

Towards a model of prison regulations in accordance with the provisions of the International Convention on the Rights of Persons with Disabilities

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SUMMARY

People who have some type of mental illness and / or a physical or sensory disability, especially people who have an intellectual disability and see themselves immersed in the criminal process that entails their entry into prison, for obvious reasons that no one goes unnoticed, They are especially vulnerable in their passage through our Penitentiary Institution, also when they leave it after their passage through it. Although a notable effort is made daily regarding the treatment due to these people from the Institution, and by the professionals who are in daily contact with them, and although our regulations are especially guaranteed with the rights of the people recruited into it, it is Obsolete in relation to the provisions on persons with disabilities or mental illness confined in our Institution, as it has not been adapted to the regulatory instruments issued on the rights of persons with disabilities in recent times, and no specific and differentiated responses have been received for these especially vulnerable people. In view of the specific normative instruments that, both internationally and nationally, references have been made to the rights of persons with disabilities or affected by mental illness, in addition to the latest reports issued by the bodies responsible for ensuring Due to the effective application of these, it is necessary that the prison regulations are adapted to both of them, in order to ensure that the people who are especially vulnerable due to their specially affected capacities see their rights recognized in said prison regulations.

INTRODUCTION

At the international regulatory level, the International Convention on the Rights of Persons with Disabilities, hereinafter CPDC, was adopted by the United Nations on December 13, 2006. The Convention and its Optional Protocol were ratified by Spain on April 21, 2008, both coming into force on May 3 of that same year. The Optional Protocol recognizes the competence of the Committee, the body of independent experts that supervises the application of the Convention, hereinafter CDRC. We must also bear in mind the Brasilia Rules on access to Justice for people in vulnerable conditions approved in March 2008 at the XIV Ibero-American Judicial Summit. Subsequently, at the national regulatory level, Law 26/2011, of August 1, on the normative adaptation to the International Convention on the Rights of Persons with Disabilities, would be approved, a rule that finds its foundation in Article 4 of the Convention, pursuant to which the States Parties undertake to adopt all pertinent legislative, administrative and other measures to ensure the full exercise of all human rights and fundamental freedoms of persons with disabilities without any discrimination on the basis of disability. . In the same protective sense, it is established in article 49 of our Constitution, that the public powers will carry out a policy of

prevention, treatment, rehabilitation and integration of the physically, sensory and psychically handicapped, to whom they will provide the specialized attention they require and they will especially protect the enjoyment of the rights that this Title grants to all citizens, for this reason it is the duty of the Administration to protect the most vulnerable people due to their disability, and to provide them with the specialized care and protection necessary for the enjoyment of their fundamental rights. As a result of these regulations, and the work of the CDRC, the latest reports issued by the On the Rights of Persons with Disabilities, in particular, the concluding observations on the combined second and third periodic reports of Spain, are available to the Prison Administration of the Committee on the Rights of Persons with Disabilities, April 9, 2019, available at www.convenciondiscapacidad.es ›2019/04/10‹ final-observations. In addition we also have at our disposal the report of the Ombudsman, "People with disabilities in the annual report of the Ombudsman 2018", You can check the full report at (www.defensordelpueblo.es). In view of these instruments and due to the considerations that I will say from now on, it is necessary, once and for all, that the Spanish prison regulations be developed in a transversal way, that is, in all aspects, the provisions regarding adaptation to the provisions of them to what is established in that regarding the reintegration, rehabilitation and integration of detained persons affected by having their physical, sensorial and psychic capacities diminished, having to opt for a normative system in which supports are established necessary, and that is projected on the specific circumstances of the person with a disability.

CONSIDERATIONS

In the first place, because with the ratification of the CPDC and the approval of Law 26/2011, our law exceeds the so-called medical or rehabilitative model, prevailing in prison regulations at the time of the approval of the Constitution, which considered the Disability as a problem of the person, directly caused by an illness, accident or health condition, which requires medical and rehabilitative assistance, in the form of individualized treatment provided by professionals. The social and rights and capacities perspective is now assumed, which configures disability as a complex set of conditions, many of which are originated or aggravated by the social environment, this model, as is easy to verify in the obsolete prison regulations do not It is the one that dominates our regulations.

Secondly, due to the adaptation carried out in general and transversally in our state regulations, produced since the ratification by the Spanish State of the CDPC, thus the second final provision of Law 26/2011, in the wording given by the Law 12/2012, of December 26, on urgent measures to liberalize trade and certain services, required the Government to prepare and approve, before December 31, 2013, a Consolidated Text in order to regularize, clarify and harmonize the aforementioned Laws 13/1982, 51/2003 and 49/2007, taking as its main reference the International Convention on the Rights of Persons with disabilities and their social inclusion (hereinafter General Law of Disability), approved by Real Legislative Decree 1/2013, of November 29, which repeals the three aforementioned laws.

The Law is structured in the following four Titles:

The Preliminary Title, which includes the general provisions of the Law relating to its object, the definitions of the concepts contained in the norm, the principles that inspire it, its scope, establishing who are holders of the rights recognized by the Law, and the proclamation of the principle of respect for the autonomy of people with disabilities.

In line with current international regulations, for the purposes of the Law, disability is understood as "a situation that results from the interaction between people with foreseeable permanent deficiencies and any type of barriers that limit or impede their full and effective participation in the society, on equal terms with the others "(art. 2.a). Consequently, people with disabilities are those who present physical, mental, intellectual or sensory deficiencies, foreseeably permanent that, by interacting with various barriers, may impede their full and effective participation in society, on equal terms with others (art. 4.1).

Title I regulates the rights of people with disabilities, while containing various references regarding the benefits system and positive action measures to make them effective, on the one hand; on the other, it establishes the obligations of the public powers regarding the group of people with disabilities.

It opens with the proclamation of the right to equality, which implies that people with disabilities have the same rights as other citizens. It is followed by the mention of social and economic benefits for people with disabilities; the regulation, adapted to the particularities of people with disabilities, of the rights to health protection, comprehensive care, education, personal autonomy or independent life, which includes the pertinent measures to ensure universal accessibility in the different areas of daily life; the right to work, indicating the measures to prevent or compensate the disadvantages caused by disability as a guarantee of full equality at work, the quotas for the reservation of jobs for people with disabilities, or the regulation of special centers of employment; and, finally, the rights to social protection and participation in public affairs.

As for the obligations of the public powers, they include those related to the provision of services, their financing, as well as the promotion of information activities, awareness campaigns and training actions for the promotion of equal opportunities and the nondiscrimination. Likewise, the existence of specialized personnel, with training, in the different care services for people with disabilities is expected, also promoting volunteering in this area.

Title II contains the detailed regulation of the right to equal opportunities and non-discrimination. After establishing what is understood by violation of the right to equal opportunities, their respective guarantees are listed and the measures against discrimination and their content are specified. Special attention in the Law deserves the measures of promotion and defense of the mentioned right. Among the first is the action of the State Disability Observatory, a technical instrument of the General State Administration that, through the General Directorate of Disability Support Policies of the Ministry of Health, Services Social and Equality, is responsible for the collection, systematization, updating, generation of information and dissemination related to the field of disability. Defense measures include those relating to arbitration and judicial protection of the law.

Finally, **Title III of the Law** deals with the regime of infractions and sanctions, attributing the competence for the exercise of the sanctioning power to the General Administration of the State when the infringing behaviors are projected in a territorial scope superior to that of an Autonomous Community.

In another order of things, it is necessary to highlight in the configuration of the legislative framework of the rights of people with disabilities, Law 27/2007, of October 23, which recognizes the languages of Spanish signs and regulates the media to support the oral communication of deaf, hearing impaired and deaf-blind people, which recognizes the right of free choice for deaf, hearing impaired and deaf-blind people to learn, know and use Spanish sign languages , and the various means of support for oral communication, which is an essential factor for their social inclusion.

An important effort to protect disabilities is also operated by Law 39/2006, of December 14, on the Promotion of Personal Autonomy and Care for people in situations of dependency. This norm unfolds its effects not only on the group of disabled people, but also and fundamentally on that of the elderly, and, therefore, it is configured as a development not only of art. 49 of the Constitution, but also of art. 50, as its Explanatory Memorandum indicates. The Law establishes a minimum level of protection, defined and financially guaranteed by the General State Administration. Likewise, as a second level of protection, a cooperation and financing regime is contemplated between the General State Administration and the Autonomous Communities through agreements for the development and application of the other benefits and services listed. Finally, the Autonomous Communities may develop, if they deem it appropriate, a third additional level of protection for citizens. For a somewhat more detailed discussion of the content of this law, see the Commentary on art. 50 of the Constitution.

It should also be highlighted the important effort to prevent disability operated by Law 1/2009, of March 25, reform of the Law of June 8, 1957, on the Civil Registry, in matters of incapacitation, guardianship and administrators of protected assets , and of Law 41/2003, of 18-11-2003, on the patrimonial protection of people with disabilities and of modification of the Civil Code, of the Law of Civil Procedure.

Entering into the protection measures that could be more remarkable, one is the special system of social and economic benefits for people with disabilities who, because they do not carry out a work activity, are not included in the scope of the Social Security System.

Said system, in accordance with art. 8 the General Disability Law, includes:

- a) Health care and pharmaceutical provision.
- b) Mobility subsidy and compensation for transport expenses.
- c) Professional recovery.
- d) Rehabilitation and professional qualification.

The non-contributory invalidity pension scheme should also be mentioned, whose beneficiaries will be people who, among other requirements, are affected by a disability or a chronic disease, to a degree equal to or greater than 65 percent. They are regulated in the arts. 363 to 368 of the General Law on Social Security of 2015, specifying Royal Decree 1971/1999, of December 23, the procedure for the recognition, declaration and qualification of the degree of disability. As for the management of the recognized social and economic benefits in favor of people with disabilities, once the process of transfer of the powers in the field of social services to the Autonomous Communities was completed at the end of the 90s, they are the competent for the management and recognition of the right to said benefits. For its part, the Institute for the Elderly and Social Services (IMSERSO), Managing Entity of Social Security pursuant to art. 66.1.c) of

the Consolidated Text of the General Law on Social Security of 2015, is entrusted with the management and recognition of the right to benefits for disabled people in the autonomous cities of Ceuta and Melilla through the respective Territorial Directorates . The IMSERSO is attached to the Ministry of Health, Social Services and Equality and its organic structure and functions are regulated by Royal Decree 1226/2005, of October 13.

It is also worth mentioning, in the care section, the Royal Board on Disability, an autonomous body created by Law 14/2000, of December 29, on fiscal, administrative and social order measures, whose Statute was approved by Royal Decree 946/2001 , of August 3, recently modified by Royal Decree 1/2013, of January 11. The Royal Board on Disability aims to promote and improve the prevention of deficiencies and care for people with disabilities, as well as their personal development and social consideration.

In the labor order, art. 37 of the General Disability Law establishes that people with disabilities can exercise their right to work through the following types of employment: a) ordinary employment, in companies and in Public Administrations, including supported employment services; b) sheltered employment, in special employment centers and in labor enclaves; and c) self-employment.

In relation to ordinary employment, companies are obliged to adopt the appropriate measures for the adaptation of the job and the accessibility of the company, depending on the needs of each specific situation, in order to allow people with disabilities access employment, perform their job, progress professionally and access training, unless these measures place an undue burden on the employer. In determining whether a burden is excessive, consideration shall be given to whether it is sufficiently alleviated by public measures, aid or subsidies for persons with disabilities, as well as the financial and other costs that the measures imply and the size and volume of total business of the organization or company (art. 40).

Public and private companies that employ 50 or more workers will be obliged to include at least 2% among them as workers with disabilities. However, they may be partially or totally exempt from this obligation, either through agreements included in the sectoral collective bargaining at the state level and, failing that, at the lower level, or by voluntary option of the employer, duly communicated to the labor authority, and provided that in both cases the alternative measures determined by regulation are applied (art. 42).

In public employment offers, a 7% quota will be reserved to be covered by people with disabilities (art. 59 of the Basic Statute of Public Employees).

Regarding protected employment, special employment centers should be mentioned, which are those whose main objective is to carry out a productive activity of goods or services, regularly participating in market operations, and whose purpose is to ensure remunerated employment for disabled people. Its staff will be made up of the largest number of disabled workers that the nature of the production process allows and, in any case, 70% of them (art. 43 General Disability Law). The Public Administrations may establish financial compensations, destined to the centers, to help their viability, establishing, in addition, the control mechanisms that are deemed pertinent (art. 44).

Within the sectoral policies, the technical regulations on building will include provisions regarding the minimum conditions that buildings of any type must meet to allow accessibility for people with disabilities (art. 26). In this sense, the Technical Building Code, approved by Royal Decree 314/2006, of March 17, has already been modified in terms of accessibility and non-discrimination of people with disabilities by Royal Decree 173/2010, of February 19 .

In the educational field, the General Disability Law recognizes the right of people with disabilities to an inclusive, quality and free education, on equal terms with other people (art. 18.1). For its part, the Organic Law 2/2006, of May 3, on Education, also establishes, as a general principle, educational inclusion, equal rights and opportunities and universal accessibility to education, which acts as a compensating element of personal, cultural, economic and social inequalities, with special attention to those arising from any type of disability (art. 1). The educational administrations will guarantee the participation of students with disabilities in learning and performance improvement programs, making available the support resources that, in general, are provided for this student in the Spanish Educational System (art. 27.4) . Certain educational obligations are also imposed on educational administrations regarding students with special needs, including those that require specific educational care derived from disabilities, such as adapting the conditions for conducting school tests established in the Law (art. 74.5). Educational centers must meet the accessibility conditions required by current legislation (art. 110.), a reference that can be made to the General Disability Law (regarding primary education centers, see Royal Decree 1635/2009, of 30 of October), also Law 4/2019, of March 7, on improving the conditions for the performance of teaching and teaching in the field of non-university education.

The European Union's social policies also affect the field of disability. Although Title X of the Treaty on the Functioning of the European Union on "Social Policy" does not expressly refer to this reality, it must be borne in mind that non-discrimination on grounds of disability (art. 10) acts as a general principle in the definition and implementation of the EU's set of policies and actions. The EU Charter of Fundamental Rights also recognizes this principle (art. 21), as well as the right of disabled people to benefit from measures that guarantee their autonomy, their social and professional integration and their participation in the life of the community (art. 26). Secondary law has specified certain measures to protect people with disabilities, including Directive 2000/78, regarding the establishment of a general framework for equal treatment in employment and occupation, or Regulation 1107/2006 on rights of people with disabilities or reduced mobility in air transport. Regarding EU programs, the benchmark in this area is the "2010-2020 Disability Strategy".

It should be celebrated that in 2019, a regulatory reform that had been recommended at the time by the Ombudsman - all these people were able to vote in the elections held in April, May and November.

Regarding constitutional jurisprudence, the Sentences can be cited: 62/2008, of May 26, on equality and non-discrimination on the grounds of disability; 269/1994, of October 3, regarding access to public office on equal terms; 141/2003, of July 14, on effective judicial protection and calculation of invalidity pensions; 208/2013, of December 16, on the connection between the fundamental right to honor, personal and family privacy and self-image, and the protection of people with disabilities; 10/2014, of January 27, regarding the schooling of disabled minors;

77/2014, of May 22, on effective judicial protection of persons with disabilities in criminal proceedings¹.

Thirdly, based on this intense normative activity in the field of disability, this year 2019 the Report-proposal for adaptation of the Spanish prison regulations to international regulations is published, which is very clarifying of the current situation of disabled people in the Spanish Penitentiary Centers and the need for regulatory adaptation to the CDPC, which was prepared by the Spanish Committee of Representatives of People with Disabilities (CERMI) on behalf of the General Directorate for Disability Policies of the Secretary of State for Social Services of the Ministry of Health, Consumer Affairs and Social Welfare, entity that manages the State Disability Observatory, this is configured as an instrument for the promotion and orientation of public policies in accordance with the International Convention on the rights of persons with disabilities, which is as follows:

Proposals for improvement for the care of persons with disabilities affected by the penal-penitentiary regime:

1. Include in prison legislation an approach inspired by the principles of the United Nations Convention on the Rights of Persons with Disabilities.
2. To advance in universal design criteria in penitentiary centers, both in relation to accessibility to spaces, as well as in communications and documents.
3. Carry out specialized training and awareness-raising actions on the social model of disability, among judges, prosecutors, lawyers, forensic teams and prison and security forces on disability: Accreditation of disability before or during the trial can determine the possibilities of the person with disabilities to access specialized protection mechanisms. Likewise, the perspective of equal opportunities in the penitentiary environment is essential to avoid double discrimination, both in prison and in the reintegration process.
4. Develop the mechanisms provided for in article 96 of the Penal Code that enable compliance with non-custodial security measures in Specialized Centers. Collaboration and open coordination between community social resources (general and specialized in disability) and prison social services for compliance with non-custodial measures is essential to avoid saturation of Penitentiary Psychiatric Hospitals, and the uprooting due to distance from families and their own social context.
5. Promote instruments that allow the fulfillment of sentences through alternative measures to entry into prison. There are real experiences that indicate that up to 94% of people serving sentences outside of prison do not reoffend. The adequate provision of resources for the Penitentiary Social Services, the fluid collaboration with the rest of the Community Services and the trust of Judges and Prosecutors are essential conditions for the proper functioning of this type of measure.
6. Create an integrated coordination system between the prison treatment teams and the disability assessment teams: Obtaining the Certificate of Disability provides the inmate with disabilities access to different systems and resources of people with disabilities in the prison environment in Spain Page 104 of 122 support that can improve their quality of life both in the Penitentiary Center and at the time of their reintegration.
7. Generalize the experiences of regulated cooperation between the Autonomous Administrations and the Penitentiary Administration: Given that the social, educational and

¹ Asunción García Martínez. Titular teacher. Complutense University. December 2003. Sara Sieira. Lawyer of the Cortes Generales. 2011.

health services are decentralized towards the Autonomous Communities, the establishment of cooperation initiatives between these administrations with the Penitentiary Administrations and NGOs that intervene in the penitentiary environment will provide the necessary coordination mechanisms and that at this time are ineffective.

8. Include basic information on disability in prison statistical information, at least as regards basic sociodemographic variables, type and certification of disability. The inclusion in these figures of people who comply with alternative measures to compliance in prisons, is very convenient.
9. Deepen improvements in the detection and diagnosis of disability early: The internal classification process that occurs at the entrance of the inmate in prison, is a determining moment for the type of situation that you will find in your life in center. Without adequate detection and assessment of disability, the inmate's location in the Center may even seriously impair the prognosis.
10. Guarantee the accessibility of the spaces, information and activities available in the Penitentiary Centers to provide equal opportunities to people with disabilities. The lack of access to information and activities hinder their reintegration and can contribute to aggravating their pathologies. In addition, persons with disabilities who cannot access the development of work, cultural and occupational activities on equal terms, restrict their possibilities of benefiting from reduced sentences and other prison benefits.
11. Create special protection and promotion systems for persons with disabilities who are convicted. The prison environment presents additional difficulties for people with disabilities that make it difficult for them to adapt to the prison context, a context in which they may be victims of violence or abuse. Good because of the architectural barriers that drastically reduce the spaces and activities in which they can participate, or because due to cognitive difficulties, they lack skills to understand and problems to the environment in which they die. People with disabilities in the penitentiary environment in Spain Page 105 of 122
12. Guarantee the accessibility of Open Regime Penitentiary Establishments. Sometimes people with reduced mobility, as we have seen, often serve their prison sentence permanently in the infirmary, cannot benefit from the programs linked to the Third Penitentiary Degree, if they require intervention in Open Centers, Social Insertion or Open Sections that have architectural barriers.
13. Equipping the legal status of people with disabilities to that of other groups, regarding the extension of the maximum limit of penalties that can be suspended, regulated in article 81 of the Penal Code.
14. Refine the criteria by which the context in which the reintegration process is carried out is determined: People with disabilities who condemn themselves and prepare for reintegration, sometimes return to the geographical, family and relational context that contains the factors of risk that have contributed to a greater or lesser extent to their entry into the criminal cycle. Given its special modification, it is convenient to introduce special protection mechanisms against these risk factors.
15. To generalize the experiences of collaboration with expert entities in attention to all kinds of disabilities: The positive results achieved with people with intellectual disabilities and mental illness by different entities, justify the need to encourage the entry of all kinds of organizations to support people with disabilities interned in correctional facilities.
16. Design specialized measures in multidisability. There is frequently concurrence in the same person of intellectual disability and mental illness, which is why it is necessary to establish special protection measures that combine specialized supports.

17. Improve the coordination mechanisms of the Penitentiary Health System with Community Systems, to avoid differences in the quality of care received by inmates with disabilities, as well as incorporating specialized care when necessary.
18. Advance information systems for people with disabilities about their procedural and prison situation, by adapting the content or format of the information.
19. Establish effective control systems that prevent desertion in the treatment of people with mental illness. Most episodes that trigger violent acts by people with mental illness occur due to lack of control. People with disabilities in the prison environment in Spain Page 106 of 122 pharmacological and treatment, for which they often lack resources adequate personal or family. The Health and Social Services have a public responsibility to assume a leading role in this field, in coordination with the Judicial System where appropriate.
20. Reduce inefficiencies in the provision of community resources when these are required for compliance with alternative measures: Either due to lack of information or coordination or control mechanisms, the availability of adequate community resources for compliance with alternative measures to internment is not is adequate.
21. Establish alternative ways of supporting people with disabilities who lack a family and / or social network. The activation and therefore the success of the reintegration of people serving sentences or security measures depends to a large extent on the existence of personal ties outside prison institutions, which complement individual rehabilitation programs, as well as reduce Possibilities of carrying out activities abroad for people who are complying with security measures in Psychiatric Penitentiary Hospitals. The absence of this type of support must be replaced with substitute mechanisms.
22. Review the primary prevention mechanisms in health and social services. On many occasions people with disabilities - especially with mental illness - only become visible to society when the crime is committed, which shows the failure of the primary systems of social and health protection.
23. Carry out specialized training actions on content, measures and legal provisions related to people with disabilities affected by the penal regime, among professionals in basic services: education, health and social services, as a preliminary and fundamental step to advance mechanisms coordination.
24. Increase measures of preventive localization of criminal risk, through primary prevention programs for people with disabilities at risk of crime: slums, passers-by, situations of economic vulnerability and absence of family and social support networks.
25. Expand in the autonomic legislative framework of the Social Services so that it covers the care measures for people with disabilities in coordination with the Penitentiary Social Services. 26. Develop, with the support of the regional and local level administrations, the legal provisions that contemplate the participation of people with disabilities in the penitentiary environment in Spain Page 107 of 122 NGOs supporting people with disabilities in the criminal process, compliance with penalties, security measures, alternative measures, reeducation and reintegration.
26. Increase, through training and awareness campaigns, the collaboration of resources dependent on NGOs supporting people with disabilities, so that the resources available to them can be used effectively for the re-education and reintegration of people with disabilities affected by the penal system.
27. Review the configuration of public financing for care places for people with disabilities managed by NGOs, so that administrative limits do not pose difficulties in taking advantage of these resources for the re-education and reintegration of people with disabilities.

28. Encourage NGOs to support people with disabilities to develop primary prevention programs for people with disabilities at risk of crime: slums, passers-by, situations of economic vulnerability and the absence of family and social support networks².

Fourth, the report of the Ombudsman, “People with disabilities in the 2018 annual report of the Ombudsman,” in which his presentation clearly sets out the *raison d’être* of the report “It is up to the Ombudsman to influence on the public administrations to seek its improvement. We can do a lot to improve the situation of people with intellectual disabilities in prison and this is the focus of the reflections of this study and the Recommendations with which it culminates ”, and issues the following:

To both penitentiary administrations (General Secretariat of Institutions Penitentiaries and the Secretariat for Criminal Measures, Reintegration and Attention to Victims of the Generalitat of Catalonia):

1. Create new places specially designed for the enforcement of penalties and custodial measures imposed on people with intellectual disabilities, given the insufficiency of the few that currently exist. The location of these places must take place outside the prisons (as deduced from article 96.2 of the Penal Code, which refers to placement in a special educational center). If this is not possible in the short term, constitute modules specially designed for the purpose of serving these people. In the latter case, the carrying out of a large number of common activities with the rest of the inmates of the prison where they are located must be guaranteed, to guarantee integration and equal treatment, without prejudice to preserving the safety of all inmates.
2. Assess the use of any of the currently existing open regime compliance centers for people with intellectual disabilities who have committed minor crimes and have a low prognosis for dangerousness.
3. Strengthen the administrative structure of personnel prepared to attend to people with intellectual disabilities in prison, without prejudice to continuing the relevant role that civil society plays in assisting these people, guaranteeing sufficient funding through subsidies charged to 0.7%, in order to reach all inmates with intellectual disabilities.
4. Guarantee the accompaniment of the person with an intellectual disability in judicial proceedings, especially in the act of the trial, as well as the knowledge by the judge and the prosecutor of their condition by transferring the documentation held by the Prison Administration that in each case is relevant for this purpose, without prejudice to the functions that correspond to the lawyer.
5. Inform officials of the intellectual disability suffered by these people deprived of liberty and provide guidelines for dealing with them, given that they are in a vulnerable situation.
6. Include in the contents of the practical phase of the selection processes, especially for surveillance and security personnel, activities related to handling situations related to prisoners with intellectual disabilities.
7. Respect the right of inmates with intellectual disabilities to have information adapted to their specific needs (posters, pictograms, texts in easy language, ways of transmitting information by officials) in all penitentiary centers.
8. Make the treatment boards and disciplinary commissions aware of the need to adapt the criteria with which their own decisions (permits, progressions, sanctions, etc.) are addressed to the specificities of people with intellectual disabilities, taking into account take into account

² Patricia Cuenca, CERMI 2019

the needs of accompaniment of these people in the reflective process to assume the crime committed and its consequences.

9. Adapt intervention programs focused on the type of crime committed (for example, those convicted of crimes against sexual freedom) and promote that the training content of schools in prisons is also adapted to people with intellectual disabilities.
10. Exchange experiences through reciprocal visits by officials and those responsible for the corresponding central services between the existing special departments for people with intellectual disabilities in prison. To do this, carry out the necessary coordination between the Ministry of the Interior and the Generalitat of Catalonia.

To the General Secretariat of Penitentiary Institutions:

1. Strengthen the supervisory capacities from the central services of the General Secretariat of Penitentiary Institutions on the effective implementation of treatment programs for people with intellectual disabilities.
2. Give entry to the Penitentiary Regulations, with the appropriate regulations, to the special departments for people with intellectual disabilities.
3. Recognize the so-called "support interns" in the special prison labor relationship.

Fifth, the data we handle published by the State Observatory on Disability. The prison population with disabilities in Spain can be found at

<https://www.observatoriodeladiscapacidad.info>

The total number of inmates in Spain in 2017 was 58,828, with a substantial increase in the population of people with disabilities (4,997 in 2018, compared to 2,323 in 2008). However, it recognizes that this increase could be due to the refinement and effectiveness achieved in the classification, detection and evaluation methods. Of this total, there are 367 women and 4,630 men. By type of disability, the data focuses on people with mental health problems (1,736), multiple disabilities (1,446) and physical disabilities (1,339).

CONCLUSION

It seems obvious, in view of the aforementioned instruments, the proposals of the organisms established in them, the report of the Ombudsman and the data that we handle, that it is convenient to develop regulations in prison matters on disability, so that it is configured in a detailed way and contribute to a more effective application of those. The casuistry is large, which goes badly with detailed regulations that aim to exhaust reality, but a certain and precise regulatory body must be produced as a result in order to offer greater legal certainty and guiding application criteria to people with disabilities in the exercise of their rights, and to the legal operators of all kinds that have a connection with the Penitentiary Institutions, because it does not seem sufficient to say or do on our part that in the penitentiary activity the rights of people with disabilities will be taken into account. The normative provision from which to start to undertake this regulation of reintegration, inclusive and inclusive, should be, the International Convention on the Rights of Persons with Disabilities as a superior norm, which also offers us a notion of reasonable adjustments to be made in our Institution, ““ Reasonable accommodation ”means the necessary and adequate modifications and adaptations that do not impose a disproportionate or undue burden, to guarantee people with disabilities the enjoyment or exercise, on equal terms with others, of all human rights and fundamental liberties.”.