Alternative report by civil society to the Seventh Periodic Report presented by the Spanish State

Ordinary Session No.144 (June 23 - July 18, 2025)

United Nations Human Rights Committee

May 2025

This report has been prepared by the Centre for Documentation and Denunciation of Torture (CDDT); Irídia - Center for the Defense of Human Rights; the SiRa Centre - Care for victims of torture and ill-treatment; the Association for Human Rights of Andalusia (APDHA), the Free Association of Lawyers (ALA), the Rebeca Santamalia Penitentiary Law Association, the Observatory of the Penal System and Human Rights, Salhaketa, and the Sol Legal Commission.

The document provides the analysis of this network of civil society organizations in relation to the State's compliance with the International Covenant on Civil and Political Rights, based on the *Concluding Observations of the Human Rights Committee on the sixth periodic report of Spain*, 14 August 2015 (CCPR/C/ESP/CO/6). of certain issues raised in the *List of Issues prior to the submission of the seventh periodic report of Spain,* 3 December 2019 (CCPR/C/ESP/QPR/7), and of the replies to the *Seventh periodic report due for Spain in 2020 under article 40 of the Covenant,* 29 November 2024 (CCPR/C/ESP/7). Specifically, clarifications are made regarding non-discrimination (arts. 2.20 and 26 of the ICCDP); the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, including past human rights violations (arts. 6, 7, 19 and 21 ICCPR); and the treatment of persons deprived of liberty (arts. 7, 9, 10 and 14 ICCPR). All the information contained here is the result of the daily work of research, legal and psychosocial accompaniment to victims, strategic litigation, political advocacy and communication of this network of organizations, in different territories of the State.

1. Non-discrimination (arts. 2, 20 and 26)

1.1. Use of ethnic profiling (Paragraph 8)

1. There is no legal framework at the state level that clearly and explicitly prohibits police stops or identifications for racial reasons, a practice that has been found to lead to police actions that are pointed out as abusive, disproportionate or that even end up being denounced for mistreatment[1]. Although the State justifies its prohibition through *Organic Law 4/2015, of 30 March, on the Protection of Public Safety,* the regulation only mentions "equal treatment and non-discrimination" as a principle of action (art. 16.1), but in no case does it specify the express prohibition of this practice.

2. Nor is it expressly prohibited by *Law 15/2022, of 12 July, comprehensive for equal treatment and non-discrimination*, which in its article 18 establishes that the Security Forces and Corps (FCS) shall only "avoid" the use of discriminatory profiles without objective justification.

3. In contrast to a practice periodically documented by human rights and anti-racist organizations[2], the absence of official and public tools to monitor police work to learn about potential discrimination stands out. In addition, there is a lack of data collection disaggregated by race and ethnicity that allows us to objectively know who is affecting these practices, according to what criteria are met, what the result of these is, as well as their direct impact on

[1] Irídia and RIS (2024). *Police racism in the Spanish State. A qualitative analysis of racial bias in the practice of stopping, identification, and police search*, https://iridia.cat/wp-content/uploads/2025/02/Informe_racisme_policial-ES-WEB.pdf
[2] SOS Racisme Catalunya (2022). *I stopped to stop. Vigilància 2.0.,* https://drive.google.com/file/d/1iTtEBm5aNcrXFQDCvXs5TLO9RN9meipR/view?pli=1

the affected populations. As a result, it is impossible for administrations to recognize and dimension the problem, resulting in inaction in terms of public policy[3].

4. In view of this reality, it is considered essential **to implement stop, identification and registration forms in all police forces**, at local, municipal, regional and state level. These forms should include the clear and reasoned justification of the action, the final result of the action, as well as the ethnic-racial condition self-perceived by the person concerned, in accordance with the principles of informed consent and confidentiality, which would have to be submitted to the identified person and to the Secretary of State for Security. There are already precedents in the State of pilot projects that developed this practice within the framework of local police forces, the results of which yielded an important diagnosis of some discriminatory practices of the FCS, and even made visible the need to modify criteria and patterns of police selection in terms of efficiency and scope of positive results[4].

5. Cases such as that of Rosalind Williams[5] and Zeshan Muhammad[6] show the difficulties in proving discrimination and the lack of effective protection for victims. Those who report are forced to prove that what happened derives from their racial condition, an anomaly in which the victim must prove their innocence. This encourages underreporting, due to the complexity of corroborating racism that is denied by the institutions involved and undermines the trust that the people affected place in the police and judicial system. Several factors appear that explain the low reporting in cases of racial profiling, highlighting the distrust in the authorities, the fear of reprisals and the exhaustion of facing processes without the possibility of [7]succeeding.

6. One of the main groups targeted by these practices are persons in an irregular administrative situation, who, due to their situation, are afraid to report discriminatory, disproportionate and abusive police actions for fear of being deprived of liberty in detention centres for foreigners (CIE) and being deported.

1. Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6, 7, 19 and 21)

2.1. Ill-treatment and excessive use of force by police officers (Paragraph 14)

A. On human rights training for law enforcement and security forces, in the light of international standards

[3] Tomás, N. (2020, June 17). Marlaska denies that there is police racism: it is 'anecdotal', *ElNacional.cat*, https://www.elnacional.cat/es/politica/marlaska-niega-racismo-policial-anecdotico_514500_102.html

[4] Schmitt, M., Pernas, B. (2008). *Steps towards equality, the STEPSS Project (Strategies for Effective Police Stop and Search) in Spain*, Study and Alternatives Group 21 - GEA 21, https://www.gea21.com/archivo/pasos-hacia-la-igualdad-el-proyecto-stepss/ and Open Society Foundations and Platform for Police Management of Diversity (2015). *Impartial and effective police identification. Lessons on the reform in five Spanish police services. Technical report*, https://www.gitanos.org/upload/33/59/1.4.0-OPE-ide_Identificaciones_policiales_imparciales_y_eficaces.pdf

[5]Human Rights Committee (2009). *FF. Communication No. 1493/2006, Williams Lecraft v. Spain,* https://www.worldcourts.com/hrc/eng/decisions/2009.07.27_Williams_Lecraft_v_Spain.pdf

[6] ECHR (Section 3a), Case of Muhammad v. Spain, App. No. 34085/17, of 18 October 2022: https://hudoc.echr.coe.int/fre?i=001-219984

[7] Irídia and RIS (2024). *Police racism in the Spanish State. A qualitative analysis of racial bias in the practice of stopping, identification, and police search*, https://iridia.cat/wp-content/uploads/2025/02/Informe_racisme_policial-ES-WEB.pdf

7. The human rights training of the FCS, in practice, is limited to the memorization of some of the international norms on the subject, without these regulations being internalized. With regard to training courses on the use of force, firearms and less lethal weapons, the impacts that these practices or weapons have on the exercise of rights and the integrity of citizens are not stressed in a timely manner.

8. Attempts to implement "codes of ethics" in the different police forces have failed one after another, either because they were repealed or because they were left without content after their reform, following protests and mobilizations by police unions (see footnotes to paragraphs 8 and 9). For instance:

- In 2019, the Madrid City Council, at the request of the police unions, abolished the "Code of Ethics" of the Madrid Municipal Police, approved by the previous municipal government of Madrid[8].
- More recently, in 2022, following the announcement by the state government of the creation of the National Office for the Guarantee of Human Rights, police unions reacted by stating that it "... it calls into question the actions of the Security Forces, their professionalism, the principle of authority and the burden of proof is reversed".[9]

9. An analogous situation occurs in relation to prison officials. By way of example:

- On 17 March 2021, the Sub-Directorate General of Penitentiary Institutions sent the directors of the different Penitentiary Centres and Social Reintegration Centres a circular on the protocol for action in the event of any complaint of ill-treatment by a prisoner. The response of the prison unions was to understand that this circular "puts an end to the professionalism, the presumption of innocence, the veracity and the professionalism of prison officials by including their personal data in a file of "torturers".[10]
- A year later, the syllabus for access to the Corps of Prison Institution Assistants was made public. Two of the case studies proposed for discussion concerned "overreaching in the reduction of a prisoner". The response of the prison unions was that this is "a humiliation for the entire group" and "a total lack of respect": "They call us corrupt and traffickers, and then they accuse us of torturing and mistreating prisoners... The test "stigmatizes" officials, "discrediting them on the basis of malpractice that takes place, only, in the hypothetical world of ideas."[11]

B. Establish independent complaints bodies to deal with complaints of police ill-treatment.

10. As the Spanish State informed the Committee, in the context of the follow-up to its Concluding Observations on the sixth periodic report, in 2016, the **Inspectorate of Security**

[8] Professional Collective of the Municipal Police (2019, July 25), Suppression of the Municipal Police Ethics Committee – CPPM, https://cppm.es/boam-25-7-2019-supresion-del-comite-de-etica-de-la-policia-municipal/ and Europa Press (2019, July 24), The City Council abolishes the Municipal Police Ethics Committee, https://www.europapress.es/madrid/noticia-suprimido-comite-etica-policia-municipal-estar-funciones-ya-cubiertas-propio-cuerpo-20190724084447.html#google_vignette

[9] La Razón (2022, 20 February), Interior creates an office to investigate whether the Police and Civil Guard torture detainees, https://www.larazon.es/espana/20220220/2h3k4s7hxfbr5e6pngjifivmsq.html

[10] Efea, A., (2021, March 25), Marlaska will give presumption of veracity to all prisoners who report ill-treatment in prison, *Ok Diario*, https://okdiario.com/espana/marlaska-dara-presuncion-veracidad-todos-presos-que-denuncien-malos-tratos-prision-7002292

[11] Recio, E. (2022, December 20), Controversy with an opposition from Prisons for insinuating that officials "torture", The Objective, https://theobjective.com/espana/2022-12-20/oposicion-prisiones-funcionarios/

Personnel and Services (IPSS) was considered a "*first independent body to deal with complaints and complaints of ill-treatment [...] in any police action*". However, as Amnesty International warned at the time, the body lacks its own initiative. It can only undertake inspection actions on possible irregular actions by the FCSE by express order of the Secretary of State for Security, considering that this type of action occurs in an extraordinary and incidental manner[12]. In turn, the same Directorate-General of the Police (DGP) and the Civil Guard (DGGC) are delegated to notify the IPSS, within the first 24 hours of the deaths, serious injuries or suicide attempts of citizens in FCSE premises or, outside of these, during a police action. It is the general directorates themselves that conduct internal investigations, and not the IPSS, which assumes an exclusive role of inspection and follow-up of them. The work of the IPSS, moreover, is confidential, while its reports, balance sheets or activity reports are not made public, according to Amnesty International[13].

11. Attached to the IPSS, the creation of the **National Office for the Guarantee of Human Rights (NGODH) stands out**. However, according to Instruction 1/2022 that regulates it, this body is not endowed with greater independent investigative powers. Its mandate is established as a record and follow-up of complaints of alleged violations of fundamental rights during a police action (Art. 8), conducted by members of the DGP and/or the DGGC. This register is unified through the computer application of the Human Rights Plan. However, as far as is known, the application exclusively contemplates quantitative and non-descriptive data and those responsible for the data are the National Police and the Civil Guard themselves. Its recent creation has not allowed a preliminary balance of the operation and results to be obtained.

12. The **Ombudsman**'s Offices have limitations in investigating cases of improper use of force by police forces. Despite being essential oversight bodies of the administration, they are recognized as having overly broad mandates that make it difficult to have specialized personnel and material resources to conduct a forensic investigation, including the examination of the scene of the events. In addition, the general criterion is the suspension of the investigation when judicial proceedings are initiated for the same facts. Its resolutions are of a recommendatory nature and are not directly applicable and enforceable[14].

13. In accordance with various international recommendations, including those of the Committee itself, a proposal has been drawn up by civil society organizations for the **creation of an external and independent mechanism** for the investigation of serious human rights violations by law enforcement officials. To date, this proposal, materialized in an Action Plan, has not received a response from the Government[15].

C. Ensure that all allegations of torture or ill-treatment are promptly, fully and independently investigated.

[12] Secretary of State for Security. Instruction No. 5/2015, on the organisation and functions of the Inspectorate of Personnel and Security Services. Official Gazette of the Civil Guard No. 25. Section I (June 23, 2015), https://www.defensordelpueblo.es/wp-content/uploads/2016/03/Instruccion_5_2015.pdf

[13] Iridia, Novact, & RIS, (2022). *Transparency and accountability of the police forces in the Spanish State*, https://iridia.cat/wp-content/uploads/2022/10/Transparencia-y-mecanismos-de-control-de-los-cuerpos-policiales-en-el-Estado-espanol-INFORME.pdf

[14] Head of State, Organic Law 3/1981 of 6 April 1981 on the Ombudsman (Official State Gazette No. 109 (1981), https://www.boe.es/buscar/act.php?id=BOE-A-1981-10325

[15] VV.AA. (2024). *Action Plan for the improvement and modernisation of the transparency and accountability mechanisms of the police forces in the Spanish State*, https://iridia.cat/wp-content/uploads/2024/06/pla-accio-A5_CAST_digital.pdf

14. The various internal mechanisms of police accountability in the Spanish State are not sufficiently independent, transparent, impartial and/or effective. Its operation is not public and the data on disciplinary proceedings initiated are not available or disaggregated by type of infringement, precautionary measures applied and number of sanctions imposed in relation to the types of infringements committed. The lack of transparency and publicity of these data hinders public control of the efficiency and effectiveness of internal police control mechanisms.

15. Both the National Police Corps and the Civil Guard have bodies for conducting internal investigations: the **Internal Affairs Unit** and the **Internal Affairs Service**, respectively. In both cases, they depend on a police officer belonging to the same force, which compromises the impartiality of the same.

16. Of particular concern is the fact that, in most cases, neither colleagues nor line managers provide information for the identification of perpetrators. In no case of serious injuries due to a known kinetic energy projectile has the police force identified the perpetrator of the shot. Nor are investigations initiated ex officio by the commanders.

17. The legislation on **police identification** in Spain is insufficient to guarantee the effective identification of police officers, which often hinders judicial investigations, as it is not possible to determine the perpetrator. This specific regulation, moreover, is not accessible to citizens. Despite the numerous complaints filed by civil society in this matter, no police officer has been sanctioned in the last 7 years for not being properly identified[16]. National and local police forces that have anti-riot units are obliged to be identified on the back with the Police Operational Number (NOP) and on the front with the Professional Identification Card (TIP, smaller). However, they often fail to comply with this obligation, while using typography that is difficult to read.

18. The Mossos d'Esquadra (Autonomous Police of Catalonia), after a major advocacy campaign by civil society, implemented changes in the identification of its law enforcement officers in 2020, reducing the NOP from nine to six digits and making it mandatory to wear it visibly on the back and front of the protective vest (until then it was only visible on the back) and on the two sides of the helmet. This new identification system allows the **reading of the NOP from 360 degrees**. Despite this progress, it has been documented that it is not always complied with in practice, opting for the use of bulletproof vests, which do not have such identification incorporated, instead of anti-trauma ones.

19. In cases where the court requests specific information from the relevant police department on the operation or action complained of, much less information is often provided than requested. On many occasions, it is the same unit to which the agent under investigation belongs that responds to the letters, instead of the Internal Affairs Division, while at the same time there is a criminalization of the person reporting ill-treatment. There have also been cases

[16] El Salto (2022, February 16): "No police officer has been sanctioned in the last seven years for not wearing visible identification," https://www.elsaltodiario.com/impunidad-policial/ningun-policia-sancionado-ultimos-siete-anos-no-llevar-visible-identificacion#:~:text=Impunidad%20policial-,Ning%C3%BAn%20polic%C3%ADa%20ha%20sido%20sancionado%20en%20los%20%C3%BAltimos%20siete%20a%C3%B1os,casos%20de%20mala%20praxis%20policial.

in which the same police forces have prevented the person from filing a complaint at the police station[17].

20. Shortcomings in domestic police investigations into cases of torture and ill-treatment condition the outcome of judicial investigations. At the same time, it is identified that the Public Prosecutor's Office is prone to inactivity, not requesting the practice of investigative measures, opposing the practice of the same or even requesting in advance the archiving of the proceedings[18].

21. There is a tendency for judicial proceedings to be closed at the pre-trial stage, without exhausting the possibilities of obtaining evidence and making it impossible to hold a trial, despite the existence of solid indications of criminality. The Constitutional Court has issued nine sentences in the last three years in which it considers the investigation of the courts insufficient. In addition, a lack of training of legal operators in tools for proving crimes of torture and ill-treatment, such as the Istanbul Protocol, is identified. In view of this situation, **the creation of a Prosecutor's Office and an ex officio shift specialized in institutional violence** is considered key.

22. It is not uncommon for police officers to also request an injury report from themselves, alleging some type of problem or minor injury, in order to report the citizen in an intimidating manner for "attack on authority" and thus stop a possible complaint.

D. Ensure that victims receive adequate reparation, including health and rehabilitation services.

23. *Law 4/2015 of 27 April 2015 on the Statute of Victims of Crime*[19] does not provide for reparation for victims of torture and ill-treatment: there is no reference to the right to reparation as a central area of State responsibility; it does not establish the obligation to initiate ex officio proceedings in this type of crime, thus contemplating the special vulnerability of this type of victim, and no guarantees are established to ensure non-repetition, compensation and rehabilitation. The *Code of Criminal Procedure*[20] includes civil action (art. 100), arising from the commission of a crime, but does not include all the aspects mentioned in General Comment No. 3 of the CAT, specifically "the provision of funds to cover the future medical or rehabilitation services that the victim needs to guarantee the most complete rehabilitation possible; or the loss of opportunities such as employment and education[21]." In view of this, **Law 4/2015 must be amended so that it specifically contemplates the reparation of**

[17] Irídia (2025). *Annual Report on Institutional Violence*, https://iridia.cat/wp-content/uploads/2025/04/FINAL_CAST.pdf
[18] Ibid.
[19] Head of State, Law 4/2015, of 27 April, on the Statute of the Victim of Crime. BOE No. 101 (2015), https://www.boe.es/buscar/act.php?id=BOE-A-2015-4606
[20] Ministry of Grace and Justice, Royal Decree of 14 September 1882 approving the Law of Criminal Procedure. Gaceta de Madrid No. 260 (1882), https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036
[21] Committee against Torture (2012). General comment No. 3, CAT/C/GC/3, para. 10, https://www.ohchr.org/en/documents/general-comments-and-recommendations/catcgc3-general-comment-no-3-2012-implementation

victims of torture and ill-treatment and establishes the obligatory nature of the ex officio procedural impulse in these crimes.

24. Compensation for victims of torture and ill-treatment, in the event of upholding judgments in judicial proceedings - which are rare - is established on the basis of a scale established for victims of traffic accidents[22] and not on the basis of a specific scale that takes into account the specific impacts that these attacks generate. In view of this reality, **a specific compensation scale must be established for victims of torture and ill-treatment, which takes into account the specific physical and psychological damage resulting from this type of aggression**.

25. Victims of torture and ill-treatment lack specific public aid to ensure their reparation and rehabilitation. There is no provision for specific support for rehabilitation in specialized centres, nor support measures for cross-cultural care; nor specific measures of care by social services, individual or oriented to the community or the family, in breach of the provisions of art. 2 of the ICCPR. It is necessary **to establish specific public aid for victims of torture and ill-treatment by regulation and provide budgets, guaranteeing a mechanism of sustainability and economic independence for comprehensive and adapted rehabilitation**.

26. There are no specialized public services for victims of torture and ill-treatment. *Law 35/1995 of 11 December 1995 on aid and assistance to victims of violent crimes and crimes against sexual freedom* does not recognize any specific provision for victims of torture or ill-treatment committed by public officials, and not by private individuals. The Act should be revised to provide for specific public assistance programmes for victims of torture and ill-treatment.

27. There are no offices for assistance to victims of torture and ill-treatment. The victim assistance offices serve victims of "*violent crimes and crimes against sexual freedom and, in particular, gender violence and domestic violence*", but perpetrated by private individuals and not specifically those perpetrated by public officials. In this regard, it is necessary to establish offices for assistance to victims of torture and ill-treatment.

28. With regard to victims of past human rights violations, *Law 20/2022 of 19 October 2022 on Democratic Memory*[23] does not allow victims of the Franco regime access to economic reparation. In its art. 6.1, the right to reparation explicitly excludes compensation, stating: "without being able to give rise to effect, reparation or compensation of an economic or professional nature". Instead, reparation is structured through "measures of restitution, rehabilitation and satisfaction" (art. 30.2). The Law also denies any type of patrimonial responsibility of the State (arts. 5.4 and 6.1), which particularly affects people whose assets were confiscated, or who performed forced labour, as well as those who suffered unjust convictions. It is essential that **the necessary regulatory adjustments be made to guarantee the right to reparation of the victims of Francoism, including through financial compensation,** both in cases of torture and in other cases.

[22] Head of State, Law 35/2015, of 22 September, on the reform of the system for the assessment of damages caused to people in traffic accidents, BOE No. 228 (2015), https://www.boe.es/boe/dias/2015/09/23/pdfs/BOE-A-2015-10197.pdf

[23] Head of State, Law 20/2022, of 19 October, on Democratic Memory. BOE No.252 (2022), https://www.boe.es/buscar/act.php?id=BOE-A-2022-17099

29. The absence of an action protocol to comply with the opinions of the different Committees for the Protection of Human Rights of the United Nations System is identified. *Law 25/2014, of 27 November, on Treaties and other International Agreements*[24] does not contemplate, in its article 30 ("Execution") the binding compliance with the resolutions of the United Nations Committees for the protection of Human Rights. The jurisprudential line of the Supreme Court[25] has established the absence of legal value of the opinions of the committees, which cannot be considered a title for the patrimonial liability of the State legislator. In STS 401/2020, of 12 February[26], the Supreme Court once again points out that the opinions of the United Nations Committees are not comparable to the judgments of the European Court of Human Rights (ECHR) and, in subsequent resolutions, it has not ruled on the possibility of obtaining property claims derived from the opinions of the Committees. For this reason, **it is considered necessary to establish a protocol of action to comply with the opinions and recommendations of the different committees for the protection of Human Rights of the United Nations system**, which makes these resolutions binding and which contemplates the possibility of directly obtaining patrimonial claims derived from the opinions of the Committees.

E. Ensure that forensic examinations are impartial, thorough and carried out in accordance with the Istanbul Protocol

30. At present, the forensic services of the courts do not have specific protocols for the evaluation of torture. There are, in isolation, some protocols for the documentation of violence in certain instances (e.g., the forensic service of the National Court or the Institute of Legal Medicine of the Basque Country). In 2017, the Scientific-Technical Committee of the Forensic Medical Council published a *Work Guide for forensic medical assistance to people in detention*[27]. The standards in this Guide, however, do not conform to the minimum standards of the Istanbul Protocol[28] either in terms of the conditions under which the interview must be conducted, or in the sections that the forensic medical report must contain. The competent authorities (Ministry of Justice, Ministry of Interior, and Ministry of Health) must ensure that specific protocols are in place for the documentation of allegations of ill-treatment or torture by legal (forensic) and non-legal (primary health care and specialized care) clinicians who comply with the requirements of the Istanbul Protocol.

31. Beyond the fact that there may be limited protocols in a specific court, there is no recognition of the Istanbul Protocol as a reference tool in the documentation and investigation of allegations of ill-treatment or torture. This is of enormous importance because the forensic medical report is only one part of the whole investigation process. The Istanbul Protocol sets out the *Principles for the Effective Investigation of Torture and Ill-Treatment*[29]*,* which set out the set of minimum conditions under which a state can be considered to be investigating allegations of torture. Despite the ECtHR's repeated condemnations of Spain for failing to

[24] Head of State, Law 25/2014, of 27 November, on Treaties and other International Agreements, BOE No. 288 (2014), https://www.boe.es/buscar/act.php?id=BOE-A-2014-12326
[25] Supreme Court Judgment of 6 February 2015. Contentious-Administrative Chamber, Section 4, no. 507 (Rec. 120/2013): https://www.poderjudicial.es/search/TS/openDocument/108ba2ff736c563b/20150302
[26] STS 1/2020, of 12 February. Special Room, https://vlex.es/vid/840799212
[27] Ministry of Justice (2017): *Work Guide for Forensic Medical Assistance to Persons in Detention https://www.mjusticia.gob.es/es/ElMinisterio/OrganismosMinisterio/Documents/1292430900358-Guia_de_trabajo_para_la_asistencia_medicoforense_a_personas_en_regimen_de_privacion_de_libertad_CM.PDF*
[28] UN High Commissioner for Human Rights (2022). *Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*:https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0
[29] Ibid. Chapter II. Revised version 2022.

investigate allegations of torture, no steps have been taken towards the effective implementation of the *Principles for the Proper Investigation of Allegations of Torture* by States, specifically and detailed in Chapter III of the Istanbul Protocol (updated 2022). It is essential that the State inform the Committee of the steps taken to implement these principles and of those envisaged to ensure compliance with them.

F. Prohibit the granting of pardons to persons convicted of the crime of torture.

32. The Government's discretion to pardon officials convicted of torture or other cruel, inhuman or degrading treatment or punishment remains. Although since 2012 there have been no known pardons to officials for the crime of torture, there are difficulties - if not impossibilities - in identifying the cases in which police and prison officials are convicted of crimes of injury or other inhuman or degrading treatment, which in turn makes it difficult to know if there have been officials pardoned for these crimes. The 2023 report of the National Mechanism for the Prevention of Torture (MNP, Ombudsman) warns: "In the case of the Secretary of State for Justice, the information submitted does not faithfully respond to the parameters requested, since its database collects the types of crime in the way they are typified in the Criminal Code. The information contained in the System of Administrative Records in Support of the Administration of Justice (SIRAJ) does not include data on the status of authority or public official of certain generic crimes if they are not specifically typified in the Criminal Code."[30] The same situation is maintained in the MNPT report for the year 2024[31].

33. Although the number has decreased compared to previous years, we continue to find situations of officials involved in cases of torture or crimes against moral integrity who have been decorated and/or promoted after being charged, convicted in the first instance and even with a final conviction[32].

34. *Organic Law 1/2024 on Amnesty for institutional, political and social normalisation in Catalonia*, which is intended to bring unduly judicialized issues back into the political debate, expressly excludes cases of torture and ill-treatment by the police, in the terms of Article 3 of the European Convention on Human Rights, as well as cases of particularly serious injuries, such as organ loss. However, the Spanish courts are restrictively applying the criterion of the "minimum threshold of gravity" to grant amnesty, despite the fact that the ECtHR has determined that this threshold is considered to be automatically exceeded when the acts are committed by police officers in the context of the improper use of force. As a representative example of this, of the 70 agents prosecuted in proceedings initiated by Irídia for torture or other cruel, inhuman or degrading treatment or punishment, as well as for serious injuries with loss of organ, which occurred within the time frame of the law, 61 have been granted amnesty, archiving the proceedings. These resolutions have been appealed and are pending a response in different instances. It is important to note that the total number of police officers

[30] Ombudsman (2024). *National Preventive Mechanism. Annual Report 2023*. Page 95, https://www.defensordelpueblo.es/informe-mnp/mecanismo-nacional-prevencion-informe-anual-2023/

[31] Ombudsman (2025), *Annual Report 2024. Annexes of the National Preventive Mechanism*. Pages 107 ff., https://www.defensordelpueblo.es/wp-content/uploads/2025/03/ANEXO-A_MNP.pdf

[32] Maestre, A. (2023, January 3): Rewarding torture in democracy, condemning it in dictatorship. La Sexta: https://www.lasexta.com/el-muro/antonio-maestre/premiar-torturas-democracia-condenarlas-dictadura_2023010363b3ead83a2bb400014f99f2.html; Iriondo, I. (2023, 5 April): Two others involved in torture among the generals of the Civil Guard. Naiz: https://www.naiz.eus/es/info/noticia/20230405/otros-dos-implicados-en-torturas-entre-los-generales-de-la-guardia-civil

amnestied is much higher and exceeds one hundred[33]. Its application contrary to the international framework is implying impunity for serious acts without even allowing a trial to be held and hindering reparations for the victims.

G. Ensure the recording of interrogations regarding all persons deprived of liberty.

Question 35. The Committee, in its concluding observations on the sixth periodic report, expressly recommended that the State party "ensure the recording of the interrogations of all persons deprived of their liberty in police stations and other places of detention". However, the practical experience of civil society organizations shows that progress in this area has been insufficient, fragmented, and does not reach international standards; which is also reaffirmed by the NPM, in its annual reports for 2023 and 2024. Video surveillance continues to be limited and the review of recordings by the Administration limited. Many deaths in detention centres could be avoided if there was an adequate video surveillance system in all detention rooms, both from a preventive point of view and from a rapid response point of view in cases requiring emergency medical assistance. In this regard, the CAT, in its seventh periodic report on Spain (CAT/C/ESP/CO/7), regrets that Spain has not provided complete disaggregated statistical information on the deaths of persons deprived of liberty during the period under review, including the place of detention, the causes of death and the results of the investigations carried out. Similarly, there are numerous recordings that record acts of torture that are systematically not reviewed by the State.

36. After 10 years of validity of instructions dating from 2015 (11/2015 and 12/2015), the latter updated and rendered ineffective by Instruction 4/2018 (Repealed by Instruction 1/2024), which timidly regulated video surveillance, to date there are no recordings of the statements of the persons detained.

Instruction 1/2024 on video surveillance says:

> "*Video surveillance: The ACUDE of the FCSE will have systems for capturing and storing images and sound, in accordance with the provisions of Instruction 11/2015 of the Secretary of State for Security, except in the interview rooms with the lawyer or other people and in the toilets, which allow viewing in the light conditions of their rooms, to guarantee the physical integrity and security of persons deprived of liberty and that of the police officers who exercise their custody. All corridors and rooms that are part of the route taken by the detainee will be permanently equipped with these image capture systems and ambient microphones.*
>
> *The agents in charge of custody must maintain control of the cells through these means and of the intercoms with which the facilities are equipped.*
>
> *The recordings will be kept in accordance with the provisions of Organic Law 7/2021, of 26 May. Once the period established by the Data Controller has expired, which will be at least 30 days, they will be destroyed, unless an incident occurs in the course of the custody of a detained person or they are related to serious or very serious criminal or administrative offences in matters of public security; with an ongoing police*

[33] Òmnium (2025). *Report of the Amnesty Law*, Audit Office for the Amnesty of the Cultural Omnium. Page 3, https://amnistia.omnium.cat/img/informe_llei_amnistia_2025_.pdf

investigation or with an open judicial or administrative proceeding. In such cases, the recording shall be retained and treated appropriately and shall remain at the disposal of the competent authorities for as long as necessary to serve the intended purposes."

Question 37. There is also an insufficiency of video surveillance in detention centres and penitentiaries, as well as territorial inequality. To date, in the centres of deprivation of liberty, an optimal degree of operation of video surveillance has not been achieved. Renovated or newly built facilities are usually well equipped, but most of the existing centres have not been adapted, in some cases due to lack of budgetary allocation and, in others, due to lack of political/institutional commitment from the responsible bodies. The degree of video surveillance coverage is uneven depending on the competent Administration and very insufficient. The system is limited in the Civil Guard and practically non-existent in a large part of the local police, nor do the National Police stations have cameras in all rooms, lacking common technical standards and leaving thousands of people detained every year without protection.

38. The absence of a single, secure and accessible system for storing recordings is observed:

a) Penitentiary system. It should be noted that within the scope of the General Administration, *Instruction 4/2022 of the General Secretariat of Penitentiary Institutions was issued on video surveillance*, in order to regulate video surveillance in prisons dependent on the General Secretariat of Penitentiary Institutions. This does establish that the recordings must be extracted ex officio, after the issuance of a report of injuries, incidents of a serious or very serious nature, or for complaints and denunciations of ill-treatment, and must be provided ex officio to administrative or judicial proceedings; as well as when they become aware of the existence of administrative and judicial proceedings whose events have taken place in places under surveillance. The general period is 1 month, except in the case of sensitive areas (where coercive means, provisional isolation, mechanical restraint, strip searches are used), which establishes a period of 3 months for conservation.

Despite this regulation, in practice, Penitentiary Institutions, in general, do not verify the existence of recordings in cases in which injuries are reported or the injury report is issued, nor do they communicate their existence to the judicial authorities, nor do they allow access to persons deprived of liberty. The NPM in the 2023 annual report "recommended to the General Secretariat of Penitentiary Institutions the need to give indications to prisons to ensure that a record of the images extracted is carried out, as well as that such records are sent to the central services for adequate supervision. Likewise, it recommended detailing in Instruction 4/2022 the need to extract ex officio the images related to deaths in prison, since, despite the fact that there is no doubt about their consideration as a serious incident, in practice they are only extracted at the request of the court". Similarly, in the visits conducted in 2024, the NPM found that the video surveillance systems still do not adapt to the requirements established in Instruction 4/2022. In the Basque Country, Instruction 1/2024 was issued, which does seem to be more respectful of the guarantees and rights of people deprived of liberty. All spaces, except for private spaces (in private spaces there could be cameras that record the images, but which cannot be accessed except in the case of a judicial, DP or NPM investigation) must have cameras, regulating the cases in which body cameras must be used. Body cameras must be extended in places of deprivation of liberty.

b) Other miscellaneous systems. There is no unified system at the national level for the storage, custody and traceability of recordings.

Recordings are often stored locally on the premises with different retention periods, incompatible systems and even the absence of clear procedures for requesting preservation and access in the event of a complaint:

- There are no guarantees that the recordings will not be deleted prematurely or even tampered with. The systems must always be digitized, so that any alteration or manipulation of the images is recorded.
- Persons deprived of liberty and their legal counsel do not know or have adequate access to these recordings, which limits their right to defence and the possibility of effective reporting in cases of abuse. Access to the images is almost always denied to persons deprived of liberty or their lawyers. The right of access is a fundamental right that is framed in art. 18.4 CE, in *Organic Law 3/2018, of 5 December, on the Protection of Personal Data and guarantee of digital rights* and in *Organic Law 7/2021, of 26 May, on the protection of personal data processed for prevention purposes, detection, investigation and prosecution of criminal offences and the execution of criminal sanctions*.
- The recordings should be kept for 3 months, which the Administrations refuse to do - except for prisons in specific cases - justifying themselves in Instruction 1/2024 and 4/2022, which establishes a clearly insufficient period of 30 days.
- The protocols for managing recordings, access and preservation of the same at the state level have not been homogenized, which generates serious dysfunctions and loss of the chain of custody.

(c) Insufficient investment and lack of political will. The investment in video surveillance is clearly insufficient: there is no specific timetable or financial commitment to envisage the universalisation of these measures. The improvements introduced in some pilot projects have not been extended to the system as a whole, generating a gap in rights depending on the place of detention.

39. In view of the scenarios described above, it is considered essential:

1. The development of state regulations with the status of law that require the mandatory audiovisual recording of all interrogations and police statements of detainees, guaranteeing their integrity and authenticity.
2. The universalisation of video surveillance systems in all facilities where people are deprived of their liberty, including local and regional police forces, with a binding timetable for implementation and sufficient funding and the obligation to keep the recordings for 3 months.

3. The creation of a national, centralised and secure system for the storage of recordings, with clear access protocols and direct access for defence.
4. The full participation and consultation of specialized NGOs, bar associations, lawyers and victims in the design and supervision of these systems.
5. A substantial increase in investment in human rights in places of detention.
6. Video surveillance systems must record images and sounds.

7. Whenever a person is deprived of his or her liberty, he or she must be informed of his or her data protection rights, including with regard to images and sounds captured by video surveillance systems.

8. Emphasis should be placed on the training of the judiciary and prosecutor's office in the use of video surveillance as an instrument for the prevention and repression of torture and ill-treatment of persons deprived of liberty.

H. On the regulation and use of potentially lethal weapons

40. The regulations governing the use of rubber bullets by the National Police Corps and the Civil Guard are not public or accessible. Through strategic litigation, human rights organisations have been able to access the *2013* Circular on the use of riot control equipment *and Topic 13 of the Manual for the Updating of Police Intervention Units*, which contain certain rules for use very briefly. The Circular states that the threshold for the use of rubber bullets in the State is too low. Its use is allowed even in situations where there is no risk to people's lives, but damage to private property, in addition to allowing its use for dispersal purposes. The use of expressions such as "approximately" to qualify the permitted distances from which one can shoot is unclear. This could make it difficult for an agent acting outside of established parameters to be held accountable. Likewise, the omission of a "point of objective or expected impact" is alarming, since it does not restrict its use against sensitive parts of the body[34]. **Human rights and civil society organizations continue to demand a total ban on rubber bullets as a potentially lethal, unpredictable and indiscriminate weapon**[35], the use of which can constitute ill-treatment and/or torture.

41. The regulations for the use of foam bullets are only public in the case of Catalonia, following the approval of a new regulation in 2023. As a result of the advocacy work of human rights organizations, it was possible to correct some of the main breaches included in the 2019 protocol, including, i) the restriction of use to cases of risk to life or serious injury; (ii) the elimination of their use for dispersal purposes or when damage is caused to objects; (iii) the impossibility of firing above the abdomen; and (iv) or the adjustment of the minimum shooting distance to the manufacturer's recommendations, correcting it from 20 to 30 metres. In December 2022, in addition, the Catalan Parliament agreed to the withdrawal of the SIR-X type projectile, which has caused more serious injuries to citizens. In the case of the Mossos d'Esquadra de Catalunya, as long as the use of foam is not totally prohibited, it is necessary to modify its protocol, eliminating the SIR-X projectile as the intended ammunition.

42. Instruction 4/2018, on the regulation of the use of DCE by the Mossos d'Esquadra, contains provisions contrary to international recommendations and those of the manufacturer itself. Among these breaches, the need to limit the number of shocks, prohibit their use in demonstrations and gatherings, as well as in cases of minors and people with mental health problems, stands out. It should also be established that any action should be recorded, not

[34] Irídia and Novact (2021). *Stop rubber bullets*, https://iridia.cat/wp-content/uploads/2021/06/Informe-Balas-de-Goma_V2.pdf
[35] Iridia (2022, 28 September), A total of 200 entities ask the Government and parliamentary groups to ban rubber bales", https://iridia.cat/es/un-total-de-200-entidades-piden-al-gobierno-y-a-los-grupos-parlamentarios-la-prohibicion-de-las-bales-de-goma/

just "when possible", and restrict the enabling assumptions in a more specific way, avoiding generalisations such as "the risk to public safety" or "the perception of the agents" in relation to their use against people with weak health[36]. In the case of the National Police Force, these regulations are not public, nor accessible to the public.

43. Beyond the existing deficient regulation, the growing demand from local police forces to incorporate DCEs into their staffing has highlighted the discretion of municipalities when it comes to introducing new weapons, without this decision being subject to an independent technical analysis that justifies its suitability in relation to the guarantee of rights and operational demand. An example is that in 2023, in Catalonia the figure increased to 79 Catalan municipalities that had 134 DCEs[37].

44. The traceability mechanisms of potentially lethal weapons, especially kinetic energy projectiles, do not make it possible to establish clearly which agent used them, where and under what circumstances, impeding proper accountability. In relation to DCEs, there have been cases in which not all discharges have always been recorded, which has served the police forces to warn of the impossibility of being accountable in this regard[38].

45. On repeated occasions, bad practices have been documented in the use of police defences or batons, when blows from top to bottom and the impact on vital areas of the body, such as the head, have been observed. Although most of the protocols are not of a public nature, in the case of the Mossos d'Esquadra (Catalonia) Instruction 16/2013, of 5 September, on the use of weapons and tools for police use is available. It establishes that its use is limited to one or two short and dry blows, which must be conducted parallel to the ground and in muscularly protected parts of the lower trunk of the body. Since the implementation of 360-degree identification in the Mossos d'Esquadra riot police, a decrease in the use of anti-regulations has been observed in Catalonia, although this practice continues to be documented both in that territory and in the rest of the State.

2.2. Past human rights violations (Paragraph 21)

46. *Law 20/2022 of 19 October 2022 on Democratic Memory* has not repealed *Law 46/1977 of 15 October 1977 on Amnesty*[39], which makes it difficult to investigate torture or ill-treatment and, specifically, to prosecute those suspected of having committed torture. **The validity of the Law continues to be one of the most important procedural obstacles to prosecuting those suspected of having committed torture during the civil war, the Franco dictatorship and the transition to democracy**. All this contravenes the provisions of Article 15.2 of the ICCPR, ratified by Spain in April 1977, before the approval of the Amnesty Law. The Law must be repealed.

[36] Irídia (2025). *Annual Report on Institutional Violence 2024*. https://iridia.cat/wp-content/uploads/2025/04/FINAL_CAST.pdf.
[37] General Directorate of Coordination of Local Police (2024). *Annual report of the local police 2023*. Department of the Interior of the Generalitat de Catalunya. https://dsp.interior.gencat.cat/handle/20.500.14007/2831#page=18
[38] Solé, O. (April 16, 2024). Justice points out shortcomings in the Mossos investigation of the first death after the firing of a Taser, *ElDiario.es,* https://www.eldiario.es/catalunya/justicia-senala-deficits-investigacion-mossos-primer-muerto-disparo-taser_1_11292985.html
[39] Head of State, Law 46/1977 of 15 October 1977 on Amnesty. BOE No. 248 (1977), https://www.boe.es/buscar/act.php?id=BOE-A-1977-24937

47. *Article 2.3 of Law 20/2022 on Democratic Memory* does not repeal the Amnesty Law. Article 3 states that Law 46/1977 of 15 October 1977 on Amnesty shall be interpreted and applied in accordance with International Humanitarian Law, according to which crimes of torture are considered to be imprescriptible and not subject to amnesty. The fact that there is no express repeal leaves a margin of arbitrariness for judicial interpretation, which has been favourable to the interpretation by which the crimes of torture and other serious crimes are protected by the amnesty granted by said law. Since 2013, at least five United Nations mechanisms (Working Group on Enforced or Involuntary Disappearances[40], Committee against Torture[41], Human Rights Committee[42], Committee on Enforced Disappearances[43], Special Rapporteur on Truth, Justice and Reparation[44]) have reminded Spain that amnesties, pardons and other similar measures prevent perpetrators of serious human rights violations from being brought to justice, are incompatible with their international obligations. For this reason, *Law 20/2022 on Democratic Memory* must be amended, including an express provision that contemplates that no regulation can be interpreted as a rule of impunity, nor have the effect of hindering investigations and access to justice, truth and reparation on serious human rights violations committed during the Civil War and Francoism.

48. Nor does the Law on Democratic Memory include the obligation to promote the investigation of cases of torture committed during the Spanish Civil War and the Franco regime. In view of the difficulties, materialized in a tendency to close these complaints, without minimal investigative actions, based on arguments contrary to international law, such as the statute of limitations of the facts denounced, or the impossibility of investigating them in application of the Amnesty Law of 1977 or due to the death of the alleged perpetrators, the support of the Public Prosecutor's Office for the proceedings initiated by victims in criminal proceedings must be guaranteed.

49. The complaints filed for these crimes, after the approval of *Law 20/2022,* have been inadmissible and the proceedings have been dismissed by the courts[45], under the same legal arguments as the previous ones, and which are set out in the previous paragraph. Currently, one of these cases will be referred to the ECHR, given the impossibility that the new legislative framework of *Law 20/2022* has allowed progress in the right to justice of victims. As of the date of delivery of this report, the Office of the Special Prosecutor for Human Rights and Democratic Memory has opened pre-procedural investigation proceedings and taken a statement from a victim to investigate the torture perpetrated during the Franco regime and the Transition in the premises of the Superior Police Headquarters of Vía Laietana (Barcelona) and the General Directorate of Security (DGS) of Madrid[46].

---

[40] Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/13/31*, 21 December 2009, para. 502: https://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-31_sp.pdf

[41] Committee against Torture, *Concluding Observations, CAT/C/ESP/CO/5*, 19 November 2009: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CAT/C/ESP/CO/5&Lang=Sp

[42] Recommending to Spain the repeal of the Amnesty Law Human Rights Committee, Concluding Observations, Spain, UN document CCPR/C/ESP/CO/5 (2009), 5 January 2009, para. 9.

[43] Europa Press (2021, September 30), UN attacks the 1977 Amnesty Law and calls for criminal prosecution of perpetrators of disappearances during the Franco regime https://www.europapress.es/nacional/noticia-onu-arremete-contra-ley-amnistia-1977-pide-perseguir-penalmente-autores-desapariciones-franquismo-20210930150251.html

[44] Público (2018, September 18), The UN Rapporteur urges Spain to "prosecute or extradite" those responsible for Franco https://www.publico.es/politica/franquismo-relator-onu-pide-juzgar-extraditar-responsables-franquistas.html

[45] Irídia (2025). *The Provincial Court of Barcelona ratifies the archiving of the complaint for torture during the Franco regime filed by Carles Vallejo*, https://iridia.cat/laudiencia-provincial-de-barcelona-ratifica-larxiu-de-la-querella-per-tortures-durant-el-franquisme-presentada-per-carles-vallejo/

[46] Irídia (2025), *Blanca Serra declares davant la Fiscalía de Memòria Democràtica i Drets Humans per les tortures patides durant el franquisme i la transició a Via Laietana*,

Question 50. At present, the regional laws of Historical Memory of Aragon[47], Valencia, [48]Castilla y León[49] and the Balearic Islands[50], propose a regulation that involves setbacks in the rights of the victims of the Civil War and the Franco dictatorship, in a return to the theory of "the two Spains", with a trivialization of individual and collective reprisals of anti-democratic periods. Thus, they replace the concept of "memory" with that of "concord", equating the victims of the Second Republic (the time period is fixed from 1931 in the Aragonese and Valencian Law) with those of the Civil War and the subsequent dictatorship (in some cases, as in the Valencian Law (art. 1.1) and that of Castilla y León[51], under an ideological argument, the victims of ETA are included). Aragonese law eliminates the map of graves of victims of the civil war and the inventory of places of memory (art. 1.2.a); The Balearic Islands repeal the previous regional law, eliminating the map of mass graves and the Valencian one will draw up its own inventory of "places of concord", equating mass murders with places of exaltation of the dictatorship. The Aragonese law (art. 1.4) and the Balearic law (art. 1.4) eliminate public subsidies for exhumations and the Castilla y León law excludes memorial associations from the exhumation commission (art. 13.1.2ºb). In education, the framework of freedom of expression is used to justify the refusal to include a framework of democratic memory in the school curriculum; thus, the law of Castilla y León will promote the "dissemination of concord" (art. 6) and that of Aragon repeals "the actions in the field of education provided for in Law 14/2018" (art. 1.2.c).

3. Treatment of persons deprived of their liberty (arts. 7, 9, 10 and 14)

3.1. Incommunicado detention of detainees (Paragraph 17)

51. The United Nations Human Rights Committee has expressed its concern in all previous reports/concluding observations to the Spanish State (CCPR/C/ESP/CO/5 and CCPR/C/ESP/CO/6) about the persistence of the provision in the criminal procedure rule of the solitary confinement regime and, therefore, about the continuity of its application to persons in detention, requesting its deletion as it does not share with the State party its alleged need and justification. The limitations envisaged entail a serious violation of the essential rights of all persons in detention, which should not admit exceptions and which, as the Committee has rightly pointed out above, in turn favour violations of other fundamental rights, such as the possibility of ill-treatment or torture.

52. Since the previous report, there have been eight reforms of the Code of Criminal Procedure in which the State would have had the opportunity to abolish this regime in its entirety. In this

https://iridia.cat/blanca-serra-declara-davant-la-fiscalia-de-memoria-democratica-i-drets-humans-per-les-tortures-patides-durant-el-franquisme-i-la-transicio-a-via-laietana/

[47] Autonomous Community of Aragon, Law 1/2024, of 15 February, repealing Law 14/2018, of 8 November, on the democratic memory of Aragon, BOE No. 61 (2024), https://www.boe.es/buscar/doc.php?id=BOE-A-2024-4617

[48] Proposal for a Law on Concord in the Valencian Community: https://www.cortsvalencianes.es/sites/default/files/initiative/doc/Pplconcordia.pdf

[49] Proposal for a Law on Concord of Castilla y León, PPL/000009, of 4 April 2024, https://www.ccyl.es/Publicaciones/TextoEntradaBOCCL?Fichero=%5C%5CSIRDOCfiles%5Csirdoc%24%5CXML%5CEBOCCL%5C11L%5CBOCCL1100273%5CBOCCL-11-008549.xml

[50] Proposal for a Law on the Repeal of Law 2/2018, of 13 April, on the Democratic Memory and Recognition of the Balearic Islands, https://xip.parlamentib.es/scripts/getFile.ashx?nomCat=RGE&idReg=223664&camp=high

[51] First final provision. Amendment of Law 4/2017, of 26 September, on the recognition and care of victims of terrorism in Castilla y León.

regard, it is considered essential that the Committee continue in line with its recommendations urging the Spanish State to take the necessary legislative measures to completely abolish the solitary confinement regime and to guarantee that all the rights of persons detained are preserved, from the beginning of the deprivation of liberty and, in particular, those of minors, ensuring the assistance of a freely appointed legal defence counsel at all stages of the criminal proceedings and communicating confidentially and informing a third person of their choice of their detention without delay.

53. The use of solitary confinement in prison is not uncommon in different situations:

1) Provisional solitary confinement as a means of coercion (Art. 72 of the Prison Regulations),
2) Provisional isolation as a sanction (Articles 236 and 254),
3) Regime limitation decided by Management,
4) At the request of the prisoner for personal protection (Art. 75), and
5) Classification in closed regime or special departments (article 91 and following).

With the exception of the sanction of solitary confinement (articles 42 and 43 of the General Organic Law on Prisons) and classification into a closed regime and special departments (briefly mentioned in articles 10 and 72 of the same law), the other modalities are not provided for in the law, but in lower regulations.

Question 54. The Nelson Mandela Standards, the recommendations of the CAT, the CPT, the MNPT, as well as those of successive rapporteurs against torture indicate that this measure should be imposed exceptionally, as a last resort and for the shortest possible time, which, in any case, should not exceed 14 days. However, this limitation is only established for isolation sanctions and not for the rest of the cases, and even in the case of isolation due to sanctions, this limit can reach 42 days per accumulation of sanctions.

55. More serious is the situation of those persons classified in the first degree and who serve in a closed regime or special departments, who can remain for weeks or even years without the regulations or prisons establishing maximum time limitations.

56. The 14-day limitation is also not complied with in the case of regimental limitations, applying it as a preventive sanction with the sanctioning file still in process and without a final resolution imposing a sanction (the sanctioning procedure may even be archived or subsequently give rise to a sanction that does not entail isolation) or, even after the sanction becomes final until the regression of grade or transfer of the person is agreed. Despite the fact that the regulations require the Surveillance Courts to be informed of the adoption of this measure, this does not imply a review by the judicial authorities, who do not even request information on whether the guarantees of this limitation that isolation entails are being complied with.

Question 57. Solitary confinement, understood as a way of life, without significant human contact - except when visited by family, friends or lawyers - constitutes in itself a form of cruel, inhuman or degrading treatment or even torture.

Question 58. People with disabilities or serious mental disorders who remain in isolation are of concern. Despite the prohibition in the Mandela Standards and international law, it is a systematic practice. The application is carried out from a security or regimental point of view, ignoring the clinical or treatment perspective of prisoners, and its application is very frequent to those who accumulate sanctions because they are not able to follow the internal rules due to their pathologies, ignoring that the stay in solitary confinement entails a significant worsening of mental health. often generating irreversible damage, self-harm and suicide.

59. The Spanish State must carry out the legislative reforms necessary for the abolition of solitary confinement in prison in all its forms, at least as a regime of life and, in any case, the prohibition of its application to persons with serious diagnoses of disability and mental health, complying with the obligations of frequent monitoring by a doctor specialising in psychiatry and ensuring that all persons classified in this regime have access to contact meaningful human rights and treatment activities that allow them to leave this regime. We also request that both the sanctions of isolation, as well as their use as a coercive means, or the regimental limitations that entail isolation, be abolished or, alternatively, at least really applied as a last resort and for the minimum essential time, which in no case should exceed 24 hours.