



CPT/Inf (96) 9 [Part 3]

**Report to the Spanish Government  
on the visit to Spain  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 10 to 14 June 1994**

The Spanish Government has agreed to the publication of this visit report and of its response. The latter is set out in document CPT/Inf (96) 10.

Strasbourg, 5 March 1996



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Copy of the letter transmitting the CPT's report

Strasbourg, 21 September 1994

Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Spain drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Spain from 10 to 14 June 1994. The report was adopted by the CPT at its twenty-second meeting, held from 13 to 16 September 1994.

The CPT requests the Spanish authorities to provide a report within six months, informing the Committee of the action taken to implement the recommendations set out in the present report and providing the information requested therein.

The CPT would ask, in the event of the report forwarded being in Spanish, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Claude NICOLAY  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

**Mr Javier BORREGO BORREGO**  
Abogado del Estado  
Jefe del Servicio jurídico del estado para la Comisión  
Europea y Tribunal Europeo de derechos humanos  
Ministerio de Justicia  
E - 28071 MADRID





## **I. INTRODUCTION**

### **A. Dates of the visit and composition of the delegation**

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Spain from 10 to 14 June 1994.

2. The delegation consisted of the following Committee members:

- Mr Constantin ECONOMIDES (Head of the delegation);
- Mrs Nadia GEVERS LEUVEN-LACHINSKY.

The delegation was assisted by:

- Mr Jean-Pierre RESTELLINI, (Head Doctor in the Public Health Service of the Republic and Canton of Geneva) (expert);
- Mr Eduardo KAHANE (interpreter);
- Ms Melanie ROE (interpreter);

and was accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT;
- Mr Jan MALINOWSKI.

### **B. Nature and context of the visit**

3. The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention). It was triggered by information received at the beginning of June 1994 containing allegations of severe ill-treatment of persons who had very recently been arrested in the Basque Country by the Civil Guard, as presumed participants in terrorist-related activities.

4. The CPT's delegation visited only one place of detention, namely Madrid I Prison, which was where all the above-mentioned persons who were still in custody at the time of the visit were being detained. The delegation also went to the Basque Country, to interview certain of the persons arrested who had subsequently been released.

5. It is not infrequent for allegations of torture and/or ill-treatment to be made by persons detained in Spain in connection with terrorist-related offences, particularly persons suspected of belonging to the terrorist organisation Euskadi ta Askatasuna (ETA). The Spanish authorities often contest the veracity of such allegations, claiming that it is the policy of terrorist organisations to have their members systematically allege that they have been tortured or ill-treated by members of the law enforcement agencies.

In the report drawn up following the CPT's first periodic visit to Spain in 1991, the Committee stated that although recourse to torture or other forms of severe ill-treatment by law enforcement officials was certainly no longer a common practice in Spain, it would be premature to conclude that the phenomenon of torture and severe ill-treatment had been eradicated (cf. Part I, paragraph 25). Further, at the end of the second periodic visit to Spain, carried out from 10 to 22 April 1994, the CPT's delegation told the Spanish authorities that in the light of the information at its disposal, the comments made in paragraph 25 of the report on the first periodic visit remained valid.

The allegations received at the beginning of June 1994 provided an opportunity to assess more closely the risk of torture or severe ill-treatment occurring.

6. A significant number of terrorist acts have been perpetrated in Spain during the last few decades. Terrorist violence by the ETA group has continued until the present day; since 1 January 1993, 26 deaths were attributable to such violence.

At the outset of this report, the CPT wishes to underscore that it abhors terrorism, a crime which is all the more despicable in a democratic country such as Spain. Further, it is fully conscious of the great difficulties facing the security forces in their struggle against this destructive phenomenon.

Terrorist activities rightly meet with a strong response from State institutions. However, under no circumstances should that response be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials. Such acts are both grave violations of human rights and fundamentally flawed methods of obtaining reliable evidence for combatting crime. They are also degrading to the officials who inflict or authorise them. Worse still, they can ultimately undermine the very structure of a democratic society.

### **C. Consultations undertaken and cooperation received during the visit**

7. The CPT informed the Spanish authorities of its intention to carry out the visit a mere 24 hours before it was due to begin. Despite this, the Spanish authorities provided the delegation, on its arrival, with all the documents and information requested in the notification letter.

8. The delegation held fruitful discussions, at both the beginning and close of the visit with senior officials of the Ministry of Justice and the Interior, namely Mr Juan Luis IBARRA ROBLES, Technical General Secretary of the Ministry, and Mr Francisco Javier BORREGO BORREGO, State Advocate.

The delegation also had the opportunity to meet Mr Baltasar GARZON, the judge in charge of the Central Examining Court No. 5 before whom many of the persons arrested at the beginning of June were brought, Mr Pedro RUBIRA, public prosecutor, and Mrs Leonor LADRON DE GUEVARA, the competent forensic doctor.

In addition, the delegation had contacts with the medical service of Madrid I Prison and held discussions with Dr Gabriel ZUBILLAGA, Head of Internal Medicine at the Guipúzcoa Hospital in San Sebastián, where one of the persons detained at the beginning of June was being treated after her release.

9. There was one notable exception to the otherwise excellent degree of cooperation shown by the Spanish authorities. Despite assurances of full cooperation given the previous day by the judge in charge, members of the delegation were obliged to wait some eight hours on Saturday, 11 June 1994 at the Central Examining Court No. 5 before obtaining information requested which was necessary for the delegation to carry out its task. It should be added that the information finally obtained was in certain respects incomplete.

The CPT recognises that the provision of the information requested was not an entirely straightforward matter and that the need for staff to attend their offices at the weekend was inevitably a source of some irritation. Nevertheless, the obstructive attitude displayed by the Court's Clerk cannot be said to be in conformity with the principle of cooperation set out in Article 3 of the Convention.

10. Reference should also be made to the restrictive procedure followed by the central examining judge on duty (Judge Bueren) in relation to the delegation's access to one prisoner who was being held incommunicado in Madrid I Prison. This procedure involved inter alia the making of a formal request for authorisation to see the prisoner and a judicial resolution granting it.

In a spirit of cooperation, the delegation chose to comply with the procedure stipulated by the judge. However, the CPT would recall that Article 8 (3) of the Convention grants the Committee the right to interview prisoners, no qualification being made as regards their particular status. It should be emphasised that the only circumstances under which the Committee's access to a detained person can be called into question are set out in Article 9 (1) of the Convention; none of these circumstances were applicable to the case under consideration. In order to avoid a repetition of such situations, **the CPT requests the Spanish authorities to draw the attention of all relevant judicial authorities to the above-mentioned provisions of the Convention.**



## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

11. According to information provided by the Spanish authorities at the outset of the visit, 24 persons were arrested by the Civil Guard between 2 and 7 June 1994 as presumed participants in one or more of the offences referred to in Article 384 bis of the Code of Criminal Procedure; the arrests occurred in the Basque Country and Navarra. Fourteen of those persons were subsequently brought before the central examining judge on duty in Madrid, the other ten being released directly by the Civil Guard. Of the fourteen persons brought before the central examining judge, seven were still in custody on Saturday, 11 June 1994 when the delegation visited Madrid I Prison for the first time (cf. also paragraph 4). The delegation entered into contact with the above-mentioned seven persons and six of them agreed to be interviewed. Further, on 13 June the delegation interviewed two other persons who had been brought before the central examining judge but who had subsequently been released. All of the persons were interviewed in private, on an individual basis.

### **A. Allegations of ill-treatment made by persons interviewed**

12. Each of the eight persons interviewed by the delegation alleged that they had been ill-treated at both the San Sebastián El Antiguo Civil Guard premises and the Civil Guard Headquarters in Madrid, though the severity of the ill-treatment alleged varied somewhat from case to case.

13. All of the persons alleged that they had received blows at some stage or another while detained in the above-mentioned establishments. The most common type of blow delivered was apparently with the flat of the hand, particularly to the head but also to other parts of the body, such as the testicles, the back, the abdomen and the arms. A number of allegations were also made of punches, particularly in the region of the stomach.

14. Seven of the eight persons interviewed alleged that they had been subjected to "la bolsa" i.e. asphyxiation by the placing of a plastic bag over the head; four of the persons alleged that they had suffered this form of ill-treatment in San Sebastián, two in Madrid and one in both San Sebastián and Madrid. Several of the persons concerned described in considerable detail the manner in which this form of ill-treatment was practised; their descriptions were largely concordant (though the degree of severity of the ill-treatment alleged varied somewhat from case to case) and, from a technical standpoint, credible.

15. Four of the persons interviewed alleged that they had been subjected to electric shocks, one person in San Sebastián and three in Madrid. Most of the shocks were said to have been delivered through the victim's clothes, in the groin, in the legs and arms and in the thorax region; however, some shocks were allegedly also delivered to the bare skin, principally on the neck and face. While undergoing this ill-treatment, the person concerned was said to be physically restrained by several law enforcement officers. The person alleging this form of ill-treatment in San Sebastián stated that he could not provide a description of the precise means used to deliver the shocks, as he had been blindfolded at the time. However, the three persons who alleged they had received electric shocks in the Civil Guard Headquarters in Madrid stated that the law enforcement officers concerned took no steps to conceal the means used (in one case even explaining its mode of operation). One person spoke of a beige cylindrical device some 40 cm long, possessing two short electrodes at one end; another described a black device resembling an electric razor, with two electrodes curved at their ends; the third spoke of a device (the colour of which could not be recalled) resembling a small radio, equipped with two short and relatively thick electrodes<sup>1</sup>.

16. As regards other forms of physical ill-treatment, several of the persons interviewed (including one elderly man) alleged that they had been made to stand for prolonged periods and two persons alleged that they had been obliged to perform exhausting physical exercises.

17. Most of the persons interviewed alleged that they had been the subject of verbal abuse and some alleged that they had been the subject of threats (against themselves and/or members of their family).

18. Many of the persons interviewed also complained about the manner in which they were transported. They alleged that they were obliged to move to and from the Civil Guard vehicles with their heads bent very low, a position which they were also obliged to maintain while in the vehicles. Further, they complained that they remained handcuffed throughout the journey of some six hours between San Sebastián and Madrid, despite being locked into individual compartments. It was said that no food or drink was provided either immediately before or during that journey; further, allegedly no access to a toilet facility was provided during the journey.

## **B. Medical information and findings**

19. The delegation examined the reports drawn up by the forensic doctor attached to the Central Examining Court No. 5 following examinations of twenty-three of the arrested persons (N.B. one of the 24 persons arrested was released by the Civil Guard in San Sebastián, and hence was never transferred to Madrid). The reports indicate that 16 of the 23 persons told the forensic doctor at some stage that they had been ill-treated in one way or another, in San Sebastián and/or in Madrid. The forensic doctor observed marks of apparently recent origin in a certain number of cases, but was of the opinion that they could well have been caused by events other than ill-treatment.

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<sup>1</sup> Non-lethal electric shock devices corresponding to these descriptions are commercially available in many countries.

20. Ten of the persons arrested between 2 and 7 June 1994 were subsequently transferred to prison; in respect of three of these persons, medical reports were issued by the prison medical service detailing injuries (haematomas and ecchymoses on various parts of the body) compatible with allegations of ill-treatment made by them. These three persons were examined by the delegation's own doctors, whose findings corresponded with those of the prison medical service.

21. The case of a fourth person examined by the delegation's doctors at Madrid I Prison should also be mentioned. He alleged that he had, inter alia, been subjected to electric shocks by means of a cylindrical device (cf. paragraph 15), including on his left temple. The reports drawn up by the forensic doctor and the prison medical service in respect of this person did not record any marks or injuries compatible with ill-treatment. However, a close examination of the person's left temple by the delegation's doctors revealed the presence of two reddish and punctiform marks, surrounded by a slight desquamation, between 3 and 4 mm in diameter and about 12 mm apart. They were situated slightly above and towards the back of the left eyebrow. In aslant light, they were particularly visible. The two marks, of an entirely different character to the acneform marks which the person concerned also bore, were highly indicative of the application of electrodes.

22. The case of one of the persons interviewed by the delegation's doctors in the Basque country also deserves to be highlighted. This person, a woman, alleged that she had been subjected to various forms of ill-treatment (blows to various parts of the body, "la bolsa", electric shocks) while detained at the Civil Guard Headquarters in Madrid from 5 to 8 June 1994. During this period, she was seen at the Headquarters on three occasions by the forensic doctor, as well as at the Audiencia Nacional on 8 June 1994. The forensic doctor's reports read as follows:

(5 June 1994)

"[...] She was arrested this morning at her home, without violence, was transferred to San Sebastián and, from there, handcuffed in a van, to Madrid. She states not to have received breakfast, although she did receive lunch. She does not allege ill-treatment as from her arrest. The physical examination is normal (normal cardio-pulmonary activity, blood pressure 120/60 mm Hg, normal back of the eyes, normal reflexes). No signs of violence are observed. [...]"

(6 June 1994)

"[...] The subject of this report claims to be very frightened, and her attitude is not cooperative. She states not to have slept because she was nervous, and to have received food. She does not reply as to the treatment received. On examination, an elongated graze of about 8 times the width of a finger in length, situated on the left flank, with a small haematoma on its lower part is observed; in view of its location and characteristics, it does not appear to be due to "a blow", but rather to impact and friction with a hard object (bolt/slide, keys, corner of a table, etc.); there is another small haematoma on the back side of the right knee. The rest similar to what has already been recorded (blood pressure 125/60 mm Hg). [...]"<sup>2</sup>

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<sup>2</sup> On 10 June 1994, the forensic doctor, in her formal report to the Central Examining Court No. 5, stated that, in addition, superficial digital haematomas on the arms, compatible with restraint manoeuvres were observed on 6 June 1994. She added that from its colour, the small haematoma on the back side of the right knee did not appear to be recent.

(7 June 1994)

"[...] The subject of this report shows herself more cooperative than on the previous day; she states to have slept and to feel "more clear-headed" and to have received food regularly. As regards the treatment received, she only replies "better", although she alleges threats.

On examination, the graze with a small haematoma on its lower part on the left flank is observed, as well as the small superficial haematomas resulting from restraint, already recorded, on both arms. A haematoma of about 24 to 36 hours of evolution is observed on the external side of the right thigh, which, in view of its location, could have been caused on bumping or hitting against the edge of a table (it is at the same height as the edge of the table which is in the room where the examination is carried out). Blood pressure 120/60 mm Hg. The rest is identical. [...]"<sup>3</sup>

(8 June 1994)

"[...] The subject of this report claims to be nervous and tired, that "yesterday it was very bad", that she was interrogated and received many blows to the head, that she has barely slept because she could not rest her head, although this morning she did sleep a little. She states to have received food regularly. On examination, as already recorded, graze on left flank, small haematoma on its lower part, small restraint haematomas on arms, haematomas of small size on legs, they are in the process of healing, the most recent of all being, in view of its characteristics, the one that goes with the graze. In addition, on today's date, a haematoma beneath the right knee, under the area of pain alleged yesterday, is observed. Blood pressure 125/60. She is well orientated in time and space. She has the necessary physical and psychological conditions to make a statement. [...]"<sup>4</sup>

23. On appearing before the central examining judge on 8 June, "when [the person concerned was] asked about the treatment received during her detention, she states that she was insulted, hit on various parts of the body, bags were placed on her head and electrodes all over the body".

24. The above-mentioned person was released by the judge on 8 June, upon which she returned to the Basque country. On 9 June she went to the Guipúzcoa Hospital in San Sebastián with a view to the drawing up of a formal record of injuries sustained. The medical examination revealed extensive bruising on the left side of the thorax at the level of the ribs, on the arms and legs, and on the left flank. Further, a blood analysis revealed a very high creatine phosphokinase (CPK) level, i.e. 24,988 IU/l (the normal level being between 20 and 160). In the light of this latter result, steps were taken immediately to hospitalise the person concerned, for treatment and observation.

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<sup>3</sup> On 10 June 1994 (cf. footnote 2), the forensic doctor reported, as regards the bruise on the external side of the right thigh, that "it seems logical to think that it was produced in an accidental manner".

<sup>4</sup> On 10 June 1994, in connection with the alleged blows to the head, the forensic doctor reported that, on examination, no traces of violence were observed on the scalp, neck and face.



25. The bruising observed at the hospital - still apparent when the person concerned was examined by the delegation's doctors - was clearly more extensive than that recorded by the forensic doctor. However, the fact that the person concerned was a hemophilia carrier could explain the later enlarging of haematomas (and this same medical condition could also mean that the person concerned was particularly prone to bruising).

As regards the high CPK level, in the absence of other muscular trauma (e.g. as the result of an accident), this can only be explained by either muscle contusion by ill-treatment or muscular exercise of an exceptional severity. Under the circumstances, the former appears the more likely explanation, a view clearly shared by the Head of the Internal Medicine Service at the Guipúzcoa Hospital. The delegation was informed that medical staff at the hospital had brought the matter to the attention of the competent judicial authorities.

### **C. Action taken by the Spanish authorities**

26. At its first meeting with Mr Ibarra Robles (cf. paragraph 8), it became clear that the Ministry of Justice and the Interior was very concerned by the allegations of ill-treatment which had been made and had commenced preliminary inquiries on this subject before the arrival of the CPT's delegation. At the second meeting, Mr Ibarra Robles informed the delegation that the Ministry of Justice and the Interior were seeking to have this matter investigated at both the administrative and judicial levels. The delegation welcomed these measures, which it considered were fully called for in the light of the information at its disposal, and requested that it be informed of the results as soon as possible.

27. By letter of 26 July 1994, the CPT received information to the effect that disciplinary proceedings had been opened, with a view to determining whether Civil Guard officers involved in the arrest, custody, interrogation and transfer of the persons detained in June had committed any disciplinary offences.

As regards action at the judicial level, the CPT received a copy of a ruling ("Auto") adopted on 21 July 1994 by the judge in charge of the Central Examining Court No. 5. In that ruling, the judge decided that the necessary elements for the opening of judicial inquiries into the allegations of torture and ill-treatment made by certain of the persons arrested did not exist. The ruling states that "[.....] the decision is drawn up on the basis of the medical reports on file which clearly show the absence of any medically observable objective indication, to suggest that the investigating police force went beyond the boundaries of the treatment required by the respect of the dignity of detained persons [.....]".

28. As already indicated (cf. paragraph 25), the medical authorities at the Guipúzcoa Hospital in San Sebastián had brought their findings concerning one of the persons arrested to the attention of the competent judicial authorities. However, to date the CPT has no information on action subsequently taken by those authorities.

**D. Assessment and action proposed**

29. The CPT is fully aware that persons arrested in relation to terrorist offences may make false allegations of ill-treatment with a view, inter alia, to undermining the reputation of the law enforcement agencies. Nevertheless, the temptation of considering all such allegations as necessarily forming part of such a strategy must be resisted.

The accounts given by most if not all of the persons interviewed by the delegation were not of a stereotyped nature. The allegations made were detailed and were largely concordant, whilst displaying variations which were credible in view of the personal circumstances of the individuals concerned. The delegation had the impression that certain of the allegations made could have been somewhat exaggerated; however, on the whole there was the ring of truth to them.

30. As regards the medical information and findings, it should first of all be pointed out that for many of the types of ill-treatment alleged, it is very difficult to obtain medical evidence of their use. For example, to demonstrate recourse to asphyxiation by the placing of a plastic bag over the head would require performing an arterial gasometry immediately after the event - an unlikely scenario. Similarly, the application of electric shocks will not necessarily leave physical marks, if carried out expertly. Nor will making someone stand for a prolonged period or perform physical exercises leave clearly identifiable traces of such treatment. Even blows to the body may leave only slight marks, difficult to observe and which quickly disappear, especially if inflicted with an open hand.

31. As already indicated, certain of the persons detained displayed haematomas/ecchymoses compatible with their allegations of having received blows. The judge in charge of the Central Examining Court No. 5 acknowledged himself that there were signs of violence having occurred in some cases, but was of the view that this was most probably a result of the circumstances of arrest rather than the intentional infliction of ill-treatment. It should be noted, however, that of the eight persons interviewed by the delegation, only two alleged that they had received blows at the time of their arrest (in addition to those received while detained in Civil Guard premises - cf. paragraph 13).

One person was found by the delegation's doctors to bear a mark on the left temple fully compatible with his allegation of having received electric shocks on that particular part of his body.

32. The case of the woman interviewed by the delegation's doctors in the Basque Country (cf. paragraph 22) is particularly noteworthy. She alleged that no violence occurred at the time of her arrest, and no signs of violence were observed by the forensic doctor on the detainee's arrival in Madrid. The extensive bruising subsequently observed and the very high CPK level recorded are, in the Committee's opinion, prima facie evidence of ill-treatment.

The Committee would add that on considering the development of this person's situation at the Civil Guard Headquarters in Madrid, as reflected in the different reports set out in paragraph 22, it is difficult to avoid the conclusion that additional steps might have been taken to verify the manner in which she was being treated.

33. In his ruling of 21 July 1994 (cf. paragraph 27), the judge in charge of the Central Examining Court No. 5 states that "There has not been ill-treatment or torture inflicted upon any of the detainees in these proceedings". In the light of all the information set out above, the CPT does not share the same degree of certainty on this matter. It considers that the said information is sufficient to give rise to legitimate concern about the manner in which at least certain of the persons arrested between 2 and 7 June 1994 were treated while in the custody of the Civil Guard.

34. Bearing in mind the above, and taking into account also allegations and related information received in a number of other cases over the last three years, **the CPT recommends that the Spanish authorities carry out, without delay, a general investigation of a thorough and independent nature into the methods used by members of the Civil Guard when holding and questioning persons arrested as presumed participants in one or more of the offences referred to in Article 384 bis of the Code of Criminal Procedure. The CPT requests that the results of that investigation be forwarded to it as soon as possible.**

35. **The CPT would also like to receive in due course the following information:**

- **the outcome of the disciplinary proceedings referred to in paragraph 27;**
- **the outcome of all judicial investigations carried out vis-à-vis allegations of ill-treatment made by any of the 24 persons arrested by the Civil Guard between 2 and 7 June 1994 as presumed participants in one or more of the offences referred to in Article 384 bis of the Code of Criminal Procedure.**

36. In the course of the visit from 10 to 14 June 1994, the CPT's delegation gathered information concerning conditions of detention in Civil Guard establishments and the operation of safeguards against ill-treatment (access to a lawyer, conduct of interrogations, etc.), supplementing that already received during the periodic visit carried out from 10 to 22 April 1994. This information will be commented upon in the report on that periodic visit, which should be forwarded to the Spanish authorities before the end of the year.

However, in the context of the present report, some observations are required concerning the role played by forensic doctors.

37. In the report on its first visit to Spain (1 to 12 April 1991), the CPT recommended inter alia that a person detained by the police or Civil Guard to whom Article 520 bis of the Code of Criminal Procedure is applied, be fully examined by the relevant forensic doctor at the outset and at the end of his custody in each place of detention in which he is held (cf. Part I, paragraph 57).

The information gathered during the visit in June 1994 would suggest that the above recommendation is being complied with in Madrid, but not in San Sebastián. Certain of the persons interviewed by the delegation stated that shortly after their arrest, they had been examined in San Sebastián by someone purporting to be a doctor (though apparently he did not present any formal identification or credentials); however, they said that no medical examination was carried out immediately prior to their transfer to Madrid. Further, the Spanish authorities subsequently forwarded a statement from the Civil Guard, to the effect that at no stage had any of the persons detained been examined by a doctor while detained in San Sebastián.

**The CPT must therefore reiterate the above-mentioned recommendation made in paragraph 57 of the report on its first visit to Spain.**

**Further, it is recommended:**

- **that doctors who examine detained persons formally identify themselves to the persons in question;**
- **that in the event of a person detained outside Madrid for an offence to which Article 520 bis of the Code of Criminal Procedure applies being subsequently transferred to Madrid, copies of the reports drawn up in respect of that person by a doctor performing forensic duties be systematically forwarded to the competent forensic doctor in Madrid.**

38. Of course, if they are to perform their tasks effectively, forensic doctors must be provided with suitable premises and equipment. Above all, they must benefit from good lighting when carrying out examinations.

The forensic doctor in Madrid with whom the delegation spoke expressed the view that the means at her disposal were not ideal. Having visited on more than one occasion the room at the Civil Guard Headquarters in Madrid in which she has to perform medical examinations, the CPT can only agree with her. This basement-level room does not enjoy the required amount of light and, more generally, is poorly equipped for the purposes of medical examinations.

Subsequent medical examinations in Madrid I Prison revealed, in the case of two of the persons arrested between 2 and 7 June 1994, injuries that had not been observed at all by the forensic doctor, and, in another case, more extensive injuries than those previously recorded by her. In a fourth case, that of the person referred to in paragraphs 22 to 25, the discrepancy between the extent of the injuries recorded by the forensic doctor and that subsequently observed in hospital could have been due in part to the poor facilities at the forensic doctor's disposal.

39. Consequently, the CPT recommends that the facilities (both premises and equipment) offered to forensic doctors attached to the Central Examining Courts in Madrid called upon to examine persons arrested in connection with terrorist-related activities be substantially improved. In appropriate cases, forensic doctors should be entitled to have specialist examinations performed, and to reserve their conclusions until such time as the results of those examinations are available.

The CPT also recommends that the form currently used by forensic doctors to record their findings be replaced by a more developed document. The form should be such as to ensure that the following information is systematically recorded:

- (i) statements made by the person concerned which are relevant to the medical examination (including the description by the person examined of his state of health and any allegations of ill-treatment);
- (ii) the doctor's objective medical findings based on a thorough examination;
- (iii) the doctor's conclusions, in the light of (i) and (ii).

The CPT would add that given the pressures that can be brought to bear on a detained person, forensic doctors should not necessarily accept at face value statements by such persons to the effect that they are being treated well. Particular attention should be paid to a detained person's psychological state - and more especially to changes in that state during the period of custody - when assessing his/her situation.

40. Finally, with reference to the complaints made by the persons interviewed about the manner in which they were transported and the failure to provide food and drink (cf. paragraph 18), the CPT would like to receive:

- the observations of the Spanish authorities on those complaints;
- information on any rules or guidelines applicable to the transport by the law enforcement agencies of persons arrested as presumed participants in one or more of the offences referred to in Article 384 bis of the Code of Criminal Procedure.