Report on Institutional Violence

2022

Irídia

With the support of:

INDEX

1. SAIDAVI

Irídia's Service for Attention and Reporting in Situations of Institutional Violence (SAIDAVI) is a free-to-access legal and psychosocial service for people who have suffered institutional violence within the penal system in Catalonia. Institutional violence is the term used to refer to situations in which public bodies infringe the rights of individuals through the use of physical or psychological force, negatively impacting on their physical or mental wellbeing. The Service is focused particularly on **infringements of rights committed or permitted by law enforcement agencies and officials, prison officials and private security personnel in the fulfillment of their legally delegated duties in the provision of public safety**.

SAIDAVI employs a comprehensive care methodology: it offers psychosocial and legal care to affected individuals, as well as seeking justice and reparation. Depending on the circumstances, and if the person so wishes, cases can be handled as strategic litigation, with the aim of influencing and achieving changes in legislation and protocols, thus ensuring the recognition, upholding and safeguarding of human rights.

One of the standout features of SAIDAVI's approach is the inclusion of a psychosocial care perspective in relation to human rights. The infringement of rights, especially in the form of institutional violence, causes damage that has an impact on the day-to-day life and personal and social development of the individuals affected. A psycho-legal approach allows for the provision of psychosocial care during judicial processes, strengthening efforts to gain redress for the damage done and to empower affected individuals as citizens in the active defence of their human rights. In addition, and with the aim of improving institutional recognition of the psychological impacts of such violence, the psychosocial team also focuses on the preparation and submission of expert evidence to criminal trials.

The service's work in communication and advocacy seeks, in turn, **to raise public awareness on issues surrounding the infringement of rights, with the aim of achieving truth, justice and reparation, and ensuring that guarantees of non-repetition are fulfilled**. In other words, the team seeks official recognition of the damage caused and the corresponding accountability at all relevant levels, be they procedural or political. As such, it aims for the recognition and assertion of the rights of the individuals concerned, to restore their trust in society and its institutions, and to remedy the damage caused. The Service also works to champion the passing and putting into practice of measures to ensure both accountability for and prevention of such infringements, as a demonstration of solidarity with those affected on an individual or family level.

Access to justice is first and foremost for the Service, which seeks to uphold the universal right to justice. For this reason, it is completely free-to-access for all members of the public. This requires significant human and economic resources which are met by private donations, the associate members of Irídia, and other sources of private and public funding. Contributions and donations from members of the public continue to be a key element in the sustainability and continuity of the Service.

In 2022, SAIDAVI's team was made up of six lawyers, three psychologists, a technical coordinator and a director, in addition to two university students undertaking placements with Irídia. A further five members of Irídia's communications and incident team worked periodically with the Service.

In its day-to-day operations, the Service is divided into two permanent branches which work jointly with one other. On the one side is the **Support and Follow-up Area**, which provides psycho-legal support and advice to affected individuals in undertaking legal action or in obtaining legal representation and evidence (checking for video surveillance footage, requesting its preservation, locating witnesses etc.). On the other side, the Service takes on legal cases of particular importance as its own, transferring these to the **Litigation Area** and managing them holistically from a legal, psychosocial and public outreach perspective.

Jordi Borràs

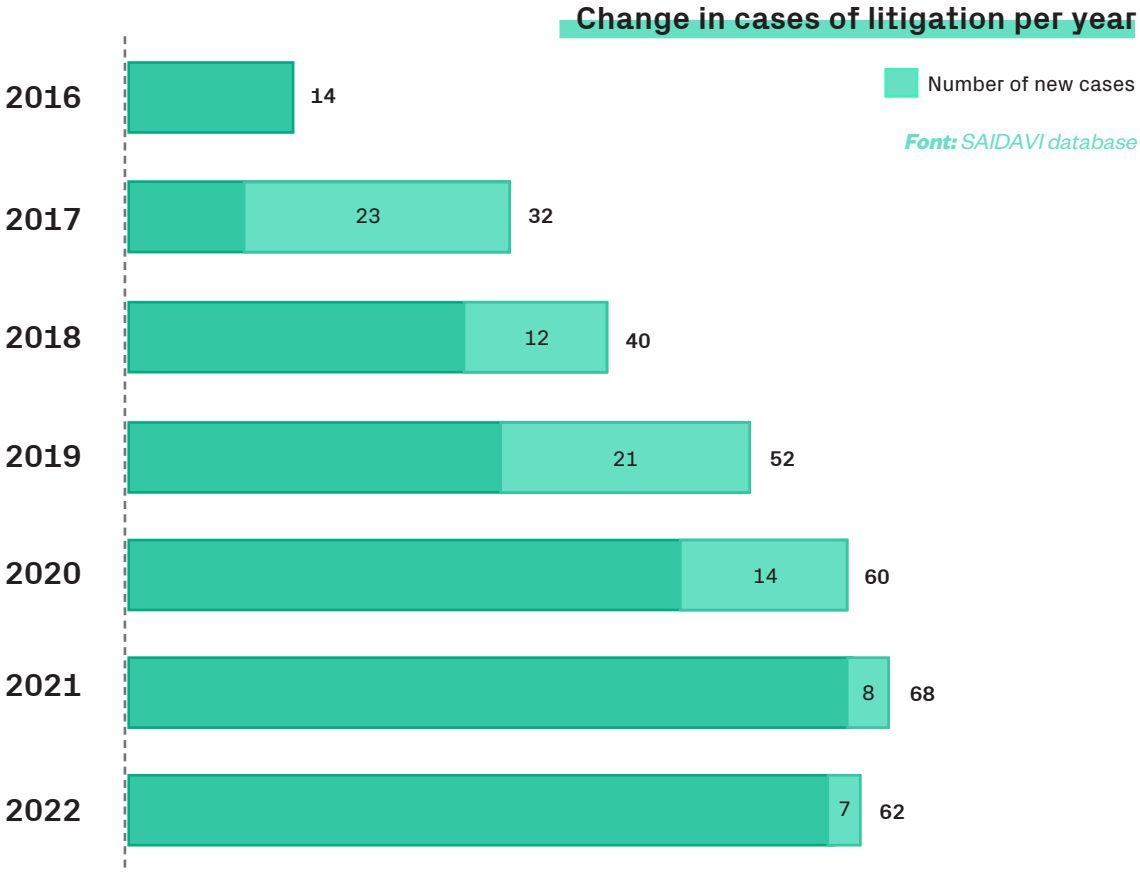
2. What did SAIDAVI achieve in 2022?

2.1. Cases handled in 2022

In 2022, 113 people approached the Service for Attention and Reporting in Situations of Institutional Violence (SAIDAVI) to request assistance in cases of alleged infringements of human rights. **Of these 113 people, 57 had suffered institutional violence** which fell within the Service's remit. These requests were met with an initial psycho-legal interview with the individuals affected, followed by the provision of legal advice and psychosocial support in addition to outreach and advocacy work, visits to prisons and the Immigration Detention Centre (CIE) in Barcelona, and referrals to other organisations with expertise distinct to that held by SAIDAVI.

It should be noted that, over the course of the year, there was no period of mass demonstrations – as had been the case in previous years, particularly 2021 – with the result that only a very small number of cases concerning protests reached the service. Nevertheless, **more than half of the total number of cases concerned events which occurred in public spaces.** It is particularly concerning that, **in eight of these cases, there is evidence of discrimination in the police actions undertaken**. This figure continues to show the need for public authorities – including those such as the police, who are in charge of ensuring that such discrimination is prevented – to address institutional racism. **As such, the 2022 Annual Report on Institutional Violence places special emphasis on this issue.**

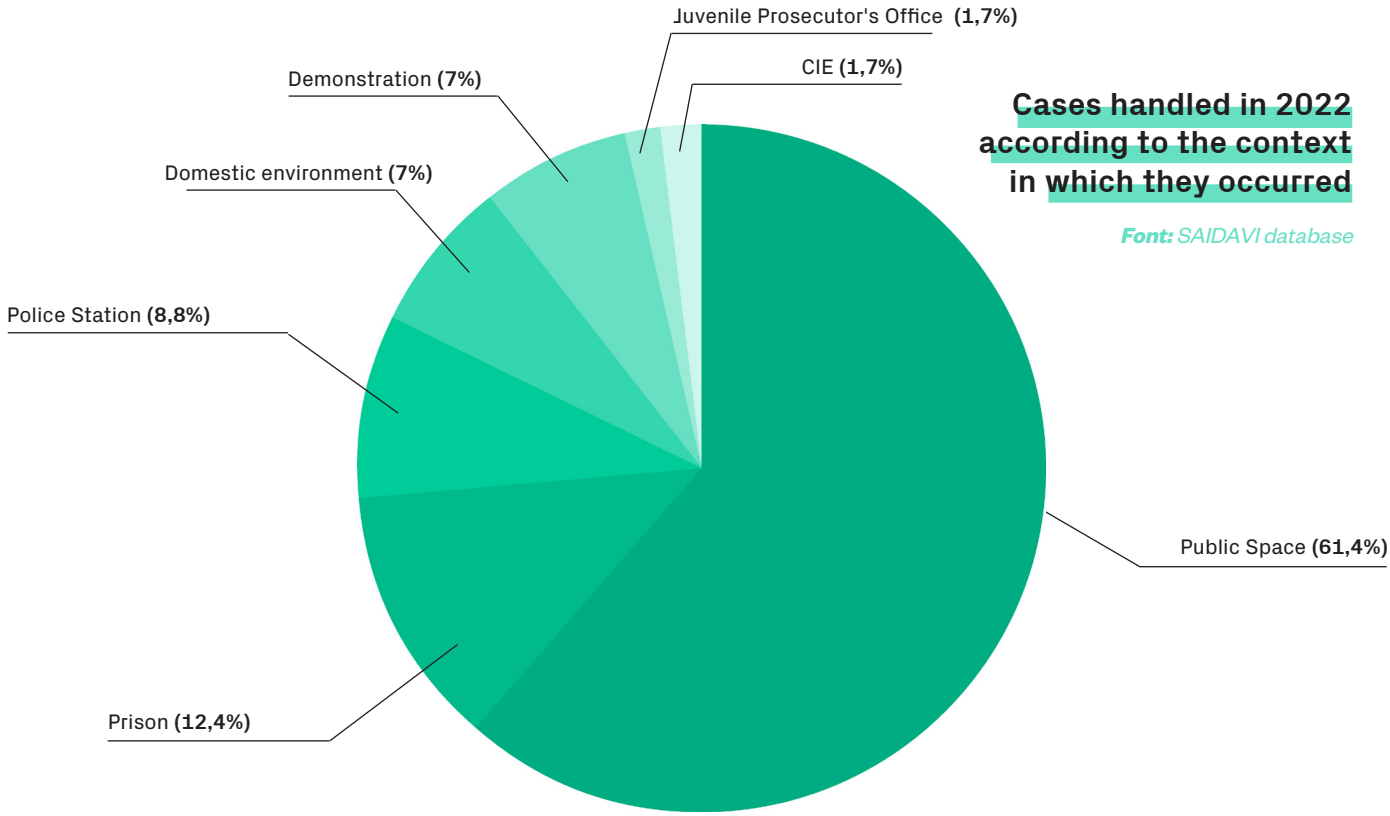
The Service took on legal representation in 6 cases of the 57 that fell within its remit. In addition, one case which came to the attention of the Service in 2021 was also taken on as litigation in 2022. Consequently, **the Service initiated legal action in 7 new cases last year.** Six of these cases relate to instances of institutional violence in public space, three of which relate to racism. The seventh relates to events that occurred in a private residence. These cases came on top of a further fifty-five that remained ongoing from previous years, meaning that, **in 2022, SAIDAVI's lawyers and psychologists handled a total of 62 cases as strategic litigation**. This entailed the carrying out of 400 activities related to legal representation and 205 psychosocial interventions, in addition to the contingent outreach and advocacy work.



In terms of the remaining cases for which the Service did not provide legal representation, legal advice and monitoring were offered, in addition to periodic psychosocial support. The legal advice provided consisted largely of offering procedural guidance, advice in filing legal complaints, appeals and other criminal proceedings, intervention aimed at obtaining evidence (such as requesting and gathering images, witness statements, and other evidence), monitoring case progress, and advising on the obtention of legal aid or providing referral to other organisations which specialise in victim support. In total, 199 legal advisory and monitoring activities were carried out, in addition to 90 psychosocial interventions, which in the main consisted of the provision of counselling and psychosocial guidance sessions, telephone follow-ups, and report writing.

Of the people affected in these 57 cases, **18 were women, 1 was a trans woman, 37 were men, and 1 did not wish to indicate their gender**. In terms of the age of those to whom assistance was provided: **two were under the age of 18** at the time of the events in question; twenty-two, between 18 and 34 years old; eight, between 35 and 64 years old, in addition to a further twenty-five whose age is unknown, since assistance was provided by telephone and this information was not requested, insofar as it was considered irrelevant.

Of the 57 cases dealt with, **35 concerned the conduct of police or private security officers in public spaces;** 7, human rights infringements in prisons; 5, in police stations; 4, in private residences; 4, during protests and demonstrations; 1, in the CIE, and one further case of an incident which occurred in a juvenile court.



Cases handled in 2022 according to the context in which they occurred

Font: *SAIDAVI database*

2.2. Ongoing cases

Over the course of 2022, SAIDAVI intervened in a total of 62 cases. Of these, 57 remained ongoing at the end of the year, with 5 coming to a close over the same period. The 57 cases which remain open can be classified as follows: 26 concern events which occurred in the exercise of the right to freedom of assembly and demonstration; 2, the right to freedom of expression and information; 5, prisons; 6, events which occurred in the Immigration Detention Centre (CIE) in Barcelona; 2, events which occurred during detention at a police station; 13, events which occurred in public space, and 3 in a domestic environment.

Of the cases handled by the Service which remained ongoing at the end of the year, 19 relate to actions taken by Catalonia's regional Mossos d'Esquadra police corps; 21, by officers of the National Police Corps (Policía Nacional); 7, by local police forces (4 of which concern Barcelona's Guàrdia Urbana); 5, by prison officials, and a further 5 relating to actions taken by private security personnel.

It is important to note that **19 of the 57 cases relate to instances of racism**, in terms of explicit comments, conduct by police officers, or the wider context of institutional racism. **This represents 33.33% of cases**. Further consideration of this issue will be made in section 3.1 of this report. Further to the above, 18 of the individuals represented identify as women, 38 as men, and one as a non-binary person.

Three convictions were made in cases involving police and security officers: one officer of the Mossos d'Esquadra, whose sentencing remains pending, and an officer of the Guàrdia Urbana and private security guard, whose respective sentences are currently being served. In addition, 5 officers of the Mossos d'Esquadra and 1 private security guard have had charges brought against them and are awaiting trial. Finally, 131 are under investigation as part of the litigation brought by the service: 31 officers belonging to the Mossos d'Esquadra; 72, to the Policía Nacional; 19, to local police forces (6 of whom belong to the Guàrdia Urbana), in addition to 2 prison officials and 7 private security guards.

Number of officers under investigation in legal cases handled by Irídia in 2022

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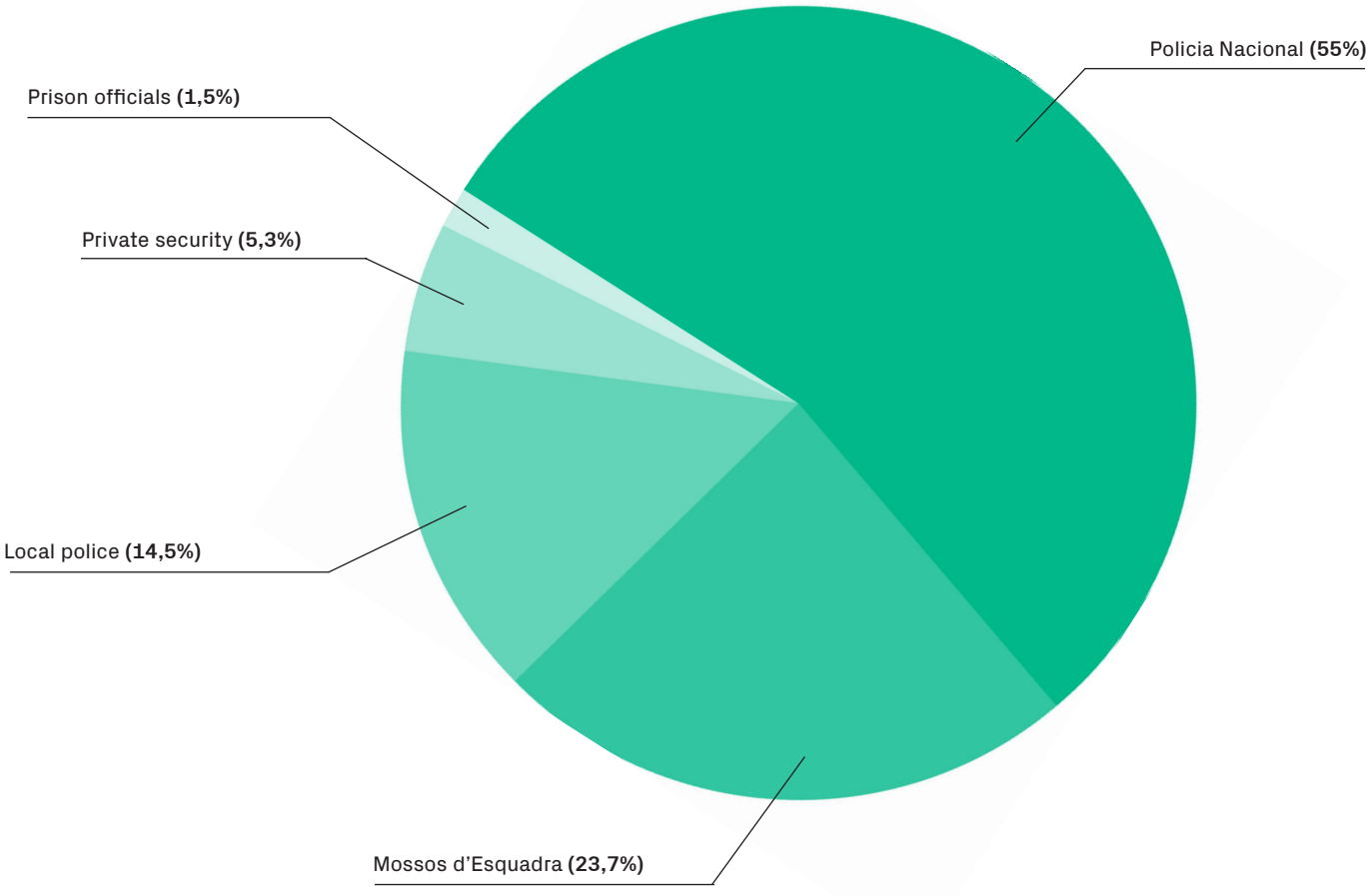


Furthermore, in 6 cases, civil and/or judicial claims for damages were filed against the Government of Catalonia.

The current status of the legal cases taken on by SAIDAVI between 2016 and 2021, and which remained ongoing throughout 2022, is detailed below:

In last year's report on institutional violence (2021), special mention was made of the **lack of oversight of private security providers**. The report highlighted the increasing seriousness of the cases of institutional violence involving such providers, who have been contracted by public authorities to fulfil otherwise public security duties. Notably violent, arbitrary, racist and discriminatory practices, up to and including unlawful detention, were reported.

Of those still ongoing in 2022, the case of F.B. – mentioned in last year's report – stands out. This cases remains under investigation[1]. Initially, the investigating judge rejected the appeal filed by Irídia against the decision to handle F.B.'s case as a minor offence, insofar as this did not align with the claimant's version of events. Nevertheless, on 7 February 2022, the tenth section of the Provincial Court of Barcelona upheld this appeal, concluding that the investigating judge was unjustified in their dismissal of the claimant's account of events, and thus bound to initiate an investigation into the facts for the possible serious offences of threatening behaviour, unlawful detention and degrading treatment, as had been reported.

The two private security guards who – without justification – detained, assaulted and locked F.B. in a room for more than an hour, and subjected her to degrading treatment and racist insults, provided a statement under investigation. F.B. also did so, as the party who brought forward the claim. Although several requests have been made, an expert medical examination by a forensic psychologist for the purposes of determining the injuries and psychosocial impacts caused by the actions of the security guards has yet to be undertaken.

The security guards' defence has focused on criminalising F.B., going so far as to file a total of four appeals before both the investigating judge and the Provincial Court, with the aim that F.B. be called to declare under investigation for the offence of theft, without there being the slightest circumstantial evidence to justify this. Although all such appeals have been dismissed, this strategy has led to a significant revictimisation of the claimant, and has further encumbered the judicial proceedings.

This practice of launching counter-claims is also evident in two other cases of violent conduct by private security guards taken on in 2021. Both cases remain at the preliminary investigative stage, with the security personnel in question having been identified and summoned to give evidence under investigation. Nevertheless, it is especially concerning to note that the courts have chosen to place the claimants under investigation, despite there being no procedural evidence to support such a decision. This stands as just one example of the criminalisation of victims of institutional violence.

1. For more information on the case, see: Irídia, Report on Institutional Violence 2021 (Barcelona, March 2022), 20-21.

A further example is the case of K.L., who was subjected to an assault by private security guards, as detailed further in this report.

In 2022, two key judicial decisions were reached in the fight against institutional violence. These are explored in more detail in section 3.2. of this report. Firstly, the **Constitutional Court upheld an initial appeal filed by Irídia regarding the right to effective judicial protection, and its relation to the right to information and the right not to suffer cruel, inhuman or degrading treatment**. It is the first time that the Constitutional Court has ruled regarding the right to freedom of information following the physical intimidation or assault of a journalist while carrying out their work. This ruling establishes a solid precedent regarding the possible infringements of fundamental rights incurred by courts or tribunals should they fail to investigate such incidents.

Secondly, **the Superior Court of Justice of Catalonia (TSJC)** upheld an appeal against the acquittal of an officer of the Mossos d'Esquadra who struck a protester in the head with a police baton during a rally against the Spanish king's visit to Barcelona in 2018. The TSJC declared the acquittal null and void, concluding that the evaluation of the evidence that the court had carried out to acquit the officer was "objectively erroneous, unreasonable and clearly incomplete", and ordered "a full retrial in a newly-constituted tribunal", since the right to effective judicial protection of the claimant had been infringed.

Also in 2022, the TSJC upheld the conviction of the officer who struck and injured the journalist Jesús Rodríguez Sellés in 2016 while he was covering demonstrations against the eviction of the Banc Expropiat in the Gràcia neighbourhood of Barcelona for the newspaper La Directa. At the time of writing, the sentence is yet to be fully ratified, with the officer's defence having filed an appeal on point of law before the Supreme Court, which is expected to be considered in 2023.

Additionally, 2022 saw the **conclusion of investigations into two of the legal cases taken on by the Service which are now awaiting trial**. The first of these is the case of a young man who was unjustifiably harassed, beaten and detained by a Mossos d'Esquadra officer in public space in November 2020, under the auspices of the enforcement of the curfew in effect at the time. Thanks to a video recorded by a local resident, it has been possible to demonstrate how the statement provided by officers justifying these actions contained false assertions. The assault, in addition to causing psychological harm, resulted in the claimant suffering several physical injuries: wounds to the face resulting from being thrown to the ground, fractures to three teeth, and grazing to their legs and arms.

The investigating judge concluded that there were sufficient grounds to bring the four agents to trial and to dismiss the charges brought against the young man, which for two years had meant he was under investigation for a crime that he did not commit. Irídia, which has acted in the public interest as a third-party litigant in the case, has led accusations against the officers for the offences of causing injury, degrading treatment, unlawful detention and the filing false reporting and charges. **It is one of the few cases in which the Public Prosecutor's Office has assumed a proactive role in bringing charges, having also filed accusations against the officers for the same offences.**

The second case awaiting trial relates to the legal action taken in response to an assault that occurred on May 8, 2022 at the Joanic metro station in Barcelona. K.L, whose public transport ticket was not properly scanned and could therefore not be validated, was confronted by four private security guards. One of them, without allowing K.L to provide their version of events, instructed the claimant to leave the concourse and obtain a new ticket in order to access the metro. When K.L reproached the guard for his behaviour and demanded to know why they were being treated this way, they were cornered, pushed and pinned against a wall with the object of subduing them, in a way which placed them at significant risk of physical harm. In doing so, the security guards made use of excessive and aggressive force, throwing the claimant to the ground and placing all their weight on top of them. This action resulted in a fracture to the claimant's leg that required surgical intervention and has left them with sequelae.

Valentina Lazo

Jordi Borràs

The security guard in question sought to accuse K.L. of assault, but one of the people with them at the time recorded the events on their mobile phone. On 15 December 2022, the investigating court concluded its investigations and agreed to take forward the charges pressed against the security guard, as well as to dismiss the charges against the claimant. Irídia, acting on behalf of the claimant, has presented a written accusation against the security guard – employed by the company Securitas – for the offence of recklessly causing injury, requesting a prison sentence of 3 years and 6 months and compensation for the harm caused. Presentation of accusations by the Public Prosecutor's Office remains pending.

In terms of **litigation concerning racist institutional violence**, of particular note is the case of the assault committed by four officers of the Municipal Police of Sabadell, in public space and at a police station, on 5 May 2021. E.C. was walking their dog in a vacant area near their home when the dog ran off. While trying to retrieve it, a local resident called the police, who sent a canine response vehicle and aggressively insisted that E.C. provide their identification documents. As a result of the police's aggressive approach, E.C. froze and, unable to respond, was assaulted by one of the canine response unit officers and another local police unit officer who had arrived at the scene. E.C. was arrested, first being taken to hospital and then to the local police station. While en route in the police car, they were subjected to a number of racist insults. They were subject to a full, unnecessary and humiliating strip search at the police station, under the pretext of verifying their injuries, and were charged with the offence of refusal to cooperate with police orders.

In turn, E.C. also filed a complaint immediately following the events in question, but the court decided to dismiss this as the accused parties could not be identified. Ultimately, this case was reopened in 2022 following a reformulation of the complaint, filed with the legal support of the Service, to include the offences of degrading treatment, causing injury and unlawful detention. The four police officers were

placed under investigation and called to provide evidence in 2022. Two eyewitnesses were also called to give statements, as was the claimant. The requested forensic medical examination, including evaluation by a forensic psychologist, remains to be carried out. As part of these proceedings, Irídia appeared before the court on 10 June 2022 as a third-party litigant in the public interest, in light of the seriousness of the events that occurred. At the time of writing of this report, although the appropriate motions to the court have been filed, the judge has yet to reach a decision as to whether or not to admit this litigation. This has a bearing on the affected party's right to legal protection in practice, and undermines third-party litigants' scope for action, insofar as they cannot participate in any legal proceedings underway.

In the case brought in response to the actions of the Policía Nacional on 1 October 2017, which continues to be heard by Investigative Court No. 7 Barcelona, efforts were made in 2022 in order to identify the responsible parties and accredit any and all criminal acts which occurred. The three third-party litigants who have brought claims in the public interest – Irídia, Òmnium and the Catalan National Assembly (ANC) – commissioned and presented an expert report to the court, totalling more than 500 pages, in which up to 468 unlawful and/or disproportionate police actions were identified. Based on the information provided in this expert report, the litigants sought that charges be brought against a further 24 police officers, in addition to further charges against 13 of the officers already under investigation. On February 17 2022, the Court issued a decision in which it upheld charges against eleven officers, some already under investigation in the case, and others accused for the first time. This decision was later ratified by the Provincial Court, which extended charges to three further officers. The period of investigation concluded on 28 April 2022, despite requests by the litigants to the judge to extend it, something which – at the time of writing of this report – remains pending decision by the Provincial Court. Earlier this year (2023), the investigating judge reached the significant decision to bring 45 officers of the Policía Nacional to trial. The litigants have filed an appeal in response, considering that some of the officers who have been left out should be placed under investigation as part of the case. It is expected that this matter will be resolved over the course of 2023, leading to the possibility of a provisional motion to the court being drafted, in which the litigants present their version of events, the offences committed, and the sentences sought.

2022 also saw milestones in the judicial investigations into the injuries suffered by Roger Español. Specifically, the Provincial Court ruled that actions by police to disperse crowds on Carrer Sardenya in Barcelona on 1 October 2017, during the course of which the affected party was injured, were to be investigated and prosecuted as part of the same proceedings. The defence had sought to separate the initial action from the moment in which Roger Español was injured. The litigating parties opposed this, considering that it is fundamental that assessment be made not only of the use of rubber bullets, but also the question of whether the actions themselves were proportionate – as well as who was responsible for them being taken – as part of the same judicial proceedings. After years of perseverance, charges were also brought against the immediate hierarchical superior of the firearms officer who shot and wounded Roger Español, and an intermediate commanding officer. At present, five officers have been prosecuted regarding the events in Carrer Sardenya: the head of operations on the ground, two intermediate commanding officers, the firearms officer responsible, and another officer.

In terms of **cases concerning injuries caused by foam bullets**, further information will be provided in the corresponding section (3.4.1). Nevertheless, it is important to highlight the case of the young woman who lost her eye due to the impact of such a projectile during the demonstrations against the imprisonment of the musician Pablo Hasél. In 2022, the Provincial Court upheld the appeal filed by Irídia, in which it requested that the relevant hierarchical superior be summoned to testify under investigation and not as a witness, as had been declared at the outset by the investigating judge. Ultimately, the commanding officer in question provided evidence under investigation last June. The responsibility of hierarchical superiors with respect to the actions of their subordinates, and their duty to exercise oversight, must be taken into account as relevant factors. In addition, a report prepared by an expert group, the Omega Research Foundation, was commissioned and presented to the court. This report analysed whether the protocols governing the use of foam firearms by the Mossos d'Esquadra comply with international human rights standards, and whether the controls placed on the most harmful of these projectiles, the SIR-X, are in accordance with the manufacturer's instructions. The report concluded that a number of the protocols are not aligned with international human rights law, and that there are obvious contradictions between the manufacturer's recommendations and the controls set out in Mossos d'Esquadra protocols.

Further information on **cases relating to prisons and CIEs** will be provided in the corresponding sections which follow in this report, and which deal with rights infringements in detention and penitentiary centres.

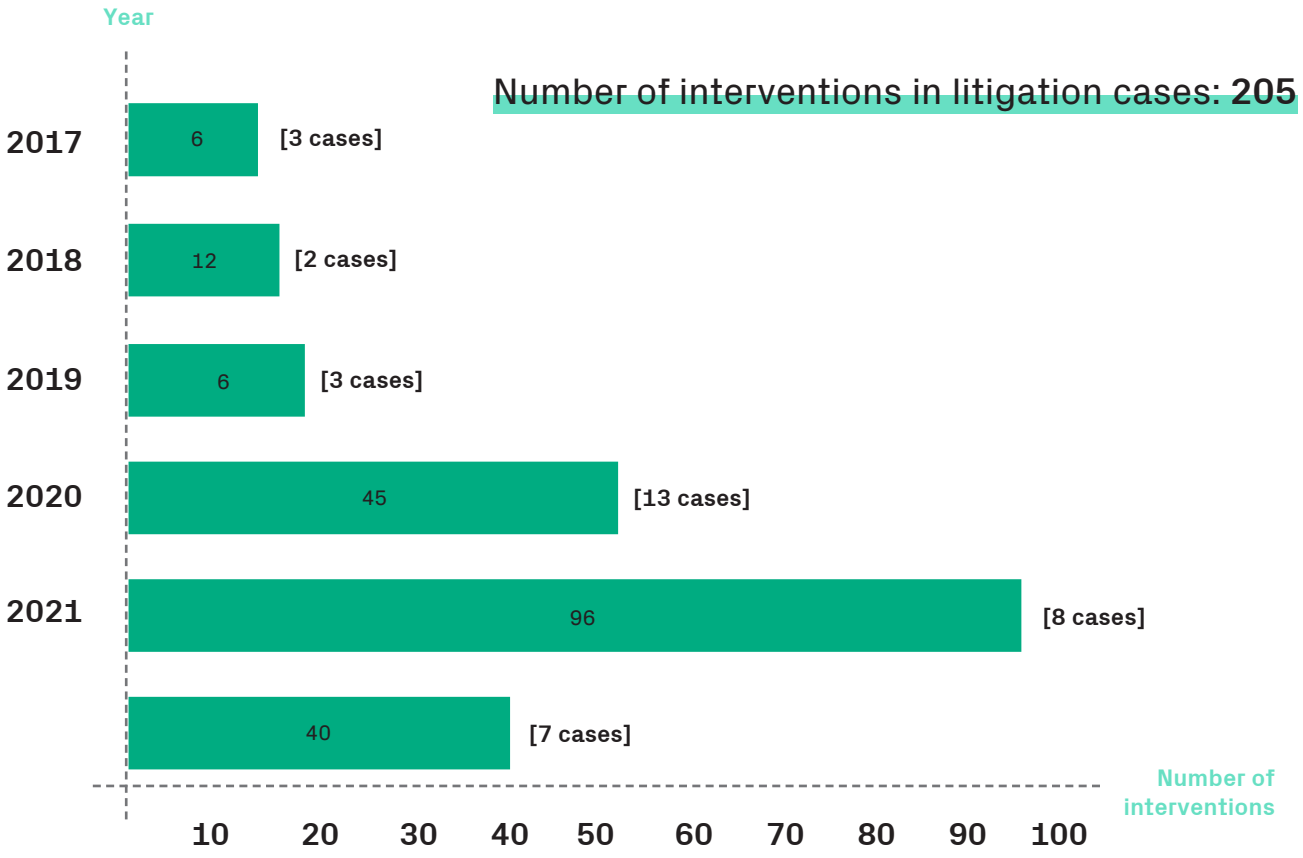
Lastly, over the course of 2022, **5 cases of litigation were brought to a close**: two as a result of the personal circumstances of those affected; a third, which related to events which took place in a prison, because the court did not consider the version of events provided by the detainee as sufficiently credible, and a fourth – which related to events which took place during a protest – and a fifth, which occurred in public space, due to the impossibility of identifying the officer allegedly responsible for the circumstances which prompted legal action. As highlighted in the 2021 report on institutional violence, **cases relating to protest and public space are, in the main, characterised by the difficulty or impossibility of identifying those responsible**. Consequently, such cases are often dismissed, under the consideration that there is no evidence of any criminal conduct.

2.3. Psychosocial impacts of institutional violence in cases handled by the Service

In 2022, the SAIDAVI psychosocial team provided assistance on 295 occasions to a total of 49 people. This assistance consisted of individual accompaniment sessions (which represent the vast majority of the action undertaken), supervision of cases, psycho-legal visits, drafting of psychological evaluation reports, and accompaniment in court and at public events. Of the overall total, assistance was provided on 205 occasions in relation to litigation, and on 90 to provide counselling and follow-up. The Service has seen a progressive increase in the psychosocial support it provides year after year, an indicator of the significance of the psychosocial effects of institutional violence.

The graph below shows the cases – organised according to the year in which they were first taken on – in which psychosocial assistance and monitoring were required throughout 2022. It is important to note that the bulk of assistance corresponds to cases from 2021, indicating that psychosocial support to affected parties is by its nature a long-term undertaking, regularly lasting between one and two years, and even longer on some occasions. This is testament to the significant impact of the psychosocial effects in such cases, and the fact that these require specialised and prolonged attention.

Psychosocial support provided in 2022 in cases of strategic litigation, depending on the year in which the case was taken on



It is also worth highlighting the creation, in 2022, of a mutual support group for people affected by institutional violence whose cases have been handled by Irídia. The objective of this group is to provide meeting spaces that enable those affected to come together to fight against institutional violence, as well as to share experiences and strategies for collectively addressing the consequences of this violence. Over the course of the year, three meetings chaired by two psychologists from the team were held, in order to set up and subsequently consolidate the group.

A working group emerged from these encounters, with the aim of preparing for an appearance before the Examining Committee on Policing of the Parliament of Catalonia in July (for further information, see Chapter 4). The person entrusted with bringing the voice of those affected before parliament was Jordi Salvañá, who was struck several times with a baton around his vital organs by Mossos d'Esquadra officers in October 2019, following demonstrations against the sentencing of Catalan political leaders[2]. Ester Quintana, vice president of the organisation and member of the collective Stop Bales de Goma y Ojo con tu Ojo – and who also forms part of the support group – participated in the aforementioned Committee on behalf of those affected by the use of kinetic energy impact projectiles.

The psychosocial care offered by the Service comprehensively addresses lived individual experiences, intervening on a personal, family and community scale. The professional team can attest to the following psychosocial effects and impacts, grouped into 4 blocks: **i)** those which relate to the nature of events, events of high emotional impact; **ii)** those which relate to the nature of the type of violence suffered and the type of aggressor (institutional violence); **iii)** those which relate to judicial procedure and the lack of recognition of institutional violence by the powers that be, and **iv)** effects on next of kin and wider social effects. It should be noted that these various and varying effects are interconnected, and that this division serves merely to give the appropriate weight to and understand the specificities of the full range of psychosocial consequences of institutional violence. Of course, it is also important to highlight other secondary effects that arise as a consequence of the violence suffered, such as those affecting people's working lives or legal residency status in the country.

In the first instance, **effects related to the event itself** tend to manifest shortly after suffering such an episode. They are a consequence of the high emotional impact of the event. **The predominant psychological symptoms are acute stress, during the first month, and post-traumatic stress where this continues over a more prolonged period of time**. The main manifestations of acute and post-traumatic stress are intrusive thoughts, experiential avoidance, problems concentrating, mood swings, and changes in alertness and responsiveness.

These effects, to a greater or lesser degree of severity, have been noted in a significant number of the cases which the Service has dealt with. Diagnoses of Acute Stress Disorder and Post-Traumatic Stress Disorder are particularly serious and disabling for the individual, and are often aggravated by the lack of attention paid to them when cases of institutional violence are dealt with, on top of the deliberate lack of attention given to this type of violence itself. SAIDAVI's psychosocial team uses the Inventory of Post-Traumatic Stress (PCL-5, Spanish language version) for the screening and detection of acute stress and post-traumatic stress. This is composed of 17 questions which provide a total score, and 3 further scores broken down by type of symptoms.

2. Jordi Salvañá (Centre Irídia). "Compareixença de Jordi Salvañá, afectat per violència policial, al Parlament". Youtube video (source: Canal Parlament) 36:48. Published 22 June 22 2022. https://www.youtube.com/watch?v=XLnlfilWxyQ].

Further to these effects are those related to the nature of the violence suffered, and the causative agent. These are related to the role of authority figures in causing such violence, and the psychosocial consequences this has. Above all, they are related to the lack of recognition and culture of impunity that characterise how the authorities continue to deal with such cases.The main effects identified are:

- Reduced sense of self-worth: the affected person is hindered by the damage caused to their self-esteem and self-conception as a subject deserving of respect and protection. This is closely linked to feelings of helplessness.
- Perceived lack of safety when out in public, due to fear of the presence of law enforcement agents.
- Rupture of belief in fundamental concepts such as justice and innate human goodness, among others.
- Avoidant behaviour that manifests itself in experiential avoidance, inability to process emotions, and loss of trust in others.
- Harm to self-esteem, self-image and sense of self-worth.
- Reduced ability for future planning in a variety of areas of the person's life.
- Inability to operate: the violence suffered, and everything related to it, becomes the centre of the person's day-to-day life.
- Internalisation of fear.

Hereafter follow the **effects related to the judicial process and the lack of acknowledgement of the existence of institutional violence by the authorities**. These effects emerge in response to the culture of impunity which surrounds this type of violence, and which is endorsed – tacitly or otherwise – by the authorities and authority figures involved in judicial proceedings. This sense of impunity paves the way for revictimisation during proceedings or when appearing in-person at the request of the authorities.

On top of the suffering caused by the violence itself, such impunity gravely undermines a whole host of beliefs and values, and in turn destabilises social conduct. In the long run, it results in the chronification of the psychosocial effects of human rights infringements, hinders survivors' coping mechanisms, and inhibits the processing of grief and memory that is needed to recover from the initial damage done. It also causes sufferers to doubt themselves, and to oscillate between regretting having taken legal action and longing to see justice be done. On a social and community level, it undermines the person's ability to trust the authority figures and bodies involved in delivering justice.

Finally, **situations of institutional violence affect not only the person who has directly suffered it, but also those close to them**. Friends and family alike are affected by the suffering caused by the damage done to a loved one, as well as that which arises during legal proceedings. As such, and given the challenges in fully understanding institutional violence, it is essential that there is awareness of the changes in outward perception of those close to the person immediately affected. The arbitrariness of police conduct causes certain beliefs to be broken and feelings of distrust to appear.

SAIDAVI is also working to draw attention to the impacts described above as they arise throughout the judicial process, to accredit psychological effects and/or harm, and to contribute to ending impunity for the suffering caused by this type of violence. This is the motivating factor for the preparation of psychological assessment reports, in which the impacts detected and any psychosocial assistance provided are recorded. 2022 saw the preparation of 12 such reports, produced in a range of judicial proceedings. In addition to these reports, accompaniment and monitoring of medical forensic examinations were carried out in order to ensure the effective recording of any psychosocial effects, as well as to prevent these examinations from contributing to revictimisation.

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3. Infringements of rights

In the course of providing the psycho-legal support offered by the Service for Attention and Reporting in Situations of Institutional Violence (SAIDAVI), every year we come across multiple situations of rights infringements by a variety of public bodies, not only as these relate to instances of institutional violence itself, but also to subsequent efforts to bring these cases to justice. As previously mentioned, this year's report places a special emphasis on **racist discrimination, a type of discrimination that, unfortunately, remains prominent in the Catalan criminal justice system, and requires that urgent measures are taken to eradicate it**.

The existence of social, structural and institutional racism is not exclusive to the national criminal justice system in Spain. Nevertheless, while the impact of racism on the criminal justice system has been more fully analysed in other countries, **it is yet to be addressed in sufficient depth** here and, therefore, the measures taken to address existing discriminatory behaviour are not enough on their own.

It is important to note that, in accordance with current regulations on data protection, no information regarding ethnic-racial profile is gathered by the criminal justice system. **Accessible data records only an individual's place of birth and their nationality**, something which provides little reflection of the diversity of society, insofar as it fails to offer statistical recognition of non-white racialised Spanish nationals born in the country, leading to subsequent challenges in data analysis.

Where institutional violence may be in some way racially motivated, this lack of comprehensive data gathering is keenly felt. Such violence manifests in many ways and – although the cases that SAIDAVI deals with are only those involving clear and palpable violence – if we are to understand institutional violence in a broader context, it is necessary to highlight other situations that reflect existing discrimination against non-white racialised people.

One such example is police selectivity in ethnic-racial profiling, something which various groups and organisations have drawn attention to. One of these is **SOS Racisme Catalunya, which has repeatedly highlighted the over-representation of racialised people and/or people without Spanish nationality in police stop-and-searches**. According to their 2018 report "*L'aparença no és motiu. Identificacions policials per perfil ètnic a Catalunya*" – published as part of the *Pareu de parar-me* (Stop Stopping Me) campaign – official data shows that **non-Spanish nationals are stopped and searched in public spaces seven times more often than Spanish nationals.**

No official data exists in terms of the number of people arrested, although an over-representation of non-Spanish nationals in any such statistics likely exists. In terms of detention awaiting trial, **non-Spanish nationals are twice as likely to be held on remand as Spanish nationals**. This is one of the factors which may explain why in Catalonia, according to the latest data published by the regional Ministry of Justice, **non-nationals account for more than 60% of the total number of people in preventive custody**[3].

This is just the tip of the iceberg of a complex and under-investigated phenomenon. Another such example of institutional violence is that the only segment of the population subject to detention and imprisonment for non-criminal infractions are migrants whose legal residency status is yet to be resolved, and who can, as a consequence, be interned in an Immigration Detention Centre (CIE) and subsequently deported.

As this report focuses on the rights infringements identified by SAIDAVI, the following section covers cases of violence and institutional racism by police officers and private security guards employed to provide public security services. The specific rights infringements detected are detailed thereafter, according to the authority or body responsible.

3.1. Racism in law enforcement and public security

Since the creation of SAIDAVI in 2016, legal representation has been provided in a total of 96 cases relating to rights infringements in a variety of situations: public space; protests; police stations; prisons; the Immigration Detention Centre (CIE) located in Barcelona's Zona Franca, and police interventions in places of residence. **45.8% of these cases concern people born outside of Spain**. In terms of the cases which occurred in public space, this percentage rises to 58.3%, that is, 14 of a total of 24 such cases.

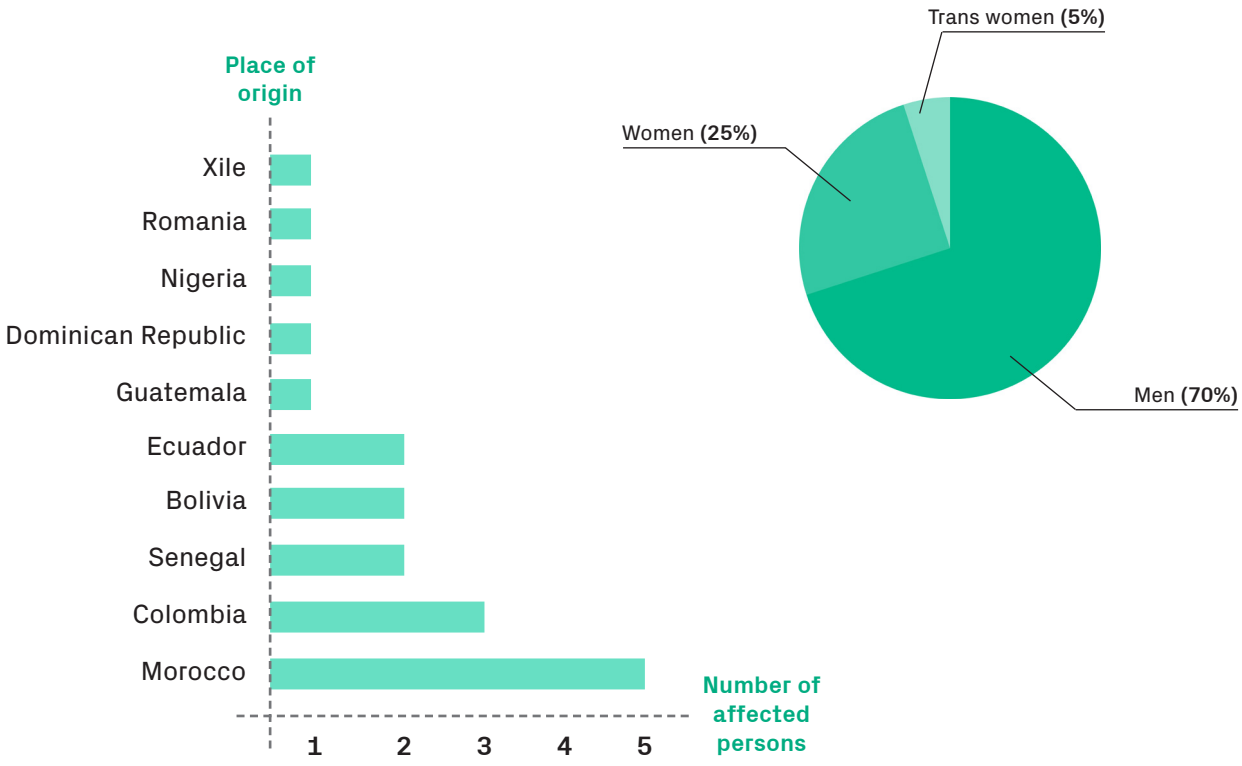
Although the profile of the person affected is not on its own sufficient grounds to determine that they have been subject to discrimination, it is a relevant factor in being able to identify any such discrimination. Bearing this in mind, the gender and origin of those affected are presented herein. Further to this, a qualitative analysis will be made of the forms of institutional violence in cases where the SAIDAVI team has identified racist bias in the conduct of the police or private security personnel.

3. Ministry of Home Affairs, "Evolució de la població a presons. Últim dia de cada mes", undated. Available at: https://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/1_pob.html

The data presented herein relates to cases of institutional violence perpetrated by police officers or private security personnel against individuals born outside of Spain and which occurred in public spaces, domestic spaces and police stations.**These represent a total of 19 cases, with 20 people affected** (one case concerns a couple). This qualitative analysis does not address the cases of those provided assistance in prisons and CIEs, given that the dynamics of institutional racist violence in these spaces, while related to those which take place in public space, require a differentiated and much broader analysis than the scope this section permits. In terms of the cases relating to events during protests, the majority handled by Irídia occurred in relation to the 2017 Catalan independence referendum. Given the particularity of these cases, any analysis could result in the skewing of the conclusions drawn.

Of the total 19 cases indicated above, the intervening law enforcement or security agencies were: the Mossos d'Esquadra (8 cases); the Barcelona Guàrdia Urbana (6 cases); private security personnel (2 cases); the Municipal Police of Sabadell (1 case); the Local Police of Cornellà (1 case), and the Barcelona Port Authority Police (1 case).

In terms of the background of those affected, their gender and place of origin are indicated below. It is also important to mention that three of these people were sex workers who were working or leaving work at the time of the events.



Beyond the presentation of this data, the main objective of the report is to **qualitatively demonstrate a complex situation in which urgent measures are needed, particularly to deal with racist discrimination in the actions of law enforcement and security professionals**.

In the following cases, racism in police conduct is identified principally on the basis of the perception of those who have suffered institutional violence at the hands of officers or private security personnel. In many of these situations, those affected feel a strong sense of injustice, insofar as they believe officers would have acted differently had they been dealing with people who are identified as white.

Additional elements that have been taken as determining factors and that appear in a list of indicators of prejudice or bias proposed by the Organisation for Security and Cooperation in Europe (OSCE) for the prosecution of aggravated offences on grounds of discrimination are also included[4] . per a la persecució dels delictes motivats per algun tipus de discriminació. These indicators include:

- The perception of the victim and/or witnesses.
- The victim's belonging to an ethnic, racial etc. minority group.
- Discriminatory remarks or comments.
- The apparent gratuitous nature of events, particularly if they are violent and the victim belongs to a minority group

Another indicator included in this document is the brutality of the attack:

"In the case of a violent attack that has no other obvious motive, and where there is a racial or other group difference between the victim and the perpetrator, the brutality of the crime is a strong indicator that the crime might have been motivated by bias." [5]

In at least three of the cases handled by SAIDAVI, racial or ethnic discrimination has been accompanied by discrimination on the basis of the person's identity, gender expression or sexual orientation. In one of these cases, the person affected was seeking asylum for political persecution in their country of origin. In another, the individual held refugee status as a result of the persecution they suffered as an LGBTI person in their country of origin.

While the majority of cases discussed herein relate to institutional violence in public spaces, reference is made to events in prisons or at the CIE in Barcelona. That notwithstanding, the matter of racist conduct in prisons and detention centres requires a deeper analysis, insofar as these are spaces which uphold structural racism and which provide a framework for such conduct, and which are subject to legislation which per se establishes discrimination on the basis of origin (e.g. the Immigration Act).

4. OSCE, "Prosecuting Hate Crimes: A Practical Guide", 2014. Available at: https://www.inclusion.gob.es/oberaxe/ficheros/documentos/ProsecutingHateCrimes.pdf
5. Ibid.

3.1.1. Racist remarks and insults

"So you're Bolivian...we're going to get scabies"; "You've come here to steal"; "Go home idiot, you're a dumb fucking Arab"; "Latin King, Salvatruchas, you've come to steal, Chilean thief". These are some of the racist insults that those provided assistance by SAIDAVI have reported being directed at them by police officers in public spaces.

These comments are some of the most flagrant examples of the intrinsic racism in the conduct of law enforcement officials and security professionals that, in the cases dealt with by the Service, are the most visible face of the wholly unjustifiable use of force against non-white racialised people.

> On the morning of 24 October, Mr. I.B. was leaving the Mambo nightclub in Cornellà de Llobregat with a friend. They were on their way to another nightclub in the same town when a car belonging to the local police appeared, from which four officers alighted and asked to see their identification. When they asked the reason why they were being stopped, one of the officers answered them with the phrase: "*Arab bastard, you aren't from around here, are you? Get fucking lost or I'll kick your head in.*" He then struck I.B. in the mouth, causing him to lose a tooth, among other injuries.
>
> In the face of this physical and verbal assault perpetrated by the unidentified officer, I.B. repeatedly began to ask what they were doing, and why they were beating him as he attempted to record the events. The same officer who had struck him then took his phone, obeying the orders of another officer present. All four officers present then continued to strike him while proffering racist insults. While I.B. was on the ground, the agent who gave the order to confiscate his phone took it and deleted the contents of the video he had managed to record. However, he was later able to retrieve it from the 'recycle bin' of his device. While all this was going on, two police officers who had arrived at the scene on foot, together with the fourth officer who had alighted the police vehicle, restrained I.B. to prevent him from recording the assault on his phone.
>
> When the officers finally left, leaving I.B. lying on the ground bleeding, he called the emergency services to request the presence of the Mossos d'Esquadra and an ambulance, given that he was unable to get to a hospital to receive medical attention on his own.

In two of the five ongoing cases relating to events which occurred in prisons, those affected also report having been the target of comments such as: "*fucking Arab, your prayers won't save you*" or "*ask your God to save you*". This again serves to highlight the structural nature of racism, something not exclusive to a limited number of officers, but which is engrained in the various institutions of the criminal justice system.

3.1.2. Questioning of testimony and criminalisation based on ethno-racial profiling

> On the morning of 30 August, E.V. was sitting on the Rambla in Barcelona when he was approached by two individuals who asked him for a cigarette. When he answered that he did not have one, one of them struck him in the chest, enabling his accomplice to take his phone, after which they ran off. E.V. pursued him and, a few streets further away, was able to catch the thief and retrieve his phone. At that precise moment four officers of the Guàrdia Urbana arrived. E.V. was relieved to see them, believing that they were there to help. However, the officers brandished their batons and, without saying anything nor heeding E.V.'s repeated insistence that "*it's my mobile, they were trying to rob me*" – nor trying to establish what had happened – they struck E.V. multiple times forcibly and brutally on the left thigh and forearm, causing bruising to his leg and a fracture of the ulna in his left arm. Subsequently, at least two officers threw E.V. to the ground violently and pressed their knees against E.V.'s back, while a third officer confiscated his recently-recovered mobile phone. E.V. repeatedly and clearly told the officers that the phone was his, and that it had just been taken from him, but at no time did the police pay heed to his version of events. E.V. asserts that his identity as a non-white racialised individual was the decisive factor in the police's disproportionate and unjustified conduct, both in terms of the immediate brutality of the assault and the subsequent doubt cast on his version of events. He believes that this would likely not have occurred had a person of another ethnic-racial identity reported the same theft.

Two key elements of the violence identified in the cases handled by the service are the **lack of acknowledgement or questioning of the veracity of the information given by the person affected** and the **association of this person with criminal behaviour based on their ethnic-racial profile**.

Regarding the first of these elements, and in addition to the cases previously discussed, is the case of the private security personnel who, aboard public transport, held and handcuffed a woman in front of her young son after she provided a non-Spanish passport as identification. The security guards had questioned the veracity of the address she provided them with.

In relation to the second element, in at least four of the cases discussed herein, the actions of law enforcement officials transpired following the officers' connecting the person affected to alleged criminal conduct based on their ethnic-racial profile. In three of these cases, those affected were born in Morocco while, in the fourth, the affected person had been born in Colombia.

In the section on rights infringements committed in public space which follows in this report, one manifestation of this – the discretionary identification checks to which non-white, racialised young people who use bicycles and scooters are subjected by police – is explored in greater depth. As will be explained, officers claim to have a legal basis for doing so, insofar as the law permits stopping and requiring identification documents from an individual when there are "indications that [the person] may have participated in the commission of an offence". To date, officers are not required to register what these indications may be, leaving the door open to situations of discrimination.

3.1.3. Disproportionate use of force

In several of the cases handled by the Service and for which legal action has been taken against police forces and officers for the offences of causing injury or degrading treatment, **the use of force exercised by officers is clearly disproportionate**. These actions are disproportionate either because there is no justification for initial police intervention – and, therefore, any subsequent action is in and of itself disproportionate – or because, while intervention by officers may ostensibly be justified in the first instance, recourse is made to excessive and unnecessary force.

Bearing in mind the criteria presented above, these cases attest to gratuitous use of force which, together with the profile of the individuals affected or the proferring of racist comments, lead to the conclusion that there is manifest discriminatory bias in police conduct.

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3.1.4. Racism and impunity

The possible **underreporting of cases of police racism** arising from reticence on the part of the individual affected and where they are an immigrant – particularly one who has recently arrived in the country and perceives a risk in drawing attention to such racism – is of particular concern. This can be related to a lack of documented legal resident status, a reduced support network or a lack of knowledge of available resources and reporting channels.

Between May and June 2022, SAIDAVI dealt with four cases of young men born in Morocco who had been victims of police brutality, of whom only one wished to file a criminal complaint, despite all having medical reports proving their injuries. This may be motivated by distrust in the police and the judicial system, fear that filing a complaint may lead to a deportation order, or fear of reprisals by the officers reported. Many of those without documented legal resident status, or who are in the process of obtaining it, are also afraid that filing a complaint against law enforcement officers may impede this process.

Beyond this, **the systematic criminalisation of people of particular ethnic-racial profiles, and the prejudice to which they are subjected, lead to reduced belief in and greater questioning of any complaints they bring forward**. Consequently, **the little credit often given to the version of events reported by the victim supposes a further obstacle in ending impunity in cases of police racism, since it is this version of events which is key to being able to identify such misconduct**. In addition, the fact these events often occur in public space and in the presence of members of the public serve as a reminder that, in the public imagination, people from a certain ethnic-racial background may be considered "potentially dangerous".

Ultimately, impunity is reinforced when police officers **criminalise people who call into question or take legal action against police conduct which they consider to be racist**. These people are often punished or even assaulted precisely for this reason. An example of this is the penalty notice served against one woman towards the end of 2022 for, as indicated in the police report: "expressing the following accusation against the acting officers: *Racists*".

3.1.5. Psychosocial impacts of police racism

In cases where police conduct is tinged with racist bias, **the psychosocial impacts of any assault are compounded by the degrading treatment suffered when officers subject the person to racist insults**. These comments are a blow to the self-esteem and self-image of those affected, and **serve to undermine their perception of themselves as equal citizens**. Humiliating treatment often causes those who have suffered institutional violence to doubt their own capabilities to go on with their daily lives. Those affected say they feel like second-class citizens, and firmly believe that identifiably white, Spanish-born nationals would not be subjected to the same disrespect or violence.

In public space, stop-and-searches by police based on ethnic-racial profiling are commonplace. **The person is not stopped for what they do** – that is, on account of suspicion of having committed or holding information about a criminal or civil offence – **but for who they are**. Mass stop-and-searches based on ethnic-racial profiling are carried out routinely with carte blanche, and with the consequence that **public spaces become a threatening place for non-white racialised people and/or immigrants**, who see their social spaces, movements and, therefore, their daily lives restricted. The Service **has found that apprehension around these interventions by police is especially felt by non-white racialised young men**.

Those who have received assistance from the Service attest to feeling permanently under suspicion, causing them to self-censor and alter their behaviour, avoiding spaces they believe to be high-risk on the belief that – in certain circumstances – their actions may be misinterpreted due to prejudice (for example, opening a bag in a shop). The distrust, fear and insecurity they feel in public spaces also affects their social life. This ongoing tension leads many to feel anguish and despair, triggering avoidant behaviours and a degree of social isolation.

Through the psychosocial support offered by SAIDAVI, it has been possible to observe how repeated experiences of racism can end up giving rise to what is known as **"race-based traumatic stress"**[6], characterised by the following symptoms:

- Constantly thinking about racist verbal/physical abuse and re-experiencing the traumatic event.
- Anxiety and hypervigilance.
- Chronic stress.
- A general sense of vulnerability.
- Physical symptoms such as headaches, stomach or back pain.
- Difficulties with memory and concentration.
- Hypersomnia or insomnia.
- Avoidance of social interaction.
- Feelings of guilt.
- Self-esteem issues.

6. Carter and Associates. "Race based traumatic stress". Robert T. Carter & Associates (10 May 10 2022). Available online at: https://roberttcarterandassociates.com/race-based-traumatic-stress/

The impacts of race-based trauma are a consequence of the emotional pain that a person feels following situations such as racial harassment or abuse, discrimination and violence. How the individual affected by racism handles their experience depends on many factors related to their previous experiences, health, and beliefs. As such, an individual whose experience of racism is sudden and uncontrollable, and extremely negative and emotionally very painful, may present signs and symptoms associated with race-based stress and trauma.

Those who have suffered institutional violence **not only need to recover from physical injuries**, but are also obliged **to adapt back into life following the emotional change they have undergone** (fear, distrust, change in beliefs about the goodness of the world, etc.). **It is this part that is often the most difficult**.

In cases where a person without documented legal resident status has been the victim of police brutality, the aforementioned impacts are compounded by the anguish posed by the tangled bureaucratic web they face. Added to the fact that the individual may be subject to criminal or civil penalties, they may also encounter a great deal of difficulty in their efforts to obtain residency status. This is a flagrant example of discrimination which further aggravates any feelings of injustice and helplessness, as well as feelings of loss of control over one's life, long-term goals and future prospects.

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Such vulnerability is especially felt by those interned in CIEs. Degrading treatment, physical abuse and racist insults have a profound impact on the self-esteem and self-concept of those who are deprived of their liberty. The emotional effects on those who suffer such degrading treatment are devastating: their worldview changes, and they show greater distrust towards others, a loss of belief in the goodness of humankind, and a sense of being subject to surveillance, vigilance and persecution. In addition, their self-esteem and self-belief diminish, they lose strength and begin to doubt their own abilities and their own worth.

Those interned in CIEs are subject to a highly stressful experience in which, overnight, their life plans – and the ties they have created in their host country – **can be broken by deportation**. In this context, incidents of racism and mistreatment at the hands of the police, as well as a lack of medical assistance (including in the field of mental health) are of the utmost gravity, given the additional suffering they cause to detainees. In detention, human emotions are often tested to the limit, which can lead – as has been observed in the provision of psychosocial support by the Service – to very serious consequences (self-harm and attempted suicide).

3.2. Failure to comply with the duty to investigate and difficulty in achieving justice

The right to effective judicial protection is a fundamental right provided for in Article 24.1 of the Spanish Constitution and Article 6 of the European Convention on Human Rights (ECHR). It covers the universal right to a fair, public and timely trial by an independent and impartial tribunal as established by law.

The jurisprudence of the Spanish Constitutional Court and the international courts is unanimous in that this right can only be considered as being meaningfully upheld if allegations are met with a full and thorough judicial investigation of the facts. Constitutional doctrine regarding the right to effective judicial protection (Article 24.1 of the Spanish Constitution) also covers proper procedure concerning the prohibition of torture and inhuman and degrading treatment (Article 15). In other words, the already-existing duty of the state to ensure a full and thorough investigation is all the more relevant where allegations of torture, inhuman or degrading treatment, or the causing of physical harm and mistreatment by police officers or other public officials are concerned. Failure to comply with this obligation through failing to investigate allegations of such offences may constitute per se a violation of the prohibition of torture.

The European Court of Human Rights (ECtHR) provides abundant doctrine on the need for the judiciary to investigate, exhausting the reasonable means at its disposal, cases in which there are indications of ill-treatment in police custody. In these cases, the right to the physical wellbeing contained in Article 15 of the Spanish Constitution necessitates that inquiries continue to be made where there is reasonable suspicion of the commission of an offence which can be clarified by means of investigative activity. The ECtHR has often reiterated the obligations of states party to the ECHR to fully investigate cases of complaints of torture or ill-treatment arising from the judicial obligations which Article 3 of the ECHR presupposes. Indeed, the ECtHR has ruled against Spain thirteen times for the violation of Article 3 of the ECHR[7]. The core issue in each of these cases is very similar: the infringement of the judicial obligations arising from Article 3 of the ECHR, in not having carried out a full official investigation into the matters reported. In each case, it was found that the national courts did not exhaust the avenues of inquiry available to them, and that the cases were dismissed without having fully carried out the investigations requested by those involved.

Further to this, the Constitutional Court (TC) offers comprehensive constitutional jurisprudence on the requirements relating to stay or dismissal of criminal charges initiated following reporting of torture or inhuman or degrading treatment[8]. Constitutional jurisprudence holds that the impact on the right to effective judicial protection, in relation to the right not to be subjected to inhuman or degrading treatment outlined in Article 15 of the Spanish Constitution, implies not only that judicial decisions to dismiss and file criminal charges must be reasoned and justified, but also that they must be made in accordance with the absolute prohibition of torture.

In terms of the cases in which SAIDAVI has provided legal representation, the infringement of the right to effective judicial protection has been identified at different stages of the judicial process – as well as in other, extra-judicial official proceedings – as a result of a failure to carry out efficient and sufficient investigations. Despite the especially serious nature of the litigation taken on by the Service, the following has occurred in 91% of cases: **i)** the court or tribunal has not ensured a thorough investigation of the alleged offences; **ii)** the Public Prosecutor's Office has not taken an active role in encouraging such investigations, or **iii)** the police forces have not provided information which was or ought to have been in possession, for the purposes of clarifying the facts of the case and identify the officers or employees responsible. The infringement of the right to effective judicial protection, and of the duty of the state to investigate claims of torture and cruel, inhuman or degrading treatment or punishment by state security forces and agents, may herein be inferred.

7. The first of these convictions came on 2 November 2004 in the Martínez Sala et al. v. Spain case, followed by: Irribaren Pinillos v. Spain, 8 January 2009; Sant Argimiro Isasa v. Spain, 28 December 2010; Beristain Ukar v. Spain, 8 March 2011; B.S. v. Spain, 24 July 2012; Otamendi Egiguren v. Spain, 16 October 2012; Etxebarria Caballero v. Spain, 7 October 2014; Ataun Vermell v. Spain, 7 October 2014; Arrabatiel Garcindia v. Spain, 5 May 2015; Beortegui Martínez v. Spain, 31 May 2016; Portuena and Sarasola Yarbalz v. Spain, 13 February 2018; González Eyota v. Spain, 19 January 2021; López v. Spain, 9 March 2021.

8. STC 224/2007, 22 October; STC 34/2008, 25 February, and more recently, judgements issued by the Constitutional Court in 2022, in which it upheld the appeal filed by those who had reported mistreatment (SSTC 12/2022, 7 February; 13/2022, 7 February, and 34/2022, 7 March).

Two key judgements reached in 2022 highlight the difficulties faced when bringing legal action in complaints of ill-treatment and torture:

1) The first example is the decision by the Constitutional Court to uphold the appeal filed by claimants in the case of a photojournalist who was injured by a foam projectile in the protests that took place in front of the Ministry of Home Affairs in October 2019. In March 2021, the investigating judge had decided to dismiss the charges, a decision ratified in subsequent appeal hearings. However, finally, on 10 October 2022, the Constitutional Court upheld the allegations made in an appeal of last resort. **The Constitutional Court upheld the claim of infringement of the right to effective judicial protection, the right to freedom of information and the right to physical wellbeing, the prohibition of torture and other ill-treatment, and the corresponding obligation to investigate any allegations**. This is to say that, 3 years after the events, and after the lodging of appeals at every possible level, **the investigating judge was obliged to reopen the case and initiate a full and thorough investigation**. In this case, the initial decision to dismiss charges arose primarily as a result of the Mossos d'Esquadra having provided a report to the trial which stated that, at the place and time of the events in question, no foam projectile had been fired. This statement, in a police report – despite directly contradicting the version of events of Sira, the affected individual, and other witnesses, as well as the medical report attesting to the injury – was considered as infallible by the investigating court.

In addition, in the case in question, **the Public Prosecutor's Office positioned itself on the side of the defence** during the investigation, going so far as to oppose Irídia's appeal against the decision to dismiss charges. It was not until the Constitutional Court made its judgement that the Public Prosecutor's Office changed its position to support Irídia's appeal.

2) Another paradigmatic example of the challenges faced in seeing justice fully done in cases of police brutality is that of the protester who suffered serious injury due to a baton blow to the head by a Mossos d'Esquadra officer during protests in February 2018. Represented by Irídia, the affected person filed a criminal complaint, and the case was brought to trial in February 2021. The judgement issued on 11 April 2022 concluded that there was insufficient evidence to convict the officer accused of having committed the offence. Nevertheless, on 20 September 2022, **the Superior Court of Justice of Catalonia upheld an appeal by the claimant and ordered a full retrial, to be heard by a newly-constituted tribunal**, considering that the evidence admitted by the Court in the acquittal of the officer was "objectively erroneous, unreasonable and clearly incomplete". Therefore, **almost 5 years after the events, a retrial remains pending after the initial judgement was overturned as a result of having failed to uphold the right to effective judicial protection**.

In this case, **the Catalan Ministry of Home Affairs did not provide clear identification of the officer** who, in using their baton, acted outside of any existing regulations. The Ministry constantly evaded fully identifying the officer – with identification eventually being achieved thanks to a photograph taken by a photojournalist – and refused to provide any information it held regarding the events in question. Furthermore, **the Public Prosecutor's Office focused its efforts on opposing the first-party litigation during the entire course of the judicial investigation**, requesting the dismissal of the case on several occasions. Ultimately, when the case reached trial, **it requested the acquittal of the officer on the grounds that they were carrying out their legal duties at the time**.

These two cases show clear examples of the infringement of the right to effective judicial protection that result from enduring shortcomings on the part of the bodies responsible for ensuring oversight and accountability in cases of police brutality and institutional violence.

3.2.1. Police

Of particular concern is the fact that, in the vast majority of cases in which the Service has provided legal representation, neither the colleagues nor superiors of the accused officers have provided information for their identification, nor have superiors carried out official investigations. In cases where the court has required the relevant police department to provide specific information on the operation or actions in question, the information provided has at times been less than that requested. While this lack of collaboration on the part of colleagues and superiors may be tolerated, national and international law demand just the opposite: fellow officers and, especially, superiors are obliged to record and report unwarranted, abusive or unlawful police conduct[9]. Indeed, this ought to be the aspiration of every democratic police force committed to eradicating institutional violence and cases of torture and ill-treatment.

In cases where the court requests the corresponding police department to provide specific information about operation or actions which are the subject of complaint, it is clear that, **often much less information is provided than that which is requested**. In addition, **it is often the same unit to which the investigated officer belongs which handles this request**, rather than a department of internal affairs, and – as part of their response – **the person who has reported mistreatment is criminalised for their conduct**.

It is representative – and worryingly so – that, of the 57 legal cases which remained open at the end of 2022, **only in 11 has some form of internal inquiry been carried out.** This represents **a mere 19% of cases**. In the rest, either no investigations have been carried out by the supervisory body, or – if this has occurred – it has not been possible to confirm this, nor has any information about such investigations been provided to the courts. Of the 11 cases in which some form of investigation has been carried out, **only 3 have been initiated ex officio**, with the other 8 having been carried out at the request of the court, as part of claim for damages or a criminal complaint brought by the individual affected. Despite these internal investigations, **none of the cases have seen the identification of the individuals responsible, beyond those previously identified**.

9. Among others: Article 5 of the Police Powers Act 2/1986, 13 March.

It should be noted that, of the 11 internal inquiries carried out, **only 1 has met the minimum standards of a full and thorough investigation**. The rest can be considered insufficient either as a result of not identifying those responsible or for not providing all the information on the facts that should be made available. It is particularly worrying that, **in 3 of these cases, the internal investigation has been aimed at calling into question and criminalising the conduct of the person reporting the incident**. In addition, **internal disciplinary measures have been taken in only 1 of the 57 cases** while investigations are underway.

Lastly, it is worth stressing that, despite an investigation into a possible racially-motivated offence having been carried out according to standard practice – that is, making use of the available investigative procedures and ensuring the conservation of evidence – **no focus has been given over to consideration of this possible motive in internal proceedings**. This demonstrates that, even in cases where internal oversight mechanisms are applied, racism and the consequences of racism continue to be ignored.

Difficulties when filing a complaint

Throughout 2022, **the Service provided support to three people who alleged that they were prevented from lodging a complaint at a Mossos d'Esquadra police station**. In all three cases, the person attempting to present the complaint was non-white, young, racialised and male. Additionally, in two of the three cases, the events that they sought to report concerned an incident of police brutality which they had experienced.

Any and all members of the public should be able to file a complaint against an officer at a police station with the same guarantees as when bringing a complaint against someone who is not a police officer. The lack of guarantees in doing so means that, broadly speaking, it is easier to file the complaint before a duty magistrate than at a police station, particularly when the subject of the complaint is a police officer or employee. This is clearly a serious problem that the competent authorities must take action to resolve.

In one of the three cases, the affected person, with support from SAIDAVI, filed a complaint with the police force regarding their experience and the fact that they had been prevented from reporting the incident. In response, the commanding officer argued that, owing to a language barrier, officers had not fully understood the person's wishes. This was in spite of the fact that the person was able to present a medical report in support of their complaint, in which reference was made to the injuries they had suffered due to an assault by officers earlier that same day.

3.2.2. Public Prosecutor's Office

The judicial system is the external guarantor par excellence when it comes to investigating cases of police malpractice. Nevertheless, our Service has identified clear shortcomings which could constitute an infringement of the rights to effective judicial protection, equal access to justice and the rights of victims.

The Public Prosecutor's Office plays a key role in this process. **Within the Spanish criminal justice system, its role is to instigate judicial action as a means of upholding law and order, the rights of the citizenry and the public interest**. In criminal proceedings, its role is to push the judiciary to take the appropriate precautionary measures and carry out investigations aimed at clarifying the facts of each and every case, as well as ensuring the protection of victims, whether or not they are represented by the prosecution.

Be that as it may, in many of the claims filed against police officers and state security employees in which the Service has acted, the willingness of the Public Prosecutor's Office to prosecute has been practically non-existent. On occasion, it has even sided with the defence, opposing investigations, requesting that cases be dismissed, or objecting to third-party litigation in the public interest.

The figures regarding the role of the Public Prosecutor's Office in 2022 give cause for significant concern. **In only 2 of the 57 cases from 2022** which remain ongoing at the time of writing **has the Public Prosecutor's Office taken up a proactive role in seeking investigation or the pressing of charges**. In contrast, **in 28 of these cases, it has opposed the full and thorough investigation of allegations**, objected to the involvement of private prosecutions in proceedings, or requested the dismissal of charges and acquittal of the accused in spite of strong evidence of their guilt. **In the remaining cases, the Public Prosecutor's Office has played a passive role**. Indeed, its reluctance when it comes to cases of torture and ill-treatment contrasts with its enthusiasm in prosecuting other alleged offences, many of which are not the focus of any private prosecution.

3.2.3. Judiciary

The United Nations Committee against Torture has, in its latest report following a visit to Spain, stated its deep concern "over reports that the Spanish authorities fail to carry out prompt, effective, impartial and thorough investigations into complaints of torture and ill-treatment committed by the State party's security forces, including allegations regarding acts committed during incommunicado detention and excessive use of force by the police". [10]

10. Concluding observations of the Committee against Torture in Spain (CAT/C/ESP/CO/6), 29 May 2015.

The foundational touchstones of the rule of law lie in an unquestioning respect for human dignity and a range of inalienable human rights, including the right not to be tortured. Torture entails the destruction of the humanity of the person who suffers it. For this reason, **torture is impermissible under any circumstances**. [11] As such, signatory countries to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have a series of obligations to prevent and investigate any such alleged offences, prosecute those responsible and offer reparation to the victims.

In this regard, various international bodies have repeatedly expressed the need for states to take the required measures to prevent torture or degrading treatment from going unpunished. **Anti-impunity measures are a key tool in ensuring the comprehensive prohibition of torture in practice**.

Courts and tribunals have a leading role to play in ensuring this prohibition and in the duty of the state to investigate and act against impunity in cases of institutional violence. As such, they are the necessary guarantors of the right to effective judicial protection, insofar as they are responsible for carrying out a complete and impartial investigation of the cases which come to court. **Constitutional doctrine sets forth the criteria for effective investigation**. It establishes that the carrying out of an effective investigation into allegations of degrading treatment or torture is impossible if the decision is taken to dismiss charges, or reduce charges to a minor offence, when the facts of the case have not been sufficiently established, despite there being adequate and accessible means to do so.

In 28 of the cases ongoing in 2022 and still open at the end of the year (49% of the total), a decision was made to either dismiss or reduce charges without having exhausted all reasonable, available, effective and relevant investigative avenues. This percentage rises when we take into account racially-motivated cases, with a dismissal or reduction of charges in 73.3% of cases.

Irídia's appeal against the dismissal or reduction of charges was upheld in 19 of the 28 cases. Of these 19, 15 were cases in which a higher court (the Provincial Court or the Constitutional Court) agreed to reopen the case and ordered the investigating court to reopen proceedings or undertake preliminary proceedings, as a specific means of ensuring the right to effective judicial protection. In 5 of the 28 cases, sentencing is still pending; in 4, the dismissal of charges has been ratified.

11. This is confirmed by the Committee against Torture: "[The prohibition] applies at all times, whether in peace, war or armed conflict...without prejudice to the provisions of any other international instrument..." Concluding observations on the United States, (2006) UN Doc. CAT/C/USA/CO/2, paragraph 14.

These cases serve to highlight the **existing obstacles faced by Irídia in bringing third-party litigation in the public interest**, and the impact that said obstacles – together with the previously identified shortcomings of the judicial system – have had on those affected in terms of their right to effective judicial protection.

Third-party litigation in the public interest – known as "acusación popular" – is a key part of Spanish jurisprudence, provided for by Article 125 of the Spanish Constitution. It allows a third party to take part in a criminal trial, even if they have not been directly affected by the alleged offence. This litigation is not brought forward out of self-interest, but as a means of upholding the rule of law. It is situated more broadly within the right to effective judicial protection as set out in Article 21 of the Spanish Constitution, although certain limits to it have been established in jurisprudence. Irídia, as a centre for the defence of human rights, has made use of third-party litigation of this kind in a number of cases taken on by the Service, particularly those in which the claimant's legal representation is assumed by another lawyer or law firm.

In all cases in which third-party litigation in the public interest has been availed of, Irídia's role as a litigant has been validated in view of its role as a human rights organisation, specifically one which works on cases of institutional violence. Therefore, despite there being clear precedent for this, the Service has noted that third-party litigation by Irídia continues to meet resistance. Of the 7 cases in which Irídia has become involved as a third-party litigant, only in 2 has this been immediately facilitated by the investigating judge without the request for a bond payment. In a third case, a bond of 1,000 euros was set. In another case, 8 months after Irídia initiated legal action, the investigating judge has yet to reach a definitive decision on whether to admit it as a litigant, despite having continued to carry out investigative procedures into the case. Finally, it should be noted that in the last three cases in which Irídia sought to become involved as a third-party litigant, the investigating judge ultimately ruled against this, preventing Irídia from being a party to the trial. In each of these cases, after filing the corresponding appeals, the Provincial Court upheld Irídia's appeal, reversing the investigating court's decision.

Cases such as these give rise to a lack of legal protection in that, although the Provincial Court has ultimately upheld each appeal, this has occurred after judicial investigations have been carried out, with Irídia having been unable to act as a litigant at this stage.

3.2.4. Bar Associations

The frequent difficulties faced in obtaining police officer identification numbers when reporting police brutality represent one of the main obstacles encountered by those affected in bringing their case to trial. This shortcoming could be resolved were the affected person able to access the police reports made in regard to the incident, as well as any documentation on file concerning them, should a complaint against them have been registered by officers. This is provided for in Article 7 of Directive 2012/13/EU of the European Parliament and of the Council on the right to information in criminal proceedings.

In cases which have ended in an arrest, the lawyers appointed to defend the arrested person have a key role in obtaining any documentation on file as soon as possible, in order to provide the person with the necessary information so that they can make a complaint in accordance with the minimum requirements for its admission by the judiciary. Often, however, a very restrictive role is afforded to lawyers assigned to the defence in a criminal trial in terms of the work they can carry out. This, taken in tandem with the systematic refusal by police officers to make documents available, results in a **lack of information which can ultimately be the determining factor in the outcome of cases of police brutality**. The lack of data regarding the alleged perpetrators also leads to the dismissal of charges by the courts handling these complaints.

Furthermore, criminal proceedings in these cases are often brought to a close via the reaching of deals with the Public Prosecutor's Office. Although plea bargaining may be beneficial insofar as it can lead to a reduced sentence, the specificities of each individual case ought to be taken into account, with carefully consideration of the possibility of winning an acquittal given that – no matter how light the sentence following a plea bargain – a criminal record impedes non-nationals from obtaining legal resident status in Spain.

3.3. Public space

In 2022, SAIDAVI handled 33 new cases concerning events which took place in public space. **11 of these cases involved private security guards**, 9 of them working for public transport providers (5 in railway stations and 4 on the metro), and 2 in shopping and leisure facilities. Here there is an identifiable trend – one already highlighted in our last report – in relation to acts of aggression committed by private security staff which, far from falling, have in fact increased. In addition, in 2 of the 11 cases, there was explicit discriminatory behaviour against non-white racialised individuals.

It is also important to highlight the increase in cases handled by the Service in which the perpetrator belonged to a local police force. Specifically, there were 8 cases in which the acting officer belonged to the local police force of Barcelona (Guàrdia Urbana), and a further 5 cases in which the officer was a member of another local Catalan police force. In 5 of these 13 cases, racist conduct was seen to be a driving factor in the intervention carried out by officers.

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Jordi Borràs

3.3.1. Random identification checks of young people using bicycles and personal mobility vehicles by police

SAIDAVI became aware of a series of cases in 2022 of people who were stopped and asked to provide identification by police officers while cycling or using a personal mobility vehicle (PMV) on the public highway, or who were seated with the vehicle within their reach. In each and every one of these cases, the police officers seized the vehicles under a variety of pretexts, one of these being inability to prove ownership.

The common thread uniting those affected is their ethnic-racial background and age. They are young men of Moroccan origin who, prior to reaching adulthood, had spent time in the non-nationals care system. They attest to significant police harassment which, on the one hand, severely limits their freedom of movement and, on the other, has led to an accumulation of fixed penalties that have aggravated their already difficult economic situation. In addition, after officers intervened to seize the vehicles – often without following proper procedure in recording the confiscation – those affected were no longer able to recover them. In many cases, the vehicle was necessary for the affected person and others' transport, in that it was shared between different people.

In the early morning of 4 May 2022, Mr. B.M. was riding his scooter through the Gràcia neighbourhood of Barcelona together with a friend, who was also doing the same. They stopped at the pedestrian crossing where the streets of Maspons and Torrent de l'Olla meet in order to let four people pass. These people were, in fact, four plainclothes police officers belonging to the Guàrdia Urbana. Having crossed the pedestrian crossing, one of the four officers turned back and approached Mr. B.M. Without warning, he struck him forcefully, causing him to fall from his scooter. As a result, Mr. B.M. fell to the ground and hit his right shoulder against a bollard.
Two further patrols of the Guàrdia Urbana appeared, dispatched following a request by the plainclothes officers, who proceeded to perform repeated alcohol blood tests on Mr. B.M. The first three of these returned a negative result before, on the fourth test, the affected person tested positive. This provided officers with the pretext for confiscating his scooter and issuing a penalty notice.

The Guàrdia Urbana, when asked about the increase in this type of incident and the criteria for intervention by officers, has cited The Security Forces Act 2/86 and the Citizens' Security Act 4/2015 as the legal basis for such action being taken. Specifically, reference is made to Article 16 of the Citizens' Security Act 4/2015, which enables law enforcement officials, in carrying out their duties to investigate and prevent crime, and as a means of dealing with criminal and civil offences, to require that a person presents them with their identification document when **a)** there are indications that this person may have been party to the commission of an offence or **b)** this can reasonably be considered necessary in order to prevent an offence from being committed.

Despite the fact that the aforementioned Article 16 also establishes that in "the practice of [asking for] identification, the principles of proportionality, equal treatment and non-discrimination on grounds of birth, nationality, racial or ethnic origin, sex, religion or belief, age, disability, sexual orientation or identity, opinion or any other personal or social condition or circumstance shall be strictly respected", **the lack of legal solidity offered by "indications that the person may have been party [to the commission of an offence]" or "can reasonably be considered necessary" leaves the door open to discriminatory police intervention** in a manner far removed from the impartiality and equity that should govern police conduct. This is set out by ACORD GOV/25/2015, of 24 February, which approved the Code of Ethics of the Police of Catalonia. Title I of this agreement stipulates that the Police of Catalonia must act to avoid and oppose any form of discrimination or prejudice based on birth, race, sex, age, aesthetics, religion, opinion or any other personal or social circumstance and seek, at all times, to safeguard equal rights.

In addition to legislative vagueness, a lack of resources to ensure the recording and traceability of the specific indications that are seen as grounds for stop-and-searches – and a further lack of recording of the factors reasonably necessary to carry this out in order to prevent the commission of an offence – may contribute to a wider feeling among the public that the police act arbitrarily and in accordance with the individual discretion of each given officer.

In 2022, two cases of non-white racialised young people systematically subjected to stop-and-searches, requests for identification and demands that they provide proof of ownership of their VMPs or their bicycle were brought to the attention of SAIDAVI. Several organisations that work with non-white racialised young people have also expressed their concern about this ongoing practice. According to these organisations, such practices create a significant sense of vulnerability in young people, discouraging them from engaging in educational, professional and social activities.

3.4. Protests

3.4.1. Foam: inaccurate, untraceable and potentially lethal projectiles

Since SAIDAVI was launched in 2016, Irídia has taken on a total of 9 legal cases involving people affected by foam projectiles. Legal action remains ongoing in 7 of these cases: 2 for loss of an eye, 2 for cranioencephalic injury, 1 for the loss of a testicle and 2 for leg injuries, one of which involved a journalist. New information which calls into question the uses of foam projectiles, and highlights the injuries they can cause, has arisen as a result of this legal action. It has also been found that the use made of such projectiles in Catalonia runs contrary to international human rights regulations. Below, we highlight some of the cases that have brought this information to light throughout the year.

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The first is that of a young woman who lost her eye during the protests in Barcelona against the imprisonment of singer Pablo Hasél in February 2021. This has led to two officers of the Mossos d'Esquadra being placed under investigation. As part of judicial proceedings in the case, the sergeant who headed operations on the day was called to give evidence to the court under investigation. Also cited, although in this instance as witnesses, were the chief intendant of the Mossos' riot police unit (known as the BRIMO) and the deputy chief inspector of the Public Order Unit. Both **recognised in court that foam projectiles are not precision weapons**, contradicting the arguments deployed in 2013 for the continued use of these projectiles, following the decision to prohibit rubber bullets.[12]

The chief intendant of the BRIMO, when asked if only SIR-X projectiles had been fired that day, assured the court as a witness under oath that "this could be [the case] because there was a period of time in which the General Operational Commissioner declared that the SIR was of preferable use in training". It is important to note that the **Mossos as a police force makes use of two types of foam projectiles, SIR and SIR-X, with the latter being the more likely to cause injury**. A request made to the court to give official written notice to Mossos to produce the order to use the SIR-X in police interventions and reserve the SIR for training was not granted, thus rendering it impossible to corroborate the chief intendant's statement.

Another key piece in this case was the report that contributed to legal action being taken. This report was commissioned at the request of Irídia and undertaken by the English organisation **Omega Research Foundation** (ORF), which focuses on expert research into the manufacture and trade of equipment used for torture and repression. The report is a comparative analysis of the recommendations of the manufacturer of the SIR-X projectile – the same type of projectile which caused injury in the case in question – and the internal protocol for use of the launchers and 40 mm projectiles (Procediment Intern de Treball or PIT 22) by the Mossos d'Esquadra. **The report concludes that the Mossos protocol does not comply with international regulations and, furthermore, fails to respect the minimum distances for discharge recommended by the manufacturer in order to avoid serious injury**.

Specifically, the report provided by the ORF highlights that the manufacturer of the SIR-X projectile (the Swiss company B&T AG) stipulates that **the greatest risk of serious injury** (lacerations, cranial fracture, spleen, liver or heart injuries, closed chest traumas, internal haemorrhages) **or death occurs at distances of less than 30 metres. This leads the ORF to consider that its use at shorter distances should be prohibited**. Despite this, the Mossos d'Esquadra protocol (PIT 22) states that the projectile may be fired at distances of between 20 and 50 metres, **reducing the minimum shooting distance recommended by the manufacturer by up to 10 metres**. The ORF additionally concludes that use of SIR-X can lead to injury at all distances up to 60 metres.

12. It should be noted that foam projectiles were introduced as part of the riot control armory of the Mossos d'Esquadra in 2010. The prohibition of rubber bullets did not lead to their replacement, but rather their continued use by firearms unit.

In relation to the conditions of use, the ORF also warns that **a number of the grounds for intervention included in the Mossos protocol do not comply with international standards**, insofar as they allow for use of the projectile to prevent damage to property. This contradicts UN recommendations,[13] which state that such projectiles may only be used in response to an imminent threat of serious injury or death, either to a policeman or a member of the public, directly targeting any fire towards the lower abdomen or legs of the individual who poses said threat. The report thus raises the possibility that "human rights bodies would consider their use to protect against damage to property an infringement of the principle of proportionality".

The parts of the body which may be struck by this projectile are also the subject of ORF interest. The report highlights that PIT 22 **allows for the firing of foam projectiles against the upper limbs of a person holding a projectile object, increasing the risk of impacting vital areas of the body** such as the upper chest, face or head. On the other hand, as has already been seen, international regulations are clear in indicating that only the lower abdomen or legs of the individual who poses the threat should be targeted.

Along similar lines, **international regulations indicate that crowds gathered to demonstrate may only be dispersed in exceptional circumstances**, where there is clear evidence of an imminent threat of serious violence that cannot be addressed selectively. They also point out that **kinetic impact projectiles should not be used to disperse a peaceful gathering**, given that this would contravene the recommendation to fire only direct shots against individuals who pose a genuine threat of causing serious injury or death to third parties. As such, the provisions set out in PIT 22 which provide for the use of SIR-X for dispersal in confined spaces or general dispersal could be seen as contravening international human rights standards, on the understanding that, by definition, dispersal is targeted against groups of people and not specific individuals. The report provided by the ORF concludes that the guidelines set out in the protocol could lead to improper use of projectiles and, consequently, to a violation of the principle of necessity.

In the past year the case of Roger Garcia, who was struck on the head by a foam projectile during protests against the sentencing of pro-Catalan independence figures in Barcelona in October 2019, also came to public attention. The blow caused him serious traumatic brain injury, requiring intervention by emergency services and his admission to an intensive care unit. This incident occurred around the same time as that of a young woman who suffered a similar traumatic brain injury with significant sequelae such as hearing loss and chronic epilepsy. In neither case has the person responsible for these injuries been identified, and investigations are still ongoing.

Lastly, 2022 saw the closure of the criminal suit brought by A.K., a young man who was walking through Barcelona during the same protests in October 2019, and who suffered a blow to the face that resulted in the loss of an eye. Although the lack of an identified perpetrator led to the dismissal of the criminal

13. United Nations Office on Drugs and Crime and Office of the United Nations High Commissioner for Human Rights, "Basic Principles on the Use of Force and Firearms" (New York: UNDOC & OHCHR, 2017)

complaint, a civil suit for damages has been brought following a forensic medical report which determined that the blow corresponded to that of a foam projectile. The value of said report cannot be understated, in that it has been key in enabling A.K. to file a civil claim and request that the Government of Catalonia provide compensation. As of the date of publication of this report, hearings into the case remain open, and a decision is pending.

The case of the A.K. was made public in November 2022 during a press conference in which the Stop Bales de Goma collective, Irídia and the Catalan Association for the Defence of Human Rights jointly called for the prohibition of these projectiles in accordance with the findings of the Parliament of Catalonia's Examining Committee on Policing (CEMP). A manifesto calling for this prohibition, signed by organisations from all over the world (and to which it is still possible to sign up), was also presented at the press conference.

3.4.2. The use of force against those defending the right to housing

Far from improving in 2022, the housing crisis once again led to the expulsion of thousands of people from their homes, many of them without access to alternative accommodation. This ongoing crisis, in tandem with the lack of action by authorities in providing housing support or social housing to those affected, stands in sharp contrast to the profits posted by financial institutions and the funds dedicated to bank bailouts.

In 2020, the Catalan Ministry of Territory and Sustainability estimated that more than 27,558 homes in the hands of large private landlords – natural persons owning more than fifteen homes, or legal persons owning more than ten – had lain empty in the region for more than two years.

With possible regional and nationwide legislation to alleviate this situation still to come, evictions have not ceased, and continue to be carried out with the support of police. Public order units, who use force against both those who gather to try to stop evictions as well as tenants themselves, are deployed in significant numbers. Indeed, the courts responsible for eviction proceedings do not call for the deployment of such units in order to deal with any potential serious public disorder, but rather to ensure that evictions are carried out.

Over the course of 2022, the Service took on 9 cases of people injured during an eviction. In 3 of the 9 cases, the injured party was someone living in the property subject to eviction. In the remaining 6 cases, those affected were people who were injured while engaging in peaceful civil disobedience in protest against the eviction of other residents (some of them at risk of social exclusion). In addition, in three of these cases, the individuals were charged under the Citizens' Security Act 4/2015, popularly known as the "Gag Law".

3.5. Prisons

3.5.1. Mechanical restraints

Mechanical restraints such as straps and straitjackets are commonly used in prisons to deal with disturbances, sudden aggressive behaviour by detainees, or conflicts between inmates and prison officers. These forms of restraint run counter to the rights of the people on whom they are used, given the severe impact they have on mental health.

At the beginning of March 2022, the Catalan Ministry of Justice issued Memorandum 1/2022, approving the protocol for the coercive use of provisional solitary confinement and mechanical restraint in prisons in Catalonia. This repealed the previous Memorandum 2/2021, which set out the protocol for the application of restraint techniques in prisons in Catalonia. The now-repealed Memorandum 2/2021, passed in April of that year, introduced the principle of zero restraint. In other words, it provided for the use of alternative techniques in order to avoid physical and mechanical restraint, through the use of padded cells.

Modification of these regulations a mere ten months after the entry into force of Memorandum 2/2021 – an insufficient amount of time in which to evaluate the effectiveness of internal protocols and determine whether or not they needed to be modified – has led Irídia and other organisations who work to defend the rights of those deprived of liberty to launch an advocacy campaign which aims to highlight the regressive nature of the new regulations.

Despite mentioning zero restraint, Memorandum 1/2022 abandons its preferred use, focusing instead on regulating coercive restraint techniques and avoiding any clear guidelines for the provision of alternative measures to the practice of restraints such as the introduction of padded cells or verbal de-escalation. Furthermore, the restraint protocol approved in Memorandum 1/2022 does not establish a maximum time nor indicative duration for the use of mechanical restraint. Instead, it only stipulates that restraint must be discontinued when the behaviour or circumstances which have motivated its use cease, something which leaves ample scope for its use. Failure to establish a maximum duration seriously impinges on the rights of detainees, given that the duration of restraint is a key factor in the physical and mental harm it can cause to the person subject to it.

Human rights organisations requested the creation of a parliamentary working group on mechanical restraints, with the aim of putting forward alternatives to coercive restraints in collaboration with national and international experts and human rights organisations, as well as input from affected detainees and representatives from the Ministry of Justice and the Catalan Ombudsman. This proposal was rejected by the Justice Committee of the Parliament of Catalonia.

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3.5.2. Protocols for the autopsies of detained individuals

In the cases of death in custody that Irídia has handled in recent years, it has been found that autopsies are not carried out in accordance with the Minnesota Protocol (2016) on the investigation of potentially unlawful deaths. This protocol, which is included in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions, establishes general and specific guidelines on the procedure for investigating potentially unlawful deaths. It applies, inter alia, to deaths which occur in detention or state custody, as well as in cases in which authorities may have acted in contravention of their duty to protect.

In cases of death in prison, it is essential to determine the exact cause of death and the circumstances in which it occurred, as part of a thorough investigation into the matter. As such, it is essential that autopsies are carried out in compliance with the Minnesota Protocol, in order to obtain any and all clues that the body of the deceased can provide regarding the events that have occurred, and the circumstances of their death.

Failure to carry out autopsies in accordance with international regulations results in a lack of information on the circumstances of the death and, in turn, difficulties in bringing legal action. Moreover, it has a severe impact on the deceased's next of kin and wider social circle, as they are unable to obtain the information they need to clarify what happened.

3.6. Immigration Detention Centres (CIEs)

Throughout 2022, Immigration Detention Centres (CIEs) continued to be the site of systematic abuses of the rights of those who migrate. Moreover, the rules and regulations that ought to guarantee the rights of those interned in the CIEs are not fit for purpose and, in many cases, go unheeded.

As already noted in our two previous annual reports, there has been a backslide in the recognition of the rights of those held in the CIE in Barcelona since the outset of the Covid-19 pandemic. Visits by family, friends, NGOs and legal representatives remained restricted and were even subject to suspension during 2022. Indeed, 2022 began with a total ban on visits to the CIE in Barcelona following an outbreak of Covid-19 which affected 32 people, a hunger strike, and the case of a person who threatened to commit suicide. Irídia, together with Migra Studium, Tanquem los CIE and SOS Racisme Catalunya, filed a complaint before the supervisory judge responsible for oversight of the CIE (Investigative Court No. 30 Barcelona). As part of the complaint, they highlighted that the CIE had continually failed to meet the conditions required to deal with an outbreak of Covid-19, and had likewise failed to put adequate health security measures in place and guarantee the human rights of inmates. A similar position was taken by the Public Health Agency of Barcelona, the Ombudsman and even the CIE Health Service itself, which, during a previous outbreak affecting less people, had requested that the supervisory judge approve the use of a field hospital so that those affected could receive adequate medical care in individual cubicles. The aforementioned organisations requested the reintroduction of normal visiting hours and the application of health security measures as had been carried out in multiple CIEs in other parts of Spain, as well as in prisons and other detention centres.

The complaint never received a judicial response and, until the end of the Covid-19 outbreak, visits remained prohibited. This restriction was maintained throughout 2022, despite the lifting of health restrictions brought in to control the pandemic which had been used to justify this course of action. Irídia took its complaint to the Director of the CIE, the Head of the Judiciary of Barcelona, the Ombudsman, the two separate courts with supervisory functions over the CIE, and Barcelona City Council, all without any effect.

These restrictions must be brought to an end in order to guarantee the fundamental rights of those in detention. Failing to do so is not only an infringement of the right to visits from relatives and acquaintances and the right to have contact with NGOs and human rights organisations, but also affects the right to effective judicial protection, as set out in LO 4/2000 (Article 62), RD 162/2014 (Article 16), the Spanish Constitution (Article 24) and the Universal Declaration of Human Rights (Article 10). In addition, the European Court of Human Rights has emphasised that legal aid, medical examination and the right to inform a third party of a detention constitute a fundamental safeguard against possible mistreatment of detainees and persons deprived of liberty (STEDH, 18 September 2008 Türkan v. Turkey), and that any obstruction of the aforementioned may be indicative of ill-treatment.

3.6.1. Infringement of the right to judicial protection and prohibition of torture

Towards the end of the year, Irídia delivered a dossier to the Supervisory Magistrate and the Public Prosecutor's Office Delegate for Immigration which provided evidence of the infringement of the right to effective judicial protection of those who reported ill-treatment in the Barcelona CIE. Following investigations carried out by Irídia over the previous 7 years, the dossier concluded that there had been structural failings and an uneven application of the law in response to allegations of torture and ill-treatment at the CIE by investigating courts, duty magistrates, the supervisory courts which oversee the Centre, and the Centre itself.

When someone who wishes to report ill-treatment is being held in a detention centre awaiting eventual deportation, action must be taken quickly to gather any evidence which supports their allegations: the testimony of the victim and witnesses, physical and psychological injuries and video surveillance footage. Without this evidence, it is highly unlikely that criminal investigations will be carried out and their complaint upheld. In all of the cases known to Irídia, the affected person requested that these actions were carried out upon reporting the incident. Nevertheless, this evidence was never promptly gathered.

The system as it stands is an obstacle to the prompt investigation into such cases, hindering any legal action which can be taken, and leading to the alleged offences which are reported going unpunished. This infringement of the right to effective judicial protection brings it with an infringement of the prohibition of torture and of the rights of those detained in the Barcelona CIE to physical wellbeing.

Between 2016 and 2022, dozens of complaints were filed with the supervisory courts responsible for oversight of the CIE in Barcelona, in addition to several additional complaints which resulted in a total of 13 criminal proceedings. In 11 of these proceedings, **both those affected by and witnesses to the events in question were deported days after the report was made, rendering them unable to appear before the court to provide testimony** as they had requested. **Those affected were also unable to avail of a forensic medical assessment** in which their physical and/or psychological injuries could be analysed and recorded in a timely manner. 7 of these cases were dismissed **by Investigative Courts in Barcelona following deportation of the claimant, on the basis that their deportation made it impossible for them to appear and provide a statement under oath**.

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This perverse situation has continued unabated for years, in spite of the fact that the Provincial Court of Barcelona has revoked the Investigative Courts' dismissal on multiple occasions, forcing magistrates to locate the affected parties and to take statements from them, including cases in which this requires international judicial cooperation. Indeed, all complaints for mistreatment at the CIE in Barcelona which remain the subject of judicial proceedings and in which Irídia represents the claimants had initially been dismissed by the investigating judge, with the Provincial Court of Barcelona subsequently ordering that they be readmitted.

This notwithstanding, when investigations are reopened, months or even years may have elapsed since the events occurred, and it is often too late to move forward with the investigation, resulting in the alleged offences going unpunished.

Only in 2 of these 13 cases has it been possible to take a statement from the claimant after the reopening of the case as ordered by the Provincial Court. One of these cases took place in 2022. For the first time in a case taken on by Irídia, a victim of mistreatment at the CIE in Barcelona was able to provide a statement to the court via video from abroad. Investigation into alleged offences of this nature is essential if we are to combat the overwhelming impunity which exists regarding alleged ill-treatment at the CIE in Barcelona and, above all, to offer reparative justice to those affected.

4. Examining Committee on Policing: a missed opportunity and other steps forward.

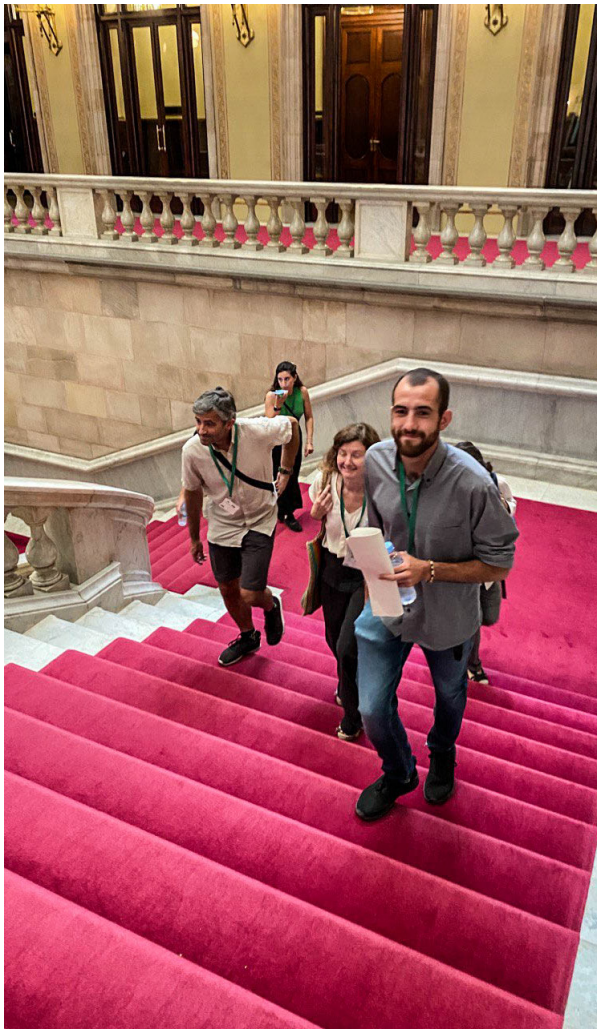
On 2 December 2022, the conclusions of the Examining Committee on Policing (CEMP) of the Parliament of Catalonia were approved, following 24 sessions and around a hundred appearances by experts from academic institutions, public bodies, police forces, human rights organisations and activist groups, and victims of excessive use of force, among others. It is worth highlighting that the conclusions of the CEMP are not binding for the Government of Catalonia; as such, it remains to be seen which of these agreements might lead to changes in public policy, at a key time at which the Catalan Ministry of Home Affairs has announced that it is preparing to reform the region's Policing Act.

Appearances before the Committee were divided into five blocks via which the parliamentary agreements were also organised: **i)** General overview of policing models; **ii)** Integrated policing in Catalonia: proximity, mediation, prevention, diversity, coordination with local police and intersection with other policy areas; **iii)** Public order; **iv)** Information; and **v)** Oversight, audit and transparency mechanisms.

From a human rights defence perspective, the creation of the CEMP within the Parliament of Catalonia on November 3, 2021, was an important milestone in encouraging public debate around the need to raise international standards in terms of transparency and accountability of police forces. Its creation was the result of an agreement between parliamentarians from Esquerra Republicana, Junts per Catalunya, the Candidatura d'Unitat Popular - Un nou cicle per guanyar and En Comú Podem, following years of demands from activists and human rights defenders. Joint work carried out by Irídia and Amnesty International Catalonia prior to the committee being set up, which focused both on calling for the CEMP to be convened and on putting forward proposals for appearances before it, was key in driving this forward. Both organisations also developed concluding proposals, which were delivered to parliamentarians prior to the vote in December 2022.

One of the central themes of the parliamentary debate was the creation of an external, public and independent body for oversight and accountability of the police forces in Catalonia, as part of the obligation of states to ensure justice and investigate serious breaches of human rights. At present, reports made against police officers are often hampered by obstacles in identifying, punishing and correcting improper and abusive behaviour, in contravention of international standards. Numerous countries have introduced this type of **independent oversight, in the form of specialised bodies which have the mandate to supervise the operations of police forces and the actions of their officers**. Their existence serves to guarantee independent, impartial and thorough investigations into complaints of police malpractice and/or possible criminal behaviour, as well as to further enable those affected by excessive and/or discriminatory use of force to file complaints without fear of reprisals, upholding their rights to truth, justice, reparation and the guarantee of non-repetition. International organisations such as the United Nations Human Rights Committee, the Committee against Torture and the European Committee for the Prevention of Torture have recommended the introduction of such a body in Spain.

However, despite the apparent spirit of consensus at the outset, the creation of such a body was rejected by a parliamentary majority composed of Junts per Catalunya, Socialistes i Units per Avançar, Ciutadans and VOX. Although no substantive measures for the improvement of internal accountability mechanisms were agreed to, it was established that an easy-to-use and accessible virtual platform for the filing of complaints and grievances would be created. An agreement was also reached to provide the Internal Affairs Division (DAI) with greater operational capacity to investigate any and all complaints, and to establish a collaboration protocol between the Ministry of Home Affairs and the High Court of Justice of Catalonia. The purpose of this is to ensure that the courts in Catalonia inform the DAI of any criminal investigation involving police officers, whether or not this relates to their professional duties. This measure aims to guarantee that the DAI is the body which leads any internal or judicial investigation into allegations which involve an agent of the Mossos d'Esquadra. Until now, protocols in place were unable to guarantee that the DAI was aware of cases under investigation by the courts.



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The Committee also put a series of other key matters to a vote, leading to the following **positive proposals**:

- **The urgent withdrawal of the most harmful foam projectiles (SIR-X)** and the prohibition of police vehicle charges and any other tactics which may endanger protesters. Despite Irídia's call for a total ban on foam projectiles, this is a step forward in upholding the right to protest. The conclusions reflect the need to incorporate technological features into these weapons which permit geolocation and recording of police actions via video and audio, via a system which in turn guarantees the legality, traceability, supervision and evaluation of their use.

- **The creation of an office specialised in restorative justice and comprehensive psycho-legal care** for those who have suffered violations of their human rights at the hands of the police employing the use of force. This was one of the demands of the affected parties who appeared before the committee. It is essential that the voices and needs of those affected are taken into account when establishing this office, and that they are offered an opportunity for **genuine participation**.

- The establishment of a **transparent procedure for the acquisition of police equipment**, subject to prior and independent evaluation of its capacity to cause harm. Although further details of this measure are yet to be given, it is important that it be headed by independent experts.

- The creation of a **specific institutional violence duty office in the various Bar Associations around Catalonia**. This measure ensures that institutional violence is given due and proper attention within the legal system. This is an essential step for lawyers to be able to meet the specific needs of those affected and ensure that they have effective access to justice.

- The systematic and mandatory use by the Mossos d'Esquadra and local police forces in Catalonia of **identification and registration forms in which the reasons for stop-and-searches are provided**. It is hoped that this measure will tackle selective policing and racial-ethnic profiling. The voices of those affected by these practices – as well as those of the anti-racist activists who have denounced them over the years – must be taken into account in bringing this forward.

Further stand-out measures include **a)** the publication of annual performance reports by the Directorate General of the Police, the head of the Mossos d'Esquadra and those responsible for the DAI and the Service Evaluation Division (DAS), which must be presented to the Parliamentary Home Affairs Committee and made public with the appropriate confidentiality measures taken; **b)** the updating of the range of infractions and disciplinary measures applicable to police forces in Catalonia, in order to more clearly establish punishable conduct, expressly including that which can be considered malpractice; **c)** the standardisation of protocols of the different local police forces in Catalonia, particularly with regard to the use of police equipment, and **d)** the expansion of the information which is published in relation to the police command structure and protocols of action, except in cases where this could be considered unlawful or a risk to investigations.

Jordi Borràs

5. Good practices

The work and outcomes of the Examining Committee on Policing (CEMP) of the Parliament of Catalonia

Despite the decision by a parliamentary majority to block the creation of an independent and external oversight body for the investigation and supervision of police operations, as highlighted in the previous chapter, the CEMP has agreed to a series of measures that represent a step forward for the defence of human rights, particularly of those affected by human rights breaches. While these remain to be ratified by the plenary session of the Parliament of Catalonia and brought forward as policy by the Government of Catalonia, many of the measures previously discussed are worthy of praise. Also praiseworthy is the fact that the voices of those affected by police brutality, as well as those of a wide range of social, anti-racist and human rights activists, were included in the committee's working plan. This study group has promoted dialogue and debate in parliament, driving an improvement in the standards of protection of human rights in Catalonia with respect to the police forces operating there.

The 360-degree officer identification system for public order units, extended to the Regional Areas of Operational Resources (ARRO) of the Mossos d'Esquadra

The passing of Motion 128/XII on the actions of the police by the Parliament of Catalonia in November 2019 paved the way for the introduction of a new officer identification system to the Regional Areas of Operational Resources (ARRO) of the Mossos d'Esquadra. This measure, which until now had only applied to riot police officers (BRIMO), entails a shortening of the Police Operational Number (NOP) worn by law enforcement officers on their uniforms from nine to six digits, with a new, shorter alphanumeric code. This number is now visible on the back and front of the officer's protective vest – previously, it only appeared on the back – and on each side of their helmet. This new identification system allows the NOP to be read from 360 degrees, reducing any obstacles in the identification of any police officer deploying force.

Consolidation of the Office of Equal Treatment and Non-Discrimination

In 2022, the Ministry of Equality and Feminism of the Government of Catalonia consolidated the Office for Equal Treatment and Non-Discrimination. It has also encouraged coordination between this body and the grassroots activists and organisations working for the protection of human rights and the eradication of discrimination in Catalonia. It must continue to be provided with resources and spaces for joint work with human rights organisations in Catalonia.

Working relationship of human rights organisations with the Ministry of Home Affairs and the Directorate General of the Mossos d'Esquadra

In order to properly defend human rights, there must be channels of communication with ministers and heads of governmental departments, particularly the Ministry of Home Affairs. This was first recommended by Irídia in its 2018 Report on institutional violence. Throughout 2019, a stable channel of communication and working relationship was established between the heads of the Mossos d'Esquadra, Irídia and Amnesty International. Communication channels of this sort enable us to deal with a wide range of challenges which may arise. Fluid and constructive communication from all sides continued throughout 2022.

Meeting between Barcelona Investigative Court No. 30, with supervisory powers over the CIE, and human rights organisations

At the beginning of 2022, there was a change in the judge presiding over Barcelona Investigative Court No. 30. This position has supervisory powers regarding the city's CIE. Towards the end of the year, the human rights organisations that carry out monitoring tasks at the CIE were summoned by the court for a joint meeting at the Centre, together with commanding officers of the National Police Corps (CNP), the Centre's police directorate, and representatives from the Red Cross and the CIE Legal Guidance Service provided by the Barcelona Bar Association. The aim of the meeting was to establish contact with the judge and bring to their attention the lack of protection and breaches of rights that human rights organisations had identified in the CIE, as well as to communicate recommendations for improvement. This meeting was an example of good practice that ought to take place on a regular basis, with the inclusion of Barcelona Investigative Court No. 1 as the additional court with competencies in the area. The predisposition of the various stakeholders and the constructive dialogue established ought to lead to the taking of genuine steps forward in safeguarding the human rights of those detained at the CIE.

6. Recommendations

The recommendations contained herein make reference to circumstances or practices that have come to the attention of SAIDAVI (Service for Attention and Reporting in Situations of Institutional Violence) through its own and other cases. To these we might add, as a general recommendation addressed to all public bodies, the need to take into account the conclusions and implement the steps recommended by the Ombudsman in the Annual Reports of the Mechanism for the Prevention of Torture produced in Catalonia.

6.1. To the parliamentary groups of Congress

1) The repeal of all precepts that threaten freedom of expression and the right to assembly, as part of the proposed reform of the Citizens' Security Act 4/2015. In particular, the current reform must eliminate the offence of publishing images of security force personnel, something which constitutes a serious violation of freedom of information and has been found to lead to a worrying degree of self-censorship. The additional provision of the law relating to summary and collective expulsions, known as "express deportations" and contrary to international law, must also be repealed. The reform must also include the express prohibition of racially-motivated raids and stop-and-searches, and of the use of rubber bullets by police forces. In addition, recognition must be made of the right to spontaneous demonstration without prior communication, eliminating the penalisation of organisers for public order offences. Likewise, the penalisation of contempt towards police officers and refusal to cooperate with police orders must be eliminated (art. 37.4), while the refusal to provide identification when requested should, at most, be considered a minor offence.

2) Article 131 of the Criminal Code, passed as law in Act 10/1995 23 November must be amended so as to define the crime of torture as an imprescriptible offence, as recommended by the United Nations Committee for the Prevention of Torture on repeated occasions[14].

3) Congress must also pass specific legislation permitting the establishment of a body to provide independent oversight of the police, should this not be included in any reform of the Citizens' Security Act 4/2015. This body should have the necessary powers to assess the need for and suitability of weapons and equipment available for police use. It should also play a supervisory role in evaluating police operations and in the creation of protocols for the use of force, as well as the measures taken to prevent its use. In addition, its remit should include the investigation of alleged malpractice or criminal activity, with the ability to act ex officio, and to access all the information necessary for it to complete independent and thorough inquiries.

14. See the reports of the United Nations Committee against Torture with code CAT/C/ESP/CO/5, paragraph 22, 2009 and CAT/C/ESP/CO/6, paragraph 9, 2015.

4) Given their potential to cause harm, the use of rubber bullets by police forces must be outlawed, either through reform of the Citizens' Security Act 4/2015 or as part of separate legislation. To this end, consensus must be reached for the creation of an inquiry commission to investigate the cases of those affected by the use of rubber bullets, in order to assess the impact on members of the public caused by the use of these weapons, with the activation of relevant remedial measures and evaluation of compliance with current oversight, appraisal and disciplinary measures as they apply to the police forces engaged in public order duties.

5) The Government must be urged to amend the regulations governing the uniform of police officers with public order duties, such that their identification number be easily memorable and visible from 360 degrees, with respect to typography, numbering and size. This number must appear on the front and back of their uniform, and on each side of their helmet.

6) The Immigration Act must be amended to abolish the existence of Immigration Detention Centres and end medium-term detention pending trial or deportation. Any such amendment should also provide facilities for the regularisation of migrants' resident status in Spain. Likewise, the validity of deportation orders should be limited to a maximum of two years, without any period of prohibition of entry – which should also be limited – affecting their expiry.

7) Legislation must be passed which outlines judicial oversight over Immigration Detention Centres including but not limited to the proceedings, deadlines and means of appeal available, in order to address the extant absence of oversight and guarantee the effective judicial protection of those detained in CIEs around the country.

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8) The Popular Legislative Initiative "Regularisation Ya" must be given due consideration and be debated and passed in order to proceed towards the regularisation of the more than 500,000 people currently without legal resident status in the country. This lack of legal status acts as a deterrent when it comes to reporting cases of institutional violence and as a breach of the right to truth, justice, reparation and non-repetition of those affected.

9) Efforts must be made to draw up and pass legislation to guarantee, once and for all, the right to effective judicial protection of all those affected by serious human rights infringements during the Francoist dictatorship and the Spanish transition to democracy. As such:

- The Amnesty Law must be amended or repealed.
- The Criminal Code, as approved in Act 10/1995 23 November must be amended to expressly include the principle of international jurisdiction (contained, inter alia, in Article 7.2 of the European Convention on Human Rights, and in Article 15.2 of the International Covenant on Civil and Political Rights);
- Spain must also take steps to ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity;
- Spain must also act to amend the International Treaties Act, in order to ensure specific recognition and implementation of the judgements issued by the United Nations' Treaty Bodies.

6.2. To the parliamentary groups of the Parliament of Catalonia

1) A body providing independent oversight of the police must be established by law. This body should have the necessary powers to assess the need for and suitability of weapons and equipment available for police use. It should also play a supervisory role in evaluating police operations and in the creation of protocols for the use of force, as well as the measures taken to prevent its use. In addition, its remit should include the investigation of alleged malpractice or criminal activity, with the ability to act ex officio, and to access all the information necessary for it to complete independent and thorough inquiries.

2) The use of foam projectiles by the Mossos d'Esquadra must be outlawed, on account of their potential to cause serious injury and death. Even if effective means of oversight and traceability are put in place, the risk of permanent, irreversible injury to those struck with these projectiles in sensitive areas of the body will always exist.

3) The Justice Committee must assess the implementation of Memorandum 2/2017, approved by the parliamentary Working Group, regarding the use of solitary confinement in prisons in Catalonia, for the purpose of assessing compliance and its effectiveness.

4) The relevant parliamentary committees – in particular, the Home Affairs Committee – must oversee the implementation of the conclusions of the Examining Committee on Policing and, where appropriate, of the Examining Committee on Institutional and Structural Racism.

6.3. To the National Government - Ministry of the Interior

1) The procedural and operational work of the internal affairs units of the Policía Nacional and the Guardia Civil must be reviewed, so as to ensure their independence in investigating alleged offences of degrading treatment, torture, sexual coercion and violence, causing of injury and/or unlawful detention committed by, at the instigation of, or with the consent or acquiescence of an officer of the law or any other person in the exercise of said public duties. Likewise, it is essential that these units be formed of officers with full human rights training and that they be afforded a higher degree of autonomy from the rest of the force, in order to ensure that their duties are fulfilled in an independent and diligent manner. A channel through which members of the public and human rights organisations can report situations of institutional violence must be put in place, allowing for appropriate and rapid action to be taken in order to ensure the safeguarding of evidence. Given the specificities of this type of case, any such channels should not be the same as those which exist for reporting other allegations of malpractice.

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2) The use of rubber bullets by police and security forces must be outlawed, given their potential to cause harm, their imprecision and unpredictability, and their lack of traceability, all of which entails significant risks for basic human rights and the physical wellbeing of the public.

3) The regulations governing the uniform of police officers with public order duties must be amended, such that their identification number be easily memorable and visible from 360 degrees, with respect to typography, numbering and size. This number must appear on the front and back of their uniform, and on each side of their helmet.

4) Police transparency policy must meet international standards, ensuring that the public are fully informed and aware of protocols relating to the use of force.

5) In addition to the number of formal and criminal complaints, convictions and penalties issued, disaggregated data must be published annually concerning internal disciplinary procedures involving officers of the Policía Nacional and the Guardia Civil for the alleged commission of offences of degrading treatment, torture, sexual coercion and violence, injuries and/or unlawful detention.

6) A police practice protocol for dealing with ethnic-racial discrimination must be approved and introduced, in order to outlaw and eradicate practices such as stop-and-searches based on ethnic-racial profiling. Requests for identification made to members of the public by police officers must be guided by a series of well-defined protocols for action and justified in writing. Likewise, a training plan must be put in place for police forces to ensure the correct operative implementation of this protocol..

7) Rules governing repatriation and transfer of detainees by air or sea which allow for both forced sedation and the use of straps and straitjackets during deportation must be abolished. These rules contravene the prohibition of torture and inhuman or degrading treatment provided for in Article 3 of the European Convention on Human Rights.

8) A permanent translation and interpretation service capable of covering the linguistic needs of all detainees must be installed in CIEs, in order to guarantee their rights to defence, asylum, and health, as well as to ensure the protection of victims of trafficking and children and adolescents who, despite their circumstances, find themselves in detention.

9) Measures must be taken in order to guarantee the right to defence and freely chosen, confidential face-to-face legal assistance to those detained in CIEs. Likewise, their right to visits and to maintain contact with NGOs and human rights defence organisations must be safeguarded.

10) The serious shortcomings in health care for those detained in the CIE in Barcelona, such as the lack of 24-hour medical services, the absence of psychological and psychiatric support and the lack of digital medical records, must be addressed. The health services outsourced by the Ministry of the Interior to the private company Clínica Madrid must be brought under public management. The Ministry must transfer competencies in healthcare in the Barcelona CIE to the Government of Catalonia, with the Catalan Health Service taking charge of its management, in order to offer the same right to health to those detained in the CIE as enjoyed by the public at large.

11) Psychological support must be made available to those detained in the CIE who require it, especially those who have shown signs of self-harm, suicidal ideation or attempted suicide.

12) Guidelines must be prepared to govern the use of solitary confinement in the CIE, creating a system in which its use is carefully restricted both in terms of the circumstances and duration over which it may be applied. Furthermore, continuous cell time must also be limited according to strict necessity, and in no case must exceed 24 hours. In addition, cells used for solitary confinement must be brought up to basic standards of decency, and in no case can confinement of this kind be applied for health reasons. Detainees must, in these circumstances, be referred to public health services.

13) A revision of restraint procedures in CIEs must be undertaken. As recommended by international organisations such as the European Committee for the Prevention of Torture of the Council of Europe, physical restraint must only be carried out in a limited manner and causing the least harm possible, and for the minimum amount of time necessary, which must in no case exceed 30 minutes in duration. Efforts must be made to move towards a zero-restraints policy, as is the case in psychiatric facilities.

14) Existing legislation – among which we include the Royal Decree 596/1999 which complements Act 4/1997 regulating the use of video cameras by police forces in public spaces – must be amended to ensure that audio and video footage recorded in CIEs is kept for a period of at least 6 months.

15) Prison regulations must be reformed and the prison system updated, suspending solitary confinement as a part of normal practice in closed prisons and prohibiting the use of solitary confinement as punishment where this exceeds 15 days. International recommendations must also be heeded in terms of the mechanical restraint practiced in both the prison and medical environments, as part of a move towards a zero-restraints model.

16) A consistent communication channel which allows for regular meetings between the Ministry of the Interior and human rights defence organisations must be established. At present, there are no effective channels for constructive meetings and reciprocal communication.

6.4. To the Government of Catalonia

1) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, a specialist office offering restorative justice and comprehensive psycho-legal care to those affected by human rights breaches incurred by the use of force must be created. It is essential that the design and implementation of this service is carried out taking into account the voices and needs of those affected, via a participatory process that guarantees the principle of effective participation. This office must address the multiple consequences of human rights infringements which arise from the use of force by police officers and private security personnel, including during the Franco regime and the transition to democracy in Spain.

Jordi Borràs →

6.4.1. To the Ministry of Equality and Feminism

1) The Ministry must oversee the implementation of the Concluding Report of the Examining Committee on Policing (CEMP) of the Parliament of Catalonia, particularly with regard to the introduction of identification and registration forms for recording the reasons for stop-and-searches. In accordance with the principles of informed consent and confidentiality, any such form must be handed over to both the person concerned and to the Ministry of Home Affairs. The Ministry must ensure that an external audit is carried out by experts and with the participation of human rights and anti-racist organisations, in order to assess police selectivity and discrimination based on ethnic-racial profiling as it may exist in the Mossos d'Esquadra and the local police forces operative in Catalonia, as agreed by the CEMP.

6.4.2. To the Ministry of Home Affairs

1) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, the Ministry must undertake significant reform of the internal investigation and disciplinary mechanisms of the Mossos d'Esquadra, in accordance with the conclusions of the Committee and the following measures:

- The Internal Affairs Division (DAI) must be granted the structural and organisational autonomy necessary to investigate any complaint or report relating to the actions and conduct of police officers, including local police. It is essential that the DAI is provided sufficient human and technological resources, as well as a permanent human rights training programme.

- An online channel is to be created to enable the presentation of complaints, in the easiest and most accessible manner, via the main website of the police of Catalonia. Likewise, the DAI must centralise all complaints of unlawful or potentially criminal conduct by police officers, including local police. In order to achieve this, internal guidance must be issued to all Citizen Help and Information Offices (OAC) and Mossos d'Esquadra police stations on ensuring that all complaints filed against officers of the force are transferred to the DAI efficaciously and in the shortest possible time.

- The protocol for joint working between the Ministry of Home Affairs and the High Court of Justice of Catalonia must be clarified so that the judicial bodies in Catalonia inform the DAI of any criminal investigation concerning police officers, whether or not this is related to their professional duties. Likewise, the DAI must respond to judicial requests and other administrative procedures, once due checks and investigations have been carried out. This protocol must establish an obligation for all police forces in Catalonia to collaborate with the DAI, providing it with the information it requires.

- Internal guidance must be issued to all Citizen Help and Information Offices (OAC) and police stations of the Mossos d'Esquadra in order to ensure that complaints filed against officers of the force are transferred to the DAI efficaciously and in the shortest possible time.

- In addition to an email and telephone service, provincial DAI offices must be open to members of the public for the registration of complaints concerning the Mossos d'Esquadra. The existence of these offices, with a specific and easy-to-identify corporate image, should be sufficiently publicised to ensure that the public is aware of them.

- A specialised unit must be created within the DAI for investigating allegations of racially-motivated criminal conduct or malpractice by police officers, in order to prevent and eradicate such incidents.

- A direct channel should be established between the DAI and human rights organisations in order to bring complaints against officers of Mossos d'Esquadra to the attention of the DAI, and thus facilitate the prompt initiation of investigations.

- Comprehensive care of affected individuals must be ensured, referring them to the Office for the Care of Victims of Human Rights Violations – pending its establishment – in addition to referral to the appropriate public services.

2) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, the Services Evaluation Division (DAS) must be provided additional support in order to boost its capacity to propose, analyse and evaluate improvements in any area of police operations. All police forces in Catalonia must be obliged to collaborate with this division by providing it with the information it requires. Likewise, all police authorities are to be obliged to take into consideration its recommendations and bring them into effect. If not, the Directorate General of Police must be required to issue an explanation to parliament of any impediments to the application of these recommendations.

3) The creation of an independent police oversight body, via the drafting of legislation in which the Ministry of Equality and Feminism and civil society organisations participate, must be sought. This body should have the necessary powers to assess the need for and suitability of weapons and equipment available for police use. It should also play a supervisory role in evaluating police operations and in the creation of protocols for the use of force, as well as the measures taken to prevent its use. In addition, its remit should include the investigation of alleged malpractice or criminal activity, with the ability to act ex officio, and to access all the information necessary for it to complete independent and thorough inquiries.

4) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, transparent working practice guidelines and accountability mechanisms must be drawn up and presented for approval by the Parliament of Catalonia and the Ombudsman. To this end, the Directorate General of the Police, the head of the Mossos d'Esquadra and those responsible for the DAI and the DAS must issue annual performance reports, to be submitted to the Home Affairs Committee of the Parliament of Catalonia. These must be made public, appropriately redacted to ensure confidentiality, via the main website of the police of Catalonia. These reports must include the type of infractions, the number of precautionary actions taken, and the result of any disciplinary procedures, including the number of officers dismissed from the force as a result, specifying the units to which they belonged. All of the above is without prejudice to the fact that a future independent police oversight body is to be created.

5) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, evaluation of the need and suitability of newly-acquired police weapons and equipment must be carried out in a transparent manner, taking into account not only technical and operational criteria but also their possible consequences for public health and the exercise of fundamental rights. For so long as the creation of an independent police oversight body may remain pending, any questions concerning technical criteria and the need and suitability of weapons and equipment for police use, and any acquisition thereof, must be addressed by the Home Affairs Committee of the Parliament of Catalonia.

6) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, transparency regulations governing the various police forces must be adapted to international standards, ensuring that protocols for the use of force are made public to the extent necessary for effective public oversight.

7) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, measures aimed at safeguarding the right to information must be incorporated into the full range of existing public order protocols.

8) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, SIR-X projectiles must be immediately withdrawn, given the serious injuries caused by their use. Pending the prohibition by Parliament of Catalonia of the use of foam projectiles, effective traceability mechanisms must be established. This includes the geolocation of weaponry and the numbering of projectiles so as to permit the identification of the weapon fired or officer responsible for firing it, as well as the incorporation of a high-quality video and audio recording system, so as to allow for the recording of all instances of use, including nocturnal use. All such recordings must be kept on an external server which is inaccessible to officers. In addition, such weapons must only be fired from the waist down, in the exclusive event of an imminent threat of harm to a police officer or a third party, and never for the protection of property. Finally, the distances at which such weapons can be fired must respect the risk assessments carried out by the manufacturer.

9) The Mossos d'Esquadra must ensure the automatic storage of any images that are recorded at its facilities for a period of 6 months. Video surveillance must also be installed in all police facilities, including the cells in which detainees are held, as well as spaces accessible to members of the public, eliminating blindspots. It is particularly important that rooms used for conducting searches are equipped with image and sound recording facilities, as has been implemented at the Les Corts police station.

10) All police vehicles used to transfer detainees – including ARRO and BRIMO vehicles – must be equipped with an image detection, collection and conservation system similar to that used by the Guàrdia Urbana.

11) An external audit by experts, with the participation of human rights and anti-racist organisations, must be carried out with the aim of assessing police selectivity and discrimination based on ethnic-racial profiling as it may exist in the Mossos d'Esquadra and the local police forces operative in Catalonia, as agreed by the CEMP. This audit must be afforded scope to make recommendations for the identification, prevention and sanctioning of improper or criminal conduct relating to ethnic and racial discrimination. Based on the results, a protocol for tackling ethnic-racial discrimination in police actions must be drawn up and implemented, with the aim of prohibiting and eradicating such practices. In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, this protocol must include measures such as:

- The introduction of identification and registration forms for recording the reasons for stop-and-searches. In accordance with the principles of informed consent and confidentiality, any such form must be handed over to both the person concerned and to the Ministry of Home Affairs.
- A procedural manual on the use of identification and registration forms in public places, to be issued to members of the Mossos d'Esquadra and local police.
- A publicly-available annual report, in which results are presented by geographical area, which allows for the introduction of any necessary changes should results show that police have engaged in ethnic-racial profiling.

12) Instruction 4/2018 of the Mossos d'Esquadra, which concerns the use of Tasers (Conducted Energy Devices, CDEs), must be modified in order to comply with the recommendations of the Catalan Ombudsman and the standards agreed by the Parliamentary Committee, as well as those established by international regulations. In particular, it is necessary that the protocol for the use of such devices establishes that they can be discharged no more than twice, as a safety guarantee against repeated and continuous use. Likewise, the protocol for use of CDEs must be modified to include circumstances in which their use is not permitted, such as during demonstrations and gatherings, and against those under eighteen years of age. This protocol should also make clear that, in all cases, any action taken by police must be fully recorded.

13) Police protocols must be reviewed to ensure that medical examinations of detainees are, as a general rule, conducted in private and without a police presence, unless otherwise requested by medical personnel for security reasons. To this end, and as indicated by the Ombudsman, the right to private medical examination can only be restricted in exceptional circumstances of dangerous behaviour or risk of harm. Additionally, if the person so refuses, they must not be forced to undergo examination.

14) The Mossos d'Esquadra must be encouraged to investigate companies or individuals engaged in the extrajudicial eviction of people who do not hold title to the property in which they reside, insofar as this may entail coercion or threats aimed at their abandoning said property. Failing to take action to prevent the use of direct or indirect force is tantamount to tolerance of the potentially violence conduct directed against individuals by e.g. security companies, and could therefore be considered as aiding and abetting in the commission of an offence.

15) The **Directorate-General of Security** (DGAS) must:

- A compliance audit must be carried out into the crime prevention plans of the private security companies operating in Catalonia, in addition to those of the public services that have outsourced security duties to private companies, such as is the case of Transports Metropolitans de Barcelona (TMB). This audit must also look into internal investigative work carried out by the DGAS in the event of any complaint regarding malpractice and/or possible criminal conduct.

- The compliance with human rights standards of private security personnel working in Catalonia must be assessed.

- The Ministry of Home Affairs Annual Report must be made publicly available, with itemisation by offence of the disciplinary procedures brought against private security personnel and indication of how many of these have led to disciplinary action being taken (and the type of action taken).

- In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, the protocols of the local police forces operating in Catalonia must be standardised, especially with regard to the use of police compliance tools.

- In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, action must be taken to introduce identification and registration forms for recording the reasons for stop-and-searches carried out by any and all local police forces in Catalonia. In accordance with the principles of informed consent and confidentiality, any such form must be handed over to both the person concerned and to the Ministry of Home Affairs.

16) In addition to those explicitly mentioned in this report, the totality of the measures set out in the conclusions of the Examining Committee on Policing must be put in place.

6.4.3. To the Ministry of Justice

1) The Ministry of Justice must undertake an evaluation of the application of Memorandum 1/2022, which superseded Memorandum 2/2021 concerning the Protocol for the use of restraints in prisons in Catalonia, as well as of the impact that the changes introduced may have on the fundamental rights of those in detention. It is necessary that, once the result of this evaluation has been shared with the Parliament's Justice Committee, a new memorandum be approved which establishes, in a clear and detailed manner, the means of ensuring the implementation of a zero-restraint model in the Catalan prison system.

2) The Ministry of Justice must normalise the monitoring, prevention and reporting of situations of institutional violence in Catalan prisons carried out by human rights organisations, granting them a special status which facilitates their work, and which guarantees them absolute independence and freedom in carrying out this work, while ensuring that prisoners' rights are safeguarded in the process. In particular, Irídia and other organisations similarly dedicated to the defence of human rights must be afforded access to prisons in the same conditions as any other organisations or companies which provide prison services, religious assistance, or training workshops to prisoners.

3) Where disciplinary measures are taken within prisons, proper procedure must be adhered to, thus ensuring legal protection and effectively preventing the arbitrary use of sanctions. Disciplinary proceedings within prisons must meet the proper standards to which public bodies are held, particularly with regard to basic procedural guarantees such as the right to legal representation during investigations. Likewise, reminder must be made of the obligation to respect the right of detainees to request, insofar as the law permits, the suspension of the application of any penalty by the relevant authorities.

4) A specific body must be set up for the reporting of allegations of degrading treatment, torture, sexual violence or coercion, or injury committed by prison officers or any other person working within the prison system, at the instigation or with the consent or acquiescence of those held in detention, their families or human rights defence organisations as communicated to the prison inspection service, as a means of building upon the safeguards in place for the due and prompt gathering of evidence.

5) In addition to the number of formal and criminal complaints made, and the categorisation of sanctions and convictions imposed in relation to such offences, disaggregated data concerning the alleged commission of crimes of degrading treatment, torture, sexual coercion and violence, causing of injury and/or unlawful detention must be published annually.

6) A new communications protocol must be drafted, ensuring that the families of prisoners are adequately informed and kept up-to-date regarding their wellbeing, especially in cases of physical or mental illness, and that the correct support is provided to them by the prison service, particularly in cases of death in custody. Human rights organisations and prisoners' families must be able to participate in the drafting of this document.

6.4.4. To the Institute of Legal Medicine and Forensic Sciences of Catalonia

1) The standard operating procedure in dealing with allegations of torture or ill-treatment approved in April 2016 by the Board of Directors of the Institute of Forensic Medicine and Sciences of Catalonia (IMLCFC) must be reviewed and brought into practice. This procedure provides for the application of the Istanbul Protocol in cases where a medical professional suspects that torture or ill-treatment has taken place during detention or custody, or where the presiding judge or Public Prosecutor's Office so requests. Any record of the use of the Forensic Medical Action Protocol in suspected cases of torture or ill-treatment must be published annually. It is for this reason that specific human rights training focusing on the implementation of the Istanbul Protocol must be provided to forensic doctors.

2) A specialised unit must be created within the IMLCFC for the investigation of allegations of institutional violence, specifically, those of degrading treatment, torture, sexual violence and coercion, causing of injury and/or unlawful detention committed at the instigation of, or with the consent or acquiescence of a public official or any other person acting in a public capacity. In order to deal with cases of institutional violence – especially cases of torture or ill-treatment in detention or custody – more tools and resources, as well more professionals with training regarding human rights infringements, are required.

3) Forensic doctors belonging to the IMLCFC must systematically record the harmful psychological effects of institutional violence in their expert evidence to the courts, quantifying and assessing these in an objective and thorough manner. At present, psychological evaluations of this kind are carried out by IMLCFC psychologists. However, there are only two psychologists assigned to the whole of Catalonia. Consequently, it is recommended that the number of staff who are able to carry out these evaluations be increased.

4) In-person examination of victims must be recorded and provide the basis for the evaluation report.

5) Where a person dies in custody (in prison, during arrest or at a police station), the autopsy must be carried out in accordance with the provisions of the Minnesota Protocol (2016) for the investigation of suspicious deaths. This protocol, which is included in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, sets out general and specific guidelines on the procedures for investigating potentially unlawful deaths and applies inter alia to deaths in custody, as well as to cases in which the state may have acted in disregard of its duty to protect life.It is for this reason that specialist human rights training, specifically that which focuses on the implementation of the Minnesota Protocol, must be provided to forensic doctors.

6.4.5. To the Ministry of Health

1) All emergency health centres in Catalonia must have access to the Istanbul Protocol, and internal guidelines be created for its use during medical examinations of those in custody and/or who claim to have suffered torture or ill-treatment. Each centre or hospital must be able to adapt these guidelines according to their working practices. It is essential to ensure that no police are present during examination in these cases.

2) The Ministry of Health must offer training on the Istanbul Protocol and the correct reporting of injury in cases of mistreatment and/or torture to all doctors working in accident and emergency units in Catalonia.

6.5. To Barcelona City Council

6.5.1. To Municipal councillors

1) Barcelona City Council must repeal existing measures for the safeguarding of public safety, known as the Ordenança Municipal de Convivència, and replace these with legislation which permits a less punitive management of public space, placing an emphasis on mediation and respect for human rights.

6.5.2. To the Executive - Department of Security and Prevention

1) As has already been done by the Mossos d'Esquadra, the regulations governing the uniform of Guàrdia Urbana officers with public order duties belonging to the Back-up Unit for Emergencies and Local Incidents (UREP) must be amended, such that their identification number be easily memorable and visible from 360 degrees, with respect to typography, numbering and size. This number must appear on the front and back of their uniform, and on each side of their helmet.

2) Images recorded in the Guàrdia Urbana's detention facilities located in the Zona Franca area of the city must be retained as standard for a period of 6 months. Cameras must also be installed in all areas of the facilities through which a detainee may pass, ensuring that there are no blindspots.

3) A mediation unit must be created within the Guàrdia Urbana, with the objective of reducing conflicts which arise from the use of public spaces, particularly in relation to street selling. It is also essential that mechanisms be found to effectively address this activity from a harm reduction perspective, based on criteria of effectiveness, proportionality and respect for human rights.

4) Human rights organisations must be able to effectively communicate proposals and concerns regarding the prevention of institutional violence to the city's Department of Prevention and Security.

5) Disaggregated data must be published annually in relation to legal proceedings initiated against officers of the Guàrdia Urbana for the alleged commission of offences of degrading treatment, torture, sexual coercion and violence, causing of injury and/or unlawful detention. Likewise, the number of disciplinary proceedings initiated in response to allegations of discrimination based on race, gender, sexual orientation, religion, language, opinion, place of birth, place of residence, or any other personal or social condition or circumstance, must be included in the Management Report of the Guàrdia Urbana. The report must also include the number of disciplinary proceedings initiated in response to allegations of the commission or tolerance of, or collusion in, acts of torture or cruel, inhuman or degrading treatment or punishment, and any other abusive, arbitrary or discriminatory conduct which involves physical violence or threatening behaviour. The report must also include the number of disciplinary proceedings which result in punitive action being taken, and the type of action taken.

6) An external expert review must be carried out, in consultation with human rights and anti-racist organisations, in order to analyze the hiring practices of the Guàrdia Urbana, and any ethno-racial discrimination which may exist within the force. This audit must be afforded scope to make recommendations for the prevention, detection and sanctioning of improper or criminal conduct relating to ethnic and racial discrimination. Based on the results, a protocol for tackling ethnic-racial discrimination in police actions must be drawn up and implemented, with the aim of prohibiting and eradicating such practices. In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, this protocol must include measures such as:

- The introduction of identification and registration forms for recording the reasons for stop-and-searches. In accordance with the principles of informed consent and confidentiality, any such form must be handed over to both the person concerned and to the Ministry of Home Affairs.

- A publicly-available annual report, in which results are presented by geographical area, which allows for the introduction of any necessary changes should results show that police have engaged in ethnic-racial profiling.

Pedro Mata

6.6. To the National Public Prosecutor's Office

1) A specialised office for the prosecution of institutional violence must be created, providing oversight of all criminal proceedings relating to degrading treatment, torture, sexual violence and coercion, causing of injury and/or unlawful detention committed by public employees, and allowing for proactive intervention in the defence of the rights of victims.

2) The Public Prosecutor's Office, in its role as guarantor in upholding the law, and in order that justice may be done, must play a proactive role in promoting the investigation of allegations of degrading treatment, torture, sexual coercion and violence, causing of injury and/or unlawful detention committed by public employees.

3) Specific human rights training must be offered to prosecutors, particularly regarding the Istanbul Protocol, which provides the first set of rules of its kind for documenting torture and its effects.

4) With regards to judicial proceedings which arise from complaints of ill-treatment in CIEs, the Public Prosecutor's Office must act with the utmost haste and request that urgent investigations are carried out in order to gather any evidence of criminal conduct, taking into account the high likelihood of the deportation of victims and witnesses in such cases, something which hinders or precludes the continuation of any investigations or trial. In particular, it is essential that action is taken to gather any video surveillance footage taken in CIEs, as well as testimony from victims and witnesses before they are deported, and to ensure that forensic medical professionals assess any signs of physical injury and/or psychological harm which they may show.

5) The Annual Report of the Public Prosecutor's Office must include, in the chapter on "Issues of special interest", information on the judicial action taken into matters of torture and other cruel, inhuman or degrading treatment. It must include publication of detailed comparative data on the number of complaints made by victims of any offences which may fall under the definition of torture and/or ill-treatment (according to Spain's Criminal Code, crimes of torture and ill-treatment, degrading treatment, sexual violence, causing injury, unlawful detention, and omission of the duty to prevent torture committed by public officials and authorities), and the number of investigations and/or charges brought by the Prosecutor's Office. Likewise, this section of the report must include disaggregated data on requests for the consideration of the aggravating circumstance of discrimination in relation to the aforementioned offences.

6.7. To the General Council of the Judiciary

1) Specific human rights training must be offered to judges, particularly regarding the Istanbul Protocol, which provides the first set of rules of its kind for documenting torture and its effects.

2) Training must also be provided to ensure that investigating judges carry out a full and thorough investigation into any and all allegations of degrading treatment, torture, sexual violence and coercion, causing of injury and/or unlawful detention committed at the instigation of, or with the consent or acquiescence of a public official or any other person acting in a public capacity. In this regard, any training must ensure that there is respect for the rulings made against Spain by the Constitutional Court and the European Court of Human Rights in the thirteen cases in which the nation's courts were found to have not properly investigated cases of torture or cruel, inhuman or degrading treatment or punishment.

6.8. To the Head of the Judiciary of Barcelona

1) Systematic action must be taken to ensure the right to effective judicial protection in the assignment of cases to the judiciary for those who, at their own instigation or with their consent or acquiescence, report alleged offences of degrading treatment, torture, sexual violence and/or causing injury committed by public officials within CIEs. Those who suffer ill-treatment within CIEs must be able to report this. Any evidence must be gathered with the utmost haste by the competent judicial authorities, who must also be authorised to carry out urgent investigations in cases which have occurred beyond the existing 72-hour period. This must be done taking into account the high probability of the victims and/or witnesses being deported, something which makes it difficult or impossible to continue with judicial proceedings. Urgent action must be taken to gather video surveillance footage recorded at the Centre and testimony from the victim and witnesses prior to their deportation, and to ensure that forensic medical professionals assess any signs of physical injury and/or psychological harm which they may show.

6.9. To the Council of Illustrious Bar Associations of Catalonia

1) In compliance with the Concluding Report of the Examining Committee on Policing of the Parliament of Catalonia, a specific court service must be created to address institutional violence, staffed by professionals specialised in the area, in order to deal with cases of crimes of degrading treatment, torture, sexual violence and coercion, injuries and/or unlawful detention committed by public officials or any other person in the exercise of public functions, at their instigation, or with their consent or acquiescence. This service must:

- Be staffed by professionals with the specific legal experience and psychosocial training required to provide support to affected persons. Specialist legal professionals must be involved in the lead-up to the filing of a claim, as well as in the filing and judicial investigation thereof, in order to correctly gather and safeguard evidence, and to ensure that those who suffer institutional violence are aware of their rights, receive correct legal advice, and have their interests defended.
- Offer free legal assistance on demand to those who wish to take a case to court.
- Include measures for joint-working with legal defence representatives of those under investigation, as well as a referral mechanism linked to the to-be-established office specialised in restorative justice and comprehensive psycho-legal care.

2) Specific training must be provided to court-appointed legal aid professionals belonging to the various colleges in Catalonia in matters relating to the investigation of torture and other cruel, inhuman or degrading treatment or punishment.

3) As part of the legal aid provided to detainees, a maximum time before which the presence of a lawyer is required at the place of detention must be established. The detainee's contact with their legal representatives via video call must be limited only to the situations in which it is strictly necessary.

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