified Association of the Civil Guard (AUGC), Jesuit Service for Emigrants and the Spanish Confederation of Organisations for the Elderly (CEOMA). Likewise, meetings were held with representatives of other civil society organisations to discuss matters related to their respective fields of action, such as the Pro-Human Rights Association of Andalusia (5 May 2016), the Coordinator for the Prevention of Torture (14 July 2016) and the Spanish Confederation for Mental Health (28 July 2016).

Furthermore, following our visits to prison facilities, we have kept in contact with the provincial coordinators of **Services for Penitentiary Legal Counsel**, in order to gather relevant information on the prisons visited.

194. On 26 September 2016, a meeting was held in Madrid with the head of European countries and **speaker for Spain on the SPT**.

195. There is a specific section dedicated to the NPM on the **Ombudsman website**, where all annual reports, recommendations, suggestions and reminders of legal duties made to the authorities following each visit may be accessed, as well as the NPM's activity.

196. With regard to the **dissemination and circulation in 2016 of the competences, operation and performance of the NPM**, experts from the unit have taken part in the following activities:

- Course on foreign national detention centres, organised by the Training and Refreshment Division of the National Police Force.
- Course on access to officer positions given at the Officer's Academy of the Civil Guard in San Lorenzo del Escorial (Madrid).
- Conferences arranged by the Observatory of the Criminal System and Human Rights, University of Barcelona: *"15-year observation of the criminal system: new tools and proposals for the defence of human rights"*.
- Jurisdictional Protection Course on Human Rights in Border Territories, arranged by the General Council of the Judiciary.
- Conference entitled "Rights While Countering Terrorism: The Role of National Human Rights Institutions", arranged by the Council of Europe and the European Network for Human Rights (Paris).
- Conferences on Hospital Custody Units and healthcare provided to prison inmates, arranged by the Andalusian Ombudsman.
- 4th conference on persons with intellectual and developmental disability and the criminal system, arranged by the "Plena Inclusión" Association in conjunction with the Bar Association of Salamanca, with the participation of "Programmes for treatment at prison facilities. A brief approach to the situation of intellectually disabled persons".
- Seminar arranged by the University of Barcelona, *"The right to health in prisons: monitoring of infectious diseases"*, further to the European research project entitled "Improving Prison Conditions by Strengthening Infectious Disease Monitoring", carried out by Harm Reduction International.
- Training workshop on devices to control the forced return of third party nationals, illegally present in European Union territory, arranged by the European Agency for the Management of Operational Cooperation at the External Borders of European Union Member States (FRONTEX) and by the Fundamental Rights Agency of the European Union (FRA), Warsaw (Poland).
- 7th National Congress of the United Association of the Civil Guard (AUGC), Madrid.
- ERA Seminar on the Impact of Detention on Prisoners, Madrid.
- Workshop on the Implementation of Directives related to the right of defence in criminal proceedings, arranged by the Spanish Pro-Human Rights Association (APDHE), Madrid.

197. The NPM collaborates with human rights organisations in other countries, arranging workshops on the Spanish NPM's mandate and activity. In 2016, a work meeting was held with a Delegation of the Korean Committee for Human Rights, during which a visit was made to inspect Prison Facilities Madrid II, in Alcalá de Henares.



Meeting with the Delegation of the Korean Committee for Human Rights

198. Finally, albeit not directly related to the NPM's activity, of interest are the steps taken by the Ombudsman with respect to **Spanish prisoners abroad**. According to data provided by the Ministry of Foreign Affairs and Cooperation, on 30 December 2016 there were 1,328 Spanish citizens serving sentences in foreign prisons. Four of these five sentences are for crimes related to drug trafficking.

199. Furthermore, as in previous years, taking advantage of business trips made by NPM staff on other matters, we have **visited foreign prison facilities** in Mexico (Reclusorio Norte and Reclusorio Ecatepec); Malta (Corradino Correctional Facility); and in the Dominican Republic (Centro Penitenciario de Higüey).

Chart 5

INSTITUTIONAL TRAINING AND DISSEMINATION ACTIVITIES



IV

Statistical data
§200 - §226

As in previous years, below we provide the most relevant statistics collected from the Administration on deprivation of liberty in 2016. The annexes, available on the Ombudsman website, provide additional information of interest.

IV.1. Short-term deprivation of liberty

200. During 2016, the total number of **detentions with committal to jail cells** carried out by the CNP, Civil Guard and the autonomous police was **317,855**, as reflected in the table below. A slight increase is observed with respect to the number of detentions carried out in 2015 (301,306 people).

Table 22. Detentions with committal to jail cells

Police forces	Number of detentions
Cuerpo Nacional de Policía	214,211
Civil Guard	59,732
Basque Police	5,268
Catalonian Police	37,586
Navarre Regional Police	1,055
Canary Islands Police	3
TOTAL	317,855

Source: Produced in-house using data provided by the various administrations.

201. According to information provided by the Directorate-General of the Police, during 2016 the number of **detentions with committal to jail cells** of foreign nationals, due to a breach of the Immigration Act [Ley de Extranjería], was 35,882, reflecting a downward trend with respect to previous years: 36,327 in 2015 and 42,245 in 2014.

202. The DGP has reported that, over 206, a total of **24,954 identifications** were carried out (compared with 30,369 in 2015 and 38,419 in 2014), further to Article 16 of Organic Act 4/2015, of 30 March, on the protection of citizen safety.

203. Annex IV.1 provides the following data:

- **Detentions with committal to jail cells** carried out by the CNP and the Civil Guard, broken down by autonomous communities/cities and provinces, and those carried out by the autonomous police forces in the territories under their jurisdiction.

- **Incommunicado detention.**
- **Identifications** pursuant to Organic Act 4/2015, on the Protection of Citizen Safety, carried out in 2016 by the CNP and broken down by autonomous communities/cities and provinces.
- Information compiled in the computer application specified in the National Plan for Human Rights of the Secretary of State for Security, on **complaints about police conduct that may constitute alleged acts of torture, ill treatment or denial of detainee rights**, by CNP agents and the Civil Guard during 2016.
- **Complaints** of alleged malpractice or the alleged commission of torture, ill treatment, cruel or inhuman treatment, inflicted by officers of the autonomous police on persons deprived of liberty, over 2016, on police facilities.
- Preliminary measures filed by the State Prosecutor for alleged crimes of torture and against moral integrity, committed by authorities or civil servants.
- **Activity recorded in the Security Support Centres**, which reports to the Independent Health Body of Madrid City Council.
- Attempted **self-injury or deaths** of persons deprived of liberty in facilities run by various police forces.
- **Complaints** of alleged malpractice or the alleged commission of torture, ill treatment, cruel or inhuman treatment, inflicted by **CNP, GC and autonomous police agents** on persons deprived of liberty, over 2016, on official premises.

204. A breakdown of detentions of foreign nationals with committal to jail cells, on the grounds of infringing the Immigration Act, broken down by autonomous communities/cities and provinces, is provided in **Annex IV.1**.

205. Section I.1 reflects the **main conclusions of the visits made in 2016 to short-term deprivation of liberty facilities**. Furthermore, **Annex II.1** details the conclusions and, where appropriate, examples of good practice sent to the various administrations, with respect to **each one of the facilities** of this type visited this year.

IV.2. Medium-term deprivation of liberty

IV.2.1. Foreign national detention centres

206. According to data from the Ministry of the Interior, in 2016 there were a total of **14,558 undocumented arrivals in Spain via unauthorised border points** (arrivals on illegal vessels), thus indicating a fall in undocumented arrivals with respect to the 16,851 registered in 2015.

Table 23. Undocumented arrivals via unauthorised border points in 2016

UNDOCUMENTED ARRIVALS IN SPAIN	
MAINLAND SPAIN	7,380
CEUTA	2,542
MELILLA	3,901
CANARY ISLANDS	705
BALEARIC ISLANDS	30
TOTAL	14,558

Source: Produced in-house using data provided by the DGP
(General Headquarters for Immigration and Border Control)

207. Of the total 35,882 foreign nationals detained, **7,597 were committed to various CIEs** (6,930 in 2015), as reflected in the table below.

Table 24. Foreign nationals committed to CIEs in 2016

CIE	No. of inmates		
	Men	Women	Total
Algeciras	2,864	237	3,101
Barcelona	639	-	639
Las Palmas	546	87	633
Madrid	1,432	94	1,526
Murcia	654	-	654

CIE	No. of inmates		
	Men	Women	Total
Tenerife	186	29	215
Valencia	763	66	829
Overall Total	7,084	513	7,597

Source: Produced in-house according to data provided by the DGP (General Headquarters for Immigration and Border Control)

208. Of the 7,597 foreign nationals committed, 2,205 have been deported, as shown in the table below. This means that 70.97% of all foreign nationals committed during 2016 have not been deported.

Table 25. Deportation of foreign nationals committed to CIEs in 2016

CIE	NO. OF INMATES	NO. OF DEPORTATIONS	%
Algeciras	3,101	465	14.99%
Barcelona	639	137	21.43%
Las Palmas	633	4	0.63%
Madrid	1,526	704	46.13%
Murcia	654	379	57.95%
Tenerife	215	26	12.09%
Valencia	829	490	59.10%
Total	7,597	2,205	29.02%

Source: Produced in-house according to data provided by the DGP (General Headquarters for Immigration and Border Control)

209. A breakdown of **foreign nationals committed to each CIE**, by nationality and sex, is provided in **Annex IV.2**.

210. During 2016, there were a total of **5,051 deportations and 4,190 repatriations of foreign nationals**, based on DGP data.

Table 26. Number of deportations of foreign nationals in 2016, distinguishing between repatriations, non-qualified deportations and qualified deportations *

DEPORTATIONS AND REPATRIATIONS			
	QUALIFIED*	NON-QUALIFIED*	TOTAL REPATRIATIONS
DEPORTATIONS	3,651	1,400	5,051
REPATRIATIONS**	1,152	3,038	4,190

* The difference between qualified and non-qualified deportations or repatriations is made by the Ministry of the Interior.

** Deportation of persons who attempted to enter Spain via unauthorised border points.

Source: Produced in-house according to data provided by the DGP (General Headquarters for Immigration and Border Control)

Table 27. Number of deportations according to Art. 57.2 of Organic Act 4/2000, of 11 January, on the rights and freedoms of foreign nationals and Spain and their social reintegration

NUMBER OF DEPORTATIONS	
MEASURE	DEPORTATIONS
Art. 57.2 Organic Act 4/2000, if convicted	1,168
Art. 57.2 in relation to Art. 57.8 of Organic Act 4/2000 (violation of workers' rights)	1
OVERALL TOTAL	1,169

Table 28. CEI committals and deliveries to NGOs

2016	COMMITTALS	NGO
CEUTA	2,298	1,730
MELILLA	3,896	3,485
TOTAL	6,194	5,215

Table 29. Number of repatriation and deportation cases initiated and resolved in 2016

NUMBER OF DEPORTATIONS FILED	
MEASURE	Total
REQUESTED	25,042
OVERALL TOTAL	25,042
NUMBER OF REPATRIATIONS FILED*	
MEASURE	Total
Total ordered	12,007

* There are no available data on ongoing repatriation cases.

Source: Produced in-house according to data provided by the DGP (General Headquarters for Immigration and Border Control)

211. Section I.2.1 reflects the **main conclusions of the visits made to CIEs in 2016**. Furthermore, **Annex II.2.1** details the conclusions and, where appropriate, examples of good practice sent to the various administrations, with respect to **each one of the facilities** of this type visited this year.

IV.2.2. Military disciplinary establishments

212. According to information provided by the Deputy Secretary for Defence, during 2016 the following **arrests were made at various EDMs**.

Table 30. EDM arrests during 2016

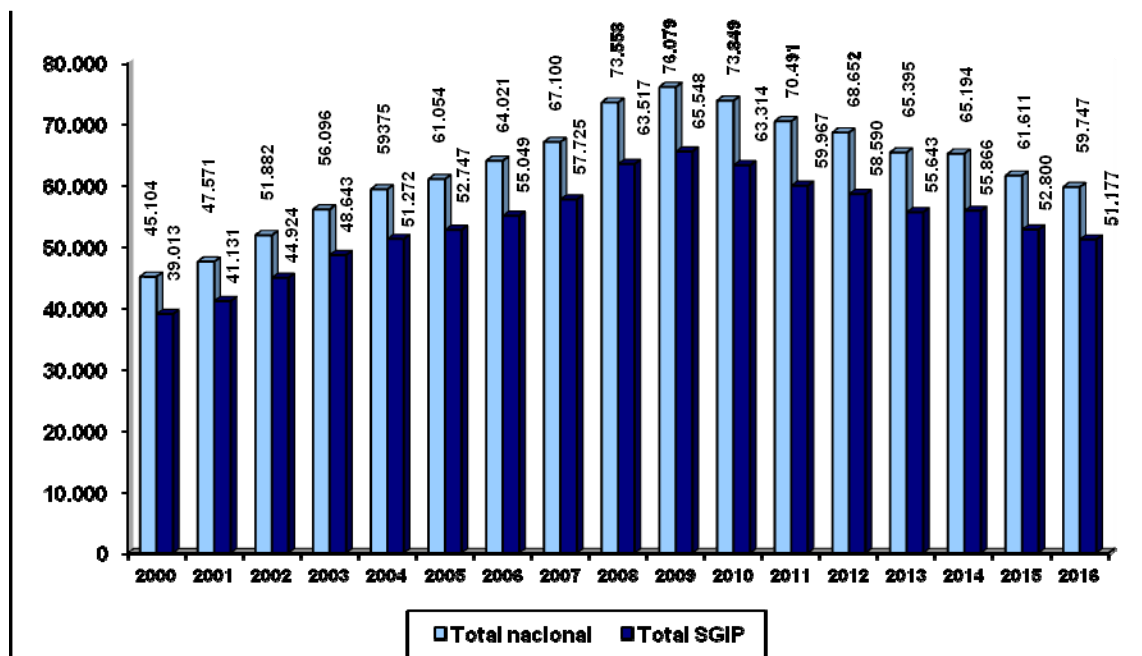
Central EDM C (Colmenar Viejo, Madrid)		Ceuta EDM		Melilla EDM		Tenerife EDM (San Cristóbal de la Laguna, Santa Cruz de Tenerife)		Las Palmas EDM (Las Palmas de Gran Canaria)		Northern EDM (León)		Southern EDM (San Fernando, Cádiz)		TOTAL	
M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W
10	-	24	1	10	-	2	-	4	-	4	1	5	-	59	2

IV.3. Long-term deprivation of liberty

IV.3.1. Prison facilities

213. During 2016 the size of the prison population has continued to fall, as has been the case since 2009. Since then, the prisoner population has decreased by nearly 15,000 persons. Specific data are shown on the following chart and table:

Chart 6. Evolution of the prison population in Spain



National Total

SGIP Total

Source: Produced in-house based on SGIP data.

Table 31. Distribution of the prison population in the SGIP and Justice Department of the Government of Catalonia, broken down by sex and procedural-criminal situation, in 2016

2016	SGIP			CATALONIA				
	Precautionary	Convicted	SGIP Total	Precautionary	Convicted	Total Catalonia	Total	%
Men	6,220	41,096	47,316	1,151	6,826	7,977	55,293	92.55%
Women	546	3,315	3,861	108	485	593	4,454	7.45%
TOTAL	6,766	44,411	51,177	1,259	7,311	8,570	59,747	

Source: Produced in-house based on SGIP data.

214. The following table shows the distribution of the prison population according to security grading, indicating lower figures than in 2015.

Table 32. Distribution of the convicted prison population by degree in the SGIP in December 2016

Degree	Men	Women	Total
First Degree	841	63	904
Second Degree	30,612	2,185	32,797
Third Degree	5,529	757	6,286
Unclassified	2,872	252	3,124
Total	39,854	3,257	43,111

Source: Produced in-house based on SGIP data.

215. Distribution of the prison population by autonomous community, sex and procedural-criminal situation is provided in the table below:

Table 33. Prison population by autonomous communities, sex and procedural-criminal situation in 2016

Autonomous Community	Precautionary		Precautionary Total	Convicted		Convicted Total	Overall Total
	Men	Women		Men	Women		
Andalusia	1,553	93	1,646	11,271	901	12,172	13,818
Aragón	160	20	180	1,796	82	1,878	2,058
Asturias	75	10	85	1,080	113	1,193	1,278
Balearic Islands	239	21	260	1,223	124	1,347	1,607
Autonomous City of Ceuta	61	6	67	120	6	126	193
Autonomous City of Melilla	59	1	60	204	8	212	272

Canary Islands	370	44	414	2,542	182	2,724	3,138
Cantabria	38	1	39	479	22	501	540
Castilla-La Mancha	209	7	216	1,460	22	1,482	1,698
Castilla y León	273	22	295	3,869	267	4,136	4,431
Catalonia	1,151	108	1,259	6,826	485	7,311	8,570
Extremadura	96	7	103	851	56	907	1,010
Galicia	320	17	337	2,923	187	3,110	3,447
La Rioja	48	2	50	228	13	241	291
Madrid	1,582	195	1,777	5,433	641	6,074	7,851
Murcia	217	19	236	1,269	100	1,369	1,605
Navarre	45	3	48	212	21	233	281
Basque Country	115	7	122	994	114	1,108	1,230
Region of Valencia	760	71	831	5,142	456	5,598	6,429
TOTAL	7,371	654	8,025	47,922	3,800	51,722	59,747

Source: Produced in-house based on SGIP data.

216. Annex IV.3.1 to this Report shows the following data:

- **First-degree** inmates at SGIP CPs.
- Number of inmates subject to **security measures** at SGIP and Catalanian prison facilities, at 31 December 2016.
- Number of inmates participating in the **Comprehensive Assistance Plan for the Mentally Ill (PAIEM)** of SGIP and the Government of Catalonia, at 31 December 2016.
- Information on **convictions and proceedings related to ill treatment**, filed before 2016 and resolved that year, against SGIP officers. Proceedings related to ill treatment in CPs belonging to the Government of Catalonia.
- **Deaths at Prison Facilities during 2015** and CPs of the Government of Catalonia during 2016. Figures on SGIP CP deaths over 2016 were not available at the date of this Report.

- **Missed medical appointments by inmates due to lack of police resources for their transfer and custody** in 2016, both in CPs belonging to the SGIP and the Government of Catalonia.

217. Section I.3.1 reflects the **main conclusions reached during CP visits made in 2016**. Furthermore, Annex II.3.1 details the **conclusions and, where appropriate, examples of good practice** forwarded to the SGIP and to the Justice Department of the Government of Catalonia, **with respect to each one of the CPs visited in 2016**.

IV.3.2. Prison psychiatric hospitals

218. The table below shows the inmates detained in SGIP-run prison psychiatric hospitals in 2016:

Table 34. Number of inmates who, at 31 December 2016, were receiving care in SGIP-run prison psychiatric hospitals

Prison Psychiatric Hospitals	No.
Fontcalent – Alicante	254
Seville	164
TOTAL	418

Source: Produced in-house based on SGIP data.

Table 35. Number of inmates who, at 31 December 2016, were receiving care at prison psychiatric treatment facilities, broken down by centre and/or type of CP units run by the Government of Catalonia

Prison facility - unit	No.
Quatre Camins – Psychiatry	41
Men Barcelona – Psychiatric Nursing	20
Brians 1 – Psychiatry	22
Brians 1 – Hospitalisation Unit	55
Brians 2 – Psychiatric Unit	17
TOTAL	155

Source: Produced in-house based on data provided by the Justice Department of the Government of Catalonia.

IV.3.3. Young offender institutions

219. According to a study drawn up by the National Statistics Institute (INE) and published on 24 September 2016, **13,981 final judgments** were recorded **during 2015** at the Register of Criminal Liability of Minors, representing 7.1% less than the previous year.

The rate of minors between 14 and 17 years old, convicted for every 1,000 inhabitants in the same age group, was 7.9 compared to the 8.7 recorded the previous year. Based on the **number and type of criminal offences committed by minors**, 24,005 were recorded in 2015, 6.7% less than the previous year. By gender, male minors committed 81.3% of these criminal offences and women 18.7%.

During 2015, judges **adopted 23,041 measures, representing a 5.9% decrease** with respect to the previous year. The most frequently adopted measures were probation (40% of the total), community service (16.9%) and socio-educational tasks (11.2%).

Based on the offender's **nationality**, committal to closed and semi-open facilities were more common amongst foreign minors (4.7.% and 14.7% of the total, respectively) than amongst Spanish minors (1.4% and 10.1%). On the other hand, measures involving socio-educational tasks and community service are imposed less frequently on foreign minors (8.1% and 14.8% of the total, respectively, over 12.1% and 17.6% amongst Spanish minors).

220. The **capacity of each facility visited in 2016 and the number of places occupied** on the days we visited are shown in the table below:

Table 36. Capacity and occupancy of Young Offender Institutions visited

Facilities visited	Capacity	Occupancy at the time of the visit
San Francisco de Asís-La Biznaga Young Offender Institution (Málaga)	15	15
Zambrana Young Offender Institution (Valladolid)	73	71
Maliaño Juvenile Socio-Educational Facility (Cantabria)	18	16
El Madroño Facility for the Enforcement of Court Orders (Madrid)	15	8

Facilities visited	Capacity	Occupancy at the time of the visit
Es Pinaret Socio-Educational Facility (Palma)	56	71
Marcelo Nessi Facility for the Enforcement of Court Orders (Badajoz)	54	24
El Limonar Young Offenders Institution (Seville)	32	32
La Jara Young Offenders Institution (Seville)	28	23
Montefiz Special Assistance Facility (Ourense)	23	17
Monteledo Reeducation Facility (Ourense)	37	14

Source: Produced in-house using facility data.

221. Distribution of inmates amongst the various facilities visited in 2016, according to regime and type of court ruling, is shown below:

Table 37. San Francisco de Asís-La Biznaga Young Offenders Institution in Torremolinos (Málaga)

Detention regime	Number of minors
Closed regime	-
Semi-open regime	8
Open regime	-
Weekend detention	-
Closed therapeutic detention	-
Court ruling	Number of minors
Final	8
Precautionary	8

Table 38. Zambrana Young Offenders Institution (Valladolid)

Detention regime	Number of minors
Closed regime	2
Semi-open regime	28
Open regime	8
Weekend detention	-
Closed therapeutic detention	2
Semi-open therapeutic detention	9
Court ruling	Number of minors
Final	49
Precautionary	13

Table 39. Maliaño Juvenile Socio-Educational Facility (Cantabria)

Detention regime	Number of minors
Closed regime	2
Semi-open regime	10
Open regime	-
Weekend detention	2
Closed therapeutic detention	-
Semi-open therapeutic detention	-
Court ruling	Number of minors
Final	14
Precautionary	3

Table 40. El Madroño Facility for the Enforcement of Court Orders (Madrid)

Detention regime	Number of minors
Closed regime	-
Semi-open regime	4
Open regime	2
Weekend detention	-
Closed therapeutic detention	-
Semi-open therapeutic detention	-

Court ruling	Number of minors
Final	6
Precautionary	2

Table 41. Es Pinaret Socio-educational Facility (Palma, Balearic Islands)

Detention regime	Number of minors
Closed regime	10
Semi-open regime	31
Open regime	-
Weekend detention	-
Closed therapeutic detention	3
Semi-open therapeutic detention	24
Court ruling	Number of minors
Final	68
Precautionary	2

Table 42. Vicente Marcelo Nessi Facility for the Enforcement of Court Orders (Badajoz)

Detention regime	Number of minors
Closed regime	-
Semi-open regime	23
Open regime	-
Weekend detention	-
Therapeutic detention	2

Table 43. El Limonar Young Offenders Institution (Alcalá de Guadaira, Seville)

Detention regime	Number of minors
Closed regime	1
Semi-open regime	24
Open regime	3
Weekend detention	-
Closed therapeutic detention	-
Semi-open therapeutic detention	-

Court ruling	Number of minors
Final	28
Cautelar	4

Table 44. La Jara Young Offenders Institution (Alcalá de Guadaira, Seville)

Detention regime	Number of minors
Closed regime	4
Semi-open regime	13
Open regime	1
Weekend detention	-
Closed therapeutic detention	-
Semi-open therapeutic detention	-
Court ruling	Number of minors
Final	18
Precautionary	5

Table 45. Monteleido Reeducational Facility (Ourense)

Detention regime	Number of minors
Closed regime	5
Semi-open regime	8
Open regime	1
Weekend detention	-
Closed therapeutic detention	-
Semi-open therapeutic detention	-
Court ruling	Number of minors
Final	14
Precautionary	2

222. Annex IV.3.2 provides the following information:

- **Claims and complaints due to alleged malpractice or the alleged commission of torture, ill treatment, cruel or inhuman treatment**, during 2016, at various facilities, according to information provided by different autonomous communities.
- **Attempted self-injury or deaths** at facilities for minors.

- When broken down by **autonomous communities**, the total number of minors convicted in 2016 for criminal offences; the number of young offenders residing in one autonomous community who have served or are serving a court order in another; the number of female detained minors who were accompanied by children under 3; the number of infringed orders, differentiating cases from detention centres from cases where the detainee did not return from a temporary leave or release; the number of facilities for minors with health or behavioural disorders.

223. Section I.3.3 reflects the **main conclusions reached in our CMI visits in 2016**. Furthermore, Annex II.3.2 details the **conclusions and, where appropriate, examples of good practice** forwarded to the various administrations, with respect to **each one of the facilities** of this type visited this year.

IV.4. Special purpose deprivation of liberty facilities

IV.4.1. Foreign national deportation operations

224. The Central Unit for Deportation and Repatriation (UCER), which reports to the General Headquarters of Immigration and Border Control (CGEF), is in charge of the repatriation of those foreign nationals whose deportation or repatriation has been resolved by a competent authority.

Table 46. Foreign national deportation operations carried out during 2016

Deportation operations	2016	2016
	No. movements	No. Repatriates
Repatriated to Morocco via Ceuta	69	1,219
Repatriated to Morocco via Melilla	3	18
Repatriations to Algeria by boat	86	868
International flights	7	217
FRONTEX flights organised by Spain	6	255
FRONTEX flights organised by other countries	8	49
TOTAL	179	2,626

225. The tables in Annex IV.4 show the **foreign national repatriation operations organised by FRONTEX and the CGEF** in 2016, based on DGP data.

226. Without prejudice to the foregoing, section I.4.1 presents the **main conclusions reached in 2016**. Annex II.4.1 details all the **conclusions and examples of good practice** forwarded to the Administration, with respect to the **supervision of these flights in 2016**.

V

**Processing by the Ombudsman of complaints
of ill treatment
§227 - §240**

227. As is standard practice in earlier reports, below is a summary of the steps taken by the Ombudsman throughout 2016, either *ex officio* or as a result of a citizen complaint, related to NPM activity. Furthermore, the main conclusions are included, with further detail provided in this year's Annual Report

228. 8 complaints were received in 2016 of alleged **ill treatment by the police** and 64 for improper treatment, representing less complaints for ill treatment than in previous years; the number of complaints for improper treatment, however, remains.

Proceedings were filed in various matters related to potential ill treatment on the part of agents belonging to the State's law enforcement organisations, which are highlighted below:

*Disqualification
due to a
violation of
integrity
§82 AR 2014*

229. The NPM filed proceedings as soon as it became aware that the **Town Council of Pollença** (Palma) had hired a police officer on extended leave, pertaining to the Town Council of Palma, who had previously been convicted by the Palma Provincial Appellate Court of committing a crime against personal integrity, with an ancillary conviction consisting of special disqualification to hold public office at this town council for a three-year period.

A report was requested from the town council who had hired the officer. We were told that the civil servant in question had resigned from office as a provisional public officer.

*Alleged attack
CNP Ceuta*

230. The injury caused to a Moroccan national, who had applied for international asylum, in the city of Ceuta, triggered a recent request for a report from the **Directorate-General of the Police**. The citizen claimed to have been accosted by several national police agents, one of whom hit him in the face and urged him to abandon the night-life district he was in. Proceedings are underway.

*Alleged attack
CNP Fuengirola
(Málaga)*

231. In similar terms, a complaint was filed by a Moroccan national, who declared that during his arrest by the National Police in Fuengirola (Málaga) he was abused and his arm broken. According to the report received, when he was arrested for an alleged robbery with force, the detainee hit one of the agents in the face who was transferring him, which resulted in his arm injury. Both the agent and detainee required medical assistance at the hospital. Examining Magistrates Court Number 2 in Fuengirola, during summary

proceedings on the case, convicted the detainee as the perpetrator of an offence of violence, concurrent with a minor injury offence, and was ordered to indemnify the injured agent.

*Alleged attack
CNP T4 Madrid-
Barajas Airport*

232. In another measure on the matter, it was reported that a civil servant pertaining to the National Police had allegedly attacked a pregnant woman, at the T4 Satellite passport control station in Adolfo Suárez-Barajas Airport in Madrid, who claimed to have been pushed and thrown on the floor.

The **Directorate-General of the Police** claimed to have investigated the facts reported by the victim, and to have viewed the video surveillance cameras in the terminal; it appears that the fall was not a result of a shove, and this was also corroborated by the statement taken from other police officers who were present at the scene. Although a suit for minor offences was ongoing following the victim's complaint, to date no agent has been investigated on these grounds.

*Record of
complaints of ill
treatment
§153 AR 2014*

233. Regarding **Prison Facilities (CPs)**, 35 complaints were received of alleged ill treatment in prison during 2016.

With respect to ill treatment complaints received by the Ombudsman in relation to the prison Administration, two general situations may be pointed out.

We have reported the need to put a written protocol in place, establishing instructions on the investigation of potential ill treatment against persons deprived of liberty in facilities under the authority of the Secretary-General of Prison Facilities. Based on the information known, we may infer that this written protocol has already been established and is known at all facilities, due to the order forwarded by the SGIP to the wardens, but the prison Administration cannot be considered to have fulfilled what the Ombudsman was seeking with this measure. For instance, prison facilities still lack an on-site system to register complaints for ill treatment, recording any information received on the matter through any channels, which is why this is still an ongoing issue.

*Investigation
into ill treatment*

We have informed the Administration that persons deprived of liberty find it particularly difficult to submit evidence to back up their complaints. Very often, the inmate has no access to evidentiary sources (e.g. a copy of the injury report drawn up according to the criteria put forward by the Ombudsman in its study on the matter, photographs of the injuries and access thereto,

videographic recordings, etc.).

*Copy of the
injury report
§176 AR 2014*

234. It is essential that any inmate visiting the nurse's station be provided with a copy of the injury report, drawn up by the healthcare assistant. In a complaint related to the matter, the Administration stated that it was not aware of any copy of injury reports being given to the interested party. The Ombudsman's reiterated opinion on the matter is that, in any case, a copy of all injury reports should be provided, as this would avoid these situations arising.

This practice should be extended to all inmates subject to restraining measures for immobilisation, who have received healthcare.

*Video
surveillance
systems §63 AR
2014*

235. A matter yet to be regulated is the capture, recording, transmission, conservation, storage and extraction of images from video surveillance systems at prison facilities. Consequently, we have insisted that these regulations be issued as soon as possible, avoiding the total limitation on the right of access to such material held by persons deprived of their liberty, including the content of these recordings.

During the processing of a complaint, information was requested as to whether recordings were provided and viewed, gathered by the video surveillance system in place at the Teixeiro Prison Facility (A Coruña), in relation to the reported facts. We were told that, in fact, these had been viewed, but there was no record whatsoever of how the recordings were extracted that were viewed by the facility's security guard.

As a result of complaints brought for ill treatment during a full body search, we consider it of interest to have available any recordings taken in places where full body searches are conducted. In order to minimise any effect on inmate privacy, they should only be viewed if there is a dispute as to what took place, as should be foreseen in the protocol to take, conserve, extract and provide images, which the Ombudsman has recommended.

*Trust placed by
the complainant
in the
investigation
§150 AR 2014*

236. In one specific case, amongst the enquiries completed by the Administration to clarify a complaint of ill treatment brought by a person deprived of liberty before the Ombudsman, the inmate appeared by video conference, which was held between two facilities under the authority of the prison Administration. It was declared that the use of video conference systems in the course of internal investigations in complaints of ill treatment is an inconvenience, given that the person deprived of liberty may become

suspicious about the confidential treatment of what is being shown.

*Supervision of
mechanical
restraints
§172 AR 2014*

237. It is important to document the measures and supervision applied to an inmate who is mechanically immobilised, in order to check whether certain complaints are true. Such is the case of an inmate who, in this situation, complained that he was not allowed to eat or relieve himself. The report received stated that he was in fact allowed to eat, relieve himself and wash whilst immobilised, as indicated by the service managers. However, these circumstances were not properly documented in the monitoring plans for mechanical restraint, but were included in a report expressly issued one year after the events took place.

238. As regards **foreigners**, there are also several proceedings underway for alleged ill treatment:

*Alleged ill
treatment at CIE
Madrid*

During our visit in October 2016 to the Foreign Nations Detention Centre (CIE) in Madrid we held confidential interviews with all inmates who requested this. A group of inmates claimed to have been abused, but we found out that the court in charge of supervising the CIE had conducted individual interviews, in the presence of a medical examiner, and that court measures were already underway to clarify the facts reported; this is why we did not look into the individual examination of those inmates claiming to have suffered ill treatment.

*Violent incidents
at CIE Murcia*

Complaints have been brought by various associations and private citizens, manifesting their disagreement with the deficiencies evidenced at the Sangonera de la Verde Foreign National Detention Centre in Murcia; it is alleged that inmates are cramped, as well as other shortcomings, which have all been transferred to the CIE supervising court. During our last visit made in December, following several violent incidents and one escape, we became aware that several inmates had been sent to prison, following attacks on the police agents. We have asked the State Prosecutor's Office to keep us informed on any progress in these judicial proceedings.

*Alleged ill
treatment at CIE
Barcelona*

In May, we completed the proceedings filed in 2013, following a complaint of ill treatment brought by an inmate at the Foreign National Detention Centre in Barcelona, already referred to in previous reports. He was released once his deportation could not be carried out. The Barcelona Provincial Appellate Court convicted the interested party of an injury offence, attack and disregard for authority.

Death at the Novo Sancti Petri residential facility (Chiclana de la Frontera) **239.** In socio-healthcare matters, of interest is the **death of an old woman, due to alleged medical malpractice on the part of the Novo Sancti Petri residential facility for the elderly (Chiclana de la Frontera, Cádiz).** Apparently, this is the second death to take place in similar circumstances. In March 2016, proceedings were filed before the Regional Department to find out if the facility and the case had been checked.

Further to this complaint, on 6 and 7 July 2016 we visited the facility. Following the visit and based on the information received, the case was shelved and general measures continued on various matters of interest ascertained during our visit (signature of the committal document by a relative of reference, procedure to request involuntary committals when Art. 763 LEC is inapplicable, control of restraining measures and record of adverse effects, etc.). This specific case, which is *sub iudice*, suggests possible malpractice. The Regional Government of Andalusia has handed over the report to the Court that is examining the events.

Ill treatment of the elderly at Residencia Luma (Barcelona) **240.** In a complaint where the interested party claimed a disagreement with her dismissal from a private home for the elderly (**Residencia Luma, Barcelona**), reference was also made to **inappropriate meals and treatment given to the residents, and inadequate showers.** Measures were taken on the matter, further to which the Department of Employment, Social and Family Matters of the Government of Catalonia reported that the Social Services Inspectorate had scheduled several visits to the home, where shortcomings were in fact detected; sanctioning proceedings were filed, as a result of which it was ascertained that the facility manager had verbally abused the residents and staff.

It was suggested that sanctioning proceedings be filed, duly notifying the Directorate-General of Social Protection of the Government of Catalonia, as the facility was authorised to operate as a collaborating entity of this autonomous community.

