

Women in Prison: Spain

Analysis from the National Preventive Mechanism

| June 2024



Spain



UNCAT Ratification 21 October 1987	OPCAT Ratification 4 April 2004
National Preventive Mechanism (NPM) <u>Ombudsman</u>	
NPM legal framework Organic Law 1/2009 (3 November 2009), which introduces a single final provision to the Organic Law on the Ombudsman	NPM operationalisation Since 2009
NPM structure Specific unit within the Ombudsman's organisational structure	NPM composition 10 members (6 women) + Advisory Council as a body for technical and legal cooperation

I. Facts and Figures

Prison population	Women in prison - Characteristics	Prisons for women	Prison staff
Total prison population 55751	Foreign women ¹ 1022 25.7%	Number of women's prisons 56	Prison staff (total) 20000
Women in prison (total) 3971 7.1%	Women with disabilities ² 314 9.3%	Women-only prison 4³	Women prison officers 6000 (30%)
Women in pre-trial detention 616	Roma women ⁴ 557 14%	Mixed prisons with separate units for women 52⁵	
Source: Penitentiary Statistics - General Secretariat of Penitentiary Institutions, Ministry of the Interior, December 2022 ⁶	Source: General Secretariat of Penitentiary Institutions.	Source: General Secretariat of Penitentiary Institutions, Department of Justice of the Basque Country and Catalan Observatory of Justice in Gender Violence, 2023.	

¹ Estadística Penitenciaria - Secretaría General de Instituciones Penitenciarias, Ministerio del Interior
Source, data as of December 2022.

² Information provided by the General Secretariat of Penitentiary Institutions to the NPM in April 2023.

³ Madrid I, Brieva (Ávila), Alcalá de Guadaira (Seville), Wad-Ras (Catalonia)

⁴ Information provided by the General Secretariat of Penitentiary Institutions to the NPM in January 2023.

⁵ The total number of mixed prisons with separate units for women includes: 44 facilities under the General Secretariat of Penitentiary Institutions (30 December 2023); 2 facilities under the Department of Justice of the Basque Country (30 December 2023); and 6 facilities under the Department of Justice of the Generalitat de Catalunya (2023).

⁶ Estadística Penitenciaria - Secretaría General de Instituciones Penitenciarias, Ministerio del Interior

Source, data as of December 2022: <https://www.poderjudicial.es/cgpj/es/Temas/Estadistica-Judicial/Estadistica-por-temas/Datos-penales--civiles-y-laborales/Cumplimiento-de-penas/Estadistica-de-la-Poblacion-Reclusa/>

II. Recommendations

Solitary confinement, isolation

- + Review the application of isolation measures from a gender perspective.

Means of coercion

- + Review of the application of means of coercion from a gender perspective.
- + Incorporate the sex variable in computerised data collection and produce sex-disaggregated data statistics.

Mental healthcare

- + Incorporate a gender perspective in psychological assessment protocols and semi-structured interviews to give greater visibility to the differences observed.
- + Incorporate a gender perspective in the Suicide Prevention Protocol.
- + Ensure accessibility of gender-sensitive psychiatric and psychological care for women in prison.
- + Incorporate a gender perspective in the Comprehensive Care Programme for Persons with Mental Health Conditions.
- + Ensure training of technical and health personnel on gender identity and sexual orientation, gender-based violence and its effects on physical, psychological and emotional health.
- + Ensure a multidisciplinary response with psychiatric, therapeutic and health involvement that assumes that gender-based violence is a serious health problem that affects women and greatly affects their social reintegration.

Violence prevention

- + Establish a protocol for prevention, detection, action and care for possible victims of gender-based violence, which regulates the victim's access to the relevant health, psychological and legal care.

Prison information

- + Incorporate the variable of Roma minority women in the collection of data and elaborate statistics.
- + Ensure that the gender identity of transgender people is correctly reflected in data collection and statistical work.

Pregnant and breastfeeding women

- + Draw up a protocol for the care of pregnant women.

Women with children in prison

- + Ensure that women in prison in the Canary and Balearic archipelagos, as well as in Ceuta and Melilla, have adequate facilities for serving their sentences with their children under three years of age in prison.

III. Detention Issues

The Spanish NPM has been carrying out specific gender-focused visits since 2018. The reports carried out by the NPM and its recommendations have had a positive impact in bringing about changes in the situation of women in prison. These include [the parliamentary initiative](#) approved in Congress in June 2020, whereby Congress urged the Government to prepare [a report](#) on the situation of women in State prisons.

As a result of the visits carried out to date to the prisons run by the State Administration ([Secretariat General of Penitentiary Institutions](#)), it was found that discrimination against women is structural, and therefore recommendations were made that are applicable to all prisons, and not only to the prison visited. The NPM requests action protocols that address gender in a cross-cutting manner, but the usual response is that these issues are dealt with on a case-by-case basis, thus preventing a general prison regulation for the rights of women. In particular, the NPM has recommended the creation of an action protocol for health, technical and civil servant staff to guarantee an adequate and protective response to a potential victim of gender-based violence due to physical or sexual aggression in the centre. In 2022, Organic Law 10/2022 on guaranteeing sexual freedom⁷, in line with the NPM recommendation, establishes the obligation for prisons to have such a protocol.

Good practice: Comprehensive gender policy

All prisons under the responsibility of the General Secretariat of Penitentiary Institutions have an equality protocol. The NPM's analysis of these protocols reveals numerous shortcomings, but the equality protocol of Ceuta prison⁸, and the proactive work of its equality team stand out as positive. The Ceuta equality protocol establishes:

- + a gender perspective in the study of classification and destination reviews and NGO collaboration to facilitate access to the open regime;
- + a regulation of the Integral Care Programme for Persons with Mental Health Conditions, which includes collaboration with families and NGOs that accompany women during the social reintegration phase;
- + a gender-sensitive regulation of the Suicide Prevention Protocol, which was made prior to the regulation of this matter by the General Secretariat of Penitentiary Institutions;
- + a minimum quota of places for women in each of the educational specialities offered, paying special attention to foreign women;
- + a push for women's access to all workshops.

In addition, Ceuta Prison:

- + promotes with women prisoners NGO programmes of counselling and social, psychological and reproductive accompaniment for women victims of gender-based violence, trafficking, sexual exploitation and women in prostitution;
- + has an "Action protocol for intervention in gender-related drug addiction";

⁷ Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom, Article 15: <https://www.boe.es/buscar/act.php?id=BOE-A-2022-14630>

⁸ Follow-up sheet of the visit made by the NPM to the Ceuta Prison, 5–6 July 2022: <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/22018156>

- + has a multidisciplinary health review protocol with a gender perspective;
- + has effectively trained staff on gender identity and sexual orientation.

Solitary confinement, isolation

a) Legal framework

In Organic Law 1/1979, of 26 September, [General Penitentiary Law](#), there is a detailed regulation of isolation as a sanction (Article 42), as a protective measure (Articles 42 to 45) and as a living regime (Article 10). The system of safeguards is adequate (Articles 76 to 78 on the supervising judge).

Only women over 18 years of age serve time in prison. The law prohibits the isolation of pregnant women and women up to six months after the termination of pregnancy, nursing mothers and those who have children with them (Article 43). There is no mention of those who require psychosocial support.

Provision is made for women to request to be protected in cases where there is conflict with other inmates, and they may also be protected even in the absence of an express request ([Article 75 of the Prison Rules](#)).

b) The use of solitary confinement, isolation in practice

Isolation cells are similar to the other cells, although they have less furniture, limited belongings and a smaller yard.

The Administration has an extensive system of control and registration: register, prison file and computerised register.

In some visits carried out by the NPM, it was noted **that women suffer a disproportionately higher percentage of isolation, and for longer periods of time, than men**. It was therefore suggested that the application of these standards be reviewed. At the NPM's insistence, the Administration acknowledges this discrimination and cites as reasons the issue of women's mental health and the smaller number of residential departments for women, which is the case in all other prisons. These two issues, instead of being solved by the Administration in a gender-sensitive manner, are precisely the cause of physical and psychological harm due to the application of isolation measures.

The NPM requested annual data on isolation measures applied in mixed prisons disaggregated by sex, and found that, in 2020, of the 43 mixed prisons, 19 of them applied isolation measures more often to women than to men, and in 2021, the number rose to 21 prisons. Moreover, in both years, the percentage of women is much higher than that of men. Following up on its 2023 Recommendation to review gender-sensitive isolation measures, the NPM continues to request annual sex-disaggregated data and statistics on the application of isolation, and continues to insist on a common culture of gender-sensitive isolation in prisons.

Use of means of coercion

a) Legal framework

Physical restraints are regulated in Article 72 of the Prison Rules. Medical sedation is not regulated in the prison protocols, the criteria of good medical practice are used. The use of physical restraints is regulated.

In prison, means of restraint are prohibited – and are not used in practice – for pregnant women, during labour, during childbirth and after childbirth.

b) The use of means of coercion in practice

There are systems in place to record the use of coercive means in personal files and other recording media. CCTV recordings are subject to general and specific rules of capture, extraction and preservation.

During some visits carried out by the NPM in 2018 and 2021⁹, it was found that, despite being less dangerous and having worse living conditions in prison (exclusion from mental health and drug addiction programmes, spaces, etc.), women were more likely to be subjected to authorised belts and physical force, even those with mental health issues. Therefore, in 2023 the NPM recommended a gender-sensitive review of the application of coercive means. Although this recommendation was accepted by the relevant authorities, it has not yet been implemented.

The NPM recommended the inclusion of the sex variable in computerised data collection and producing sex-disaggregated data statistics, which was accepted by the Administration. However, five years later, the Administration still has no statistical use of coercive means.

Mental healthcare

Among women in prison, according to information provided by the Spanish Society of Legal Psychiatry, *the prevalence rate of psychotic disorders is estimated at 3.9%, major depression at 14.1%, post-traumatic stress disorder at 21.1% and drug abuse at 30% to 60%. In 2020, it is estimated that 4.65% of female inmates in Spanish prisons had SMD [severe mental disorders], while in 2021 this percentage increased by 1.84%, despite the decrease in the total female prison population*¹⁰.

The initial medical examination includes information on depression at the time of admission, recent suicidal thoughts and previous suicide attempts, mental disorder, bereavement and relationship breakdown.

There is a lack of awareness of the mental health of women detainees, family members and prison staff, and a failure to regularly assess the mental health needs of women during their imprisonment.

Mental healthcare is precarious due to the lack of human and structural resources, as well as the fragility of the social and health care network, as stated in the *Libro Blanco sobre la atención sanitaria a las personas con trastornos mentales graves en los centros penitenciarios de España* [White Paper on health care for people with serious mental disorders in prisons in Spain]¹¹.

During the first gender-specific visit in 2018, the NPM found that the suicide prevention assessment scale and other protocols related to women's mental health lacked a gender perspective and recommended that a gender perspective be included in the psychological assessment protocols and semi-structured interviews to make the differences observed more visible. In view of the fact that the accepted Recommendation was not implemented, the NPM specifically recommended in a 2020 visit to incorporate a gender perspective in the Suicide Prevention Protocol¹². This [Recommendation](#), accepted by the Administration, was implemented in 2022 through Instruction I-9-2022.

During the visits, it was noted **that psychological care is perceived by many of the inmates as scarce and of little use**, a fact which the Administration blames on a lack of staff. In view of the fact that this situation is repeated during prison visits, the NPM recommends guaranteeing accessibility to gender-

⁹ (Visit 101/2018, paragraphs 3,4,5, visit to Topas (Visit 17/2021)

¹⁰ Sociedad Española de Psiquiatría Legal (SEPL) and Sociedad Española de Sanidad Penitenciaria (SESP), *Libro Blanco Libro Blanco sobre la atención sanitaria a personas con trastornos mentales graves en centros penitenciarios en España* [White Paper on health care for people with serious mental disorders in prisons in Spain], p. 100: <https://www.psiquiatrialegal.org/libroblanco2023>

¹¹ Ibid.

¹² Follow-up sheet of the visit made by the NPM to the Ceuta Prison, 18–19 August 2020: <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/20022390>

sensitive psychiatric and psychological care for inmates¹³.

In one prison¹⁴ it was found that the proportion of women with psychosocial or intellectual disabilities was very high compared to men. The treatment response discriminated against women, so a recommendation was made to develop a gender-sensitive treatment response to disability, which was accepted by the administration.

Similarly, there is a general lack of inclusion of women in the *Programme of Comprehensive Care for Persons with Mental Health Conditions* in 2019 and 2020, despite the higher rate of mental health conditions among women, and the NPM repeatedly recommends non-discriminatory treatment during the visits. In Ceuta prison¹⁵, women detainees are included in the Programme, which has a gender focus, which is identified as a good practice, and the NPM recommends the Administration to incorporate the gender perspective in the *Comprehensive Care Programme for Persons with Mental Health Conditions*, a recommendation accepted by the Administration, but not yet implemented.

With regard to gender training, in 2019 the NPM recommended guaranteeing training for technical and health personnel on gender identity and sexual orientation, gender-based violence and its effects on physical, psychological and emotional health, which was accepted by the Administration but not implemented in practice, as is evident from the visits. This Recommendation is currently a legal obligation¹⁶.

In all the territory managed by the General Secretariat of Penitentiary Institutions, there is only one women's module, which is in the Psychiatric Penitentiary Hospital of Alicante¹⁷, where the percentage of women in internment is double that of the prisons. The poverty and gender violence suffered by these women throughout their lives is evident. There is no multidisciplinary approach to mental health, and gender violence is not addressed as a health problem, neither in diagnosis nor in intervention. There is no care from a gender perspective, even though it is known that women have been victims of mistreatment and abuse of all kinds, which is why they have hardly any relationship with their families. The NPM made the recommendation to guarantee a multidisciplinary response with psychiatric, therapeutic and health involvement that assumes that gender-based violence is a serious health problem that affects women and affects to a large extent their social reintegration, which is accepted but not implemented.

In addition, the lack of clinical psychology staff and the lack of psychiatric treatment make it very difficult for women to attend treatment regularly, with a clear predominance of pharmacological therapies.

IV. Women in Special Situations of Vulnerability

Roma women

Roma women are over-represented in the prison population. According to information provided by the Spanish Society of Legal Psychiatry, 4 out of 10 Spanish women inmates belong to the Roma ethnic group¹⁸. According to information provided to the NPM by the General Secretariat of Penitentiary Institutions in January 2023, Roma women in prison represent 13.8% of the total Roma prison

¹³ Follow-up sheet of the visit made by the NPM to the Women's Prison of Alcalá de Guadaira (Seville), 7–9 October 2020: <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/20026730>

¹⁴ Cárcel de Topas, [Visit 17/2021](#), paragraph 7.

¹⁵ Follow-up sheet of the visit made by the NPM to the Ceuta Prison, 5–6 July 2022: <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/22018156>

¹⁶ Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de libertad sexual, art. 30. <https://www.boe.es/buscar/act.php?id=BOE-A-2022-14630>

¹⁷ [Visit 78/2021](#)

¹⁸ Sociedad Española de Psiquiatría Legal (SEPL) [Spanish Society of Legal Psychiatry] and Sociedad Española de Sanidad Penitenciaria (SESP) [Spanish Society of Prison Health], *Libro Blanco Libro Blanco sobre la atención sanitaria a personas con trastornos mentales graves en centros penitenciarios en España*, p. 99: <https://www.psiquiatrialegal.org/libroblanco2023>

population¹⁹.

In 2019, during the visit to Madrid I prison²⁰, given the high number of Roma women, in this prison as in others, the NPM recommended that the variable of Roma minority women be included in the collection of data and compilation of statistics. The Recommendation was finally accepted by the Administration, but four years after the visit, the Administration still does not use this information for statistical purposes.

Older women

In its visits²¹, the NPM noted functional limitations resulting from sensory deficits and age-related loss of capacities and recommended that these limitations be assessed and that occupational activities and destinations be adapted accordingly.

LGBTIQ+ women

There is no official information available on LGBTIQ+ women in prisons. According to press information, prisons under the State Administration, all except those in the Basque Country and Catalonia, hold 79 transgender persons, of whom 22 are transgender women who are either held in all-female prisons or in women's modules within [mixed prisons](#) (6 are transgender men living in male facilities).

During its visits, the NPM was able to verify that there are misclassifications of inmates considered transgender, and it is therefore recommended that the gender identity of transgender persons be correctly reflected in data collection and statistics²². In 2023, a new law on transgender status²³ came into force, which will have an impact on prison practice.

V. Other Relevant NPM Information on Women in Prison

+ [NPM reports from 2018 with section on gender-related visits](#)

This report is part of the Global NPM report on Women in Prison.

Access the full report here: www.apt.ch/global-report/

¹⁹ In a letter dated 4 January 2023, the SGIP informed the NPM that there are 557 Roma women and 3457 Roma men. This means a percentage of 13.87% of women out of the total Roma prison population.

²⁰ Follow-up sheet of the visit made by the NPM to Madrid I Prison (Alcalá de Henares), 25–27 September 2019: <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/19018357>

²¹ Alcalá de Guadaira Women's Prison, [Visit 102/2020](#); Topas Prison, [Visit 17/2021](#).

²² [Visit 17/2021](#)

²³ Law 4/2023, of 28 February, for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people: <https://www.boe.es/buscar/doc.php?id=BOE-A-2023-5366>